03-1251-CD
BRENDA L OESICH, Admx. etal vs. NORTHEAST SRING & EQUIPMENT, etal

Clearfield County Court of Common Pleas
ROA Report
Case: 2003-01251-CD
Current Judge: Paul E. Cherry

Civil Other

Date		Judge
8/22/2003	Filing: Writ of Summons Paid by: Kiger & Alpern Receipt number: 1865063 Dated: 08/22/2003 Amount: $85.00 (Check)	No Judge
9/26/2003	Sheriff Returns: NOW, Sept. 4, 2003 served Summons on Mack Trucks Inc. at employment. Sept. 2, attempted to serve on Barry Kyler. Returned 'not found' . Sept. 16, 2003 served Barry Kyler and Northeast Spring & Equipment Co at employment. Shff. Hawkins $60.72 Surcharge $30.00, Centre Co. Shff $9.00, Lehigh Co. Shff. $30.00 Paid by Atty.	No Judge
9/30/2003	Entry of Appearance On Behalf of Defendants, BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO., and NORTHEAST SPRING & EQUIPMENT CO. filed by s/Joseph P. Green, Esquire Certificate of Service no cc	No Judge
10/8/2003	Praecipe, filed by Atty. Green Enter Rule upon the Plaintiffs to file a complaint within 20 days after service of the Rule, or judgment of non pros will be entered. 1 cert. and Rule issued to Atty. Green.	No Judge
11/14/2003	Complaint In Civil Action. filed by, s/Jerome W. Kiger, Esquire Verification s/Brenda L. Orsich Certificate of Service no cc	No Judge
12/2/2003	Preliminary Objections filed by Atty. Green No cc.	No Judge
12/11/2003	Praecipe For Appearance on Behalf of Defendant, MACK TRUCKS, INC. filed by, s/Gerald M. Barr, Esquire no cc Copy to C/A	No Judge
1/8/2004	ORDER, NOW, this 7th day of January, 2004, Rule issued upon Plaintiffs. Rule Returnable is scheduled the 4th day of Feb. 2004, at 1:30 p.m. in Courtroom No. 2. by the Court, s/FJA,P.J. 3 cc w/service memo to Atty Green	Paul E. Cherry
1/12/2004	Praecipe For Writ Of Summons To Join Additional Defendant. filed by, s/Joseph P. Green, Esquire Certificate of Service 2 cert to atty	Paul E. Cherry
	Praecipe For Writ to Join Additional Defendants. filed by, s/Gerald M. Barr, Esquire 3 cert to Atty	Paul E. Cherry
1/16/2004	Affidavit of Service, Order relating to P.O.'s relating to all counsel and parties. filed by, s/Joseph P. Green, Esq. 1 cc to Atty	Paul E. Cherry
1/23/2004	STIPULATION, AND NOW, this 20th day of January, 2004. s/Jerome Kiger, Esq s/Joseph P. Green, Esq. no cc	Paul E. Cherry
2/6/2004	Entry of Appearance on Behalf of Additional Defendant, Triangle Auto Spring Company. filed by, s/Bradley D. Remick, Esq. no cc copy to C/A	Paul E. Cherry
	Praecipe for Rule to File Complaint upon Barry Kyler t/d/b/a Northease Spring & Equipment Co. and Mack Trucks, Inc. filed by, s/Bradley D. Remick, Esquire no cc 2 Rules to Atty	Paul E. Cherry
	Praecipe For Writ To Join Additional Defendant, Consolidated Metal Products. s/Bradley D. Remick, Esquire no cc 1 Writ issued to Atty Remick	Paul E. Cherry
2/12/2004	Answer And New Matter Filed On Behalf Of Defendant Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. And Northeast Spring & Equipment Co. filed by, s/Joseph P. Green, Esq. Verification s/Barry Kyler Certificate of Service no cc	Paul E. Cherry
2/19/2004	Defendant Mack Trucks, Inc's Answer To Plaintiff's Complaint and New Matter. filed by, s/Gerald M. Barr, Esquire Verification s/Gerald M. Barr, Esquire 1 cc Atty Barr	Paul E. Cherry

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9/30/2003	Entry of Appearance On Behalf of Defendants, BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO., and NORTHEAST SPRING & EQUIPMENT CO. filed by s/Joseph P. Green, Esquire Certificate of Service no cc	No Judge
10/8/2003	Praecipe, filed by Atty. Green Enter Rule upon the Plaintiffs to file a complaint within 20 days after service of the Rule, or judgment of non pros will be entered. 1 cert. and Rule issued to Atty. Green.	No Judge
11/14/2003	Complaint In Civil Action. filed by, s/Jerome W. Kiger, Esquire Verification s/Brenda L. Orsich Certificate of Service no cc	No Judge
12/2/2003	Preliminary Objections filed by Atty. Green No cc.	No Judge
12/11/2003	Praecipe For Appearance on Behalf of Defendant, MACK TRUCKS, INC. filed by, s/Gerald M. Barr, Esquire no cc Copy to C/A	No Judge
1/8/2004	ORDER, NOW, this 7th day of January, 2004, Rule issued upon Plaintiffs. Rule Returnable is scheduled the 4th day of Feb. 2004, at 1:30 p.m. in Courtroom No. 2. by the Court, s/FJA,P.J. 3 cc w/service memo to Atty Green	Paul E. Cherry
1/12/2004	Praecipe For Writ Of Summons To Join Additional Defendant. filed by, s/Joseph P. Green, Esquire Certificate of Service 2 cert to atty	Paul E. Cherry
	Praecipe For Writ to Join Additional Defendants. filed by, s/Gerald M. Barr, Esquire 3 cert to Atty	Paul E. Cherry
1/16/2004	Affidavit of Service, Order relating to P.O.'s relating to all counsel and parties. filed by, s/Joseph P. Green, Esq. 1 cc to Atty	Paul E. Cherry
1/23/2004	STIPULATION, AND NOW, this 20th day of January, 2004. s/Jerome Kiger, Esq s/Joseph P. Green, Esq. no cc	Paul E. Cherry
2/6/2004	Entry of Appearance on Behalf of Additional Defendant, Triangle Auto Spring Company. filed by, s/Bradley D. Remick, Esq. no cc copy to C/A	Paul E. Cherry
	Praecipe for Rule to File Complaint upon Barry Kyler t/d/b/a Northease Spring & Equipment Co. and Mack Trucks, Inc. filed by, s/Bradley D. Remick, Esquire no cc 2 Rules to Atty	Paul E. Cherry
	Praecipe For Writ To Join Additional Defendant, Consolidated Metal Products. s/Bradley D. Remick, Esquire no cc 1 Writ issued to Atty Remick	Paul E. Cherry
2/12/2004	Answer And New Matter Filed On Behalf Of Defendant Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. And Northeast Spring & Equipment Co. filed by, s/Joseph P. Green, Esq. Verification s/Barry Kyler Certificate of Service no cc	Paul E. Cherry
2/19/2004	Defendant Mack Trucks, Inc's Answer To Plaintiff's Complaint and New Matter. filed by, s/Gerald M. Barr, Esquire Verification s/Gerald M. Barr, Esquire 1 cc Atty Barr	Paul E. Cherry

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Civil Other

Date		Judge
3/4/2004	Plaintiffs' Reply To New Matter Of Defendant Mack Trucks, Inc. filed by, s/Jerome W. Kiger, Esquire Verification s/Brenda L. Orsich Certificate of Service no cc	Paul E. Cherry
3/5/2004	Defendant Mack Trucks, Inc.'s Joinder Complaint of Additional Defendant, Triangle Auto Spring. filed by, sGerald M. Barr, Esquire Verification s/Gerald M. Barr, Esquire 1 cc to Atty Barr	Paul E. Cherry
3/10/2004	Filing: Civil Complaint Paid by: Bradley Remick Receipt number: 1875245 Dated: 03/10/2004 Amount: $85.00 (Check) Joinder Complaint to add Consolidated Metal Products as additional Defendant.	Paul E. Cherry
3/26/2004	Defendant, Triangle Auto Spring Company's Answer To Defendant, Mack Trucks, Inc.'s Joinder Complaint. filed by, s/Bradley D. Remick, Esquire Verification s/Harry Pehote no cc	Paul E. Cherry
3/29/2004	Plaintiffs' Reply To New Matter And New Matter Counterclaim Of Additional Defendant Triangle Auto Springs. filed by, s/Jerome W. Kiger, Esquire Verification s/Brenda L. Orsich Certificate of Service no cc	Paul E. Cherry
	Notice of Service of Plaintiffs' First Set of Requests For Production of Documents Directed To All Defendants And Additional Defendants. filed by, s/Amy B. Kubisiak, Esquire Certificate of Service no cc	Paul E. Cherry
4/14/2004	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	Paul E. Cherry
	Reply by Defendant Barry Kyler/Northeast Spring and Equipment Co. to New Matter Asserted by Additional Defendant Triangle Auto Spring Co.filed by Atty. Green. 1 CC to Atty.	Paul E. Cherry
	Entry of Appearance on behald of Consolidated Metal Products, Additional Defendant.	Paul E. Cherry
	Plaintiffs' Reply to New Matter of Defendants Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. No cc.	Paul E. Cherry
4/15/2004	Sheriff Return NOW Jan. 19, 2004 served summons on Triangle Auto Spring Co. at Employment. Shff. Costs: $42.62.	Paul E. Cherry
6/7/2004	Additional Defendant, Triangle Auto Spring Companys Motion To Compel Discovery Against Plaintiffs. filed by, s/Bradley D. Remick, Esquire Certificate of Service no cc	Paul E. Cherry
6/9/2004	ORDER, NOW, this 9th day of June, 2004, Rule issued upon Plaintiffs to Appear and Show Cause why Motion should not be granrted. Rule Returnable is scheduled for the 7th day of July, 2004, at 10:30 a.m. in Courtroom No. 2. by the Court, s/PEC, J.	Paul E. Cherry
6/16/2004	Affidavit of Service filed. of Triangle Auto Spring Co.'s Motion to Compel with attached Order/Rule to Show Cause on counsel by USPS. 1 CC to Atty. Remick.	Paul E. Cherry
6/29/2004	Complaint Against Additional Defendant Triangle Auto Spring Company, filed by s/Joseph P. Green, Esq. No CC	Paul E. Cherry
7/6/2004	Notice of Service of Plaintiffs' Answers to Three Sets of Interrogatories form Additional Defendant Triangle Auto Spring Company, filed by s/Amy B. Kubisiak, Esq. No CC	Paul E. Cherry

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3/4/2004	Plaintiffs' Reply To New Matter Of Defendant Mack Trucks, Inc. filed by, s/Jerome W. Kiger, Esquire Verification s/Brenda L. Orsich Certificate of Service no cc	Paul E. Cherry
3/5/2004	Defendant Mack Trucks, Inc.'s Joinder Complaint of Additional Defendant, Triangle Auto Spring. filed by, sGerald M. Barr, Esquire Verification s/Gerald M. Barr, Esquire 1 cc to Atty Barr	Paul E. Cherry
3/10/2004	Filing: Civil Complaint Paid by: Bradley Remick Receipt number: 1875245 Dated: 03/10/2004 Amount: $85.00 (Check) Joinder Complaint to add Consolidated Metal Products as additional Defendant.	Paul E. Cherry
3/26/2004	Defendant, Triangle Auto Spring Company's Answer To Defendant, Mack Trucks, Inc.'s Joinder Complaint. filed by, s/Bradley D. Remick, Esquire Verification s/Harry Pehote no cc	Paul E. Cherry
3/29/2004	Plaintiffs' Reply To New Matter And New Matter Counterclaim Of Additional Defendant Triangle Auto Springs. filed by, s/Jerome W. Kiger, Esquire Verification s/Brenda L. Orsich Certificate of Service no cc	Paul E. Cherry
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4/14/2004	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	Paul E. Cherry
	Reply by Defendant Barry Kyler/Northeast Spring and Equipment Co. to New Matter Asserted by Additional Defendant Triangle Auto Spring Co. filed by Atty. Green. 1 CC to Atty.	Paul E. Cherry
	Entry of Appearance on behald of Consolidated Metal Products, Additional Defendant.	Paul E. Cherry
	Plaintiffs' Reply to New Matter of Defendants Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. No cc.	Paul E. Cherry
4/15/2004	Sheriff Return NOW Jan. 19, 2004 served summons on Triangle Auto Spring Co. at Employment. Shff. Costs: $42.62.	Paul E. Cherry
6/7/2004	Additional Defendant, Triangle Auto Spring Companys Motion To Compel Discovery Against Plaintiffs. filed by, s/Bradley D. Remick, Esquire Certificate of Service no cc	Paul E. Cherry
6/9/2004	ORDER, NOW, this 9th day of June, 2004, Rule issued upon Plaintiffs to Appear and Show Cause why Motion should not be granrted. Rule Returnable is scheduled for the 7th day of July, 2004, at 10:30 a.m. in Courtroom No. 2. by the Court, s/PEC, J.	Paul E. Cherry
6/16/2004	Affidavit of Service filed. of Triangle Auto Spring Co.'s Motion to Compel with attached Order/Rule to Show Cause on counsel by USPS. 1 CC to Atty. Remick.	Paul E. Cherry
6/29/2004	Complaint Against Additional Defendant Triangle Auto Spring Company, filed by s/Joseph P. Green, Esq. No CC	Paul E. Cherry
7/6/2004	Notice of Service of Plaintiffs' Answers to Three Sets of Interrogatories form Additional Defendant Triangle Auto Spring Company, filed by s/Amy B. Kubisiak, Esq. No CC	Paul E. Cherry

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Civil Other

Date		Judge
7/7/2004	Order, NOW, this 7th day of July, 2004, Order that Additional Defendant's Motion to Compel Discovery Against Plaintiffs is rescheduled from July 7, 2004, to Monday, July 26, 2004 at 10:30 a.m. BY THE COURT: /s/Paul E. Cherry, Judge One CC Attys: Kiger, Green, Barr, Remick	Paul E. Cherry
7/8/2004	Response to Additional Defendant Triangle Auto Spring Copmany's Motion to Compel Discovery, filed by s/Amy Kubisiak, Esq. No CC	Paul E. Cherry
7/13/2004	Order, NOW, this 12th day of July, 2004, Order that Plaintiff's Response to Additional Defendant's Motion to Compel Discovery Against Plaintiffs is included with argument currently scheduled for Monday, July 26, 2004, at 10:30 a.m. in Courtroom No. 2. BY THE COURT: /s/Paul E. Cherry, Judge 5 CC Atty Kubisiak with memo re: service of rules and scheduling orders	Paul E. Cherry
7/19/2004	Affidavit of Service of Order of Court, served the July 12, 2004 Order of Court including Plaintiff's Response to Additional Defendant's Motion to Compel Discovery in the argument currently scheduled for Monday, July 26, 2004 to all counsel of record and the Clearfield County Court Administrator, filed by s/Amy B. Kubisiak, Esq. No CC	Paul E. Cherry
7/29/2004	Additional Defendant, Triangle Auto Spring Company's Answer to Complaint of Barry Kyler t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. with New Matter and Crossclaim, filed by s/Bradley D. Remick, Esq. No CC	Paul E. Cherry
8/3/2004	Reply to New Matter and New Matter Matter Crossclaim, filed by Additional Defendant Triangle Auto Spring Company.	Paul E. Cherry
8/4/2004	Plaintiffs' Reply to New Matter and New Matter Counterclaim of Additional Defendant Triangle Auto Spring, filed by s/Amy B. Kubisiak, Esq. No CC	Paul E. Cherry
8/12/2004	Defendant Mack Trucks, Inc.'s Answer to New Matter Cross Claim Of Triangle Auto Spring Company. Filed by s/ Gerald M. Barr, Esquire. No Cert. Copies.	Paul E. Cherry
10/12/2004	Plaintiff's Motion to Compel Responses to First Set of Request for Production of Documents Directed to Defendants and Additional Defendants, filed by s/Amy B. Kubisiak, Esq. No CC	Paul E. Cherry
10/22/2004	Order NOW, this 22nd day of October, 2004, upon consideration of Plffs' Motion to Compel Responses to First Set of Request for Production of Documents, a Rule is hereby issued upon Def. and Additional Def. to Appear and Show Cause why the Motion should not be granted. Rule returnable is scheduled the 12 day of Nov. 2004. PEC 1 CC to Atty. Kubisiak with Memo Re; service	Paul E. Cherry
10/28/2004	Affidavit of Service of Order of Court Rule Returnable filed by Atty. Kiger No cc.	Paul E. Cherry
11/4/2004	Defendant Mack Trucks, Inc.'s Answer to New Matter - Joinder of Barry Kyler t/d/b/a Northeast Spring & Equipment Company, and Northeast Spring & Equipment Company. Filed by s/Gerald M. Barr, Esquire. No CC	Paul E. Cherry
11/17/2004	Praecipe For Entry of Appearance, filed by Atty. Moses, 1 Cert. to Atty. Enter appearance on behalf of Additional Deft. Consoldiated Metal Products s/Judith A. Moses.	Paul E. Cherry
11/24/2004	Praecipe for Withdrawal, withdraw appearance of Lynn E. Bell, Esquire, on behalf of Consolidated metal Products, Additional Defendant, filed by s/ lynn E. Bell, Esquire. No CC	Paul E. Cherry

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7/8/2004	Response to Additional Defendant Triangle Auto Spring Copmany's Motion to Compel Discovery, filed by s/Amy Kubisiak, Esq. No CC	Paul E. Cherry
7/13/2004	Order, NOW, this 12th day of July, 2004, Order that Plaintiff's Response to Additional Defendant's Motion to Compel Discovery Against Plaintiffs is included with argument currently scheduled for Monday, July 26, 2004, at 10:30 a.m. in Courtroom No. 2. BY THE COURT: /s/Paul E. Cherry, Judge 5 CC Atty Kubisiak with memo re: service of rules and scheduling orders	Paul E. Cherry
7/19/2004	Affidavit of Service of Order of Court, served the July 12, 2004 Order of Court including Plaintiff's Response to Additional Defendant's Motion to Compel Discovery in the argument currently scheduled for Monday, July 26, 2004 to all counsel of record and the Clearfield County Court Administrator, filed by s/Amy B. Kubisiak, Esq. No CC	Paul E. Cherry
7/29/2004	Additional Defendant, Triangle Auto Spring Company's Answer to Complaint of Barry Kyler t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. with New Matter and Crossclaim, filed by s/Bradley D. Remick, Esq. No CC	Paul E. Cherry
8/3/2004	Reply to New Matter and New Matter Matter Crossclaim, filed by Additional Defendant Triangle Auto Spring Company.	Paul E. Cherry
8/4/2004	Plaintiffs' Reply to New Matter and New Matter Counterclaim of Additional Defendant Triangle Auto Spring, filed by s/Amy B. Kubisiak, Esq. No CC	Paul E. Cherry
8/12/2004	Defendant Mack Trucks, Inc.'s Answer to New Matter Cross Claim Of Triangle Auto Spring Company. Filed by s/ Gerald M. Barr, Esquire. No Cert. Copies.	Paul E. Cherry
10/12/2004	Plaintiff's Motion to Compel Responses to First Set of Request for Production of Documents Directed to Defendants and Additional Defendants, filed by s/Amy B. Kubisiak, Esq. No CC	Paul E. Cherry
10/22/2004	Order NOW, this 22nd day of October, 2004, upon consideration of Plffs' Motion to Compel Responses to First Set of Request for Production of Documents, a Rule is hereby issued upon Def. and Additional Def. to Appear and Show Cause why the Motion should not be granted. Rule returnable is scheduled the 12 day of Nov. 2004. PEC 1 CC to Atty. Kubisiak with Memo Re; service	Paul E. Cherry
10/28/2004	Affidavit of Service of Order of Court Rule Returnable filed by Atty. Kiger No cc.	Paul E. Cherry
11/4/2004	Defendant Mack Trucks, Inc.'s Answer to New Matter - Joinder of Barry Kyler t/d/b/a Northeast Spring & Equipment Company, and Northeast Spring & Equipment Company. Filed by s/Gerald M. Barr, Esquire. No CC	Paul E. Cherry
11/17/2004	Praecipe For Entry of Appearance, filed by Atty. Moses, 1 Cert. to Atty. Enter appearance on behalf of Additional Deft. Consoldiated Metal Products s/Judith A. Moses.	Paul E. Cherry
11/24/2004	Praecipe for Withdrawal, withdraw appearance of Lynn E. Bell, Esquire, on behalf of Consolidated metal Products, Additional Defendant, filed by s/ lynn E. Bell, Esquire. No CC	Paul E. Cherry

Clearfield County Court of Common Pleas
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Civil Other

Date		Judge
12/2/2004	Order, NOW, this 30th day of Nov., 2004, upon consideration of Plaintiffs' Motion to Compel Responses to First Set of Request for Production of Documents, it is the ORDER of this Court that Defendants and additional Defendants shall provide full and complete responses to Plaintiffs' First Request for Production of Documents within no more than 20 days from the date of this Order or suffer appropriate sanctions as the Court deems fit. BY THE COURT, /s/ Paul E. Cherry, Judge. 2 Cc Attys: Kiger, Green, Barr, Remick, and Moses.	Paul E. Cherry
12/20/2004	Certification by Defendant Barry Kyler t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. of Service of Supplemental Response to Plaintiffs' Document Production Request, served on Dec. 16, 2004 upon: Jerome Kiger, Esq., Gerald Barr, Esq., Bradley Remick, Esq., and Judith Moses, Esq. Filed by s/ Joseph P. Green, Esquire. No CC	Paul E. Cherry
1/13/2005	Answer, New Matter and New Matter Pursuant to 2252(d) to Triangle Auto Spring Company's Joinder Complaint Of Additional Defendant, Consolidated Metal Products. Original filed by s/ Judith A. Moses, Esquire. no CC	Paul E. Cherry
1/20/2005	Plaintiffs' Reply To New Matter of Additional Defendant Consolidated Metal Products, filed by s/ Jerome W. Kiger, Esquire. No CC	Paul E. Cherry
1/21/2005	Defendant Mack Trucks, Inc.'s Answer to Defendant Consolidated Metal Products' New Matter Pursuant To Pa.R.C.P. 2252(d), filed by s/ Gerald M. Barr, Esquire. No CC	Paul E. Cherry
1/26/2005	Answer Of Additional Defendant, Triangle Auto Spring Co. To New Matter And New Matter Crossclaim Of Additional Defendant, Consolidated Metal Products. Filed by s/ Bradley D. Remick, Esquire. No CC	Paul E. Cherry
2/3/2005	Reply By Defendant Bary Kyler/Northeast to New Matter Raised by Additional Defendant Consolidated Metal Products, filed by s/ Joseph P. Green, Esquire. No CC	Paul E. Cherry
3/3/2005	Motion to Compel Rust Removal From U-Bolt to Determine Identification Code, filed by Atty. Moses	Paul E. Cherry
3/4/2005	Rule Returnable, AND NOW, this 4th day of March, 2005, upon consideration of Motion to Compel Rust Removal From U-Bolt to Determine Identification Code, rule made returnable for Hearing the 18 day of March, 2005, at 2:00 p.m. Courtroom No. 2. BY THE COURT, /s/ Paul E. Cherry, Judge. 1CC Attys: J. Kiger, J. Green, G. Barr, B. Remick, and J. Moses.	Paul E. Cherry
3/18/2005	Order, NOW, this 17th day of March, 2005, hearing scheduled for Friday, March 18, 2005 is hereby cancelled. BY THE COURT, /s/ Paul E. Cherry, Judge. 1CC Attys Kiger, Green, Barr, Remiek, and Moses.	Paul E. Cherry
10/3/2005	Motion To Compel Production of U-Bolts, filed by s/ Judith A. Moses, Esquire. No CC	Paul E. Cherry
	Praecipe For Argument Date, filed by s/ Judith A. Moses, Esquire. No CC	Paul E. Cherry
10/5/2005	Rule Returnable, NOW, this 4th day of Oct., 2005, upon consideration of the foregoing Motion, it is Ordered that a rule is issued upon Plff. Rule returnable the 1st day of Nov., 2005 at 9:30 a.m. Courtroom 2 for argument thereon. By The Court, /s/ Paul E. Cherry, Judge. 6 cc Atty. Moses	Paul E. Cherry
10/28/2005	Motion To Continue Argument on Additional Defendant Consolidated Metal Product's Motion to Compel Production of U-Bolts, filed by s/ Amy B. Kubisiak, Esquire. No CC	Paul E. Cherry

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Date		Judge
12/2/2004	Order, NOW, this 30th day of Nov., 2004, upon consideration of Plaintiffs' Motion to Compel Responses to First Set of Request for Production of Documents, it is the ORDER of this Court that Defendants and additional Defendants shall provide full and complete responses to Plaintiffs' First Request for Production of Documents within no more than 20 days from the date of this Order or suffer appropriate sanctions as the Court deems fit. BY THE COURT, /s/ Paul E. Cherry, Judge. 2 Cc Attys: Kiger, Green, Barr, Remick, and Moses.	Paul E. Cherry
12/20/2004	Certification by Defendant Barry Kyler t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. of Service of Supplemental Response to Plaintiffs' Document Production Request, served on Dec. 16, 2004 upon: Jerome Kiger, Esq., Gerald Barr, Esq., Bradley Remick, Esq., and Judith Moses, Esq. Filed by s/ Joseph P. Green, Esquire. No CC	Paul E. Cherry
1/13/2005	Answer, New Matter and New Matter Pursuant to 2252(d) to Triangle Auto Spring Company's Joinder Complaint Of Additional Defendant, Consolidated Metal Products. Original filed by s/ Judith A. Moses, Esquire. no CC	Paul E. Cherry
1/20/2005	Plaintiffs' Reply To New Matter of Additional Defendant Consolidated Metal Products, filed by s/ Jerome W. Kiger, Esquire. No CC	Paul E. Cherry
1/21/2005	Defendant Mack Trucks, Inc.'s Answer to Defendant Consolidated Metal Products' New Matter Pursuant To Pa.R.C.P. 2252(d), filed by s/ Gerald M. Barr, Esquire. No CC	Paul E. Cherry
1/26/2005	Answer Of Additional Defendant, Triangle Auto Spring Co. To New Matter And New Matter Crossclaim Of Additional Defendant, Consolidated Metal Products. Filed by s/ Bradley D. Remick, Esquire. No CC	Paul E. Cherry
2/3/2005	Reply By Defendant Bary Kyler/Northeast to New Matter Raised by Additional Defendant Consolidated Metal Products, filed by s/ Joseph P. Green, Esquire. No CC	Paul E. Cherry
3/3/2005	Motion to Compel Rust Removal From U-Bolt to Determine Identification Code, filed by Atty. Moses	Paul E. Cherry
3/4/2005	Rule Returnable, AND NOW, this 4th day of March, 2005, upon consideration of Motion to Compel Rust Removal From U-Bolt to Determine Identification Code, rule made returnable for Hearing the 18 day of March, 2005, at 2:00 p.m. Courtroom No. 2. BY THE COURT, /s/ Paul E. Cherry, Judge. 1CC Attys: J. Kiger, J. Green, G. Barr, B. Remick, and J. Moses.	Paul E. Cherry
3/18/2005	Order, NOW, this 17th day of March, 2005, hearing scheduled for Friday, March 18, 2005 is hereby cancelled. BY THE COURT, /s/ Paul E. Cherry, Judge. 1CC Attys Kiger, Green, Barr, Remiek, and Moses.	Paul E. Cherry
10/3/2005	Motion To Compel Production of U-Bolts, filed by s/ Judith A. Moses, Esquire. No CC	Paul E. Cherry
	Praecipe For Argument Date, filed by s/ Judith A. Moses, Esquire. No CC	Paul E. Cherry
10/5/2005	Rule Returnable, NOW, this 4th day of Oct., 2005, upon consideration of the foregoing Motion, it is Ordered that a rule is issued upon Plff. Rule returnable the 1st day of Nov., 2005 at 9:30 a.m. Courtroom 2 for argument thereon. By The Court, /s/ Paul E. Cherry, Judge. 6 cc Atty. Moses	Paul E. Cherry
10/28/2005	Motion To Continue Argument on Additional Defendant Consolidated Metal Product's Motion to Compel Production of U-Bolts, filed by s/ Amy B. Kubisiak, Esquire. No CC	Paul E. Cherry

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Civil Other

Date		Judge
10/31/2005	Order of Court This 28th day of October 2005, it is ORDERED that the Argument on Additional Defendant Consolidated Metal Product's Motion to Compel Production of U-Bolts is continued from November 1, 2005 at 9:30 a.m. to December 21, 2005 at 3:00 p.m. before the Honorable Judge Cherry. BY THE COURT: /s/ Paul E. Cherry, Judge. 4CC Atty Kiger.	Paul E. Cherry
11/8/2005	Rule Returnable AND NOW, this 7th day of November 2005, upon consideration of the Defendant Consolidated Metal Products' Motion to Compel Production of U-Bolts, a Rule is hereby issued upon Plaintiff to show cause why the Motion should not be granted. Rule Returnable the 30th day of november 2005, for filing written response. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Atty Moses.	Paul E. Cherry
11/15/2005	Affidavit of Service of Rule Returnable, filed by s/ Judith A. Moses Esq. No CC.	Paul E. Cherry
11/30/2005	Plaintiffs' Response to Motion to Compel Production of U-Bolts, filed by s/Jerome W. Kiger, Esq. No CC	Paul E. Cherry
12/8/2005	Response To Plaintiff's Opposition to Motion to Compel Production of U-Bolts, filed by s/ Judith A. Moses, Esquire. No CC	Paul E. Cherry
2/13/2006	Order, NOW, this 10th day of Feb., 2006, Motion to Compel Production of U-bolts is Granted. By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys: J. Kiger, J. Green, G. Barr, B. Remick, J. Moses	Paul E. Cherry
2/27/2006	Additional Defendant, Triangle Auto Spring Company's Motion to Compel Discovery Against Additional Defendant, Consolidated Metal Products, filed by s/ Bradley D. Remick, Esquire. No CC	Paul E. Cherry
3/3/2006	Order, NOW, this 1st day of March, 2006, Triangle Auto Spring Company's Motion to Compel Discovery is Granted and Consolidated Metals shall produce full, complete and responsive answers to additional defendant's discovery requests within 30 days or suffer sanctions as may be deemed appropriate by the court, /s/ Paul E. Cherry, Judge. 1CC Atty. Remick	Paul E. Cherry
4/13/2006	Certificate of Service, filed. A true and correct copy of Response to D. C. Explosive Co to Subpoena to Produce Documents Etc., issued at the request of Judith A. Moses Esq., on January 19, 2006 served March 6, 2006 together with Certificate of Compliance with Subpoena to PRoduce Documents of Things Pursuant to Rule 4009.23 to Judith A. Moses Esq., Jerome W. Kiger Esq., Jospeh P. Green Esq., filed by s/ John Sughrue Esq. 1CC Atty Sughrue.	Paul E. Cherry
12/10/2007	Motion For Summary Judgment, filed by s/ Judith A. Moses, Esquire. No CC	Paul E. Cherry
12/11/2007	Scheduling Order, this 11th day of Dec., 2007, it is Ordered that argument on Defendant Consolidated Metal Products' Motion for Summary Judgment is scheduled for Jan. 11, 2008 at 2:30 p.m. in Courtroom 2. By the Court, /s/ Paul E. Cherry, Judge. 5CC Atty. Moses	Paul E. Cherry
12/24/2007	Motion for Continuance of Argument Date, filed by Atty. Moses	Paul E. Cherry
1/3/2008	Scheduling Order, this 2nd day of Jan., 2008, it is Ordered that argument on Defendant Consolidated Metal Products' Motion for Summary Judgment is scheduled for Feb. 19, 2008 at 1:30 p.m. in courtroom 2. By The court, /s/ Paul E. Cherry, Judge 5CC Atty. Moses	Paul E. Cherry
1/7/2008	Motion For Summary Judgment of Additional Defendant Triangle Auto Spring Company, filed by s/ Bradley D. Remick, Esquire. no CC	Paul E. Cherry

Clearfield County Court of Common Pleas
ROA Report
Case: 2003-01251-CD
Current Judge: Paul E. Cherry

Civil Other

Date		Judge
10/31/2005	Order of Court This 28th day of October 2005, it is ORDERED that the Argument on Additional Defendant Consolidated Metal Product's Motion to Compel Production of U-Bolts is continued from November 1, 2005 at 9:30 a.m. to December 21, 2005 at 3:00 p.m. before the Honorable Judge Cherry. BY THE COURT: /s/ Paul E. Cherry, Judge. 4CC Atty Kiger.	Paul E. Cherry
11/8/2005	Rule Returnable AND NOW, this 7th day of November 2005, upon consideration of the Defendant Consolidated Metal Products' Motion to Compel Production of U-Bolts, a Rule is hereby issued upon Plaintiff to show cause why the Motion should not be granted. Rule Returnable the 30th day of november 2005, for filing written response. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Atty Moses.	Paul E. Cherry
11/15/2005	Affidavit of Service of Rule Returnable, filed by s/ Judith A. Moses Esq. No CC.	Paul E. Cherry
11/30/2005	Plaintiffs' Response to Motion to Compel Production of U-Bolts, filed by s/Jerome W. Kiger, Esq. No CC	Paul E. Cherry
12/8/2005	Response To Plaintiff's Opposition to Motion to Compel Production of U-Bolts, filed by s/ Judith A. Moses, Esquire. No CC	Paul E. Cherry
2/13/2006	Order, NOW, this 10th day of Feb., 2006, Motion to Compel Production of U-bolts is Granted. By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys: J. Kiger, J. Green, G. Barr, B. Remick, J. Moses	Paul E. Cherry
2/27/2006	Additional Defendant, Triangle Auto Spring Company's Motion to Compel Discovery Against Additional Defendant, Consolidated Metal Products, filed by s/ Bradley D. Remick, Esquire. No CC	Paul E. Cherry
3/3/2006	Order, NOW, this 1st day of March, 2006, Triangle Auto Spring Company's Motion to Compel Discovery is Granted and Consolidated Metals shall produce full, complete and responsive answers to additional defendant's discovery requests within 30 days or suffer sanctions as may be deemed appropriate by the court, /s/ Paul E. Cherry, Judge. 1CC Atty. Remick	Paul E. Cherry
4/13/2006	Certificate of Service, filed. A true and correct copy of Response to D. C. Explosive Co to Subpoena to Produce Documents Etc., issued at the request of Judith A. Moses Esq., on January 19, 2006 served March 6, 2006 together with Certificate of Compliance with Subpoena to PRoduce Documents of Things Pursuant to Rule 4009.23 to Judith A. Moses Esq., Jerome W. Kiger Esq., Jospeh P. Green Esq., filed by s/ John Sughrue Esq. 1CC Atty Sughrue.	Paul E. Cherry
12/10/2007	Motion For Summary Judgment, filed by s/ Judith A. Moses, Esquire. No CC	Paul E. Cherry
12/11/2007	Scheduling Order, this 11th day of Dec., 2007, it is Ordered that argument on Defendant Consolidated Metal Products' Motion for Summary Judgment is scheduled for Jan. 11, 2008 at 2:30 p.m. in Courtroom 2. By the Court, /s/ Paul E. Cherry, Judge. 5CC Atty. Moses	Paul E. Cherry
12/24/2007	Motion for Continuance of Argument Date, filed by Atty. Moses	Paul E. Cherry

1-3-08 Scheduling Order, dated 1-2-08

Clearfield County Court of Common Pleas

ROA Report

Case: 2003-01251-CD

Current Judge: Paul E. Cherry

Civil Other

Date		Judge
1/7/2008	Motion To Extend Time to File Response And Brief in Opposition to Additional Defendant Consolidated Metal Products' Motion For Summary Judgment, filed by s/ Amy B. Kubisiak, Esquire. No CC	Paul E. Cherry
1/8/2008	Order of Court, this 7th day of Jan., 2008, it is Ordered that the time for the filing of Plaintiff's Response to Additional Defendant Consolidated Metal Product's Motion for Summary Judgment and Brief in Opposition is extended until one week before the rescheduled argument date in Feb. 2008. by the court, /s/ Paul E. Cherry, Judge. 4CC Atty. Kubisiak	Paul E. Cherry
1/11/2008	Order, this 11th day of Jan., 2008, argument on Additional Defendant Triangle Auto Spring Company's Motion for Summary Judgment is scheduled for Feb. 19, 2008 at 1:30 p.m. in Courtroom 2. The above argument shall be heard concurrently with argument on Defendant Cosolidated Metal Products' Motion for summary Judgment previously scheduled for the above time and date. By The Court, /s/ Paul E. Cherry, Judge. 5CC to Atty. Remick	Paul E. Cherry
1/14/2008	Notice of Service of Plaintiffs' First Set of Requests for Admissions Directed to Defendants and Additional Defendants by email and us mail, first class to Joseph P. Green Esq., Gerald M. Barr Esq., Bradley D. Remick Esq. and Judith A. Moses Esq., filed by s/ Amy B. Kubisiak Esq. No CC.	Paul E. Cherry
1/28/2008	Scheduling Order, this 25th day of Jan., 2008, it is Ordered that argument on Additional Defendant Triangle Auto Spring Company's Motion for Summary Judgment is scheduled for Feb. 19, 2008 at 1:30 p.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 6CC Atty. Remick	Paul E. Cherry
2/14/2008	Petition for Approval of Settlement and Discontinuance of Wrongful Death and Survival Actions and For Order of Distribution, filed by s/Jerome W. Kiger, Esq. No CC	Paul E. Cherry

Clearfield County Court of Common Pleas

Civil Disposition Report
CT COMMON PLEAS,
All Case Types
From 2/4/2008 to 2/8/2008
All Judgment Types

Case	Parties	Filing date	Judgment	Disposition	Disposition Date
2007-00134-CD	Dezack, James Defendant Palisades Collection, LLC Plaintiff	02/04/2008	Default Judgment In favor of: Plaintiff Judgment amount or comment: $7720.43	Open	2/4/2008
2007-00206-CD	Capital One Bank Plaintiff Timko, Donna M. Defendant	02/06/2008	Default Judgment In favor of: Plaintiff Judgment amount or comment: 2,592.82	Open	2/6/2008
2007-00240-CD	County National Bank Subject Discover Bank Plaintiff Emigh, Phyllis A. Defendant	02/06/2008	Consent Judgment In favor of: Plaintiff Judgment amount or comment: 4455.38	Writ of Executio	2/6/2008
2007-00302-CD	Bank of New York Plaintiff CWABS Inc. Plaintiff Martell, Patricia A. Defendant	02/07/2008	Default Judgment In favor of: Plaintiff Judgment amount or comment: $50,086.52	Writ of Executio	2/7/2008
2007-00442-CD	Batcho, Andrew G. Defendant Remit Corporation Plaintiff Unifund CCR Plaintiff	02/08/2008	Default Judgment In favor of: Plaintiff Judgment amount or comment: $22,341.56	Writ of Executio	2/8/2008
2007-00571-CD	Area Transportation Authorit Plaintiff Aughenbaugh, Lewis W. Defendant	02/05/2008	Arbitration Award In favor of: Defendant Judgment amount or comment:	Open	2/5/2008
2007-01097-CD	Discover Bank Plaintiff Scaife, Steven Defendant Scaiffe, Brenda Defendant	02/06/2008	Default Judgment In favor of: Plaintiff Judgment amount or comment: 17,926.29	Open	2/6/2008
2007-01113-CD	Beneficial Consumer Discou Plaintiff Gormont, Lisa L. Defendant Gormont, Terry A. Defendant	02/06/2008	Default Judgment In favor of: Plaintiff Judgment amount or comment: 12,534.15	Open	2/6/2008

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.

Defendants,

CIVIL DIVISION

No. 03-1251-CD

Type of Pleading:

PRAECIPE FOR WRIT OF SUMMONS IN CIVIL ACTION

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

FILED

AUG 22 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased, No.
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.

Defendants,

PRAECIPE FOR WRIT OF SUMMONS IN CIVIL ACTION

TO PROTHONOTARY:

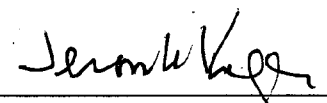
Kindly issue a Writ of Summons in Civil Action against the following Defendants:

1. BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.;

2. NORTHEAST SPRING & EQUIPMENT CO.; and

3. MACK TRUCKS, INC.

KIGER & ALPERN



JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

FILED
m 12:22 BM pd 65.00
AUG 22 2003
2 cc to Shff
2 Writs to Shff
copy to atty

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION

SUMMONS

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH
Plaintiffs,

Vs. **NO.: 2003-01251-CD**

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.
and MACK TRUCKS, INC.
Defendants,

TO: NORTHEAST SPRING & EQUIPMENT CO.
BARRY KYLER
MACK TRUCKS, INC.

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 08/25/2003

William A. Shaw
Prothonotary

Issuing Attorney:
Kiger & Alpern
1404 Grant Building
Pittsburgh, PA 15219-2301

In The Court of Common Pleas of Clearfield County, Pennsylvania

ORSICH; BRENDA L. admx of estate of DAVID A. WEAVER, dec. Sheriff Docket # 14467

VS. 03-1251-CD

KYLER, BARRY t/a/d/b/a NORTHEAST SPRING & EQUIPMENT CO. al

PRAECIPE & WRIT OF SUMMONS

FILED
01/9:27 BN
SEP 26 2003
William A. Shaw
Prothonotary/Clerk of Courts

SHERIFF RETURNS

NOW AUGUST 25, 2003, RONALD ROSSI, SHERIFF OF LEHIGH COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN PRAECIPE & SUMMONS ON MACK TRUCKS INC., DEFENDANT.

NOW SEPTEMBER 4, 2003 SERVED THE WITHIN PRAECIPE & SUMMONS ON MACK TRUCKS, INC., DEFENDANT BY DEPUTIZING THE SHERIFF OF LEHIGH COUNTY. THE RETURN OF SHERIFF ROSSI IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED RICHARD DENT, ATTORNEY.

NOW AUGUST 25, 2003, DENNY NAU, SHERIFF OF CENTRE COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN PRAECIPE & SUMMONS ON BARRY KYLER t/a/d/b/a NORTHEAST SPRING & EQUIPMENT CO., and NORTHEAST SPRING & EQUIPMENT CO., DEFENDANTS.

NOW SEPTEMBER 2, 2003 ATTEMPTED TO SERVE THE WITHIN PRAECIPE & SUMMONS ON BARRY KYLER t/a/d/b/a NORTHEAST SPRING & EQUIPMENT CO., and NORTHEAST SPRING & EQUIPMENT CO., DEFENDANTS BY DEPUTIZING THE SHERIFF OF CENTRE COUNTY. THE RETURN OF SHERIFF NAU IS HERETO ATTACHED AND MADE A PART OF THIS RETURN MARKED "NOT FOUND" ADDRESS IS IN CLEARFIELD COUNTY.

NOW SEPTEMBER 16, 2003 AT 9:50 AM SERVED THE WITHIN PRAECIPE & SUMMONS ON BARRY KYLER t/a/d/b/a NORTHEAST SPRING & EQUIPMENT CO., DEFENDANT AT EMPLOYMENT, RD#3 BOX93A, PHILIPSBURG, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JIM BALDWIN, P.I.C. A TRUE AND ATTESTED COPY OF THE ORIGNIAL PRAECIPE & SUMMONS AND MADE KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: DAVIS/MORGILLO

NOW SEPTEMBER 16, 2003 AT 9:50 AM SERVED THE WITHIN PRAECIPE & SUMMONS ON NORTHEAST SPRING & EQUIPMENT CO., DEFENDANT AT EMPLOYMENT, RD#3 BOX 93A, PHILIPSBURG, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JIM BALDWIN, P.I.C. A TRUE AND ATTESTED COPY OF THE ORIGINAL PRAECIPE & SUMMONS AND MADE KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: DAVIS/MORGILLO

Return Costs

Cost	Description
60.72	SHERIFF HAWKINS PAID BY: ATTY CK# 5207
30.00	SURCHARGE PAID BY: ATTY CK# 5208
9.00	CENTRE CO. SHFF. PAID BY: ATTY
30.00	LEHIGH CO. SHFF. PAID BY: ATTY.

In The Court of Common Pleas of Clearfield County, Pennsylvania

ORSICH, BRENDA L. admx of estate of DAVID A. WEAVER, dec.

VS.

KYLER, BARRY t/a/d/b/a NORTHEAST SPRING & EQUIPMENT CO. al

Sheriff Docket # 14467

03-1251-CD

PRAECIPE & WRIT OF SUMMONS

SHERIFF RETURNS

Sworn to Before Me This

26th **Day Of** Sept. **2003**

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,

Chester A. Hawkins
Sheriff

14467

SHERIFF'S OFFICE

CENTRE COUNTY

Rm 101 Court House, Bellefonte, Pennsylvania, 16823 (814) 355-6803

SHERIFF SERVICE
PROCESS RECEIPT, AND AFFIDAVIT OF RETURN

INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. please type or print legibly. Do Not detach any copies.

1. Plaintiff(s): Brenda L. Orsich

2. Case Number: 03-1251-CD

3. Defendant(s): Barry Kyler

4. Type of Writ or Complaint: Summons

SERVE AT →

5. Name of Individual, Company, Corporation, Etc., to Serve or Description of Property to be Levied, Attached or Sold.

6. Address (Street or RFD, Apartment No., City, Boro, Twp., State and Zip Code)

7. Indicate unusual service: ☐ Reg Mail ☐ Certified Mail ☐ Deputize ☐ Post ☐ Other

Now, _____ 20_____. I SHERIFF OF CENTRE COUNTY, PA., do hereby deputize the Sheriff of _____ County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff. _____
Sheriff of Centre County

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE

NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN – Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.

9. Print/Type Name and Address of Attorney/Originator

10. Telephone Number

11. Date

12. Signature

SPACE BELOW FOR USE OF SHERIFF ONLY - DO NOT WRITE BELOW THIS LINE

13. I acknowledge receipt of the writ or complaint as indicated above. SIGNATURE of Authorized CCSD Deputy of Clerk and Title	14. Date Filed	15. Expiration/Hearing Date

TO BE COMPLETED BY SHERIFF

16. Served and made known to _____, on the _____ day of _____, 20 _____, at _____ o'clock, _____ m., at _____, County of Centre Commonwealth of Pennsylvania, in the manner described below:

- ☐ Defendant(s) personally served.
- ☐ Adult family member with whom said Defendant(s) resides(s). Relationship is _____
- ☐ Adult in charge of Defendant's residence.
- ☐ Manager/Clerk of place of lodging in which Defendant(s) resides(s).
- ☐ Agent or person in charge of Defendant's office or usual place of business.
- ☐ _____ and officer of said Defendant company.
- ☒ Other Returning address is Clearfield Co.

On the _____ day of _____, 20 _____, at _____ o'clock, _____ M.

Defendant not found because:

☐ Moved ☐ Unknown ☐ No Answer ☐ Vacant ☐ Other _____

Remarks:

Advance Costs	Docket	Service	Sur Charge	Affidavit	Mileage	Postage	Misc.	Total Costs	Costs Due or Refund
75.00	9.00	—	—	—	—	—	—	9.00	66.00

17. AFFIRMED and subscribed to before me this _____

20. day of _____ 20 _____

23. _____
Notary Public

My Commission Expires

So Answer.

18. Signature of Dep. Sheriff: Dianne Peters

19. Date: 9/2/03

21. Signature of Sheriff

22. Date

SHERIFF OF CENTRE COUNTY

Amount Pd. Page

24. I ACKNOWLEDGE RECEIPT OF THE **SHERIFF'S RETURN SIGNATURE** OF AUTHORIZED AUTHORITY AND TITLE.

25. Date Received

White - Prothonotary Canary - Attorney

#1434

Sheriff's Office
Clearfield County

OFFICE (814) 765-2641 EXT. 5986
AFTER 4:00 P.M. (814) 765-1533
FAX (814) 765-5915

CHESTER A. HAWKINS
SHERIFF

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

ROBERT SNYDER
CHIEF DEPUTY

MARILYN HAMM
DEPT. CLERK

CYNTHIA AUGHENBAUGH
OFFICE MANAGER

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 14467

BRENDA L. ORSICH, Admx.

VS

BARRY KYLER t/a/d/b/a NORTHEAST SPRING & EQUIPMENT CO.

TERM & NO. 03-1251-CD

DOCUMENT TO BE SERVED:

PRAECIPE & SUMMONS

SERVE BY: 09/21/2003

MAKE REFUND PAYABLE TO: *KIGER & ALPERN, ESQ.*

SERVE: *BARRY KYLER t/a/d/b/a NORTHEAST SPRING & EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.*

ADDRESS: *RD#3 BOX 93A, PHILIPSBURG, PA.*

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF *CENTRE* COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this *25th* Day of *AUGUST* 2003

Respectfully,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

2462-AA 75.00

KIGER & ALPERN

ATTORNEYS AT LAW
1404 GRANT BUILDING
(412) 765-1811 PITTSBURGH, PENNSYLVANIA 15219-2301 FAX (412) 765-0440

August 21, 2003

Sheriff of Centre County
Centre County Courthouse
Allegheny Street
Bellefonte, PA 16823

Re: Estate of David Weaver v. Northeast Spring & Equipment Co. et al.
Our File No.: 82178

Dear Sir/Madam:

Enclosed please find a Writ of Summons, a check in the amount of $75.00 and a self-addressed stamped envelope for return of service.

We have requested from the Sheriff of Clearfield County to deputize Centre County for service of a Writ of Summons upon the defendants listed below.

1. **Barry Kyler, trading and doing business as**
   Northeast Spring & Equipment Co.
   R.D. 3 Box 93A
   Philipsburg, PA 16866

2. **Northeast Spring & Equipment Co.**
   R.D. 3 Box 93A
   Philipsburg, PA 16866

If you have any questions, please advise.

Very truly yours,

KIGER & ALPERN

JEROME W. KIGER
JWK/ajj
Enclosures

M:\KIGER2\WEAVER\CENTRE.SHERIFF..DOC

2749
1467

SHERIFF OFFICE COURTHOUSE - 5TH & HAMILTON STREETS
455 W HAMILTON ST
ROOM 106 ALLENTOWN PA 18101-1614

PAID

BRENDA L. ORSICH; ET AL
VS
BARRY KYLER; ET AL
(CLEARFIELD CO--03-1251-LD)

DOC#: 2003-CV-3840
CASE: 2003-NC-7806
EXPIR: 21-Sep-2003
DEPOSIT: 30.00
ENTRY: 03-Sep-2003

WRIT : SUMMONS IN CIVIL ACTION
SERVE: MACK TRUCKS, INC
AT : 2100 MACK BLVD ALLENTOWN, PA

RETURN OF SERVICE

1. NAME OF INDIVIDUAL SERVED: Richard Derr

2. RELATIONSHIP TO DEFENDANT: Atty.

3. DATE: 9-4-03 20___ TIME: 11:01 am. HOURS: ___

4. LOCATION OF SERVICE: 2100 Mack Blvd
Allentown

5. UNABLE TO LOCATE:
( ) NUMBER OF ATTEMPTS TO LOCATE DEFENDANT AT LAST KNOWN ADDRESS:

1. DATE & TIME_____ 2. DATE & TIME_____

3. DATE & TIME_____ 4. DATE & TIME_____

5. DATE & TIME_____ 6. DATE & TIME_____

ACCEPTANCE OF SERVICE

I HEREBY ACCEPT SERVICE OF THE LEGAL PROCESS AS OUTLINED ON THE FRONT OF THE DOCUMENT. THIS SERVICE IS ACCEPTED ON BEHALF OF THE LISTED DEFENDANT(S) AND I HEREBY CERTIFY THAT I AM AUTHORIZED TO DO SO.

PRINTED NAME OF AUTHORIZED AGENT _____ SIGNATURE OF AUTHORIZED AGENT _____

DATE: _____ TIME: _____

SO ANSWERS Lee Leiter
DEPUTY SHERIFF

Ronald C. Williams
SHERIFF OF LEHIGH COUNTY

Sheriff's Office
Clearfield County

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641 EXT. 5986
AFTER 4:00 P.M. (814) 765-1533
FAX (814) 765-5915

CHESTER A. HAWKINS
SHERIFF

ROBERT SNYDER
CHIEF DEPUTY

CYNTHIA AUGHENBAUGH
OFFICE MANAGER

MARILYN HAMM
DEPT. CLERK

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 14467

BRENDA L. ORSICH, Admx.

VS

BARRY KYLER t/a/d/b/a NORTHEAST SPRING & EQUIPMENT CO.

TERM & NO. 03-1251-CD

DOCUMENT TO BE SERVED:

PRAECIPE & SUMMONS

SERVE BY: 09/21/2003

MAKE REFUND PAYABLE TO: *KIGER & ALPERN, ESQ.*

SERVE: *MACK TRUCKS INC*

ADDRESS: *2100 MACK BLVD., ALLENTOWN, PA. 18103*

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF *LEHIGH* COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this *25th* Day of *AUGUST* 2003

Respectfully,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

RECEIVED
2003 AUG 28 AM 8:31
SHERIFF
LEHIGH COUNTY, PA

SHERIFF OFFICE COURTHOUSE - 5TH & HAMILTON STREETS
455 W HAMILTON ST
ROOM 106 ALLENTOWN PA 18101-1614

RECEIPT OF PAYMENT as of 02-Sep-2003 at 15:20:43
FOR TRANSACTION DATE 02-Sep-2003

RECEIPT#: 2003 - 4,375
CASE#: 2003-NC-3886
PAY TYPE: CHECK
CHECK #: 5210
LEDGER TYPE: MIS

NO CASE

FOR: ORSICH, BRENDA
BY: KIGER & ALPERN

AMOUNT PAID: 30.00
CLERK: TLS

PLEASE RETAIN THIS RECEIPT FOR YOUR RECORDS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs vs. BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	CIVIL DIVISION No. 03-1251-CD Type of Pleading: ENTRY OF APPEARANCE Filed on behalf of: Defendants Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. Counsel of Record for this Party: Joseph P. Green, Esquire PA I.D. #19238 LEE, MARTIN, GREEN & REITER, INC. 115 East High Street PO Box 179 Bellefonte, PA 16823 814-355-4769

FILED

SEP 30 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	) :) :) :) :)	No. 03-1251-CD
vs.	) :)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	) :) :) :	

ENTRY OF APPEARANCE

To the Prothonotary:

Please enter the appearance of the undersigned on behalf of Barry Kyler, t/d/b/a Northeast Spring & Equipment Co., and Northeast Spring & Equipment Co., Defendants above-named.

LEE, MARTIN, GREEN & REITER, INC.

By: _____

Joseph P. Green, Esq., ID #19238
Attorney for Defendants Barry Kyler, i/t/d/b/a
Northeast Spring & Equipment Co. and
Northeast Spring & Equipment Co.
115 East High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	) :) :) :)	No. 03-1251-CD
vs.	) :)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	) :) :) :	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Entry of Appearance was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 29 day of Sept, 2003 addressed to the following:

Jerome W. Kiger, Esq.
Amy B. Kubisiak, Esq.
1404 Grant Building
Pittsburgh, PA 15219

Mack Trucks, Inc.
2100 Mack Boulevard
Allentown, PA 18101

Joseph P. Green

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	) :) :) :)	No. 03-1251-CD
vs.	) :)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	) :) :) :	

PRAECIPE

To the Prothonotary:

Enter a Rule upon the Plaintiffs to file a complaint within twenty (20) days after service of the Rule, or judgment of non pros will be entered.

LEE, MARTIN, GREEN & REITER, INC.

By: _____

Joseph P. Green, Esq., ID #19238
Attorney for Defendants Barry Kyler, i/t/d/b/a
Northeast Spring & Equipment Co. and
Northeast Spring & Equipment Co.
115 East High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

FILED

OCT 0 8 2003

William A. Shaw
Prothonotary/Clerk of Courts
1 cert to Rule
to Atty Green

RULE

TO THE PLAINTIFF:

You are ruled to file a complaint within twenty (20) days after service hereof or judgment of non pros will be entered.

Date: 10-8-07

Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

COMPLAINT IN CIVIL ACTION

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

NOTICE TO PLEAD

To: ALL DEFENDANTS
You are hereby notified to file a written response to the enclosed COMPLAINT within twenty (20) days from service hereof or a judgement may be entered against you.

Kiger & Alpern
ATTORNEYS FOR PLAINTIFFS

FILED

NOV 14 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

No. 03-1251 CD

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or that if you fail to do so, the case may proceed without you and judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any claim or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE OR KNOW A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Court Administrator of Clearfield County
230 East Market Street
Clearfield, PA 16830
(814) 765-2641 ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

No. 03-1251 CD

COMPLAINT IN CIVIL ACTION

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire, Amy B. Kubisiak, Esquire and Kiger & Alpern, Esquires, make the following Complaint against the Defendants:

1. Plaintiff, Brenda L. Orsich, is an adult individual residing at 1 Southwest 4th Avenue, Clearfield, PA 16830, and was duly appointed Administratrix of the Estate of David A. Weaver, deceased, by the Register of Wills, Clearfield County, PA, on November 27, 2001 at No. 2001-686-O.C.

2. Plaintiff, Jennifer L. Weaver, minor, date of birth May 8, 1989, is the child of David A. Weaver, deceased, and Brenda L. Orsich, who were divorced prior to the

death of David A. Weaver. Jennifer L. Weaver resides with Plaintiff, Brenda L. Orsich at 1 Southwest 4th Avenue, Clearfield, PA 16830.

3. The right to bring this action is conferred upon Plaintiffs Brenda L. Orsich, as Administratrix of the Estate of David A. Weaver and upon Jennifer L. Weaver, a minor, by her parent and natural guardian, Brenda L. Orsich, by virtue of the provisions of the Wrongful Death and Survival Acts, as amended, and other applicable laws. Decedent, David A. Weaver, was survived by Jennifer L. Weaver, his daughter, and this action is brought on behalf of the Estate of David A. Weaver and Jennifer L. Weaver, his daughter.

4. Plaintiffs' decedent did not commence any action for his personal injuries during his lifetime.

5. Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. is an individual with business offices at RD 3 Box 93A, Route 322 West, Philipsburg, PA 16866, which, at all times material hereto, did and does business within Pennsylvania.

6. Defendant Northeast Spring & Equipment Co. is an company with business offices at RD 3 Box 93A, Route 322 West, Philipsburg, PA 16866, which, at all times material hereto, did and does business within Pennsylvania.

7. Defendants Barry Kyler and Northeast Spring & Equipment Co. are related Defendants (hereinafter referred to as "Defendants Norheast Spring").

8. Defendant Mack Trucks, Inc. (hereinafter referred to as "Defendant Mack Trucks") is a corporation with offices at 2100 Mack Boulevard, Allentown, PA 18103, which, at all times material hereto, did and does business within Pennsylvania.

9. At all times material hereto, Defendants Northeast Spring were engaged in business for profit and was acting on their own behalf or through their agents, servants, and employees who were acting on their behalf and within the scope and course of their authority and employment.

10. All times material hereto, Defendants Northeast Spring was in the business of selling, distributing, installing, inspecting, specifying or recommending, certifying, or otherwise supplying and servicing trucks and motor vehicles, including component and related parts and systems thereof, including, but not limited to, leaf springs and leaf spring U-bolts.

11. At all times material hereto, Defendant Mack Trucks was engaged in business for profit and were acting on its own behalf or through its agents, servants, and employees who were acting on its behalf and within the scope and course of their authority and employment.

12. All times material hereto, Defendant Mack Trucks was in the business of designing, manufacturing, assembling, inspecting, specifying or recommending, certifying, selling, leasing, or otherwise supplying and servicing trucks and motor vehicles, including component and related parts and systems thereof, including, but not limited to, leaf springs and leaf spring U-bolts.

13. Defendant Mack Trucks designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, or otherwise supplied the subject 1991 red Mack Truck, tri-axle, VIN No. 1M2P264COMMOO9212 (hereinafter referred to as "subject vehicle" or "subject truck") and component and related parts and systems thereof in which David A. Weaver, deceased, was the driver at the time of the hereinafter-

described accident. Defendant Mack Trucks also designed, manufactured, assembled, inspected, specified or recommended, certified, sold or otherwise supplied leaf spring U-bolts, and component and related parts and systems, on the right rear of the subject truck (hereinafter referred to as subject U-bolts) that were installed on the subject truck by Defendants Northeast Spring on or about April 25, 2000.

14. Defendants Northeast Spring sold, installed, inspected, specified or recommended, certified, or otherwise supplied and serviced the subject truck and/or component and related parts and systems thereof, in which David A. Weaver, deceased, was the driver at the time of the hereinafter-described accident, including the subject leaf springs and leaf spring U-bolts on the right rear of subject truck on or about April 25, 2000.

15. On or about April 25, 2000, Defendants Northeast Spring performed repair and/or maintenance on the subject truck. Defendants Northeast Spring assembled, installed, inspected, specified or recommended, certified, sold, or otherwise supplied the subject leaf springs and the subject leaf spring U-bolts and component and related parts and systems, on the subject truck owned by decedent David A. Weaver's employer, D.C. Guelich Explosive Co. Defendant Mack Trucks designed, manufactured assembled, inspected, specified or recommended, certified, sold, or otherwise supplied the subject leaf spring U-bolts to Defendants Northeast Spring. Defendants Northeast Spring installed the subject leaf springs and subject leaf spring U-bolts, and component and related parts and systems, on the right rear of the subject truck. The odometer on the subject truck at the time of the installation of the subject U-bolts read at or near 116,142 miles.

16. On or about August 30, 2001, at approximately 7:25 a.m., David A. Weaver was the driver of the subject truck, in the course of his employment with D.C. Guelich Explosive Co., the owner of the subject truck. The accident occurred in the northbound lane of SR 2023, Lawrence Township, Clearfield County, PA at or near its intersection with T-598, also known as Log Cabin Road when the subject U-bolts, sold, or otherwise supplied by Defendants Mack Trucks and Northeast Spring and installed by Defendants Northeast Spring, failed causing catastrophic loss of control of the subject truck, causing the subject truck to crash through the guardrails on the side of northbound SR2023 and roll onto its passenger side, going down a steep embankment, coming to rest on its roof on T-598 facing southwest, killing David A. Weaver. At the time of the subject accident of August 30, 2001, the odometer on the subject truck read at or near 131,491 miles.

COUNT I

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING& EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

17. Plaintiffs incorporate herein by reference Paragraphs 1 through 16, inclusive, of this Complaint.

18. The subject vehicle and subject U-bolts were expected to and did reach the ultimate users, consumers and bystanders including decedent David A. Weaver, without substantial change or alteration and in the same or substantially the same condition as when they left the possession and control of Defendants Northeast Spring.

19. Defendants Northeast Spring represented and warranted to the ultimate users and consumers of the subject truck that the subject U-bolts were fit for the purposes for which they were intended.

20. In addition to the aforesaid warranty of fitness for a particular purpose, Defendants Northeast Spring Buick warranted that the subject U-bolts were merchantable and fit for said uses.

21. The injuries to and death of the decedent David A. Weaver and the injuries and damages sustained by Plaintiffs were the direct and proximate result of Defendants Northeast Spring selling, distributing, installing, inspecting, specifying or recommending, certifying, or otherwise supplying the subject U-bolts in a nonworkmanlike fashion and in a defective condition, unreasonably dangerous to the users and consumers of same, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and in breach of Defendants Northeast Spring's express and implied warranties as set forth in the applicable laws of the Commonwealth of Pennsylvania.

22. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of Defendants Northeast Spring's improper sale, installation, inspection, specification or recommendation, certification, or supply of the subject U-bolts, and in breach by Defendants Northeast Spring of express and implied warranties that the subject U-bolts would be properly designed, manufactured, assembled, installed, inspected, specified or recommended, certified, sold, and/or supplied, in a good and proper workmanlike fashion by Defendants Northeast Spring and Defendant Mack Trucks.

23. Alternatively, the subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, installed or otherwise supplied by Defendants Northeast Spring and the occurrence of the accident.

24. As the result of the breach of warranties of Defendants Northeast Spring as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

25. As the result of the breach of warranties of Defendants Northeast Spring as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports

f. Death

26. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co. in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT II

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING& EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

27. Plaintiffs incorporate herein by reference paragraphs 1 through 26, inclusive, of this Complaint.

28. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of the negligence and carelessness, acts and omissions of Defendants Northeast Spring, individually, jointly and severally; generally, and in the following particulars:

a. In failing to ascertain if the subject truck and U-bolts were properly designed by Defendant Mack Trucks;

b. In failing to ascertain if the subject truck and U-bolts were properly manufactured by Defendant Mack Trucks;

c. In failing to ascertain if Defendant Mack Trucks included such design features, devices, techniques, and/or other manufacturing features that would have prevented the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

d. In failing to ascertain if Defendant Mack Trucks designed and manufactured the subject truck and U-bolts in such a manner as to prevent the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

e. In breaching the highest degree of care owed in the design, manufacture, sale, installation, maintenance, service and supply of the subject leaf springs and U-bolts;

f. In failing to provide properly designed, assembled, manufactured, and inspected leaf springs and U-bolts;

g. In selling, installing and supplying defective products, including the subject U-bolts;

h. In selling, specifying or recommending, supplying, installing and inspecting products including the subject U-bolts which were not reasonably fit and safe for their intended uses;

i. In failing to properly inspect and, if appropriate under the circumstances, service and repair the subject truck;

j. In failing to properly tighten the subject U-bolts;

k. In failing to properly advise and warn users of the subject truck and U-bolts, including, but not limited to, D.C Guelich Explosive Co. and decedent David A. Weaver, following the installation of the subject U-bolts on the subject truck on or about April 25, 2000, that the newly installed subject U-bolts had to be retightened after the subject truck was driven 1,000 miles;

l. In failing to schedule a follow up appointment for the subject U-bolts to be retightened on the subject truck after the subject truck was driven 1000 miles following the installation of the subject U-bolts on or about April 25, 2000;

m. In failing to retighten the subject U-bolts on the subject truck following their installation on or about April 25, 2000 after the subject truck was driven 1,000 miles;

n. In failing to discover the defective nature of the subject truck and U-bolts;

o. In failing to properly inspect and test the subject truck and U-bolts;

p. In failing to warn the users of the subject truck and U-bolts of the defective condition of the products;

q. In selling, inspecting, specifying, installing and recommending the subject truck and U-bolts in such a manner that they would become defective during normal uses;

r. In failing to advise or warn the users of the subject truck and U-bolts of the proper procedure to maintain and inspect the subject U-bolts;

s. In selling, installing and/or otherwise supplying the subject U-bolts with latent defects;

t. In failing to install and supply adequate safety devices, instructions and warnings;

u. In selling and installing products with design and/or manufacturing defects;

v. In failing to follow and in violating any governmental or industry standards which may be applicable;

w. In that Defendants Northeast Spring knew, or in the exercise of reasonable care should have known, of the defective and dangerous condition of the subject truck and U-bolts and realized that injuries, including the loss of life, and damages would probably occur and failed to warn of the defect and risk of injury and loss of life involved when the subject truck, leaf springs and U-

bolts were used, and under such circumstances, failing to make the subject truck and U-bolts safe for use;

x. In failing to recall the subject leaf springs and leaf spring U-bolts or remedy the defect(s) in the subject truck and U-bolts after sale and installation. In the event that it is proven that there was an attempt to recall or remedy the defect(s), negligent management of the recall or attempt to remedy defect(s) in the subject truck and U-bolts;

y. In failing to sell, install, inspect, specify or recommend, certify, or otherwise supply and service the subject truck and U-bolts in a good and workmanlike fashion;

z. In failing to follow and in violating applicable laws, safety codes and regulations applicable to the subject truck and U-bolts and their uses thereof;

aa. In failing to instruct or in improperly instructing users in the safe use and operation of the subject truck and U-bolts;

bb. In selling and supplying the subject U-bolts when they were subject to sudden, unwanted, and unexpected breakage of the subject U-bolts;

cc. In failing to warn users of the subject truck and U-bolts that the use of the subject truck and U-bolts could result in sudden, unwanted, and unexpected breakage of the subject U-bolts resulting in catastrophic loss of steering control of the subject truck;

dd. In failing to issue proper instruction to users of the subject truck and U-bolts in the event use of the subject truck and U-bolts resulted in sudden, unwanted, and unexpected breakage of the subject U-bolts;

ee. In selling, installing or otherwise supplying U-bolts that could break unexpectedly;

ff. In selling, installing or otherwise supplying a motor vehicle in which the U-bolts, their component parts, and related systems, were placed in such a position that they could become weak and thus result in sudden, unwanted, and unexpected breakage;

gg. In otherwise breaching the highest degree of care owed in designing, development, manufacture, assembly, inspection, specification or recommendation, certification, sale and/or supply of known dangerous products and instrumentalities;

hh. Alternatively, the subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, installed or otherwise supplied by Defendants and the occurrence of the accident.

ii. In otherwise being negligent and careless, in otherwise acting or failing to act in connection with the subject truck and U-bolts in such a manner as would cause injury and/or loss of life under the facts and circumstances as set forth in the Complaint, and as shall appear from the facts in this case, such facts presently within the knowledge and under the control of Defendants and others, and which will be revealed during the course and discovery and trial in this case, including testimony from Defendants or others, and from records, documents or other writings in Defendants' possession, or produced during discovery at trial.

29. As the result of the negligence of Defendants Northeast Spring as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

30. As the result of the negligence of Defendants Northeast Spring as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

31. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co. in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT III

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING& EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

32. Plaintiffs incorporate herein by reference thereto paragraphs 1 through 31, inclusive, of this Complaint.

33. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of Defendants Northeast Spring's selling, installing, inspecting, specifying or recommending, certifying, or otherwise supplying the subject leaf spring U-bolts, their component parts and related systems, known dangerous products and instrumentalities, in a defective condition unreasonably dangerous to the users or consumers, including decedent David A. Weaver, in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and misrepresentations by Defendants Northeast Spring of material facts concerning the character or quality of the subject vehicle, leaf springs and leaf spring U-bolts, their component parts and related systems and Defendants Northeast Spring's safety inspections, specifications, recommendations and certifications thereof, and therefore, Defendants Northeast Spring is strictly liable in tort to Plaintiffs under the laws encompassed in Sections 388, 402A, and 402B, and other applicable sections of the Restatement of Torts, Second and Third and other applicable Pennsylvania law.

34. Alternatively, the subject vehicle and subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold,

installed or otherwise supplied by Defendants Northeast Spring and the occurrence of the accident.

35. As the result of the acts and omissions of Defendants Northeast Spring as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

36. As the result of the acts and omissions of the Defendants Northeast Spring as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

37. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co. in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT IV

BRENDA ORSICH,Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

38. Plaintiffs incorporate herein by reference Paragraphs 1 through 37, inclusive, of this Complaint.

39. The subject truck and subject leaf spring U-bolts were expected to and did reach the ultimate users, consumers and bystanders including decedent David A. Weaver without substantial change or alteration and in the same or substantially the same condition as when they left the possession and control of Defendant Mack Trucks.

40. Defendant Mack Trucks represented and warranted to the ultimate users and consumers of the subject truck and subject leaf spring U-bolts that they were fit for the purposes for which they were intended.

41. In addition to the aforesaid warranty of fitness for a particular purpose, Defendant Mack Trucks warranted that the subject truck and subject leaf spring U-bolts were merchantable and fit for said uses.

42. The subject truck and subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, or otherwise supplied by Defendant Mack Trucks in a manner which was not a good and proper workmanlike fashion, in a defective condition unreasonably dangerous to the ultimate users, consumers and bystanders, including decedent David A. Weaver.

43. The subject truck and subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, or otherwise supplied by Defendant Mack Trucks in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers, including decedent David A. Weaver.

44. The injuries to and death of the decedent David A. Weaver and the injuries and damages sustained by Plaintiffs were the direct and proximate result of Defendant Mack Trucks' designing, manufacturing, assembling, supervising, inspecting, specifying or recommending, certifying, selling, leasing or otherwise supplying the subject truck and subject U-bolts in a nonworkmanlike fashion and in a defective condition, unreasonably dangerous to the users and consumers of same, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and in breach of Defendant Mack Trucks' express and implied warranties as set forth in the applicable laws of the Commonwealth of Pennsylvania.

45. The injuries to and death of the decedent David A. Weaver and the injuries and damages sustained by Plaintiffs were the direct and proximate result of Defendant Mack Trucks' improper design, manufacture, assembly, inspection, specification or

recommendation, certification, sale, lease or supply of the subject truck and subject U-bolts, and in breach by Defendant Mack Trucks of express and implied warranties that the subject truck and subject U-bolts would be properly designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, and/or supplied, in a good and proper workmanlike fashion by Defendant Mack Trucks.

46. Alternatively, the subject truck and subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, or otherwise supplied by Defendants and the occurrence of the accident.

47. As the result of the breach of warranties of Defendant Mack Trucks as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

48. As the result of the breach of warranties of Defendant Mack Trucks as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

49. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Mack Trucks in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT V

BRENDA ORSICH,Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

50. Plaintiffs incorporate herein by reference paragraphs 1 through 49, inclusive, of this Complaint.

51. The losses and damages sustained by Plaintiffs were the direct and proximate result of the negligence and carelessness of Defendant Mack Trucks, individually, jointly and severally, generally, and in the following particulars:

a. In failing to properly design the subject truck and subject U-bolts;

b. In failing to properly manufacture the subject truck and subject U-bolts;

c. In failing to include such design features, devices, techniques, and/or other manufacturing features that would have prevented the subject truck and subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

d. In failing to design and manufacture the subject truck and subject U-bolts in such a manner as to prevent the subject vehicle truck and subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

e. In breaching the highest degree of care owed in the design, manufacture, sale, and supply of the subject truck and subject U-bolts;

f. In failing to provide a properly designed, assembled, manufactured, and inspected truck and U-bolts;

g. In designing, assembling, manufacturing, selling, leasing and supplying defective products, including the subject truck and subject U-bolts;

h. In designing, assembling, manufacturing, selling, leasing, supplying, specifying or recommending and inspecting products, not reasonably fit for their intended use;

i. In designing, assembling, manufacturing, specifying or recommending, selling, leasing, supplying, and inspecting products including the subject truck and subject U-bolts which were not reasonably safe for their intended uses;

j. In failing to properly inspect the subject truck and subject U-bolts;

k. In failing to discover the defective nature of the subject truck and subject U-bolts;

l. In failing to properly inspect and test the subject truck and subject U-bolts;

m. In failing to warn the users of the subject truck and subject U-bolts of the defective condition of the products;

n. In designing, manufacturing, assembling, selling, inspecting, specifying, and recommending the subject truck and subject U-bolts in such a manner that they would become defective during normal uses;

o. In failing to advise the users of the subject truck and subject U-bolts of the proper procedure to maintain and inspect the subject truck and subject U-bolts;

p. In selling and/or otherwise supplying the subject truck and subject U-bolts with latent defects;

q. In failing to install and supply adequate safety devices, instructions and warnings;

r. In selling products with design and/or manufacturing defects;

s. In failing to follow and in violating any governmental or industry standards which may be applicable;

t. In failing to properly advise and warn users of the subject truck and U-bolts, including, but not limited to, D.C Guelich Explosive Co. and decedent David A. Weaver, following the installation of the subject U-bolts on the subject truck on or about April 25, 2000, that the newly installed subject U-bolts had to be retightened after the subject truck was driven 1,000 miles;

u. In that Defendant Mack Trucks knew, or in the exercise of reasonable care should have known, of the defective and dangerous condition of the subject truck and subject U-bolts and realized that injuries, including the loss of life, and damages would probably occur and failed to warn of the defect and risk of injury and loss of life involved when the subject truck and subject U-bolts were used, and under such circumstances, failing to make the subject truck and subject U-bolts safe for use;

v. In failing to incorporate an adequately and properly designed safety system into the design of the subject truck and subject U-bolts;

w. In failing to recall the subject truck and subject U-bolts or remedy the defect(s) in the subject truck and subject U-bolts after their sale. In the event that it is proven that there was an attempt to recall or remedy the defect(s), negligent management of the recall or attempt to remedy defect(s) in the subject truck and subject U-bolts;

x. In failing to design, develop, manufacture, assemble, inspect, specify or recommend, certify, sell, lease or otherwise supply the subject truck and subject U-bolts in a good and workmanlike fashion;

y. In failing to follow and in violating applicable laws, safety codes and regulations applicable to the subject truck and subject U-bolts and their uses thereof;

z. In failing to instruct or in improperly instructing users in the safe use and operation of the subject truck and subject U-bolts;

aa. In designing, assembling, manufacturing, selling, and supplying the subject truck and subject U-bolts when they were subject to sudden and unexpected breakage of the subject U-bolts;

bb. In failing to warn users of the subject truck and subject U-bolts that the use of the subject U-bolts could result in sudden, unwanted, and unexpected breakage of the subject U-bolts;

cc. In failing to issue proper instruction to users of the subject truck, leaf springs and leaf spring U-bolts in the event use of the subject truck and U-bolts resulted in sudden, unwanted, and unexpected breakage;

dd. In selling, leasing or otherwise supplying a motor vehicle and U-bolts that which could break unexpectedly;

ee. In selling, leasing or otherwise supplying a motor vehicle and U-bolts in such a position that they were inadequately protected, and due to their design and placement were subject to sudden, unwanted, and unexpected breakage;

ff. In otherwise breaching the highest degree of care owed in designing, development, manufacture, assembly, inspection, specification or recommendation, certification, sale, lease and/or supply of known dangerous products and instrumentalities;

gg. Alternatively, the subject truck and subject U-bolts were defective by reason of their malfunction under normal uses in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, installed or otherwise supplied by Defendants and the occurrence of the accident.

hh. In otherwise being negligent and careless, in otherwise acting or failing to act in connection with the subject truck and subject U-bolts in such a manner as would cause injury and/or loss of life under the facts and circumstances as set forth in the Complaint, and as shall appear from the facts in this case, such facts presently within the knowledge and under the control of Defendants and others, and which will be revealed during the course and discovery and trial in this case, including testimony from Defendants or others, and from records, documents or other writings in Defendants' possession, or produced during discovery at trial.

52. As the result of the negligence of Defendant Mack Trucks as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

53. As the result of the negligence of Defendant Mack Trucks as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death

54. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Mack Trucks in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT VI

BRENDA ORSICH,Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

55. Plaintiffs incorporate herein by reference thereto paragraphs 1 through 54, inclusive, of this Complaint.

56. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of Defendant Mack Truck's designing, manufacturing, assembling, inspecting, specifying or recommending, certifying, selling, leasing, or otherwise supplying the subject truck, subject U-bolts, their component parts and related systems, known dangerous products and instrumentalities, in a defective condition unreasonably dangerous to the users or consumers, including decedent David A. Weaver, in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and misrepresentations by Defendant Mack Trucks of material facts concerning the character, quality and safety of the subject truck, subject U-bolts, their component parts and related systems and Defendant Mack Trucks' safety inspections,

specifications, recommendations and certifications thereof, and therefore, Defendant Mack Trucks is strictly liable in tort to Plaintiffs under the laws encompassed in Sections 388, 402A, and 402B, and other applicable sections of the Restatement of Torts, Second and Third and other applicable Pennsylvania law.

57. Alternatively, the subject truck and subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, installed or otherwise supplied by Defendant Mack Trucks and the occurrence of the accident.

58. As the result of the acts and omissions of Defendant Mack Trucks as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

59. As the result of the acts and omissions of Defendant Mack Trucks as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

60. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Mack Trucks in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

VERIFICATION

The undersigned, having read the attached Complaint in Civil Action, verifies that the within Complaint is based on information furnished to counsel, as well as information gathered by counsel in the course of this lawsuit. The language of the Complaint is that of counsel and not of the signer. Signer verifies that he/she has read the within Complaint and that it is true and correct to the best of the signer's knowledge, information and belief. To the extent that the contents of the Complaint is that of counsel, I have relied upon counsel in making this Verification. This Verification is made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsifications to authorities.

Dated: 10-30-03

Brenda L Orsich
BRENDA L. ORSICH

CERTIFICATE OF SERVICE

I, Jerome W. Kiger, Esquire, do hereby certify that a true and correct copy of the within Complaint in Civil Action was served to the following via U.S. First Class, postage prepaid 12th day of November, 2003:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Mack Trucks, Inc.
2100 Mack Boulevard
Allentown, PA 18103
VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JEROME W. KIGER, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEY FOR PLAINTIFFS

FILED NO CC
m/1:30 BCL
NOV 14 2003
William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs vs. BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	CIVIL DIVISION No. 03-1251-CD Type of Pleading: Preliminary Objections Filed on behalf of: Defendants Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. Counsel of Record for this Party: Joseph P. Green, Esquire PA I.D. #19238 LEE, MARTIN, GREEN & REITER, INC. 115 East High Street PO Box 179 Bellefonte, PA 16823 814-355-4769

FILED

DEC 0 2 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	) :) :) :)	No. 03-1251-CD
vs.	) :)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	:) :) :	

PRELIMINARY OBJECTIONS FILED BY DEFENDANT BARRY KYLER t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; and NORTHEAST SPRING & EQUIPMENT CO.

Defendant Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co., hereby preliminarily objects pursuant to Pa. R.C.P. 1028, to the Complaint as follows:

1. The instant litigation involves a claim for wrongful death and survival benefits arising out of a motor vehicle incident which occurred on or about August 30, 2001 in Lawrence Township, Clearfield County, Pennsylvania.

2. In the Complaint, the Plaintiff, at various points, uses general language to describe the alleged liability-producing conduct. A primary example of this deficiency is set forth in paragraph 28(ii) which states:

> In otherwise being negligent and careless, in otherwise acting or failing to act in connection with the subject truck and U-bolts in such a manner as would cause injury and/or loss of life under the facts and circumstances as set forth in

the complaint and as shall appear from the facts in this case, such facts presently within the knowledge and under the control of defendants and others, and which will be revealed during the course of discovery and trial in this case, including testimony from defendants or others, and from records, documents or other writings in defendants' possession, or produced during discovery at trial.

3. The aforementioned language does not comply with the pleading rules which mandate that the plaintiff set forth a reasonably specific statement of her claim. Such a pleading is inconsistent with the principles set forth in Connor v. Allegheny General Hospital, 461 A.2 600 (Pa. 1983). See, also, Pa. R.C.P. 1019.

WHEREFORE, it is respectfully requested that the subject language be stricken or that the plaintiff be directed to file an amended complaint deleting the objectionable language.

LEE, MARTIN, GREEN & REITER, INC.

By: _____

Joseph P. Green, Esq., ID #19238
Attorney for Defendants Barry Kyler, i/t/d/b/a
Northeast Spring & Equipment Co. and
Northeast Spring & Equipment Co.
115 East High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH,	) :) :)	No. 03-1251-CD
Plaintiffs	:	
vs.	) :)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.,	:) :)	
Defendants	:	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Preliminary Objections filed by Defendant Barry Kyler, t/d/b/a Northeast Spring & Equipmetn Co.; and Northeast Spring & Equipment Co. was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 1ST day of Dec, 2003 addressed to the following:

Jerome W. Kiger, Esq.
1404 Grant Building
Pittsburgh, PA 15219

Mack Trucks, Inc.
2100 Mack Boulevard
Allentown, PA 18101

Joseph P. Green

FILED No CC
m/11:15 cm
DEC 02 2003

William A. Shaw
Prothonotary/Clerk of Courts

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William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and Natural guardian, BRENDA ORSICH, Plaintiffs vs. BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	:	No. 03-1251 CD

PRAECIPE FOR APPEARANCE

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

Please enter my appearance on behalf of Defendant **MACK TRUCKS, INC.** in the above captioned matter.

Date: 12/8/03

GERALD M. BARR, ESQUIRE
Attorney for Defendant, Mack Trucks, Inc.

BARR & McGOGNEY
4905 Tilghman Street, Suite 250
Allentown, PA 18104
(610) 398-5398
Attorney ID No. 20024

FILED No cc
m/12:51 copy to C/A
DEC 1 1 2003

William A. Shaw
Prothonotary/Clerk of Courts

6A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	:	
vs.	:	No. 03-1251-CD
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	:	

FILED

JAN 08 2004

William A. Shaw
Prothonotary/Clerk of Courts

ORDER

NOW, this 7 day of January, 2004, upon consideration of Defendants' Preliminary Objections, a Rule is hereby issued upon Plaintiffs to Appear and Show Cause why the Preliminary Objections should not be granted. Rule Returnable is scheduled the 4 day of February, 2004, at 1:30 P.M. in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

Judge

FILED
01:00 BH
JAN 08 2004

William A. Shaw
Prothonotary Clerk of Courts

3 cc w/ service memo
to Atty Greer

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH,	) :) :)	No. 03-1251-CD
Plaintiffs	:	
vs.	) :)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.,	) :)	
Defendants	:	

PRAECIPE FOR WRIT OF SUMMONS TO JOIN ADDITIONAL DEFENDANT

To the Prothonotary:

Please issue a writ of summons indicating that Triangle Auto Spring Company is joined as an additional defendant in this matter by Defendant Barry Kyler t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Company.

LEE, GREEN & REITER, INC.

By: _____

Joseph P. Green, Esq., ID #19238
Attorney for Defendants Barry Kyler, i/t/d/b/a
Northeast Spring & Equipment Co. and
Northeast Spring & Equipment Co.
115 East High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

FILED

JAN 12 2004
01:30/cc
William A. Shaw
Prothonotary/Clerk of Courts
2 cert to Atty

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH,	)	No. 03-1251-CD
Plaintiffs	)	
vs.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.,	)	
Defendants	)	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praeipe for Writ of Summons to Join Additional Defendant by United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 12TH day of Jan., 2004 addressed to the following:

Jerome W. Kiger, Esq.
1404 Grant Building
Pittsburgh, PA 15219

Gerald Barr, Esq.
Barr & McGogney
4905 Tilghman Street, Suite 250
Allentown, PA 18104

Joseph P. Green

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

SUMMONS

Brenda Orsich, Administratrix of the
Estate of David A. Weaver, Deceased, and
Jennifer Weaver, a minor, by her parent and
natural guardian, Brenda Orsich
Plaintiff(s)

Vs. No: 03-1251-CD

Barry Kyler, t/d/b/a Northeast Spring & Equipment, Co.;
Northeast Spring & Equipment Co.; and Mack Trucks, Inc.
Defendant(s)

Triangle Auto Spring Company
Additional Defenant

To: Triangle Auto Spring Company
Defendant(s)

To the above named Additional Defendant you are hereby notified that the above named Defendant Barry Kyler, t/d/b/a Northeast Spring & Equipment Co., and Northeast Spring & Equipment Company, have commenced a Civil Action against you as Additional Defendant.

Date: January 12, 2004

William A. Shaw
Prothonotary

Issuing Attorney:
Joseph P. Green, Esq.
115 East High Street
Bellefonte, PA 16823
(814) 355-4769

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and Natural guardian, BRENDA ORSICH, Plaintiffs	:	No. 03-1251 CD
vs.	:	
BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	:	

PRAECIPE FOR WRIT TO JOIN ADDITIONAL DEFENDANT

TO THE PROTHONOTARY/CLERK OF SAID COURT:

X Issue Writ to Join Additional Defendant in the above case.

Writ shall be issued and forwarded to ~~Attorney~~/Sheriff.

Gerald M Barr

Signature of Attorney
Gerald M. Barr, Esquire
Attorney for Defendant, Mack Trucks, Inc.
BARR & McGOGNEY
4905 Tilghman St. Suite 250
Allentown, PA 18104
610-398-5398
Supreme Court ID No. 20024

Date: 1/12/04

FILED
JAN 12 2004
01 11:55/c
William A. Shaw
Prothonotary/Clerk of Courts
3 cert to Atty

* * * * *

WRIT TO JOIN ADDITIONAL DEFENDANT

TO: TRIANGLE AUTO SPRING

YOU ARE NOTIFED THAT MACK TRUCKS, INC., DEFENDANT HAS JOINED YOU AS AN ADDITIONAL DEFENDANT IN THIS ACTION WHICH YOU ARE REQUIRED TO DEFEND.

PROTHONOTARY/CLERK, CIVIL DIVISION

Date: _____ By: _____
Deputy

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

SUMMONS

Brenda Orsich, Administratrix of the
Estate of David A. Weaver, Deceased, and
Jennifer Weaver, a minor, by her parent and
natural guardian, Brenda Orsich
Plaintiff(s)

Vs. No: 03-1251-CD

Barry Kyler, t/d/b/a Northeast Spring & Equipment, Co.;
Northeast Spring & Equipment Co.; and Mack Trucks, Inc.
Defendant(s)

Triangle Auto Spring Company
Additional Defenant

To: Triangle Auto Spring Company
Defendant(s)

To the above named Additional Defendant you are hereby notified that the above named Defendant Mack Trucks, Inc., have commenced a Civil Action against you as Additional Defendant.

Date: January 12, 2004

William A. Shaw
Prothonotary

Issuing Attorney:
Gerald M. Barr, Esq.
4905 Tilgham St., Ste. 250
Allentown, PA 18104
(610) 398-5398

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	:	No. 03-1251-CD
vs.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	:	

AFFIDAVIT OF SERVICE

The undersigned hereby deposes and states that he did forward copies of the attached Order relating to Preliminary Objections relating to all counsel and parties regular U.S. Mail, appropriately addressed, on January 14, 2004.

LEE, GREEN & REITER, INC.

By: _____
Joseph P. Green, Esq., ID #19238
Attorney for Defendants Barry Kyler, i/t/d/b/a
Northeast Spring & Equipment Co. and
Northeast Spring & Equipment Co.
115 East High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

Sworn to and subscribed
before me this 14th day
of January, 2004.
Carol K. Lenhart

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Carol K. Lenhart, Notary Public
Bellefonte Boro, Centre County
My Commission Expires Oct. 3, 2007
Member, Pennsylvania Association Of Notaries

FILED

JAN 16 2004
m/ 11:50 cm
William A. Shaw
Prothonotary/Clerk of Courts
1 cert to Atty

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	:	
vs.	:	No. 03-1251-CD
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	:	

ORDER

NOW, this 7 day of January, 2004, upon consideration of Defendants' Preliminary Objections, a Rule is hereby issued upon Plaintiffs to Appear and Show Cause why the Preliminary Objections should not be granted. Rule Returnable is scheduled the 4 day of February, 2004, at 1:30 P.M. in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

/s/ Fredric J. Ammerman
Judge

I hereby certify this to be a true and attested copy of the original statement filed in this case.

JAN 08 2004

Attest.

Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	:	No. 03-1251-CD
vs.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	:	

FILED

JAN 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

STIPULATION

AND NOW, this 20TH day of January, 2004, it is hereby stipulated by and between the parties that the language set forth in Paragraph 28(ii) and Paragraph 51(hh) shall be deleted from the Complaint in all respects. Said paragraphs shall be deleted and any incorporation thereof by reference or repetition of such averments shall be deleted with respect to any and all counts set forth in said pleading. The execution and filing of this Stipulation shall resolve all issues raised by the Preliminary Objections filed by Defendants Barry Kyler i/t/d/b/a Northeast Spring & Equipment Co.; and Northeast Spring & Equipment Co., and similar objections raised by Defendant Mack Trucks, Inc. All defendants shall file answers on the merits within twenty (20) days of the date of filing this Stipulation.

KIGER & ALPERN

Jerome Kiger, Esq.
Attorney for Plaintiffs Brenda Orsich, of the Estate of David A. Weaver, dec'd & Jennifer Weaver, a minor, by her parent & natural guardian, Brenda Orsich
1404 Grant Bldg., 310 Grant Street
Pittsburgh, PA 15219-2200
412-765-1811

LEE, GREEN & REITER, INC.

Joseph P. Green, Esq., ID #19238
Attorney for Defendants Barry Kyler, Adm. i/t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co.
115 East High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

BARR & McGOGNEY

Gerald M. Barr, Esq., ID #20024
Attorney for Mack Trucks, Inc.
4905 Tilghman Street, Suite 250
Allentown, PA 18104
610-398-5398

FILED NOCC
m/9:15BH
JAN 23 2004
William A. Shaw
Prothonotary/Clerk of Courts

LEE, GREEN & REITER, INC.

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

DONALD E. LEE
JOSEPH P. GREEN
DENNIS O. REITER
ROBERT A. MIX
JONATHAN D. GRINE

115 EAST HIGH STREET
POST OFFICE BOX 179
BELLEFONTE, PA 16823-0179
(814) 355-4769
FAX (814) 355-5024
WWW.LGRLAW.COM

January 19, 2004

William Shaw, Prothonotary
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Re: Brenda Orsich, Administratrix of the Estate of David A. Weaver, et al.
Vs. Barry Kyler, t/d/b/a Northeast Spring & Equipment Co., et al.
No. 003-1251-CD
Our File: L-7600

Dear Mr. Shaw:

I am enclosing herewith a Stipulation to be filed in the above matter which relates to outstanding Preliminary Objections. I would appreciate your returning three time-stamped copies to me in the envelope which I have provided. Thank you.

Very truly yours,

LEE, GREEN & REITER, INC.

By: _____
Joseph P. Green

JPG/cl
Enclosures
C: Jerome Kiger, Esq.
Gerald Barr, Esq.
Triangle Auto Spring

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

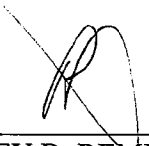
BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of additional defendant, Triangle Auto Spring Company, in connection with the above-captioned matter.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN



BRADLEY D. REMICK, ESQUIRE
Attorney for additional defendant,
Triangle Auto Spring Company

FILED

FEB 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED No cc
m 11:25 BV copy to C/A
FEB 06 2004
William A. Shaw
Prothonotary/Clerk of Courts

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

PRAECIPE FOR RULE TO FILE COMPLAINT

TO THE PROTHONOTARY:

Kindly issue a Rule upon defendants, Barry Kyler t/d/b/a Northeast Spring & Equipment Co. and Mack Trucks, Inc., to file Complaints within twenty (20) days or suffer Judgment of Non Pros.

MARSHALL, DENNEHEY, WARNER,
COLEMAN AND GOGGIN

Date: 2/4/04

By: _____
BRADLEY D. REMICK, ESQUIRE
Attorney for defendant, ~~Stanley~~ Triangle Auto Spring Co.

FILED
FEB 06 2004
William A. Shaw
Prothonotary/Clerk of Courts

FILED No cc
m/ 2:29 BH 2 Rules to Atty
FEB 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Brenda L. Orsich, Administratrix of the
Estate of David A. Weaver, Deceased, and
Jennifer Weaver, a minor by her parent and
natural guardian, Brenda Orsich

Vs. Case No. 2003-01251-CD
Barry Kyler, t/d/b/a Northeast Spring & Equipment Co.;
Northeast Spring & Equipment Co. and
Mack Trucks, Inc.
and
Triangle Auto Spring Company

RULE TO FILE COMPLAINT

TO: Barry Kyler t/d/b/a Northeast Spring & Equipment Co. and Mack Trucks, Inc.

YOU ARE HEREBY RULED to file a Complaint in the above-captioned matter within twenty (20) days from service hereof, or a judgment of non pros may be entered against you.

William A. Shaw, Prothonotary

Dated: February 6, 2004

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

PRAECIPE FOR WRIT TO JOIN ADDITIONAL DEFENDANT

TO THE PROTHONOTARY:

Kindly issue a Writ to join *Consolidated Metal Products, 1028 Depot Street, Cincinnati, Ohio 45204* as an additional defendant in the above-captioned matter.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

BRADLEY D. REMICK, ESQUIRE
Attorney for additional defendant,
Triangle Auto Spring Co.

DATE: February 5, 2004

FILED
FEB 06 2004
William A. Shaw
Prothonotary/Clerk of Courts

FILED No cc
m/ 2:40 Bdt
FEB 06 2004 1 writ issued
William A. Shaw
Prothonotary/Clerk of Courts to Atty Renick

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

TO: Consolidated Metal Products
1028 Depot Street
Cincinnati, Ohio 45204

You are notified that additional defendant, Triangle Auto Spring Company, has joined you as an additional defendant in this action, which you are required to defend.

DATE: 2/6/04

Seal of Court

PROTHONOTARY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	) :) :) :)	No. 03-1251-CD
vs.	) :)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	) :) :) :)	
vs.	) :)	
TRIANGLE AUTO SPRING, Additional Defendant	) :)	

FILED

FEB 12 2004

William A. Shaw
Prothonotary/Clerk of Courts

NOTICE TO PLEAD

To the within named parties:

You are hereby notified to plead to the within NEW MATTER within 20 days of service hereof, or judgment may be entered against you.

LEE, GREEN & REITER, INC.

By: _____

Joseph P. Green, Esq., ID #19238
Attorney for Defendants Barry Kyler, i/t/d/b/a
Northeast Spring & Equipment Co. and
Northeast Spring & Equipment Co.
115 East High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	:	No. 03-1251-CD
vs.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	:	

ANSWER AND NEW MATTER FILED ON BEHALF OF DEFENDANT BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO. AND NOTHEAST SPRING & EQUIPMENT CO.

Defendants Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. (hereinafter referred to as Defendants Northeast Spring collectively) hereby respond to the Complaint as follows:

1. Admitted in part and denied in part. It is admitted that the named individual plaintiff who represents herself to be the Administratrix of the Estate of David A. Weaver is Brenda Orsich and it is believed the listed address is correct. Whether or not Ms. Orsich is the duly appointed Administratrix of the Estate of David A. Weaver is not known to the responding party. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

2. Denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

3. Denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

4. Denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

5. Admitted.

6. Admitted.

7. Denied. The defendant is not certain as to the meaning of the term "related defendants" and therefore is not able to respond to same. Defendant Barry Kyler is a person and Northeast Spring and Equipment Co. is a business name. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

8. Admitted.

9. Admitted in part and denied in part. It is admitted that the defendants were engaged in a business enterprise. It is admitted that, on occasion, the defendants would act through agents, servants and employees with respect to various matters. However, it is denied that any of the acts or omissions attributed to defendants relative to the underlying cause of action occurred. On the contrary, Defendants Northeast Spring acted with reasonable care and prudence in all

respects and engaged in no liability-producing conduct whatsoever. In addition, no breach of contract or warranty occurred.

10. Admitted in part and denied in part. It is admitted that Defendants Northeast Spring is in the business of providing specific services and parts with respect to motor vehicles including trucks. However, the broad spectrum of descriptive words used in Paragraph 10 is practically unlimited and could encompass activities not engaged in by Defendants Northeast Spring. Therefore, and to that extent, the averments of Paragraph 10 are denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

11. Denied. The responding parties are not certain as to the precise nature of the business of Defendant Mack Trucks. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

12. Denied. The responding parties are not certain as to the precise nature of the business of Defendant Mack Trucks. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

13. Admitted in part and denied in part. It is believed that the decedent was the occupant of a truck which was involved in an accident on the described date. However, the precise details as to the nature and scope of the business of Mack Trucks, Inc., and the precise details as to the involvement of Mack Trucks, Inc., with the vehicle are not known to the responding parties. Therefore, said averments are denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and

strict proof thereof is demanded. In addition, it is asserted that Defendant Northeast committed no tortious act or omission nor any breach of contract which was a legal or proximate cause of the alleged harm.

14. Admitted in part and denied in part. It is admitted that Defendants Northeast Spring had performed services in the past for Guelich Explosives. However, the responding parties do not have specific knowledge as to the details associated with the history of the subject vehicle. According to the complaint, there had been at least a sixteen month period of time between the alleged service and the subject event. Defendants Northeast therefore deny the entire balance of the averments. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded. In addition, it is asserted that Defendants Northeast committed no tortious act or omission nor any breach of contract which was a proximate or legal cause of the subject harm.

15. Denied as stated. The description of the activities of Defendants Northeast Spring and Defendant Mack Trucks is so broad as to make a specific answer almost impossible to set forth. It is admitted that certain services were performed by Defendants Northeast Spring relative to a Guelich Explosives truck many months prior to the alleged incident.. The balance of the averments are denied. It appears from the content of the complaint that a period of sixteen months elapsed between the date of alleged service and the date of accident. Defendants Northeast Spring do not have precise knowledge as to the intervening events or circumstances. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded. In addition, it is asserted that Defendants Northeast committed no tortious act or omission nor any breach of contract which was a proximate or legal cause of the subject harm.

16. Denied. The averments are denied pursuant to Pa. R.C.P. 1029(e). In addition, Defendants Northeast do not have knowledge as to such alleged events or occurrences. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

COUNT I

17. The foregoing responses are incorporated at this point by reference.

18. Denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded. Defendants Northeast committed no liability-producing act or omission which was a legal or proximate cause of the alleged harm. In addition, it is asserted that a period of time and usage of sixteen months passed between the time of the alleged service and the date of accident.

19. Denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded. Defendants Northeast committed no liability-producing act or omission which was a legal or proximate cause of the alleged harm.

20. Denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded. Defendants Northeast committed no liability-producing act or omission which was a legal or proximate cause of the alleged harm.

21. Denied. On the contrary, Defendants Northeast Spring acted with reasonable care and prudence in all respects. No defective product was supplied by Defendants Northeast Spring

to the decedent. In addition, Defendants Northeast Spring engaged in no act or omission which was a legal, proximate, or substantial cause of the factor bringing about the subject harm.

The averments amount to legal conclusions to which no specific response is required. No breach of contract, breach of warranty or tortious conduct was committed by Defendants Northeast. Any products furnished, sold or supplied by Defendants Northeast were of good quality, safe and not defective in any manner. Any express or implied warranties which existed were honored. All other averments not specifically addressed are denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

22. Denied. On the contrary, Defendants Northeast Spring acted with reasonable care and prudence in all respects. No defective product was supplied by Defendants Northeast Spring to the decedent. In addition, Defendants Northeast Spring engaged in no act or omission which was a legal, proximate, or substantial cause of the factor bringing about the subject harm.

The averments amount to legal conclusions to which no specific response is required. No breach of contract, breach of warranty or tortious conduct was committed by Defendants Northeast. Any products furnished, sold or supplied by Defendants Northeast were of good quality, safe and not defective in any manner. Any express or implied warranties which existed were honored. All other averments not specifically addressed are denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

23. Denied. The alternative theory as set forth by the plaintiff herein is denied in all respects. The defendant did not supply defective U-bolts nor did there occur a malfunction as described in this paragraph. After reasonable investigation, the responding parties are without

knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

24. Denied. The foregoing responses are incorporated at this point by reference. The allegations relating to damages are denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

25. (including subparagraphs a through f) Denied. The foregoing averments are incorporated at this point by reference. All allegations relating to damages are denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

26. (including subparagraphs a through f). Denied. The foregoing averments are incorporated at this point by reference. All allegations relating to damages are denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

WHEREFORE, it is respectfully requested that judgment be entered in favor of Defendant Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co.

COUNT II

27. The foregoing averments are incorporated at this point by reference.

28. (including subparagraphs a through hh). Denied. On the contrary, it is asserted that the responding parties acted with due care and prudence in all respects and engaged in no liability-producing conduct which was a legal or proximate cause of the alleged harm. All

averments are denied pursuant to Pa. R.C.P. 1029(e). Paragraph 28(ii) has been deleted by stipulation.

29. Denied. On the contrary, Defendants Northeast Spring acted with reasonable care and prudence under the circumstances and engaged in no liability-producing conduct which was a legal or proximate cause of the alleged harm. All averments relating to damages are denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded. In addition, the averments are denied pursuant to Pa. R.C.P. 1029(e).

30. (including subparagraphs a through f). Denied. On the contrary, Defendants Northeast Spring acted with reasonable care and prudence under the circumstances and engaged in no liability-producing conduct which was a legal or proximate cause of the alleged harm. All averments relating to damages are denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded. In addition, the averments are denied pursuant to Pa. R.C.P. 1029(e).

31. Denied. On the contrary, Defendants Northeast Spring acted with reasonable care and prudence under the circumstances and engaged in no liability-producing conduct which was a legal or proximate cause of the alleged harm. All averments relating to damages are denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

WHEREFORE, it is respectfully requested that judgment be entered in favor of Defendant Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co.

COUNT III

32. The foregoing responses are incorporated at this point by reference.

33. Denied. On the contrary, the responding parties acted with reasonable care and prudence in all respects and engaged in no tortious conduct which would constitute a legal or proximate cause of the subject harm. In addition, it is asserted that the responding parties did not supply a defective product which was the cause of the underlying accident. All averments are denied pursuant to Pa. R.C.P. 1029(e). In addition, it is asserted that the allegations set forth in paragraph 33 amount to legal statements and conclusions which require no further response.

34. Denied. The foregoing responses as set forth in paragraph 33 are incorporated at this point by reference. On the contrary, the responding parties did not supply a defective product which malfunctioned thereby causing the underlying incident. In addition, the averments are denied pursuant to Pa. R.C.P. 1029(e).

35. Denied. The foregoing responses are incorporated at this point by reference. All allegations relating to liability are denied pursuant to Pa. R.C.P. 1029(e). All averments relating to injuries and damages are denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

36. (including subparagraphs a through f). Denied. The foregoing responses are incorporated at this point by reference. All allegations relating to liability are denied pursuant to Pa. R.C.P. 1029(e). All averments relating to injuries and damages are denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

37. (including subparagraphs a through f). Denied. The foregoing responses are incorporated at this point by reference. All allegations relating to liability are denied pursuant to Pa. R.C.P. 1029(e). All averments relating to injuries and damages are denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

WHEREFORE, it is respectfully requested that judgment be entered in favor of Defendant Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co.

COUNT IV

38. through 49. Denied. The responding parties hereby incorporate by reference the previous allegations and denials set forth in this responsive pleading. Count IV relates to a party other than the responding parties and therefore no specific responses are required. Nevertheless, it is asserted that Defendants Northeast Spring acted with reasonable care and prudence in all respects and committed no tortious conduct or breach of contract/warranty which was a legal or proximate cause of the subject harm. All averments relating to injuries and damages are denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

WHEREFORE, it is respectfully requested that judgment be entered in favor of Defendant Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co.

COUNT V

50. through 54. Denied. The responding parties hereby incorporate by reference the previous allegations and denials set forth in this responsive pleading. Count IV relates to a party other than the responding parties and therefore no specific responses are required. Nevertheless, it is asserted that Defendants Northeast Spring acted with reasonable care and prudence in all respects and committed no tortious conduct or breach of contract/warranty which was a legal or proximate cause of the subject harm. All averments relating to injuries and damages are denied pursuant to Pa. R.C.P. 1029(e). After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

WHEREFORE, it is respectfully requested that judgment be entered in favor of Defendant Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co.

COUNT VI

55. through 60. Denied. The responding parties hereby incorporate by reference the previous allegations and denials set forth in this responsive pleading. Count IV relates to a party other than the responding parties and therefore no specific responses are required. Nevertheless, it is asserted that Defendants Northeast Spring acted with reasonable care and prudence in all respects and committed no tortious conduct or breach of contract/warranty which was a legal or proximate cause of the subject harm. All averments relating to injuries and damages are denied pursuant to Pa. R.C.P. 1029(e). After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

WHEREFORE, it is respectfully requested that judgment be entered in favor of Defendant Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co.

NEW MATTER - GENERAL

61. The responding parties hereby raise all applicable defenses, conditions and limitations upon recovery set forth in the Pennsylvania Motor Vehicle Financial Responsibility Law.

62. The responding parties assert the expiration of the statute of limitations should said defense be applicable under the circumstances.

63. The responding parties committed no act or omission which was the legal or proximate cause of the alleged harm.

64. The responding parties raise the defense of spoliation should there be a determination that the product, or any significant components thereof, have been lost, altered or destroyed.

65. To the extent applicable, the responding parties assert the provisions of the statutory changes or modifications which have altered the law of joint and several liability by limiting the pecuniary liability of a defendant to that defendant's proportionate or percentage share.

66. Defendants Northeast Spring hereby raise any and all defenses associated with the following:

- Misuse or abuse of the product
- Change or alteration of condition of the product
- Intervening or superseding cause.

67. Defendants Northeast Spring hereby raise all contractual conditions, disclaimers and/or limitations associated with the alleged sale or supply of the product.

68. Defendants Northeast Spring hereby raise the defense of contributory negligence as a complete or partial bar to liability in these circumstances.

69. Defendants Northeast Spring hereby assert that the legal and proximate cause of the underlying incident and damages was attributable to the actions or omissions of parties, persons or entities other than the responding defendants.

WHEREFORE, it is respectfully requested that judgment be entered in favor of Defendant Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co.

NEW MATTER – JOINDER

70. Defendants Northeast Spring, assert this new matter pursuant to Pa. R.C.P. No. 2252(d) and joins Defendant Mack Trucks, Inc. as an additional defendant in this action

71. If plaintiff establishes that she suffered injuries and damages as alleged in her complaint, which allegations answering defendants deny, said injuries and damages were caused solely by the tortious conduct and/or breaches of contract/warranty by Defendant Mack Trucks, Inc., its agents, servants, and/or employees.

72. As a result of the aforesaid actions and/or omissions, Additional Defendant Mack Trucks, Inc. is solely liable to plaintiff for any alleged injuries and damages she may have suffered.

73. If as a result of the matters alleged in plaintiff's complaint, Defendants Northeast Spring are held liable to plaintiff for all or part of such injuries or damages as she may have sustained, additional defendant is the party primarily liable for such injuries and damages, and is

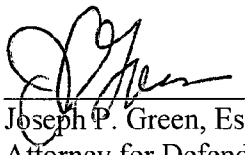
liable over to defendant by way of contribution and/or indemnification, for all such damages as may be required to pay plaintiff.

74. In the alternative, if as a result of the matters alleged in plaintiff's compliant, Defendants Northeast Spring are held liable to plaintiff for all or part of such injuries or damages as plaintiff may have sustained, Defendant Mack Trucks, Inc. is jointly and/or severally liable to plaintiff based upon the foregoing allegations for such injuries and damages and liable over to defendant by way of contribution for all such damages defendants may be required to pay to plaintiff.

75. Defendants Northeast Spring have joined Additional Defendant Triangle Auto Spring Company by writ of summons in this action. The basis for joinder will be set forth in a separate additional defendant complaint.

HEREFORE, it is respectfully requested that judgment be entered in accordance with the theory of joinder set forth above.

LEE, GREEN & REITER, INC.

By: 

Joseph P. Green, Esq., ID #19238
Attorney for Defendants Barry Kyler, i/t/d/b/a
Northeast Spring & Equipment Co. and
Northeast Spring & Equipment Co.
115 East High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	) :) :) :)	No. 03-1251-CD
vs.	) :)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	) :) :) :	

VERIFICATION

Barry Kyler, individually and as duly authorized representative of Northeast Spring & Equipment Co., states that he is the defendant; that he is acquainted with the facts set forth in the foregoing responsive pleading; that the same are true and correct to the best of his knowledge, information and belief; and that this statement is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Barry Kyler

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	) :) :) :)	No. 03-1251-CD
vs.	) :)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	) :) :) :	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer and New Matter filed on Behalf of Defendant Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co.was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 12TH day of February, 2004 addressed to the following:

Jerome W. Kiger, Esq.
1404 Grant Building
Pittsburgh, PA 15219

Bradley Remick, Esq.
1845 Walnut Street
Philadelphia, PA 19103-4797

Gerald Barr, Esq.
Barr & McGogney
4905 Tilghman Street, Suite 250
Allentown, PA 18104

Joseph P. Green

FILED No cc
04:35 BH
FEB 12 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and Natural guardian, BRENDA ORSICH,	:	No. 03-1251 CD
Plaintiffs	:	
vs.	:	
BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.,	:	
Defendants	:	

NOTICE

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY AN ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY PLAINTIFFS. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

FILED

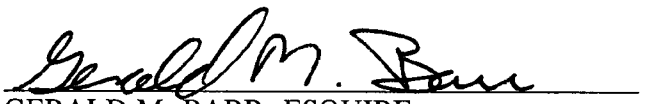
FEB 19 2004

William A. Shaw
Prothonotary/Clerk of Courts

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

CLEARFIELD COUNTY COURT ADMINISTRATOR'S OFFICE
230 E. Market Street
Clearfield, PA 16830
Phone: (814) 765-2641 Ext. 5988



GERALD M. BARR, ESQUIRE
Attorney for Defendant, Mack Trucks, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and Natural guardian, BRENDA ORSICH,	:	No. 03-1251 CD
Plaintiffs	:	
vs.	:	
BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.,	:	
Defendants	:	

DEFENDANT MACK TRUCKS, INC.'S ANSWER TO PLAINTIFF'S COMPLAINT AND NEW MATTER

1. Admitted.

2. Admitted.

3. Denied. This is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

11. Admitted.

12. Admitted and Denied. It is admitted that Defendant Mack Trucks, Inc. is in the business of designing leaf springs and leaf spring U-bolts. It is specifically denied that Mack Trucks is in the business of manufacturing leaf springs or leaf spring U-bolts, nor do they manufacture trucks.

13. Admitted and Denied. It is admitted that Mack Trucks, Inc. designed, manufactured and assembled a 1991 Red Mack Truck Tri-axle VIN 1M2P264COMMOO9212. After reasonable investigation, Mack Trucks, Inc. is unable to form a belief as to the truth of the rest of the averments of this paragraph and strict proof thereof is demanded at trial.

14. Denied. After reasonable investigation, Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

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15. Denied. After reasonable investigation, Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

16. Denied. After reasonable investigation, Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

COUNT I

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

17. Defendant Mack Trucks, Inc. incorporates its Answers to Plaintiff's Complaint Paragraphs 1 through 16 as though more fully set forth herein at length.

18. through 26. The averments of these paragraphs are facts and conclusions of law directed to Defendant's other than the answering Defendant, and therefore no answer is required on behalf of the answering Defendant, Mack Trucks, Inc.

COUNT II

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

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27. Defendant Mack Trucks, Inc. incorporates its Answers to Plaintiff's Complaint Paragraphs 1 through 26 as though more fully set forth herein at length.

28. through 31. The averments of these paragraphs are facts and conclusions of law directed to Defendant's other than the answering Defendant, and therefore no answer is required on behalf of the answering Defendant, Mack Trucks, Inc.

COUNT III

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

32. Defendant Mack Trucks, Inc. incorporates its Answers to Plaintiff's Complaint Paragraphs 1 through 31 as though more fully set forth herein at length.

33. through 37. The averments of these paragraphs are facts and conclusions of law directed to Defendant's other than the answering Defendant, and therefore no answer is required on behalf of the answering Defendant, Mack Trucks, Inc.

COUNT IV

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

38. Defendant Mack Trucks, Inc. incorporates its Answers to Plaintiff's Complaint Paragraphs 1 through 37 as though more fully set forth herein at length.

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39. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the subject matter of the averments of this paragraph and strict proof thereof is demanded at trial.

40. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the subject matter of the averments of this paragraph and strict proof thereof is demanded at trial.

41. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the subject matter of the averments of this paragraph and strict proof thereof is demanded at trial.

42. Denied. It is specifically denied that the subject truck and subject U-bolts were defective in any manner whatsoever, or that there were any defective conditions in regards to same. The subject truck was manufactured and designed in a good and workmanlike manner and, with proper use and maintenance, would provide no danger to any user thereof. The subject U-bolts were not manufactured by Mack Trucks, Inc. It is further averred that this paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

43. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure. To the extent that an answer may be required, it is specifically averred that the subject truck was designed and manufactured in a good and proper workmanlike condition and,

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with proper maintenance and use thereof, were safe for use by the ultimate users, including the Decedent, David A. Weaver. The subject U-bolts were not manufactured by Mack Trucks, Inc.

44. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

45. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

46. Denied. It is specifically denied that the subject truck was defective in any manner whatsoever. On the contrary, the subject truck, if used and maintained properly, would be safe under normal use. The subject U-bolts were not manufactured by Mack Trucks, Inc.

47. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure. To the extent that an answer may be required, Defendant Mack Trucks, Inc. is without sufficient information to form a belief as to any damages which Jennifer L. Weaver may have suffered, and strict proof thereof is demanded at trial.

48. a-f. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph, including sub-paragraphs a through f, and strict proof thereof is demanded at trial.

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49. a-f. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph, including sub-paragraphs a through f, and strict proof thereof is demanded at trial.

WHEREFORE, Defendant Mack Trucks, Inc. requests this Honorable Court to dismiss Plaintiff's Complaint in regards to Mack Trucks, Inc.

COUNT V

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

50. Defendant Mack Trucks, Inc. incorporates its Answers to Plaintiff's Complaint Paragraphs 1 through 49 as though more fully set forth herein at length.

51. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure. To the extent that an answer may be required, it is specifically averred as follows in regards to the subparagraphs listed below:

a. Mack Trucks, Inc. properly designed the subject truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

b. Mack Trucks, Inc. properly manufactured the subject truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

c. Mack Trucks, Inc. manufactured the subject truck in such a manner that the subject truck, if used and maintained properly, would not break. The subject U-bolts were not manufactured by Mack Trucks, Inc.

d. Mack Trucks, Inc. designed and manufactured the subject truck in such a manner that if properly used and maintained, would not break. The subject U-bolts were not manufactured by Mack Trucks, Inc.

e. Mack Trucks, Inc. used the highest degree of care owed in the design, manufacture, sale and supply of the subject truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

f. Mack Trucks, Inc. provided a properly designed, assembled, manufactured and inspected truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

g. Mack Trucks, Inc. designed, assembled and manufactured the subject truck in a good and workmanlike manner. The subject U-bolts were not manufactured by Mack Trucks, Inc.

h. Mack Trucks, Inc. designed, assembled and manufactured the subject truck in a manner reasonably fit for their intended purpose. The subject U-bolts were not manufactured by Mack Trucks, Inc.

i. Mack Trucks, Inc. designed, assembled and manufactured the subject truck in a manner which was reasonably safe for their intended uses. The subject U-bolts were not manufactured by Mack Trucks, Inc.

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j. Mack Trucks, Inc. properly inspected the subject truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

k. There was no defective nature of the subject truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

l. To the extent that it was required, Mack Trucks, Inc. properly inspected the subject truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

m. The subject truck was not defective when it left the control of Mack Trucks, Inc. The subject U-bolts were not manufactured by Mack Trucks, Inc.

n. Mack Trucks, Inc. designed, manufactured and assembled the subject truck in such a manner that it would not become defective during normal use. The subject U-bolts were not manufactured by Mack Trucks, Inc.

o. Mack Trucks, Inc., when it sold the subject truck and subject U-bolts, advised the purchaser of the proper procedure to maintain and inspect the subject truck and subject U-bolts.

p. Mack Trucks, Inc. did not supply the subject truck and subject U-bolts with latent defects.

q. Mack Trucks, Inc. supplied adequate safety devices, instructions and warnings to the consumer who purchased the subject truck and subject U-bolts from Mack Trucks, Inc.

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r. Mack Trucks, Inc. sold no products with design and/or manufacturing defects.

s. Mack Trucks, Inc. did not violate any governmental or industry standards.

t. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

u. There were no defective or dangerous conditions of the subject truck and therefore, with proper use and maintenance, no injuries should have occurred. The subject U-bolts were not manufactured by Mack Trucks, Inc.

v. The safety system of the subject truck was more than adequate, assuming that the consumer used and maintained the product in the proper manner. The subject U-bolts were not manufactured by Mack Trucks, Inc.

w. There were no defects in the subject truck after their sale, and therefore there was no necessity for any recall. The subject U-bolts were not manufactured by Mack Trucks, Inc.

x. The subject truck was designed, developed, manufactured and assembled in a good and workmanlike fashion. The subject U-bolts were not manufactured by Mack Trucks, Inc.

y. Mack Trucks, Inc. followed all applicable laws, safety codes and regulations applicable to the subject truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

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z. Mack Trucks, Inc. provided proper instructions to the safe use and operation of the subject truck and subject U-bolts.

aa. Mack Trucks, Inc. designed, assembled and manufactured the subject truck in such a manner that there would be no sudden or unexpected breakage. Mack Trucks, Inc. did not manufacture the subject U-bolts.

bb. Mack Trucks, Inc. did not manufacture the subject U-bolts. It is specifically averred that the subject U-bolts should not result in unexpected breakage with proper use and maintenance.

cc. Mack Trucks, Inc. did not manufacture the leaf spring U-bolts. Mack Trucks, Inc. did issue proper instructions to the users of the subject truck to the extent that said users were known to Mack Trucks, Inc. The U-bolts, with proper use and maintenance should not result in sudden, unwanted and unexpected breakage.

dd. The vehicle and U-bolts sold by Mack Trucks, Inc. would not break unexpectedly with proper use and maintenance.

ee. The motor vehicle and U-bolts sold by Mack Trucks, Inc. were not subject to sudden, unwanted and unexpected breakage, unless the subject motor vehicle and U-bolts were not used or maintained properly.

ff. Mack Trucks, Inc. used the highest degree of care owed in designing, developing, manufacturing, assembling and inspecting the subject truck. Mack Trucks, Inc. did not manufacture the subject U-bolts.

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gg. Mack Trucks, Inc. did not manufacture or sell the subject truck in a defective condition. Mack Trucks, Inc. did not manufacture the subject U-bolts.

hh. Mack Trucks, Inc. did not act in a negligent or careless manner in manufacturing or designing the subject truck. Mack Trucks, Inc. did not manufacture or design the subject U-bolts.

52. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

53. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of subparagraphs a through f, and strict proof thereof is demanded at trial. As to whether Mack Trucks, Inc. was negligent, this is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

54. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of subparagraphs a through f, and strict proof thereof is demanded at trial.

WHEREFORE, Mack Trucks, Inc. requests this Honorable Court to dismiss Plaintiff's Complaint and find in favor of the Defendant Mack Trucks, Inc.

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COUNT VI

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

55. Defendant Mack Trucks, Inc. incorporates its Answers to Plaintiff's Complaint Paragraphs 1 through 54 as though more fully set forth herein at length.

56. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

57. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure. It is specifically denied that the subject truck malfunctioned. It is further specifically averred that the subject U-bolts were not manufactured by Mack Trucks, Inc.

58. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph. Mack Trucks, Inc. further avers that portions of the averments of this paragraph are conclusions of law to which no answers are required pursuant to the Pennsylvania Rules of Civil Procedure.

59. Denied. A portion of this paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure. In regards to subparagraphs a through f, after reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

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60. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

WHEREFORE, your within Defendant, Mack Trucks, Inc., requests this Honorable Court to dismiss those portions of the Complaint which are directed at Mack Trucks, Inc.

NEW MATTER

61. Defendant Mack Trucks, Inc. incorporates by reference its answers to Paragraphs 1 through 60 of Plaintiff's Complaint, inclusive, as though same were fully set forth at length herein.

62. Defendant Mack Trucks, Inc. believes and therefore avers that at all times material to the within cause of action, David Weaver assumed the risk incident to his actions with the result that even if it should be proven that Answering Defendant Mack Trucks, Inc. would be otherwise liable to the Plaintiffs, which liability is expressly denied, such assumption of the risk is a bar to the recovery by Plaintiffs in any amount in this action.

63. David Weaver may have been contributorily negligent to a degree greater than the causal negligence, if any, of Mack Trucks, Inc., the same being expressly denied with strict proof thereof demanded at the time of trial, with the result of the Pennsylvania Comparative Negligence Statute as applicable, and the

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Plaintiff's recovery should be eliminated and/or reduced in accordance with said Act.

64. The Defendant Mack Trucks, Inc. believes and therefore avers that it is entitled to a set off of any and all monies paid to David Weaver and/or the Plaintiffs as a result of the subject matter therein.

65. The Defendant, Mack Trucks, Inc. believes and therefore avers that it is entitled to a set off of any loss of wage benefits received by David Weaver and/or the Plaintiffs herein.

66. Any medical bills incurred by David Weaver and/or the Plaintiffs herein, as are applicable to the within cause of action, are subject to, limited by, and/or barred by the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Act 75 Pa.C.S.A. 1701 et sec.

67. Any loss of earnings allegedly suffered by David Weaver are subject to, limited by, and/or barred by the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Act as cited above.

68. Whatever injuries and damages, if any, sustained by David Weaver and/or the Plaintiffs as averred in their Complaint, the same being specifically denied, and strict proof demanded thereof at the time of trial, were caused in whole or in part by persons other than the Defendant Mack Trucks, Inc., over whom Mack Trucks, Inc. has no control and for whose actions Answering Defendant is not liable.

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69. Whatever injuries and damages, if any, sustained by David Weaver and/or the Plaintiffs as averred in their Complaint, the same being specifically denied, and strict proof thereof demanded at the time of trial, were caused in whole or in part by conditions or circumstances beyond the control of the Answering Defendant, Mack Trucks, Inc.

70. Plaintiffs' claims are barred or should be substantially reduced because of Plaintiffs' and/or David Weaver's failure to act reasonably or timely to mitigate damages.

71. Any negligence of the Answering Defendant Mack Trucks, Inc., the same being denied with strict proof thereof demanded at trial, was not a substantial factor in causing the harm complained of by David Weaver and/or the Plaintiffs.

72. Plaintiffs have not stated a cause of action upon which they may base their recovery.

73. The claim of Plaintiffs is barred by the appropriate Statute of Limitations.

74. David Weaver and/or Plaintiffs' injuries were caused by persons or parties which were contributory and/or intervening superceding causes, thus relieving Answering Defendant of any liability.

75. Mack Trucks, Inc. did not manufacture the U-bolt which is the subject of this litigation. Mack Trucks, Inc. did not provide maintenance to the subject vehicle subsequent to 1994.

76. The subject vehicle was not properly maintained.

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77. The subject U-bolt was not properly maintained.

Date: 12/24/03

GERALD M. BARR, ESQUIRE
Attorney for Defendant, Mack Trucks, Inc.

BARR & McGOGNEY
4905 Tilghman Street, Suite 250
Allentown, PA 18104
(610) 398-5398
Attorney ID No. 20024

VERIFICATION

I, Gerald M. Barr, Esquire, hereby verify that the facts contained in the foregoing Answer to Plaintiff's Complaint and New Matter are true and correct to the best of my knowledge, information and belief and that the signature of Defendant cannot be obtained within the time required for the filing of this pleading; and I understand that the statements made herein are subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Date: 12/24/03

Gerald M. Barr
GERALD M. BARR, ESQUIRE

BARR & McGOGNEY - ATTORNEYS AT LAW
SUITE 250 - 4905 TILGHMAN STREET - ALLENTOWN, PENNSYLVANIA 18104 - (610) 398-5398

GERALD M. BARR
ATTORNEY AT LAW
4905 TILGHMAN STREET
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ALLENTOWN, PENNSYLVANIA 18104
(610) 398-5398

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH,
Plaintiffs
vs.
BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO., and MACK TRUCKS, INC.,
Defendants

DEFENDANT MACK TRUCK, INC.'S ANSWER TO PLAINTIFF"S COMPLAINT AND NEW MATTER

FILED 1cc
m/11:30 BK Atty Barr
FEB 19 2004
William A. Shaw
Prothonotary/Clerk of Courts

GERALD M. BARR
ATTORNEY AT LAW
4905 TILGHMAN STREET
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ALLENTOWN, PENNSYLVANIA 18104
(610) 398-5398

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT MACK TRUCKS, INC.

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

FILED

MAR 0 4 2004
m/1:30/
William A. Shaw
Prothonotary/Clerk of Courts
No c/c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

No. 03-1251 CD

PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT MACK TRUCKS, INC.

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire, Amy B. Kubisiak, Esquire and Kiger & Alpern, Esquires, and file the following Reply to New Matter of Defendant Mack Trucks, Inc.:

61. No response is necessary. If further response is required, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

62. Plaintiffs have been advised and therefore aver that the allegations of paragraph 62 set forth conclusions of law to which no answer is required. If further answer is required, Plaintiffs aver that David Weaver did not assume any risk of injury. Proof thereof is demanded. Plaintiffs' claims are not barred or reduced in any manner whatsoever.

63. Plaintiffs have been advised and therefore aver that the allegations of paragraph 63 set forth conclusions of law to which no answer is required. If further answer is required, Plaintiffs aver that David Weaver was not contributory and/or comparatively negligent, generally and specially. Proof thereof is demanded. Plaintiffs' claims are not barred or reduced in any manner whatsoever.

64. Plaintiffs have been advised and therefore aver that the allegations of paragraph 64 set forth conclusions of law to which no answer is required. Proof thereof is demanded. If further answer is required, Plaintiffs aver that Defendant Mack Trucks, Inc. is not entitled to any setoff whatsoever.

65. Plaintiffs have been advised and therefore aver that the allegations of paragraph 65 set forth conclusions of law to which no answer is required. Proof thereof is demanded. If further answer is required, Plaintiffs aver that Defendant Mack Trucks, Inc. is not entitled to any setoffs whatsoever.

66. Plaintiffs have been advised and therefore aver that the allegations of paragraph 66 set forth conclusions of law to which no answer is required. Proof thereof is demanded. If further answer is required, Plaintiffs aver that any medical bills paid to or on behalf of David Weaver and/or the Plaintiffs as a result of the subject matter herein are not subject to, limited by, and/or barred by the provisions of the Pennsylvania Motor

Vehicle Financial Responsibility Act. .

67. Plaintiffs have been advised and therefore aver that the allegations of paragraph 67 set forth conclusions of law to which no answer is required. Proof thereof is demanded. If further answer is required, Plaintiffs aver that any loss of earnings suffered by David Weaver are not subject to, limited by, and/or barred by the provisions of the Pennsylvania Motor Vehicle Financial Responsibility.

68. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 68 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

69. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 69 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

70. Plaintiffs have been advised and therefore aver that the allegations of paragraph 70 set forth conclusions of law to which no answer is required. Proof thereof is demanded. If further answer is required, David Weaver and/or Plaintiffs did not fail to act reasonably or timely to mitigate damages. Plaintiffs' claims are not barred or reduced in any manner whatsoever.

71. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 71 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

72. Plaintiffs have been advised and therefore aver, that the allegations of Paragraph 72 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, the allegations in Paragraph 72 are denied. To the contrary, Plaintiffs' Complaint does state a cause of action upon which relief can be granted.

73. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 73 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, the allegations in Paragraph 73 are denied. Plaintiffs timely filed and served the Writ of Summons so as to comply with all applicable statutes of limitations.

74. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 74 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

75. Denied. Upon reasonable investigation, the Plaintiffs are without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 75. Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein. Proof thereof is demanded.

76. Denied. Upon reasonable investigation, the Plaintiffs are without sufficient information to form a belief as to the truth of the averments set forth in paragraph 76. Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein. Proof thereof is demanded.

77. Denied. Upon reasonable investigation, the Plaintiffs are without sufficient

information to form a belief as to the truth of the averments set forth in paragraph 77. Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein. Proof thereof is demanded.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand judgment against Defendants as set forth in the Plaintiffs' Complaint at the proper costs and charges thereto.

KIGER & ALPERN

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
Attorneys for Plaintiffs

VERIFICATION

The undersigned, having read the attached Reply to New Matter, verifies that the within Reply is based on information furnished to counsel, as well as information gathered by counsel in the course of this lawsuit. The language of the Reply is that of counsel and not of the signers. Signers verify that they have read the within Reply and that it is true and correct to the best of the signers' knowledge, information and belief. To the extent that the contents of the Reply are that of counsel, we have relied upon counsel in making this Verification. This Verification is made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsifications to authorities.

Date: February 27, 2004

Brenda L Orsich

BRENDA L. ORSICH

CERTIFICATE OF SERVICE

I, Amy B. Kubisiak, Esquire, do hereby certify that a true and correct copy of the within Plaintiffs' Reply to New Matter of Defendant Mack Trucks, Inc. was served to the following via U.S. First Class, postage prepaid on March 3, 2004:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Consolidated Metal Products
1028 Depot Street
Cincinnati, OH 45204

AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and Natural guardian, BRENDA ORSICH, Plaintiffs vs. BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants vs. TRIANGLE AUTO SPRING, Additional Defendant	:	No. 03-1251 CD

FILED

MAR 05 2004

William A. Shaw
Prothonotary

NOTICE

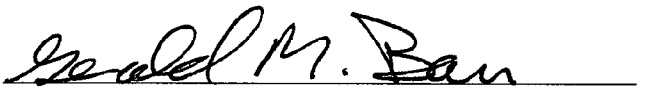
YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY AN ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF

REQUESTED BY PLAINTIFFS. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

CLEARFIELD COUNTY COURT ADMINISTRATOR'S OFFICE
230 E. Market Street
Clearfield, PA 16830
Phone: (814) 765-2641 Ext. 5988



GERALD M. BARR, ESQUIRE
Attorney for Defendant, Mack Trucks, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and Natural guardian, BRENDA ORSICH,	:	No. 03-1251 CD
Plaintiffs	:	
vs.	:	
BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.,	:	
Defendants	:	
vs.	:	
TRIANGLE AUTO SPRING,	:	
Additional Defendant	:	

DEFENDANT MACK TRUCKS, INC.'S JOINDER COMPLAINT OF ADDITIONAL DEFENDANT, TRIANGLE AUTO SPRING

Defendant Mack Trucks, Inc., by and through its attorney, Gerald M. Barr, Esquire, hereby files a Joinder Complaint against additional defendant, Triangle Auto Spring, based upon the following:

1. Mack Trucks, Inc. incorporates its Answers to Plaintiff's Complaint and its New Matter, paragraphs 1-77 as though more fully set forth herein at length. A copy of

Defendant, Mack Trucks, Inc.'s Answer and New Matter is attached hereto and marked Exhibit A and is intended to become a part hereof.

2. Defendant Mack Trucks, Inc. also incorporates by reference, Plaintiff's Complaint without admission, and avers each and every paragraph as though the same were set forth herein at length against additional defendant, Triangle Auto Spring, now joined. A copy of Plaintiff's Complaint is attached hereto and marked Exhibit B and is intended to become a part hereof.

3. Triangle Auto Spring is a business entity with a principal place of business located at Maloney Road, P.O. Box 425, Dubois, Pennsylvania, 15801.

4. At all times relevant herein, Triangle Auto Spring was the manufacturer or fabricator of the subject U-bolts as referenced in Paragraph 13 of Plaintiff's Complaint, that were installed on the subject truck by Defendants Northeast Spring, on or about April 25, 2000.

5. On or about April 25, 2000, Defendants Northeast Spring performed repair and/or maintenance on the subject truck. Defendants Northeast Spring assembled, installed, inspected, specified or recommended, certified, sold or otherwise supplied the subject leaf springs and the subject leaf spring U-bolts and component and related parts and systems on the subject truck owned by decedant, David A. Weaver's employer, D.C. Guelich Explosive Company. Additional Defendant Triangle Auto Spring designed, manufactured, assembled, inspected, specifed or

recommended, certified, sold or otherwise supplied the subject leaf spring U-bolts to Defendant Northeast Spring.

6. Without admitting any of the averments contained in Plaintiff's Complaint, Mack Trucks, Inc. alleges that if the injuries and damages described therein are proven to be true, in whole or in part, then said injuries were caused not as a result of any negligence, carelessness and recklessness with the manufacture, design, engineering or failure to warn associated with Defendant Mack Trucks, Inc.'s product, but rather was caused by the negligence, carelessness, and recklessness with the manufacture, design, engineering or failure to warn of the additional Defendant, Triangle Auto Spring.

7. The subject leaf spring U-bolts were expected to and did reach the ultimate users, consumers, and bystanders, including Decedent David A. Weaver, without substantial change or alteration in the same or substantially the same condition as when they left the possession and control of Defendant Triangle Auto Spring.

8. Defendant Triangle Auto Spring represented and warranted to their ultimate users and consumers of the subject leaf spring U-bolts that they were fit for the purposes for which they were intended.

9. In addition to the aforesaid warranty of fitness for a particular purpose, Defendant Triangle Auto Spring warranted that the subject leaf spring U-bolts were merchantable and fit for said uses.

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SUITE 250 - 4905 TILGHMAN STREET - ALLENTOWN, PENNSYLVANIA 18104 - (610) 398-5398

10. The subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased or otherwise supplied by Defendant Triangle Auto Spring in a manner which was not a good and proper workmanlike fashion, in a defective condition unreasonably dangerous to the ultimate users, consumers and bystanders, including Decedent, David A. Weaver.

11. The subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased or otherwise supplied by Defendant Triangle Auto Spring in which was not a good and proper workmanlike fashion, lacking elements necessary to make it safe for use and containing conditions that made it unsafe for use by the ultimate users and consumers, including Decedent David A. Weaver.

12. If Plaintiffs are entitled to recovery as set forth in Plaintiff's Complaint, which injuries and damages are specifically denied, additional Defendant, Triangle Auto Spring is solely liable to said Plaintiffs or is liable over to Mack Trucks, Inc. or jointly and severally liable over to Mack Trucks, Inc. for any alleged injuries, losses and/or damages which may have been suffered by Plaintiffs as a direct and proximate result of Defendant Triangle Auto Spring's designing, manufacturing, assembling, supervising, inspecting, specifying or recommending, certifying, selling, leasing or otherwise supplying the subject U-bolts in a non-workmanlike fashion and in a defective condition unreasonably dangerous to the users and consumers of same, lacking elements necessary to make it safe for use and

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containing conditions that made it unsafe for use by the ultimate users and consumers, and in breach of Triangle Auto Springs express and implied warranties as set forth in the applicable laws of the Commonwealth of Pennsylvania.

13. The subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time that they were manufactured, sold, leased, or otherwise supplied by Defendant Triangle Auto Spring and the occurrence of the accident.

14. Without admitting any of the averments contained in Plaintiff's Complaint, Mack Trucks, Inc. alleges that if the injuries and damages described therein are proven to be true, in whole or in part, then said injuries were caused by the negligence, carelessness and/or recklessness of Defendant Triangle Auto Spring in the following respects:

    a. In failing to properly design the subject U-bolts;

    b. In failing to properly manufacture the subject U-bolts;

    c. In failing to include such design features, devices, techniques, and/or other manufacturing features that would have prevented the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

    d. In failing to design and manufacture the subject U-bolts in such a manner as to prevent the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

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e. In breaching the highest degree of care owed in the design, manufacture, sale and supply of the subject U-bolts;

f. In failing to provide a properly designed, assembled, manufactured and inspected U-bolt;

g. In designing, assembling, manufacturing, selling, leasing and supplying a defective U-bolt;

h. In designing, assembling, manufacturing, selling, leasing, supplying, specifying or recommending and inspecting products not reasonably fit for their intended use;

i. In designing, assembling, manufacturing, specifying or recommending, selling, leasing, supplying and inspecting the subject U-bolt which was not reasonably safe for its intended uses;

j. In failing to properly inspect the subject U-bolts;

k. In failing to discover the defective nature of the subject U-bolt;

l. In failing to properly inspect and test the subject U-bolts;

m. In failing to warn the users of the subject U-bolts of the defective condition of the products;

n. In designing, manufacturing, assembling, selling, inspecting, specifying and recommending the subject U-bolts in such a manner that they would become defective during normal uses;

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o. In failing to advise the purchasers and/or users of the subject U-bolts of the proper procedure to install, maintain and inspect the subject U-bolts;

p. In selling and/or otherwise supplying the subject U-bolts with latent defects;

q. In selling products with design and/or manufacturing defects;

r. In failing to follow and in violating any governmental or industry standards which may be applicable;

s. In failing to properly advise and warn users of the subject U-bolts, including but not limited to, D.C. Guelich Explosive Company and Decedent, David A. Weaver, following the installation of the subject U-bolts in the subject truck on or about April 25, 2000, that the newly installed subject U-bolts had to be retightened after the subject truck was driven 1,000 miles;

t. In that Defendant Triangle Auto Spring knew or in the exercise of reasonable care, should have known of the defective and dangerous condition of the subject U-bolts and realized that injuries, including the loss of life and damages, would probably occur and failed to warn of the defect and risk of injury and loss of life involved when the subject U-bolts were used and under such circumstances failing to make the subject U-bolts safe for use;

u. In failing to design, develop, manufacture, assemble, inspect, specify or recommend, certify, sell, lease or otherwise supply the subject U-bolts in a good and workmanlike fashion.

v. In failing to follow and in violating applicable laws, safety codes and regulations applicable to the subject U-bolts and the uses thereof;

w. In failing to instruct or improperly instructing the purchasers and/or users in the safe installation, use and operation of the subject U-bolts;

x. In failing to warn users of the subject U-bolts that the use of the subject U-bolts could result in sudden, unwanted, and unexpected breakage;

y. In selling, leasing or otherwise supplying U-bolts that could break unexpectedly;

z. In otherwise breaching the highest degree of care owed in designing, development, manufacture, assembly, inspection, specification or recommendation, certification, sale, lease and/or supply of known dangerous products and instrumentalities;

aa. Alternatively, the subject U-bolts were defective by reason of their malfunction under normal uses, in the absence of reasonable secondary causes, and without substantial changes between the time the were manufactured, sold, leased, installed, or otherwise supplied by Defendant Triangle Auto Spring and the occurrence of the accident.

15. Without admitting any of the averments contained in Plaintiff's Complaint, Mack Trucks, Inc. alleges that if the injuries and damages described therein are proven to be true, in whole or in part, then said injuries were caused as a direct and proximate result of Defendant Triangle Auto Springs designing, manufacturing, assembling,

inspecting, specifying or recommending, certifying, selling, leasing or otherwise supplying the subject U-bolts, a known dangerous product and instrumentality, in a defective condition, unreasonably dangerous to the users and consumers, including Decedent David A. Weaver, in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers, and misrepresentations by Defendant Triangle Auto Spring of the material facts concerning the character, quality and safety of the subject U-bolts and therefore, Defendant Triangle Auto Spring is strictly liable toward Plaintiffs under the laws encompassed in Sections 388, 402A and 402B and other applicable sections of the Restatement of Torts, Second and Third, and other applicable Pennsylvania law.

16. Alternatively, the subject U-bolts were defective by reason of their malfunction under normal use, in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, installed or otherwise supplied by Defendant, Triangle Auto Spring, and the occurrence of the accident.

17. If Mack Trucks, Inc. is held liable to Plaintiffs for all or a part of such injuries and damages as Plaintiff's may have allegedly suffered, additional Defendant, Triangle Auto Spring, is liable to Mack Trucks, Inc. by way of contribution and/or indemnity.

BARR & McGOGNEY - ATTORNEYS AT LAW
SUITE 250 - 4905 TILGHMAN STREET - ALLENTOWN, PENNSYLVANIA 18104 - (610) 398-5398

WHEREFORE, Mack Trucks, Inc. respectfully requests that Additional Defendant, Triangle Auto Spring, be held solely liable to Plaintiffs, jointly and severally liable to Plaintiffs, and/or liable over to Mack Trucks, Inc. on any Judgment that may be entered in favor of Plaintiffs and against Mack Trucks, Inc.

Date: 2/19/04

GERALD M. BARR, ESQUIRE
Attorney for Defendant, Mack Trucks, Inc.

BARR & McGOGNEY
4905 Tilghman Street, Suite 250
Allentown, PA 18104
(610) 398-5398
Attorney ID No. 20024

VERIFICATION

I, Gerald M. Barr, Esquire, hereby verify that the facts contained in the foregoing Answer to Plaintiff's Complaint and New Matter are true and correct to the best of my knowledge, information and belief and that the signature of Defendant cannot be obtained within the time required for the filing of this pleading; and I understand that the statements made herein are subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Date: 2/19/04

Gerald M. Barr
GERALD M. BARR, ESQUIRE

BARR & McGOGNEY - ATTORNEYS AT LAW
SUITE 250 - 4905 TILGHMAN STREET - ALLENTOWN, PENNSYLVANIA 18104 - (610) 398-5398

EXHIBIT A

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and Natural guardian, BRENDA ORSICH, Plaintiffs vs. BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	:	No. 03-1251 CD

I hereby certify this to be a true and attested copy of the original statement filed in this case.

FEB 19 2004

Attest.

Prothonotary/
Clerk of Courts

NOTICE

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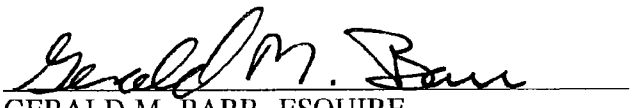
CLEARFIELD COUNTY COURT ADMINISTRATOR'S OFFICE
230 E. Market Street
Clearfield, PA 16830
Phone: (814) 765-2641 Ext. 5988



GERALD M. BARR, ESQUIRE
Attorney for Defendant, Mack Trucks, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and Natural guardian, BRENDA ORSICH,	:	No. 03-1251 CD
Plaintiffs	:	
vs.	:	
BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.,	:	
Defendants	:	

DEFENDANT MACK TRUCKS, INC.'S ANSWER TO PLAINTIFF'S COMPLAINT AND NEW MATTER

1. Admitted.

2. Admitted.

3. Denied. This is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

11. Admitted.

12. Admitted and Denied. It is admitted that Defendant Mack Trucks, Inc. is in the business of designing leaf springs and leaf spring U-bolts. It is specifically denied that Mack Trucks is in the business of manufacturing leaf springs or leaf spring U-bolts, nor do they manufacture trucks.

13. Admitted and Denied. It is admitted that Mack Trucks, Inc. designed, manufactured and assembled a 1991 Red Mack Truck Tri-axle VIN 1M2P264COMMOO9212. After reasonable investigation, Mack Trucks, Inc. is unable to form a belief as to the truth of the rest of the averments of this paragraph and strict proof thereof is demanded at trial.

14. Denied. After reasonable investigation, Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

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15. Denied. After reasonable investigation, Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

16. Denied. After reasonable investigation, Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

COUNT I

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

17. Defendant Mack Trucks, Inc. incorporates its Answers to Plaintiff's Complaint Paragraphs 1 through 16 as though more fully set forth herein at length.

18. through 26. The averments of these paragraphs are facts and conclusions of law directed to Defendant's other than the answering Defendant, and therefore no answer is required on behalf of the answering Defendant, Mack Trucks, Inc.

COUNT II

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

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27. Defendant Mack Trucks, Inc. incorporates its Answers to Plaintiff's Complaint Paragraphs 1 through 26 as though more fully set forth herein at length.

28. through 31. The averments of these paragraphs are facts and conclusions of law directed to Defendant's other than the answering Defendant, and therefore no answer is required on behalf of the answering Defendant, Mack Trucks, Inc.

COUNT III

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

32. Defendant Mack Trucks, Inc. incorporates its Answers to Plaintiff's Complaint Paragraphs 1 through 31 as though more fully set forth herein at length.

33. through 37. The averments of these paragraphs are facts and conclusions of law directed to Defendant's other than the answering Defendant, and therefore no answer is required on behalf of the answering Defendant, Mack Trucks, Inc.

COUNT IV

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

38. Defendant Mack Trucks, Inc. incorporates its Answers to Plaintiff's Complaint Paragraphs 1 through 37 as though more fully set forth herein at length.

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39. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the subject matter of the averments of this paragraph and strict proof thereof is demanded at trial.

40. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the subject matter of the averments of this paragraph and strict proof thereof is demanded at trial.

41. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the subject matter of the averments of this paragraph and strict proof thereof is demanded at trial.

42. Denied. It is specifically denied that the subject truck and subject U-bolts were defective in any manner whatsoever, or that there were any defective conditions in regards to same. The subject truck was manufactured and designed in a good and workmanlike manner and, with proper use and maintenance, would provide no danger to any user thereof. The subject U-bolts were not manufactured by Mack Trucks, Inc. It is further averred that this paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

43. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure. To the extent that an answer may be required, it is specifically averred that the subject truck was designed and manufactured in a good and proper workmanlike condition and,

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with proper maintenance and use thereof, were safe for use by the ultimate users, including the Decedent, David A. Weaver. The subject U-bolts were not manufactured by Mack Trucks, Inc.

44. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

45. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

46. Denied. It is specifically denied that the subject truck was defective in any manner whatsoever. On the contrary, the subject truck, if used and maintained properly, would be safe under normal use. The subject U-bolts were not manufactured by Mack Trucks, Inc.

47. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure. To the extent that an answer may be required, Defendant Mack Trucks, Inc. is without sufficient information to form a belief as to any damages which Jennifer L. Weaver may have suffered, and strict proof thereof is demanded at trial.

48. a-f. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph, including sub-paragraphs a through f, and strict proof thereof is demanded at trial.

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49. a-f. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph, including sub-paragraphs a through f, and strict proof thereof is demanded at trial.

WHEREFORE, Defendant Mack Trucks, Inc. requests this Honorable Court to dismiss Plaintiff's Complaint in regards to Mack Trucks, Inc.

COUNT V

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian,
BRENDA ORSICH v. MACK TRUCKS, INC.

50. Defendant Mack Trucks, Inc. incorporates its Answers to Plaintiff's Complaint Paragraphs 1 through 49 as though more fully set forth herein at length.

51. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure. To the extent that an answer may be required, it is specifically averred as follows in regards to the subparagraphs listed below:

a. Mack Trucks, Inc. properly designed the subject truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

b. Mack Trucks, Inc. properly manufactured the subject truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

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c. Mack Trucks, Inc. manufactured the subject truck in such a manner that the subject truck, if used and maintained properly, would not break. The subject U-bolts were not manufactured by Mack Trucks, Inc.

d. Mack Trucks, Inc. designed and manufactured the subject truck in such a manner that if properly used and maintained, would not break. The subject U-bolts were not manufactured by Mack Trucks, Inc.

e. Mack Trucks, Inc. used the highest degree of care owed in the design, manufacture, sale and supply of the subject truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

f. Mack Trucks, Inc. provided a properly designed, assembled, manufactured and inspected truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

g. Mack Trucks, Inc. designed, assembled and manufactured the subject truck in a good and workmanlike manner. The subject U-bolts were not manufactured by Mack Trucks, Inc.

h. Mack Trucks, Inc. designed, assembled and manufactured the subject truck in a manner reasonably fit for their intended purpose. The subject U-bolts were not manufactured by Mack Trucks, Inc.

i. Mack Trucks, Inc. designed, assembled and manufactured the subject truck in a manner which was reasonably safe for their intended uses. The subject U-bolts were not manufactured by Mack Trucks, Inc.

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j. Mack Trucks, Inc. properly inspected the subject truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

k. There was no defective nature of the subject truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

l. To the extent that it was required, Mack Trucks, Inc. properly inspected the subject truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

m. The subject truck was not defective when it left the control of Mack Trucks, Inc. The subject U-bolts were not manufactured by Mack Trucks, Inc.

n. Mack Trucks, Inc. designed, manufactured and assembled the subject truck in such a manner that it would not become defective during normal use. The subject U-bolts were not manufactured by Mack Trucks, Inc.

o. Mack Trucks, Inc., when it sold the subject truck and subject U-bolts, advised the purchaser of the proper procedure to maintain and inspect the subject truck and subject U-bolts.

p. Mack Trucks, Inc. did not supply the subject truck and subject U-bolts with latent defects.

q. Mack Trucks, Inc. supplied adequate safety devices, instructions and warnings to the consumer who purchased the subject truck and subject U-bolts from Mack Trucks, Inc.

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r. Mack Trucks, Inc. sold no products with design and/or manufacturing defects.

s. Mack Trucks, Inc. did not violate any governmental or industry standards.

t. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

u. There were no defective or dangerous conditions of the subject truck and therefore, with proper use and maintenance, no injuries should have occurred. The subject U-bolts were not manufactured by Mack Trucks, Inc.

v. The safety system of the subject truck was more than adequate, assuming that the consumer used and maintained the product in the proper manner. The subject U-bolts were not manufactured by Mack Trucks, Inc.

w. There were no defects in the subject truck after their sale, and therefore there was no necessity for any recall. The subject U-bolts were not manufactured by Mack Trucks, Inc.

x. The subject truck was designed, developed, manufactured and assembled in a good and workmanlike fashion. The subject U-bolts were not manufactured by Mack Trucks, Inc.

y. Mack Trucks, Inc. followed all applicable laws, safety codes and regulations applicable to the subject truck. The subject U-bolts were not manufactured by Mack Trucks, Inc.

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z. Mack Trucks, Inc. provided proper instructions to the safe use and operation of the subject truck and subject U-bolts.

aa. Mack Trucks, Inc. designed, assembled and manufactured the subject truck in such a manner that there would be no sudden or unexpected breakage. Mack Trucks, Inc. did not manufacture the subject U-bolts.

bb. Mack Trucks, Inc. did not manufacture the subject U-bolts. It is specifically averred that the subject U-bolts should not result in unexpected breakage with proper use and maintenance.

cc. Mack Trucks, Inc. did not manufacture the leaf spring U-bolts. Mack Trucks, Inc. did issue proper instructions to the users of the subject truck to the extent that said users were known to Mack Trucks, Inc. The U-bolts, with proper use and maintenance should not result in sudden, unwanted and unexpected breakage.

dd. The vehicle and U-bolts sold by Mack Trucks, Inc. would not break unexpectedly with proper use and maintenance.

ee. The motor vehicle and U-bolts sold by Mack Trucks, Inc. were not subject to sudden, unwanted and unexpected breakage, unless the subject motor vehicle and U-bolts were not used or maintained properly.

ff. Mack Trucks, Inc. used the highest degree of care owed in designing, developing, manufacturing, assembling and inspecting the subject truck. Mack Trucks, Inc. did not manufacture the subject U-bolts.

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gg. Mack Trucks, Inc. did not manufacture or sell the subject truck in a defective condition. Mack Trucks, Inc. did not manufacture the subject U-bolts.

hh. Mack Trucks, Inc. did not act in a negligent or careless manner in manufacturing or designing the subject truck. Mack Trucks, Inc. did not manufacture or design the subject U-bolts.

52. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

53. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of subparagraphs a through f, and strict proof thereof is demanded at trial. As to whether Mack Trucks, Inc. was negligent, this is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

54. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of subparagraphs a through f, and strict proof thereof is demanded at trial.

WHEREFORE, Mack Trucks, Inc. requests this Honorable Court to dismiss Plaintiff's Complaint and find in favor of the Defendant Mack Trucks, Inc.

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COUNT VI

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

55. Defendant Mack Trucks, Inc. incorporates its Answers to Plaintiff's Complaint Paragraphs 1 through 54 as though more fully set forth herein at length.

56. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

57. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure. It is specifically denied that the subject truck malfunctioned. It is further specifically averred that the subject U-bolts were not manufactured by Mack Trucks, Inc.

58. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph. Mack Trucks, Inc. further avers that portions of the averments of this paragraph are conclusions of law to which no answers are required pursuant to the Pennsylvania Rules of Civil Procedure.

59. Denied. A portion of this paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure. In regards to subparagraphs a through f, after reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

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60. Denied. After reasonable investigation, Defendant Mack Trucks, Inc. is unable to form a belief as to the truth of the averments of this paragraph and strict proof thereof is demanded at trial.

WHEREFORE, your within Defendant, Mack Trucks, Inc., requests this Honorable Court to dismiss those portions of the Complaint which are directed at Mack Trucks, Inc.

NEW MATTER

61. Defendant Mack Trucks, Inc. incorporates by reference its answers to Paragraphs 1 through 60 of Plaintiff's Complaint, inclusive, as though same were fully set forth at length herein.

62. Defendant Mack Trucks, Inc. believes and therefore avers that at all times material to the within cause of action, David Weaver assumed the risk incident to his actions with the result that even if it should be proven that Answering Defendant Mack Trucks, Inc. would be otherwise liable to the Plaintiffs, which liability is expressly denied, such assumption of the risk is a bar to the recovery by Plaintiffs in any amount in this action.

63. David Weaver may have been contributorily negligent to a degree greater than the causal negligence, if any, of Mack Trucks, Inc., the same being expressly denied with strict proof thereof demanded at the time of trial, with the result of the Pennsylvania Comparative Negligence Statute as applicable, and the

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Plaintiff's recovery should be eliminated and/or reduced in accordance with said Act.

64. The Defendant Mack Trucks, Inc. believes and therefore avers that it is entitled to a set off of any and all monies paid to David Weaver and/or the Plaintiffs as a result of the subject matter therein.

65. The Defendant, Mack Trucks, Inc. believes and therefore avers that it is entitled to a set off of any loss of wage benefits received by David Weaver and/or the Plaintiffs herein.

66. Any medical bills incurred by David Weaver and/or the Plaintiffs herein, as are applicable to the within cause of action, are subject to, limited by, and/or barred by the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Act 75 Pa.C.S.A. 1701 et sec.

67. Any loss of earnings allegedly suffered by David Weaver are subject to, limited by, and/or barred by the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Act as cited above.

68. Whatever injuries and damages, if any, sustained by David Weaver and/or the Plaintiffs as averred in their Complaint, the same being specifically denied, and strict proof demanded thereof at the time of trial, were caused in whole or in part by persons other than the Defendant Mack Trucks, Inc., over whom Mack Trucks, Inc. has no control and for whose actions Answering Defendant is not liable.

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69. Whatever injuries and damages, if any, sustained by David Weaver and/or the Plaintiffs as averred in their Complaint, the same being specifically denied, and strict proof thereof demanded at the time of trial, were caused in whole or in part by conditions or circumstances beyond the control of the Answering Defendant, Mack Trucks, Inc.

70. Plaintiffs' claims are barred or should be substantially reduced because of Plaintiffs' and/or David Weaver's failure to act reasonably or timely to mitigate damages.

71. Any negligence of the Answering Defendant Mack Trucks, Inc., the same being denied with strict proof thereof demanded at trial, was not a substantial factor in causing the harm complained of by David Weaver and/or the Plaintiffs.

72. Plaintiffs have not stated a cause of action upon which they may base their recovery.

73. The claim of Plaintiffs is barred by the appropriate Statute of Limitations.

74. David Weaver and/or Plaintiffs' injuries were caused by persons or parties which were contributory and/or intervening superceding causes, thus relieving Answering Defendant of any liability.

75. Mack Trucks, Inc. did not manufacture the U-bolt which is the subject of this litigation. Mack Trucks, Inc. did not provide maintenance to the subject vehicle subsequent to 1994.

76. The subject vehicle was not properly maintained.

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77. The subject U-bolt was not properly maintained.

Date: 12/24/03

GERALD M. BARR, ESQUIRE
Attorney for Defendant, Mack Trucks, Inc.

BARR & McGOGNEY
4905 Tilghman Street, Suite 250
Allentown, PA 18104
(610) 398-5398
Attorney ID No. 20024

VERIFICATION

I, Gerald M. Barr, Esquire, hereby verify that the facts contained in the foregoing Answer to Plaintiff's Complaint and New Matter are true and correct to the best of my knowledge, information and belief and that the signature of Defendant cannot be obtained within the time required for the filing of this pleading; and I understand that the statements made herein are subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Date: 12/24/03

GERALD M. BARR, ESQUIRE

BARR & McGOGNEY - ATTORNEYS AT LAW

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EXHIBIT B

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

COMPLAINT IN CIVIL ACTION

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

NOTICE TO PLEAD

To: ALL DEFENDANTS

You are hereby notified to file a written response to the enclosed COMPLAINT within twenty (20) days from service hereof or a judgement may be entered against you.

Kiger & Alpern

ATTORNEYS FOR PLAINTIFFS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

No. 03-1251 CD

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or that if you fail to do so, the case may proceed without you and judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any claim or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE OR KNOW A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Court Administrator of Clearfield County
230 East Market Street
Clearfield, PA 16830
(814) 765-2641 ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

No. 03-1251 CD

COMPLAINT IN CIVIL ACTION

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire, Amy B. Kubisiak, Esquire and Kiger & Alpern, Esquires, make the following Complaint against the Defendants:

1. Plaintiff, Brenda L. Orsich, is an adult individual residing at 1 Southwest 4th Avenue, Clearfield, PA 16830, and was duly appointed Administratrix of the Estate of David A. Weaver, deceased, by the Register of Wills, Clearfield County, PA, on November 27, 2001 at No. 2001-686-O.C.

2. Plaintiff, Jennifer L. Weaver, minor, date of birth May 8, 1989, is the child of David A. Weaver, deceased, and Brenda L. Orsich, who were divorced prior to the

death of David A. Weaver. Jennifer L. Weaver resides with Plaintiff, Brenda L. Orsich at 1 Southwest 4th Avenue, Clearfield, PA 16830.

3. The right to bring this action is conferred upon Plaintiffs Brenda L. Orsich, as Administratrix of the Estate of David A. Weaver and upon Jennifer L. Weaver, a minor, by her parent and natural guardian, Brenda L. Orsich, by virtue of the provisions of the Wrongful Death and Survival Acts, as amended, and other applicable laws. Decedent, David A. Weaver, was survived by Jennifer L. Weaver, his daughter, and this action is brought on behalf of the Estate of David A. Weaver and Jennifer L. Weaver, his daughter.

4. Plaintiffs' decedent did not commence any action for his personal injuries during his lifetime.

5. Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. is an individual with business offices at RD 3 Box 93A, Route 322 West, Philipsburg, PA 16866, which, at all times material hereto, did and does business within Pennsylvania.

6. Defendant Northeast Spring & Equipment Co. is an company with business offices at RD 3 Box 93A, Route 322 West, Philipsburg, PA 16866, which, at all times material hereto, did and does business within Pennsylvania.

7. Defendants Barry Kyler and Northeast Spring & Equipment Co. are related Defendants (hereinafter referred to as "Defendants Norheast Spring").

8. Defendant Mack Trucks, Inc. (hereinafter referred to as "Defendant Mack Trucks") is a corporation with offices at 2100 Mack Boulevard, Allentown, PA 18103, which, at all times material hereto, did and does business within Pennsylvania.

9. At all times material hereto, Defendants Northeast Spring were engaged in business for profit and was acting on their own behalf or through their agents, servants, and employees who were acting on their behalf and within the scope and course of their authority and employment.

10. All times material hereto, Defendants Northeast Spring was in the business of selling, distributing, installing, inspecting, specifying or recommending, certifying, or otherwise supplying and servicing trucks and motor vehicles, including component and related parts and systems thereof, including, but not limited to, leaf springs and leaf spring U-bolts.

11. At all times material hereto, Defendant Mack Trucks was engaged in business for profit and were acting on its own behalf or through its agents, servants, and employees who were acting on its behalf and within the scope and course of their authority and employment.

12. All times material hereto, Defendant Mack Trucks was in the business of designing, manufacturing, assembling, inspecting, specifying or recommending, certifying, selling, leasing, or otherwise supplying and servicing trucks and motor vehicles, including component and related parts and systems thereof, including, but not limited to, leaf springs and leaf spring U-bolts.

13. Defendant Mack Trucks designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, or otherwise supplied the subject 1991 red Mack Truck, tri-axle, VIN No. 1M2P264COMMOO9212 (hereinafter referred to as "subject vehicle" or "subject truck") and component and related parts and systems thereof in which David A. Weaver, deceased, was the driver at the time of the hereinafter-

described accident. Defendant Mack Trucks also designed, manufactured, assembled, inspected, specified or recommended, certified, sold or otherwise supplied leaf spring U-bolts, and component and related parts and systems, on the right rear of the subject truck (hereinafter referred to as subject U-bolts) that were installed on the subject truck by Defendants Northeast Spring on or about April 25, 2000.

14. Defendants Northeast Spring sold, installed, inspected, specified or recommended, certified, or otherwise supplied and serviced the subject truck and/or component and related parts and systems thereof, in which David A. Weaver, deceased, was the driver at the time of the hereinafter-described accident, including the subject leaf springs and leaf spring U-bolts on the right rear of subject truck on or about April 25, 2000.

15. On or about April 25, 2000, Defendants Northeast Spring performed repair and/or maintenance on the subject truck. Defendants Northeast Spring assembled, installed, inspected, specified or recommended, certified, sold, or otherwise supplied the subject leaf springs and the subject leaf spring U-bolts and component and related parts and systems, on the subject truck owned by decedent David A. Weaver's employer, D.C. Guelich Explosive Co. Defendant Mack Trucks designed, manufactured assembled, inspected, specified or recommended, certified, sold, or otherwise supplied the subject leaf spring U-bolts to Defendants Northeast Spring. Defendants Northeast Spring installed the subject leaf springs and subject leaf spring U-bolts, and component and related parts and systems, on the right rear of the subject truck. The odometer on the subject truck at the time of the installation of the subject U-bolts read at or near 116,142 miles.

16. On or about August 30, 2001, at approximately 7:25 a.m., David A. Weaver was the driver of the subject truck, in the course of his employment with D.C. Guelich Explosive Co., the owner of the subject truck. The accident occurred in the northbound lane of SR 2023, Lawrence Township, Clearfield County, PA at or near its intersection with T-598, also known as Log Cabin Road when the subject U-bolts, sold, or otherwise supplied by Defendants Mack Trucks and Northeast Spring and installed by Defendants Northeast Spring, failed causing catastrophic loss of control of the subject truck, causing the subject truck to crash through the guardrails on the side of northbound SR2023 and roll onto its passenger side, going down a steep embankment, coming to rest on its roof on T-598 facing southwest, killing David A. Weaver. At the time of the subject accident of August 30, 2001, the odometer on the subject truck read at or near 131,491 miles.

COUNT I

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING& EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

17. Plaintiffs incorporate herein by reference Paragraphs 1 through 16, inclusive, of this Complaint.

18. The subject vehicle and subject U-bolts were expected to and did reach the ultimate users, consumers and bystanders including decedent David A. Weaver, without substantial change or alteration and in the same or substantially the same condition as when they left the possession and control of Defendants Northeast Spring.

19. Defendants Northeast Spring represented and warranted to the ultimate users and consumers of the subject truck that the subject U-bolts were fit for the purposes for which they were intended.

20. In addition to the aforesaid warranty of fitness for a particular purpose, Defendants Northeast Spring Buick warranted that the subject U-bolts were merchantable and fit for said uses.

21. The injuries to and death of the decedent David A. Weaver and the injuries and damages sustained by Plaintiffs were the direct and proximate result of Defendants Northeast Spring selling, distributing, installing, inspecting, specifying or recommending, certifying, or otherwise supplying the subject U-bolts in a nonworkmanlike fashion and in a defective condition, unreasonably dangerous to the users and consumers of same, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and in breach of Defendants Northeast Spring's express and implied warranties as set forth in the applicable laws of the Commonwealth of Pennsylvania.

22. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of Defendants Northeast Spring's improper sale, installation, inspection, specification or recommendation, certification, or supply of the subject U-bolts, and in breach by Defendants Northeast Spring of express and implied warranties that the subject U-bolts would be properly designed, manufactured, assembled, installed, inspected, specified or recommended, certified, sold, and/or supplied, in a good and proper workmanlike fashion by Defendants Northeast Spring and Defendant Mack Trucks.

23. Alternatively, the subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, installed or otherwise supplied by Defendants Northeast Spring and the occurrence of the accident.

24. As the result of the breach of warranties of Defendants Northeast Spring as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

25. As the result of the breach of warranties of Defendants Northeast Spring as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports

f. Death

26. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co. in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT II

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING& EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

27. Plaintiffs incorporate herein by reference paragraphs 1 through 26, inclusive, of this Complaint.

28. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of the negligence and carelessness, acts and omissions of Defendants Northeast Spring, individually, jointly and severally, generally, and in the following particulars:

a. In failing to ascertain if the subject truck and U-bolts were properly designed by Defendant Mack Trucks;

b. In failing to ascertain if the subject truck and U-bolts were properly manufactured by Defendant Mack Trucks;

c. In failing to ascertain if Defendant Mack Trucks included such design features, devices, techniques, and/or other manufacturing features that would have prevented the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

d. In failing to ascertain if Defendant Mack Trucks designed and manufactured the subject truck and U-bolts in such a manner as to prevent the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

e. In breaching the highest degree of care owed in the design, manufacture, sale, installation, maintenance, service and supply of the subject leaf springs and U-bolts;

f. In failing to provide properly designed, assembled, manufactured, and inspected leaf springs and U-bolts;

g. In selling, installing and supplying defective products, including the subject U-bolts;

h. In selling, specifying or recommending, supplying, installing and inspecting products including the subject U-bolts which were not reasonably fit and safe for their intended uses;

i. In failing to properly inspect and, if appropriate under the circumstances, service and repair the subject truck;

j. In failing to properly tighten the subject U-bolts;

k. In failing to properly advise and warn users of the subject truck and U-bolts, including, but not limited to, D.C Guelich Explosive Co. and decedent David A. Weaver, following the installation of the subject U-bolts on the subject truck on or about April 25, 2000, that the newly installed subject U-bolts had to be retightened after the subject truck was driven 1,000 miles;

l. In failing to schedule a follow up appointment for the subject U-bolts to be retightened on the subject truck after the subject truck was driven 1000 miles following the installation of the subject U-bolts on or about April 25, 2000;

m. In failing to retighten the subject U-bolts on the subject truck following their installation on or about April 25, 2000 after the subject truck was driven 1,000 miles;

n. In failing to discover the defective nature of the subject truck and U-bolts;

o. In failing to properly inspect and test the subject truck and U-bolts;

p. In failing to warn the users of the subject truck and U-bolts of the defective condition of the products;

q. In selling, inspecting, specifying, installing and recommending the subject truck and U-bolts in such a manner that they would become defective during normal uses;

r. In failing to advise or warn the users of the subject truck and U-bolts of the proper procedure to maintain and inspect the subject U-bolts;

s. In selling, installing and/or otherwise supplying the subject U-bolts with latent defects;

t. In failing to install and supply adequate safety devices, instructions and warnings;

u. In selling and installing products with design and/or manufacturing defects;

v. In failing to follow and in violating any governmental or industry standards which may be applicable;

w. In that Defendants Northeast Spring knew, or in the exercise of reasonable care should have known, of the defective and dangerous condition of the subject truck and U-bolts and realized that injuries, including the loss of life, and damages would probably occur and failed to warn of the defect and risk of injury and loss of life involved when the subject truck, leaf springs and U-

bolts were used, and under such circumstances, failing to make the subject truck and U-bolts safe for use;

x. In failing to recall the subject leaf springs and leaf spring U-bolts or remedy the defect(s) in the subject truck and U-bolts after sale and installation. In the event that it is proven that there was an attempt to recall or remedy the defect(s), negligent management of the recall or attempt to remedy defect(s) in the subject truck and U-bolts;

y. In failing to sell, install, inspect, specify or recommend, certify, or otherwise supply and service the subject truck and U-bolts in a good and workmanlike fashion;

z. In failing to follow and in violating applicable laws, safety codes and regulations applicable to the subject truck and U-bolts and their uses thereof;

aa. In failing to instruct or in improperly instructing users in the safe use and operation of the subject truck and U-bolts;

bb. In selling and supplying the subject U-bolts when they were subject to sudden, unwanted, and unexpected breakage of the subject U-bolts;

cc. In failing to warn users of the subject truck and U-bolts that the use of the subject truck and U-bolts could result in sudden, unwanted, and unexpected breakage of the subject U-bolts resulting in catastrophic loss of steering control of the subject truck;

dd. In failing to issue proper instruction to users of the subject truck and U-bolts in the event use of the subject truck and U-bolts resulted in sudden, unwanted, and unexpected breakage of the subject U-bolts;

ee. In selling, installing or otherwise supplying U-bolts that could break unexpectedly;

ff. In selling, installing or otherwise supplying a motor vehicle in which the U-bolts, their component parts, and related systems, were placed in such a position that they could become weak and thus result in sudden, unwanted, and unexpected breakage;

gg. In otherwise breaching the highest degree of care owed in designing, development, manufacture, assembly, inspection, specification or recommendation, certification, sale and/or supply of known dangerous products and instrumentalities;

hh. Alternatively, the subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, installed or otherwise supplied by Defendants and the occurrence of the accident.

ii. In otherwise being negligent and careless, in otherwise acting or failing to act in connection with the subject truck and U-bolts in such a manner as would cause injury and/or loss of life under the facts and circumstances as set forth in the Complaint, and as shall appear from the facts in this case, such facts presently within the knowledge and under the control of Defendants and others, and which will be revealed during the course and discovery and trial in this case, including testimony from Defendants or others, and from records, documents or other writings in Defendants' possession, or produced during discovery at trial.

29. As the result of the negligence of Defendants Northeast Spring as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

30. As the result of the negligence of Defendants Northeast Spring as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

31. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co. in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT III

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING& EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

32. Plaintiffs incorporate herein by reference thereto paragraphs 1 through 31, inclusive, of this Complaint.

33. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of Defendants Northeast Spring's selling, installing, inspecting, specifying or recommending, certifying, or otherwise supplying the subject leaf spring U-bolts, their component parts and related systems, known dangerous products and instrumentalities, in a defective condition unreasonably dangerous to the users or consumers, including decedent David A. Weaver, in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and misrepresentations by Defendants Northeast Spring of material facts concerning the character or quality of the subject vehicle, leaf springs and leaf spring U-bolts, their component parts and related systems and Defendants Northeast Spring's safety inspections, specifications, recommendations and certifications thereof, and therefore, Defendants Northeast Spring is strictly liable in tort to Plaintiffs under the laws encompassed in Sections 388, 402A, and 402B, and other applicable sections of the Restatement of Torts, Second and Third and other applicable Pennsylvania law.

34. Alternatively, the subject vehicle and subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold,

installed or otherwise supplied by Defendants Northeast Spring and the occurrence of the accident.

35. As the result of the acts and omissions of Defendants Northeast Spring as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

36. As the result of the acts and omissions of the Defendants Northeast Spring as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

37. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co. in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT IV

BRENDA ORSICH,Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

38. Plaintiffs incorporate herein by reference Paragraphs 1 through 37, inclusive, of this Complaint.

✓ 39. The subject truck and subject leaf spring U-bolts were expected to and did reach the ultimate users, consumers and bystanders including decedent David A. Weaver without substantial change or alteration and in the same or substantially the same condition as when they left the possession and control of Defendant Mack Trucks.

✓ 40. Defendant Mack Trucks represented and warranted to the ultimate users and consumers of the subject truck and subject leaf spring U-bolts that they were fit for the purposes for which they were intended.

41. In addition to the aforesaid warranty of fitness for a particular purpose, Defendant Mack Trucks warranted that the subject truck and subject leaf spring U-bolts were merchantable and fit for said uses.

42. The subject truck and subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, or otherwise supplied by Defendant Mack Trucks in a manner which was not a good and proper workmanlike fashion, in a defective condition unreasonably dangerous to the ultimate users, consumers and bystanders, including decedent David A. Weaver.

43. The subject truck and subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, or otherwise supplied by Defendant Mack Trucks in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers, including decedent David A. Weaver.

44. The injuries to and death of the decedent David A. Weaver and the injuries and damages sustained by Plaintiffs were the direct and proximate result of Defendant Mack Trucks' designing, manufacturing, assembling, supervising, inspecting, specifying or recommending, certifying, selling, leasing or otherwise supplying the subject truck and subject U-bolts in a nonworkmanlike fashion and in a defective condition, unreasonably dangerous to the users and consumers of same, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and in breach of Defendant Mack Trucks' express and implied warranties as set forth in the applicable laws of the Commonwealth of Pennsylvania.

45. The injuries to and death of the decedent David A. Weaver and the injuries and damages sustained by Plaintiffs were the direct and proximate result of Defendant Mack Trucks' improper design, manufacture, assembly, inspection, specification or

recommendation, certification, sale, lease or supply of the subject truck and subject U-bolts, and in breach by Defendant Mack Trucks of express and implied warranties that the subject truck and subject U-bolts would be properly designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, and/or supplied, in a good and proper workmanlike fashion by Defendant Mack Trucks.

46. Alternatively, the subject truck and subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, or otherwise supplied by Defendants and the occurrence of the accident.

47. As the result of the breach of warranties of Defendant Mack Trucks as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

48. As the result of the breach of warranties of Defendant Mack Trucks as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

49. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Mack Trucks in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT V

BRENDA ORSICH,Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian,
BRENDA ORSICH v. MACK TRUCKS, INC.

50. Plaintiffs incorporate herein by reference paragraphs 1 through 49, inclusive, of this Complaint.

51. The losses and damages sustained by Plaintiffs were the direct and proximate result of the negligence and carelessness of Defendant Mack Trucks, individually, jointly and severally, generally, and in the following particulars:

a. In failing to properly design the subject truck and subject U-bolts;

b. In failing to properly manufacture the subject truck and subject U-bolts;

c. In failing to include such design features, devices, techniques, and/or other manufacturing features that would have prevented the subject truck and subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

d. In failing to design and manufacture the subject truck and subject U-bolts in such a manner as to prevent the subject vehicle truck and subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

e. In breaching the highest degree of care owed in the design, manufacture, sale, and supply of the subject truck and subject U-bolts;

f. In failing to provide a properly designed, assembled, manufactured, and inspected truck and U-bolts;

g. In designing, assembling, manufacturing, selling, leasing and supplying defective products, including the subject truck and subject U-bolts;

h. In designing, assembling, manufacturing, selling, leasing, supplying, specifying or recommending and inspecting products, not reasonably fit for their intended use;

i. In designing, assembling, manufacturing, specifying or recommending, selling, leasing, supplying, and inspecting products including the subject truck and subject U-bolts which were not reasonably safe for their intended uses;

j. In failing to properly inspect the subject truck and subject U-bolts;

k. In failing to discover the defective nature of the subject truck and subject U-bolts;

l. In failing to properly inspect and test the subject truck and subject U-bolts;

m. In failing to warn the users of the subject truck and subject U-bolts of the defective condition of the products;

n. In designing, manufacturing, assembling, selling, inspecting, specifying, and recommending the subject truck and subject U-bolts in such a manner that they would become defective during normal uses;

o. In failing to advise the users of the subject truck and subject U-bolts of the proper procedure to maintain and inspect the subject truck and subject U-bolts;

p. In selling and/or otherwise supplying the subject truck and subject U-bolts with latent defects;

q. In failing to install and supply adequate safety devices, instructions and warnings;

r. In selling products with design and/or manufacturing defects;

s. In failing to follow and in violating any governmental or industry standards which may be applicable;

t. In failing to properly advise and warn users of the subject truck and U-bolts, including, but not limited to, D.C Guelich Explosive Co. and decedent David A. Weaver, following the installation of the subject U-bolts on the subject truck on or about April 25, 2000, that the newly installed subject U-bolts had to be retightened after the subject truck was driven 1,000 miles;

u. In that Defendant Mack Trucks knew, or in the exercise of reasonable care should have known, of the defective and dangerous condition of the subject truck and subject U-bolts and realized that injuries, including the loss of life, and damages would probably occur and failed to warn of the defect and risk of injury and loss of life involved when the subject truck and subject U-bolts were used, and under such circumstances, failing to make the subject truck and subject U-bolts safe for use;

v. In failing to incorporate an adequately and properly designed safety system into the design of the subject truck and subject U-bolts;

w. In failing to recall the subject truck and subject U-bolts or remedy the defect(s) in the subject truck and subject U-bolts after their sale. In the event that it is proven that there was an attempt to recall or remedy the defect(s), negligent management of the recall or attempt to remedy defect(s) in the subject truck and subject U-bolts;

x. In failing to design, develop, manufacture, assemble, inspect, specify or recommend, certify, sell, lease or otherwise supply the subject truck and subject U-bolts in a good and workmanlike fashion;

y. In failing to follow and in violating applicable laws, safety codes and regulations applicable to the subject truck and subject U-bolts and their uses thereof;

z. In failing to instruct or in improperly instructing users in the safe use and operation of the subject truck and subject U-bolts;

aa. In designing, assembling, manufacturing, selling, and supplying the subject truck and subject U-bolts when they were subject to sudden and unexpected breakage of the subject U-bolts;

bb. In failing to warn users of the subject truck and subject U-bolts that the use of the subject U-bolts could result in sudden, unwanted, and unexpected breakage of the subject U-bolts;

cc. In failing to issue proper instruction to users of the subject truck, leaf springs and leaf spring U-bolts in the event use of the subject truck and U-bolts resulted in sudden, unwanted, and unexpected breakage;

dd. In selling, leasing or otherwise supplying a motor vehicle and U-bolts that which could break unexpectedly;

ee. In selling, leasing or otherwise supplying a motor vehicle and U-bolts in such a position that they were inadequately protected, and due to their design and placement were subject to sudden, unwanted, and unexpected breakage;

ff. In otherwise breaching the highest degree of care owed in designing, development, manufacture, assembly, inspection, specification or recommendation, certification, sale, lease and/or supply of known dangerous products and instrumentalities;

gg. Alternatively, the subject truck and subject U-bolts were defective by reason of their malfunction under normal uses in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, installed or otherwise supplied by Defendants and the occurrence of the accident.

hh. In otherwise being negligent and careless, in otherwise acting or failing to act in connection with the subject truck and subject U-bolts in such a manner as would cause injury and/or loss of life under the facts and circumstances as set forth in the Complaint, and as shall appear from the facts in this case, such facts presently within the knowledge and under the control of Defendants and others, and which will be revealed during the course and discovery and trial in this case, including testimony from Defendants or others, and from records, documents or other writings in Defendants' possession, or produced during discovery at trial.

52. As the result of the negligence of Defendant Mack Trucks as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

53. As the result of the negligence of Defendant Mack Trucks as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death

54. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Mack Trucks in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT VI

BRENDA ORSICH,Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

55. Plaintiffs incorporate herein by reference thereto paragraphs 1 through 54, inclusive, of this Complaint.

56. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of Defendant Mack Truck's designing, manufacturing, assembling, inspecting, specifying or recommending, certifying, selling, leasing, or otherwise supplying the subject truck, subject U-bolts, their component parts and related systems, known dangerous products and instrumentalities, in a defective condition unreasonably dangerous to the users or consumers, including decedent David A. Weaver, in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and misrepresentations by Defendant Mack Trucks of material facts concerning the character, quality and safety of the subject truck, subject U-bolts, their component parts and related systems and Defendant Mack Trucks' safety inspections,

specifications, recommendations and certifications thereof, and therefore, Defendant Mack Trucks is strictly liable in tort to Plaintiffs under the laws encompassed in Sections 388, 402A, and 402B, and other applicable sections of the Restatement of Torts, Second and Third and other applicable Pennsylvania law.

57. Alternatively, the subject truck and subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, installed or otherwise supplied by Defendant Mack Trucks and the occurrence of the accident.

58. As the result of the acts and omissions of Defendant Mack Trucks as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

59. As the result of the acts and omissions of Defendant Mack Trucks as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

60. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Mack Trucks in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

VERIFICATION

The undersigned, having read the attached Complaint in Civil Action, verifies that the within Complaint is based on information furnished to counsel, as well as information gathered by counsel in the course of this lawsuit. The language of the Complaint is that of counsel and not of the signer. Signer verifies that he/she has read the within Complaint and that it is true and correct to the best of the signer's knowledge, information and belief. To the extent that the contents of the Complaint is that of counsel, I have relied upon counsel in making this Verification. This Verification is made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsifications to authorities.

Dated: 10-30-03

Brenda L Orsich
BRENDA L. ORSICH

CERTIFICATE OF SERVICE

I, Jerome W. Kiger, Esquire, do hereby certify that a true and correct copy of the within Complaint in Civil Action was served to the following via U.S. First Class, postage prepaid 12th day of November, 2003:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Mack Trucks, Inc.
2100 Mack Boulevard
Allentown, PA 18103
VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JEROME W. KIGER, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEY FOR PLAINTIFFS

FILED
m 1:13 BA 1CC to Atty Barr
MAR 05 2004

William A. Shaw
Prothonotary

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
v.	:	NO. 03-1251-CD
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC. and TRIANGLE AUTO SPRING COMPANY and CONSOLIDATED METAL PRODUCTS	:	JURY TRIAL DEMANDED

FILED
MAR 10 2004
William A. Shaw
Prothonotary

NOTICE

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY AN ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY PLAINTIFFS. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

CLEARFIELD COUNTY COURT ADMINISTRATOR'S OFFICE
230 E. Market Street
Clearfield, PA 16830
Phone: (814) 765-2641 Ext. 5988

BRADLEY D. REMICK, ESQUIRE
Attorney for additional defendant,
Triangle Auto Spring Company

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
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BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC. and TRIANGLE AUTO SPRING COMPANY and CONSOLIDATED METAL PRODUCTS	:	JURY TRIAL DEMANDED

ADDITIONAL DEFENDANT, TRIANGLE AUTO SPRING CO.'S JOINDER COMPLAINT OF ADDITIONAL DEFENDANT, CONSOLIDATED METAL PRODUCTS

Additional defendant, Triangle Auto Spring Company, by and through its attorneys, Marshall, Dennehey, Warner, Coleman & Goggin, hereby files this Joinder Complaint against additional defendant, Consolidated Metal Products based upon the following:

1. Additional defendant, Triangle Auto Spring Company, incorporates its Answer to Mack Trucks, Inc.'s Joinder Complaint and its New Matter as though more fully set forth at length herein. A copy of Triangle

Auto Spring's Answer and New Matter and New Matter Crossclaim is attached hereto and marked as Exhibit "A" and is intended to become a part hereof.

2. Additional defendant, Triangle Auto Spring also incorporates by reference Mack Trucks' Joinder Complaint without admission, and avers each and every paragraph as though same were set forth herein at length against additional defendant, Consolidated Metal Products. See Mack Trucks' Joinder Complaint attached hereto as Exhibit "B".

3. Additional defendant, Triangle Auto Spring also incorporates by reference, plaintiffs' Complaint without admission, and avers each and every paragraph as though the same were set forth herein at length against additional defendant, Consolidated Metal Products. A copy of plaintiff's Complaint is attached hereto and marked as Exhibit "C" and is intended to become part hereof.

4. Consolidated Metal Products is a business entity with a principal place of business located at 1028 Depot Road, Cincinnati, Ohio 45204.

5. At all times relevant hereto, Consolidated Metal Products was a manufacturer or fabricator of the subject U-bolts as referred to in paragraph 13 of plaintiffs' Complaint. It is believed and therefore averred, that the subject leaf spring U-bolts and components and related parts and systems were designed, manufactured, assembled, inspected, specified, recommended, certified, sold or otherwise supplied by Consolidated Metal.

6. Without admitting any of the averments contained in plaintiff's Complaint or Mack Trucks' Joinder Complaint, Triangle alleges that if the injuries and damages described herein are proven to be true in whole or in part, then said injuries were not caused as a result of any negligence, carelessness and recklessness with regard to the manufacture, design, engineering or failure to warn associated with additional defendant, Triangle Auto Spring's product, but rather, was caused by the negligence, carelessness, recklessness with the manufacture, design, engineering or failure to warn of the additional defendant, Consolidated Metal Products.

7. The subject leaf spring U-bolts were expected to and did reach the ultimate users, consumers, and bystanders, including decedent, David A. Weaver with substantial change or alteration in the same or substantially the same condition as when they left the possession and control of additional defendant, Triangle Auto Spring.

8. Additional defendant, Consolidated Metal Products represented and warranted to their ultimate users and consumers of the subject leaf spring U-bolts that they were fit for the purposes for which they were intended.

9. In addition to the aforesaid warranty of fitness for a particular purpose, additional defendant, Consolidated Metal Products, warranted that the subject leaf spring U-bolts were merchantable and fit for said uses.

10. The subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased or otherwise supplied by additional defendant, Consolidated Metal Products in a manner which was not a good and proper workmanlike fashion, in a defective condition, unreasonably dangerous to the ultimate user, consumers and bystanders, including decedent, David A. Weaver.

11. The subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased or otherwise supplied by additional defendant, Consolidated Metal Products, in which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use in containing conditions that made it unsafe for use by the ultimate users and consumers including decedent, David A. Weaver.

12. If plaintiffs are entitled to recovery as set forth in plaintiff's Complaint, which injuries and damages are specifically denied, additional defendant, Consolidated Metal Products is solely liable to said plaintiffs or is liable over to Triangle Auto Spring or jointly and severally liable over to Triangle Auto Spring for any alleged injuries, losses and/or damages, which may have been suffered by the plaintiffs as a direct and proximate result

of additional defendant, Consolidated Metal Products, designing, manufacturing, assembling, supervising, inspecting, specifying or recommending, certifying, selling, leasing or otherwise supplying the subject U-bolts in a non-workmanlike fashion and in a defective condition unreasonably dangerous to the users and consumers of same, lacking elements necessary to make it safe for use and containing conditions that made it unsafe for use by ultimate users and consumers and in breach of Consolidated Metal Products expressed and implied warranties as set forth by the applicable laws of the Commonwealth of Pennsylvania.

13. The subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased or otherwise supplied by additional defendant, Consolidated Metal Products and the occurrence of the accident.

14. Without admitting any of the averments contained in plaintiffs' Complaint or Mack Trucks' Joinder Complaint, Triangle alleges that if the injuries and damages described herein are proven to be true, in whole or in part, then said injuries were caused by the negligence, carelessness and/or recklessness of additional defendant, Consolidated Metal Products in the following respects:

a. In failing to properly design the subject U-bolts;

b. In failing to properly manufacture the subject U-bolts;

c. In failing to include such design features, devices, techniques and/or other manufacturing defect that would have prevented the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

d. In failing to design and manufacture the subject U-bolts in such a manner as to prevent the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

e. In breaching the highest degree of care owed in the design, manufacture, sale and supply of the subject U-bolts;

f. In failing to provide a properly designed, assembled, manufactured and inspected U-bolt;

g. In designing, assembling, manufacturing, selling, leasing and supplying a defective U-bolt;

h. In designing, assembling, manufacturing, selling, leasing and supplying, specifying or recommending and inspecting products not reasonably fit for their intended use.

i. In designing, assembling, manufacturing, specifying or recommending, selling, leasing, supplying and inspecting the subject U-bolt which was not reasonably safe for its intended use;

j. In failing to properly inspect the subject U-bolts;

k. In failing to discover the defective nature of the subject U-bolt;

l. In failing to properly inspect and test the subject U-bolts;

m. In failing to warn the users of the subject U-bolts of the defective condition of the products;

n. In designing, manufacturing, assembling, selling, inspecting, specifying and recommending the subject U-bolts in such a manner that they would become defective during normal uses;

o. In failing to advise the purchasers and/or users of the subject U-bolts of the proper procedure to install, maintain and inspect the subject U-bolts;

p. In selling and/or otherwise supplying the subject U-bolts with latent defects;

q. In selling products with design and/or manufacturing defects;

r. In failing to follow and in violating any governmental or industry standards which may be applicable;

s. In failing to properly advise and warn users of the subject U-bolts, including but not limited to D.C. Guelich Explosive Company and Decedent, David A. Weaver, following the installation of the subject U-bolts in the subject truck on or about April 25, 2000, that the newly installed subject U-bolts had to be retightened after the subject truck was driven 1,000 miles;

t. In that additional defendant, Consolidated Metal Products knew or in the exercise of reasonable care, should have known of the defective and dangerous condition of the subject U-bolts and realized that injuries,

including the loss of life and damages, would probably occur and failed to warn of the defect and risk of injury and loss of life involved when the subject U-bolts were used and under such circumstances failing to make the subject U-bolts safe for use.

u. In failing to design, develop, manufacture, assemble, inspect, specify or recommend, certify, sell, lease or otherwise supply the subject U-bolts in a good and workmanlike fashion.

v. In failing to follow and in violating applicable laws, safety codes and regulations applicable to the subject U-bolts and the users thereof;

w. In failing to instruct or improperly instructing the purchasers and/or users in the safe installation, use and operation of the subject U-bolts;

x. In failing to warn users of the subject U-bolts that the use of the subject U-bolts could result in sudden, unwanted and unexpected breakage;

y. In selling, leasing or otherwise supplying U-bolts that could break unexpectedly;

z. In otherwise breaching the highest degree of care owed in designing, development, manufacture, assembly, inspection, specification or recommendation, certification, sale, lease and/or supply of known dangerous products and instrumentalities;

aa. Alternatively, the subject U-bolts were defective by reasons of their malfunction under normal uses, in the absence of reasonable secondary causes, and without substantial changes between the time they were manufactured, sold, leased, installed or otherwise supplied by additional defendant, Consolidated Metal Products and the occurrence of the accident.

15. Without admitting any of the averments contained in plaintiff's Complaint, Triangle Auto Spring alleges that if the injuries and damages described therein are proven to be true, in whole or in part, then said injuries were caused as a direct and proximate result of additional defendant, Consolidated Metal Products designing, manufacturing, assembling, inspecting, specifying or recommending, certifying, selling, leasing or

otherwise supplying the subject U-bolts, a known dangerous product and instrumentality, in a defective condition, unreasonably dangerous to the users and consumers, including decedent, David A. Weaver, in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers, and misrepresentations by additional defendant, Consolidated Metal Products of the material facts concerning the character, quality and safety of the subject U-bolts and therefore, additional defendant, Consolidated Metal Products, is strictly liable toward plaintiffs under the laws encompassed in Sections 388, 402A and 402B and other applicable sections of the Restatement of Torts, Second and Third, and other applicable Pennsylvania law.

16. Alternatively, the subject U-bolts were defective by reason of their malfunction under normal use, in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, installed or otherwise supplied by additional defendant, Consolidated Metal Products, and the occurrence of the accident.

17. If Triangle Auto Spring is held liable to plaintiffs for all or a part of such injuries and damages as plaintiffs may have allegedly suffered, additional defendant, Consolidated Metal Products, is liable to Triangle Auto Spring by way of contribution and/or indemnity.

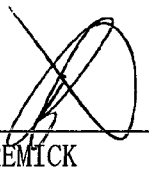
WHEREFORE, Triangle Auto Spring Co. respectfully requests that additional defendant, Consolidated Metal Products, be held solely liable to plaintiffs, jointly and severally liable to plaintiffs and/or liable over to Triangle Auto Spring Co. on any judgment that may be entered in favor of plaintiffs and against Triangle Auto Spring Co.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

BRADLEY D. REMICK, ESQUIRE
Attorney for defendant, Triangle Auto
Spring Co.

VERIFICATION

BRADLEY D. REMICK, Attorney for Additional Defendant, Triangle Auto Spring Co., verifies that the facts set forth in the Joinder Complaint are true to the best of his knowledge, information and belief. If the above statements are not true, the deponent is subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



BRADLEY D. REMICK

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

DEFENDANT, TRIANGLE AUTO SPRING COMPANY'S ANSWER TO DEFENDANT, MACK TRUCKS, INC.'S JOINDER COMPLAINT

Additional defendant, Triangle Auto Spring, by and through its attorneys, Marshall, Dennehey, Warner, Coleman & Goggin, herewith answers Mack Trucks, Inc.'s Joinder Complaint:

1. Answering additional defendant admits incorporation of the referenced paragraphs without admitting the substantive averments contained therein.

2. Denied. Answering additional defendant admits incorporation of the referenced paragraphs without admitting the substantive averments contained therein.

3. Admitted.

4. Denied. Additional defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 4 of Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial. Additional defendant, despite repeated requests has not been afforded the opportunity to inspect the relevant products. Based on documentation provided by Mack Trucks, it is believed and therefore averred, that the u-bolt was, in fact, manufactured by additional defendant, Consolidated Metal Products, 1028 Depot Street, Cincinnati, Ohio 45204.

5. Denied. Additional defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 5 of Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial. Additional defendant, despite repeated requests has not been afforded the opportunity to inspect the relevant products. Based on documentation provided by Mack Trucks, it is believed and therefore averred, that the u-bolt was, in fact, manufactured by additional defendant, Consolidated Metal Products, 1028 Depot Street, Cincinnati, Ohio 45204.

6. Denied. The allegations contained in paragraph 6 of Mack Trucks' Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material. By way of further answer, it is specifically and unequivocally denied that additional defendant, Triangle Auto Spring was in anyway negligent, careless or reckless.

7. Denied. Following reasonable investigation, answering defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 7 of Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial if deemed material.

8. Denied. Following reasonable investigation, answering defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 8 of

Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial if deemed material.

9. Denied. Following reasonable investigation, answering defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 9 of Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial if deemed material.

10. Denied. Following reasonable investigation, answering defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 10 of Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial if deemed material.

11. Denied. Following reasonable investigation, answering defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 11 of Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial if deemed material.

12. Denied. Following reasonable investigation, answering defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 12 of Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial if deemed material. It is specifically and unequivocally denied that the u-bolts, if supplied by additional defendant, were defective or unreasonably dangerous to users or consumers.

13. Denied. The allegations contained in paragraph 13 of Mack Trucks' Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

14. Denied. The allegations contained in paragraph 14 of Mack Trucks' Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material. It is specifically and unequivocally denied that additional defendant, Triangle Auto Spring was in anyway negligent, careless or reckless.

15. Denied. The allegations contained in paragraph 15 of Mack Trucks' Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material. By way of further answer, it is specifically and unequivocally denied that additional defendant, Triangle Auto Spring Company, supplied any defective product.

16. Denied. The allegations contained in paragraph 16 of Mack Trucks' Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof is demanded at trial if deemed material.

WHEREFORE, additional defendant, Triangle Auto Spring Co. demands judgment in its favor and against all other parties.

NEW MATTER

17. The Joinder Complaint fails to set forth a cause of action and/or a claim for relief against the answering additional defendant.

18. The products in question were improperly maintained and this was the cause of the accident described in the Joinder Complaint.

19. The products in question were misused and/or abused.

20. The superseding negligence of parties and/or entities over which this additional defendant had no control nor right to control relieves this additional defendant of any liability.

21. The liability of the answering additional defendant, if any, is mitigated by the provisions of the Pennsylvania Comparative Negligence Statute.

22. The plaintiff voluntarily assumed the risk.

23. Any and all claims made against the answering additional defendant are barred by the applicable statute of limitations.

24. Any and all claims made against the answering additional defendant are barred by the Pennsylvania Statute of Repose.

NEW MATTER CROSSCLAIM PURSUANT TO Pa.R.C.P. 2252(d)

25. The additional defendant avers that the accident, and any and all injuries and/or damages allegedly sustain by the plaintiffs herein are due solely and exclusively to the negligence, carelessness and/or tortuous conduct or misconduct on the part of the plaintiffs as well as defendants, Barry Kyler, t/a and d/b/a Northeast Spring & Equipment Co., Northeast Spring & Equipment Co. and Mack Trucks, Inc. and additional defendant, Consolidated Metal Products, through their respective authorized agents, servants, workmen and/or employees.

WHEREFORE, the answering additional defendant denies that it is in any fashion liable to any party herein and demands judgment in its favor. In the alternative, the answering additional defendant avers that the defendants, Barry Kyler, t/a and d/b/a Northeast Spring & Equipment Co., Northeast Spring & Equipment Co. and Mack Trucks, Inc. as well as the additional defendant, Consolidated Metal Products are alone liable to the plaintiffs, are jointly liable with and/or are liable over to this additional answering defendant for full and complete indemnification including the costs and counsel fees incurred in the defense of this litigation.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

By:_____

BRADLEY D. REMICK, ESQUIRE
Attorney for additional defendant,
Triangle Auto Spring Co.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and Natural guardian, BRENDA ORSICH, Plaintiffs vs. BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants vs. TRIANGLE AUTO SPRING, Additional Defendant	No. 03-1251 CD

NOTICE

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REQUESTED BY PLAINTIFFS. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

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CLEARFIELD COUNTY COURT ADMINISTRATOR'S OFFICE
230 E. Market Street
Clearfield, PA 16830
Phone: (814) 765-2641 Ext. 5988

Gerald M. Barr

GERALD M. BARR, ESQUIRE
Attorney for Defendant, Mack Trucks, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and Natural guardian, BRENDA ORSICH, Plaintiffs vs. BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants vs. TRIANGLE AUTO SPRING, Additional Defendant	:	No. 03-1251 CD

DEFENDANT MACK TRUCKS, INC.'S JOINDER COMPLAINT OF ADDITIONAL DEFENDANT, TRIANGLE AUTO SPRING

Defendant Mack Trucks, Inc., by and through its attorney, Gerald M. Barr, Esquire, hereby files a Joinder Complaint against additional defendant, Triangle Auto Spring, based upon the following:

1. Mack Trucks, Inc. incorporates its Answers to Plaintiff's Complaint and its New Matter, paragraphs 1-77 as though more fully set forth herein at length. A copy of

Defendant, Mack Trucks, Inc.'s Answer and New Matter is attached hereto and marked Exhibit A and is intended to become a part hereof.

2. Defendant Mack Trucks, Inc. also incorporates by reference, Plaintiff's Complaint without admission, and avers each and every paragraph as though the same were set forth herein at length against additional defendant, Triangle Auto Spring, now joined. A copy of Plaintiff's Complaint is attached hereto and marked Exhibit B and is intended to become a part hereof.

3. Triangle Auto Spring is a business entity with a principal place of business located at Maloney Road, P.O. Box 425, Dubois, Pennsylvania, 15801.

4. At all times relevant herein, Triangle Auto Spring was the manufacturer or fabricator of the subject U-bolts as referenced in Paragraph 13 of Plaintiff's Complaint, that were installed on the subject truck by Defendants Northeast Spring, on or about April 25, 2000.

5. On or about April 25, 2000, Defendants Northeast Spring performed repair and/or maintenance on the subject truck. Defendants Northeast Spring assembled, installed, inspected, specified or recommended, certified, sold or otherwise supplied the subject leaf springs and the subject leaf spring U-bolts and component and related parts and systems on the subject truck owned by decedant, David A. Weaver's employer, D.C. Guelich Explosive Company. Additional Defendant Triangle Auto Spring designed, manufactured, assembled, inspected, specifed or

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recommended, certified, sold or otherwise supplied the subject leaf spring U-bolts to Defendant Northeast Spring.

6. Without admitting any of the averments contained in Plaintiff's Complaint, Mack Trucks, Inc. alleges that if the injuries and damages described therein are proven to be true, in whole or in part, then said injuries were caused not as a result of any negligence, carelessness and recklessness with the manufacture, design, engineering or failure to warn associated with Defendant Mack Trucks, Inc.'s product, but rather was caused by the negligence, carelessness, and recklessness with the manufacture, design, engineering or failure to warn of the additional Defendant, Triangle Auto Spring.

7. The subject leaf spring U-bolts were expected to and did reach the ultimate users, consumers, and bystanders, including Decedent David A. Weaver, without substantial change or alteration in the same or substantially the same condition as when they left the possession and control of Defendant Triangle Auto Spring.

8. Defendant Triangle Auto Spring represented and warranted to their ultimate users and consumers of the subject leaf spring U-bolts that they were fit for the purposes for which they were intended.

9. In addition to the aforesaid warranty of fitness for a particular purpose, Defendant Triangle Auto Spring warranted that the subject leaf spring U-bolts were merchantable and fit for said uses.

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10. The subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased or otherwise supplied by Defendant Triangle Auto Spring in a manner which was not a good and proper workmanlike fashion, in a defective condition unreasonably dangerous to the ultimate users, consumers and bystanders, including Decedent, David A. Weaver.

11. The subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased or otherwise supplied by Defendant Triangle Auto Spring in which was not a good and proper workmanlike fashion, lacking elements necessary to make it safe for use and containing conditions that made it unsafe for use by the ultimate users and consumers, including Decedent David A. Weaver.

12. If Plaintiffs are entitled to recovery as set forth in Plaintiff's Complaint, which injuries and damages are specifically denied, additional Defendant, Triangle Auto Spring is solely liable to said Plaintiffs or is liable over to Mack Trucks, Inc. or jointly and severally liable over to Mack Trucks, Inc. for any alleged injuries, losses and/or damages which may have been suffered by Plaintiffs as a direct and proximate result of Defendant Triangle Auto Spring's designing, manufacturing, assembling, supervising, inspecting, specifying or recommending, certifying, selling, leasing or otherwise supplying the subject U-bolts in a non-workmanlike fashion and in a defective condition unreasonably dangerous to the users and consumers of same, lacking elements necessary to make it safe for use and

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containing conditions that made it unsafe for use by the ultimate users and consumers, and in breach of Triangle Auto Springs express and implied warranties as set forth in the applicable laws of the Commonwealth of Pennsylvania.

13. The subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time that they were manufactured, sold, leased, or otherwise supplied by Defendant Triangle Auto Spring and the occurrence of the accident.

14. Without admitting any of the averments contained in Plaintiff's Complaint, Mack Trucks, Inc. alleges that if the injuries and damages described therein are proven to be true, in whole or in part, then said injuries were caused by the negligence, carelessness and/or recklessness of Defendant Triangle Auto Spring in the following respects:

a. In failing to properly design the subject U-bolts;

b. In failing to properly manufacture the subject U-bolts;

c. In failing to include such design features, devices, techniques, and/or other manufacturing features that would have prevented the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

d. In failing to design and manufacture the subject U-bolts in such a manner as to prevent the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

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e. In breaching the highest degree of care owed in the design, manufacture, sale and supply of the subject U-bolts;

f. In failing to provide a properly designed, assembled, manufactured and inspected U-bolt;

g. In designing, assembling, manufacturing, selling, leasing and supplying a defective U-bolt;

h. In designing, assembling, manufacturing, selling, leasing, supplying, specifying or recommending and inspecting products not reasonably fit for their intended use;

i. In designing, assembling, manufacturing, specifying or recommending, selling, leasing, supplying and inspecting the subject U-bolt which was not reasonably safe for its intended uses;

j. In failing to properly inspect the subject U-bolts;

k. In failing to discover the defective nature of the subject U-bolt;

l. In failing to properly inspect and test the subject U-bolts;

m. In failing to warn the users of the subject U-bolts of the defective condition of the products;

n. In designing, manufacturing, assembling, selling, inspecting, specifying and recommending the subject U-bolts in such a manner that they would become defective during normal uses;

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o. In failing to advise the purchasers and/or users of the subject U-bolts of the proper procedure to install, maintain and inspect the subject U-bolts;

p. In selling and/or otherwise supplying the subject U-bolts with latent defects;

q. In selling products with design and/or manufacturing defects;

r. In failing to follow and in violating any governmental or industry standards which may be applicable;

s. In failing to properly advise and warn users of the subject U-bolts, including but not limited to, D.C. Guelich Explosive Company and Decedent, David A. Weaver, following the installation of the subject U-bolts in the subject truck on or about April 25, 2000, that the newly installed subject U-bolts had to be retightened after the subject truck was driven 1,000 miles;

t. In that Defendant Triangle Auto Spring knew or in the exercise of reasonable care, should have known of the defective and dangerous condition of the subject U-bolts and realized that injuries, including the loss of life and damages, would probably occur and failed to warn of the defect and risk of injury and loss of life involved when the subject U-bolts were used and under such circumstances failing to make the subject U-bolts safe for use;

u. In failing to design, develop, manufacture, assemble, inspect, specify or recommend, certify, sell, lease or otherwise supply the subject U-bolts in a good and workmanlike fashion.

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v. In failing to follow and in violating applicable laws, safety codes and regulations applicable to the subject U-bolts and the uses thereof;

w. In failing to instruct or improperly instructing the purchasers and/or users in the safe installation, use and operation of the subject U-bolts;

x. In failing to warn users of the subject U-bolts that the use of the subject U-bolts could result in sudden, unwanted, and unexpected breakage;

y. In selling, leasing or otherwise supplying U-bolts that could break unexpectedly;

z. In otherwise breaching the highest degree of care owed in designing, development, manufacture, assembly, inspection, specification or recommendation, certification, sale, lease and/or supply of known dangerous products and instrumentalities;

aa. Alternatively, the subject U-bolts were defective by reason of their malfunction under normal uses, in the absence of reasonable secondary causes, and without substantial changes between the time the were manufactured, sold, leased, installed, or otherwise supplied by Defendant Triangle Auto Spring and the occurrence of the accident.

15. Without admitting any of the averments contained in Plaintiff's Complaint, Mack Trucks, Inc. alleges that if the injuries and damages described therein are proven to be true, in whole or in part, then said injuries were caused as a direct and proximate result of Defendant Triangle Auto Springs designing, manufacturing, assembling,

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inspecting, specifying or recommending, certifying, selling, leasing or otherwise supplying the subject U-bolts, a known dangerous product and instrumentality, in a defective condition, unreasonably dangerous to the users and consumers, including Decedent David A. Weaver, in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers, and misrepresentations by Defendant Triangle Auto Spring of the material facts concerning the character, quality and safety of the subject U-bolts and therefore, Defendant Triangle Auto Spring is strictly liable toward Plaintiffs under the laws encompassed in Sections 388, 402A and 402B and other applicable sections of the Restatement of Torts, Second and Third, and other applicable Pennsylvania law.

16. Alternatively, the subject U-bolts were defective by reason of their malfunction under normal use, in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, installed or otherwise supplied by Defendant, Triangle Auto Spring, and the occurrence of the accident.

17. If Mack Trucks, Inc. is held liable to Plaintiffs for all or a part of such injuries and damages as Plaintiff's may have allegedly suffered, additional Defendant, Triangle Auto Spring, is liable to Mack Trucks, Inc. by way of contribution and/or indemnity.

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WHEREFORE, Mack Trucks, Inc. respectfully requests that Additional Defendant, Triangle Auto Spring, be held solely liable to Plaintiffs, jointly and severally liable to Plaintiffs, and/or liable over to Mack Trucks, Inc. on any Judgment that may be entered in favor of Plaintiffs and against Mack Trucks, Inc.

Date: 2/19/04

GERALD M. BARR, ESQUIRE
Attorney for Defendant, Mack Trucks, Inc.

BARR & McGOGNEY
4905 Tilghman Street, Suite 250
Allentown, PA 18104
(610) 398-5398
Attorney ID No. 20024

VERIFICATION

I, Gerald M. Barr, Esquire, hereby verify that the facts contained in the foregoing Answer to Plaintiff's Complaint and New Matter are true and correct to the best of my knowledge, information and belief and that the signature of Defendant cannot be obtained within the time required for the filing of this pleading; and I understand that the statements made herein are subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Date: 2/19/04

Gerald M. Barr
GERALD M. BARR, ESQUIRE

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

No. 03-1251 CD

COMPLAINT IN CIVIL ACTION

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire, Amy B. Kubisiak, Esquire and Kiger & Alpern, Esquires, make the following Complaint against the Defendants:

1. Plaintiff, Brenda L. Orsich, is an adult individual residing at 1 Southwest 4th Avenue, Clearfield, PA 16830, and was duly appointed Administratrix of the Estate of David A. Weaver, deceased, by the Register of Wills, Clearfield County, PA, on November 27, 2001 at No. 2001-686-O.C.

2. Plaintiff, Jennifer L. Weaver, minor, date of birth May 8, 1989, is the child of David A. Weaver, deceased, and Brenda L. Orsich, who were divorced prior to the

death of David A. Weaver. Jennifer L. Weaver resides with Plaintiff, Brenda L. Orsich at 1 Southwest 4th Avenue, Clearfield, PA 16830.

3. The right to bring this action is conferred upon Plaintiffs Brenda L. Orsich, as Administratrix of the Estate of David A. Weaver and upon Jennifer L. Weaver, a minor, by her parent and natural guardian, Brenda L. Orsich, by virtue of the provisions of the Wrongful Death and Survival Acts, as amended, and other applicable laws. Decedent, David A. Weaver, was survived by Jennifer L. Weaver, his daughter, and this action is brought on behalf of the Estate of David A. Weaver and Jennifer L. Weaver, his daughter.

4. Plaintiffs' decedent did not commence any action for his personal injuries during his lifetime.

5. Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. is an individual with business offices at RD 3 Box 93A, Route 322 West, Philipsburg, PA 16866, which, at all times material hereto, did and does business within Pennsylvania.

6. Defendant Northeast Spring & Equipment Co. is an company with business offices at RD 3 Box 93A, Route 322 West, Philipsburg, PA 16866, which, at all times material hereto, did and does business within Pennsylvania.

7. Defendants Barry Kyler and Northeast Spring & Equipment Co. are related Defendants (hereinafter referred to as "Defendants Northeast Spring").

8. Defendant Mack Trucks, Inc. (hereinafter referred to as "Defendant Mack Trucks") is a corporation with offices at 2100 Mack Boulevard, Allentown, PA 18103, which, at all times material hereto, did and does business within Pennsylvania.

9. At all times material hereto, Defendants Northeast Spring were engaged in business for profit and was acting on their own behalf or through their agents, servants, and employees who were acting on their behalf and within the scope and course of their authority and employment.

10. All times material hereto, Defendants Northeast Spring was in the business of selling, distributing, installing, inspecting, specifying or recommending, certifying, or otherwise supplying and servicing trucks and motor vehicles, including component and related parts and systems thereof, including, but not limited to, leaf springs and leaf spring U-bolts.

11. At all times material hereto, Defendant Mack Trucks was engaged in business for profit and were acting on its own behalf or through its agents, servants, and employees who were acting on its behalf and within the scope and course of their authority and employment.

12. All times material hereto, Defendant Mack Trucks was in the business of designing, manufacturing, assembling, inspecting, specifying or recommending, certifying, selling, leasing, or otherwise supplying and servicing trucks and motor vehicles, including component and related parts and systems thereof, including, but not limited to, leaf springs and leaf spring U-bolts.

13. Defendant Mack Trucks designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, or otherwise supplied the subject 1991 red Mack Truck, tri-axle, VIN No. 1M2P264COMMOQ9212 (hereinafter referred to as "subject vehicle" or "subject truck") and component and related parts and systems thereof in which David A. Weaver, deceased, was the driver at the time of the hereinafter-

described accident. Defendant Mack Trucks also designed, manufactured, assembled, inspected, specified or recommended, certified, sold or otherwise supplied leaf spring U-bolts, and component and related parts and systems, on the right rear of the subject truck (hereinafter referred to as subject U-bolts) that were installed on the subject truck by Defendants Northeast Spring on or about April 25, 2000.

14. Defendants Northeast Spring sold, installed, inspected, specified or recommended, certified, or otherwise supplied and serviced the subject truck and/or component and related parts and systems thereof, in which David A. Weaver, deceased, was the driver at the time of the hereinafter-described accident, including the subject leaf springs and leaf spring U-bolts on the right rear of subject truck on or about April 25, 2000.

15. On or about April 25, 2000, Defendants Northeast Spring performed repair and/or maintenance on the subject truck. Defendants Northeast Spring assembled, installed, inspected, specified or recommended, certified, sold, or otherwise supplied the subject leaf springs and the subject leaf spring U-bolts and component and related parts and systems, on the subject truck owned by decedent David A. Weaver's employer, D.C. Guelich Explosive Co. Defendant Mack Trucks designed, manufactured assembled, inspected, specified or recommended, certified, sold, or otherwise supplied the subject leaf spring U-bolts to Defendants Northeast Spring. Defendants Northeast Spring installed the subject leaf springs and subject leaf spring U-bolts, and component and related parts and systems, on the right rear of the subject truck. The odometer on the subject truck at the time of the installation of the subject U-bolts read at or near 116,142 miles.

16. On or about August 30, 2001, at approximately 7:25 a.m., David A. Weaver was the driver of the subject truck, in the course of his employment with D.C. Guelich Explosive Co., the owner of the subject truck. The accident occurred in the northbound lane of SR 2023, Lawrence Township, Clearfield County, PA at or near its intersection with T-598, also known as Log Cabin Road when the subject U-bolts, sold, or otherwise supplied by Defendants Mack Trucks and Northeast Spring and installed by Defendants Northeast Spring, failed causing catastrophic loss of control of the subject truck, causing the subject truck to crash through the guardrails on the side of northbound SR2023 and roll onto its passenger side, going down a steep embankment, coming to rest on its roof on T-598 facing southwest, killing David A. Weaver. At the time of the subject accident of August 30, 2001, the odometer on the subject truck read at or near 131,491 miles.

COUNT I

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING& EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

17. Plaintiffs incorporate herein by reference Paragraphs 1 through 16, inclusive, of this Complaint.

18. The subject vehicle and subject U-bolts were expected to and did reach the ultimate users, consumers and bystanders including decedent David A. Weaver, without substantial change or alteration and in the same or substantially the same condition as when they left the possession and control of Defendants Northeast Spring.

19. Defendants Northeast Spring represented and warranted to the ultimate users and consumers of the subject truck that the subject U-bolts were fit for the purposes for which they were intended.

20. In addition to the aforesaid warranty of fitness for a particular purpose, Defendants Northeast Spring Buick warranted that the subject U-bolts were merchantable and fit for said uses.

21. The injuries to and death of the decedent David A. Weaver and the injuries and damages sustained by Plaintiffs were the direct and proximate result of Defendants Northeast Spring selling, distributing, installing, inspecting, specifying or recommending, certifying, or otherwise supplying the subject U-bolts in a nonworkmanlike fashion and in a defective condition, unreasonably dangerous to the users and consumers of same, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and in breach of Defendants Northeast Spring's express and implied warranties as set forth in the applicable laws of the Commonwealth of Pennsylvania.

22. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of Defendants Northeast Spring's improper sale, installation, inspection, specification or recommendation, certification, or supply of the subject U-bolts, and in breach by Defendants Northeast Spring of express and implied warranties that the subject U-bolts would be properly designed, manufactured, assembled, installed, inspected, specified or recommended, certified, sold, and/or supplied, in a good and proper workmanlike fashion by Defendants Northeast Spring and Defendant Mack Trucks.

23. Alternatively, the subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, installed or otherwise supplied by Defendants Northeast Spring and the occurrence of the accident.

24. As the result of the breach of warranties of Defendants Northeast Spring as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

25. As the result of the breach of warranties of Defendants Northeast Spring as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports

f. Death

26. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co. in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT II

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING& EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

27. Plaintiffs incorporate herein by reference paragraphs 1 through 26, inclusive, of this Complaint.

28. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of the negligence and carelessness, acts and omissions of Defendants Northeast Spring, individually, jointly and severally; generally, and in the following particulars:

a. In failing to ascertain if the subject truck and U-bolts were properly designed by Defendant Mack Trucks;

b. In failing to ascertain if the subject truck and U-bolts were properly manufactured by Defendant Mack Trucks;

c. In failing to ascertain if Defendant Mack Trucks included such design features, devices, techniques, and/or other manufacturing features that would have prevented the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

d. In failing to ascertain if Defendant Mack Trucks designed and manufactured the subject truck and U-bolts in such a manner as to prevent the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

e. In breaching the highest degree of care owed in the design, manufacture, sale, installation, maintenance, service and supply of the subject leaf springs and U-bolts;

f. In failing to provide properly designed, assembled, manufactured, and inspected leaf springs and U-bolts;

g. In selling, installing and supplying defective products, including the subject U-bolts;

h. In selling, specifying or recommending, supplying, installing and inspecting products including the subject U-bolts which were not reasonably fit and safe for their intended uses;

i. In failing to properly inspect and, if appropriate under the circumstances, service and repair the subject truck;

j. In failing to properly tighten the subject U-bolts;

k. In failing to properly advise and warn users of the subject truck and U-bolts, including, but not limited to, D.C Guelich Explosive Co. and decedent David A. Weaver, following the installation of the subject U-bolts on the subject truck on or about April 25, 2000, that the newly installed subject U-bolts had to be retightened after the subject truck was driven 1,000 miles;

l. In failing to schedule a follow up appointment for the subject U-bolts to be retightened on the subject truck after the subject truck was driven 1000 miles following the installation of the subject U-bolts on or about April 25, 2000;

m. In failing to retighten the subject U-bolts on the subject truck following their installation on or about April 25, 2000 after the subject truck was driven 1,000 miles;

n. In failing to discover the defective nature of the subject truck and U-bolts;

o. In failing to properly inspect and test the subject truck and U-bolts;

p. In failing to warn the users of the subject truck and U-bolts of the defective condition of the products;

q. In selling, inspecting, specifying, installing and recommending the subject truck and U-bolts in such a manner that they would become defective during normal uses;

r. In failing to advise or warn the users of the subject truck and U-bolts of the proper procedure to maintain and inspect the subject U-bolts;

s. In selling, installing and/or otherwise supplying the subject U-bolts with latent defects;

t. In failing to install and supply adequate safety devices, instructions and warnings;

u. In selling and installing products with design and/or manufacturing defects;

v. In failing to follow and in violating any governmental or industry standards which may be applicable;

w. In that Defendants Northeast Spring knew, or in the exercise of reasonable care should have known, of the defective and dangerous condition of the subject truck and U-bolts and realized that injuries, including the loss of life, and damages would probably occur and failed to warn of the defect and risk of injury and loss of life involved when the subject truck, leaf springs and U-

bolts were used, and under such circumstances, failing to make the subject truck and U-bolts safe for use;

x. In failing to recall the subject leaf springs and leaf spring U-bolts or remedy the defect(s) in the subject truck and U-bolts after sale and installation. In the event that it is proven that there was an attempt to recall or remedy the defect(s), negligent management of the recall or attempt to remedy defect(s) in the subject truck and U-bolts;

y. In failing to sell, install, inspect, specify or recommend, certify, or otherwise supply and service the subject truck and U-bolts in a good and workmanlike fashion;

z. In failing to follow and in violating applicable laws, safety codes and regulations applicable to the subject truck and U-bolts and their uses thereof;

aa. In failing to instruct or in improperly instructing users in the safe use and operation of the subject truck and U-bolts;

bb. In selling and supplying the subject U-bolts when they were subject to sudden, unwanted, and unexpected breakage of the subject U-bolts;

cc. In failing to warn users of the subject truck and U-bolts that the use of the subject truck and U-bolts could result in sudden, unwanted, and unexpected breakage of the subject U-bolts resulting in catastrophic loss of steering control of the subject truck;

dd. In failing to issue proper instruction to users of the subject truck and U-bolts in the event use of the subject truck and U-bolts resulted in sudden, unwanted, and unexpected breakage of the subject U-bolts;

ee. In selling, installing or otherwise supplying U-bolts that could break unexpectedly;

ff. In selling, installing or otherwise supplying a motor vehicle in which the U-bolts, their component parts, and related systems, were placed in such a position that they could become weak and thus result in sudden, unwanted, and unexpected breakage;

gg. In otherwise breaching the highest degree of care owed in designing, development, manufacture, assembly, inspection, specification or recommendation, certification, sale and/or supply of known dangerous products and instrumentalities;

hh. Alternatively, the subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, installed or otherwise supplied by Defendants and the occurrence of the accident.

ii. In otherwise being negligent and careless, in otherwise acting or failing to act in connection with the subject truck and U-bolts in such a manner as would cause injury and/or loss of life under the facts and circumstances as set forth in the Complaint, and as shall appear from the facts in this case, such facts presently within the knowledge and under the control of Defendants and others, and which will be revealed during the course and discovery and trial in this case, including testimony from Defendants or others, and from records, documents or other writings in Defendants' possession, or produced during discovery at trial.

29. As the result of the negligence of Defendants Northeast Spring as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

30. As the result of the negligence of Defendants Northeast Spring as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

31. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co. in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT III

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING& EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

32. Plaintiffs incorporate herein by reference thereto paragraphs 1 through 31, inclusive, of this Complaint.

33. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of Defendants Northeast Spring's selling, installing, inspecting, specifying or recommending, certifying, or otherwise supplying the subject leaf spring U-bolts, their component parts and related systems, known dangerous products and instrumentalities, in a defective condition unreasonably dangerous to the users or consumers, including decedent David A. Weaver, in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and misrepresentations by Defendants Northeast Spring of material facts concerning the character or quality of the subject vehicle, leaf springs and leaf spring U-bolts, their component parts and related systems and Defendants Northeast Spring's safety inspections, specifications, recommendations and certifications thereof, and therefore, Defendants Northeast Spring is strictly liable in tort to Plaintiffs under the laws encompassed in Sections 388, 402A, and 402B, and other applicable sections of the Restatement of Torts, Second and Third and other applicable Pennsylvania law.

34. Alternatively, the subject vehicle and subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold,

installed or otherwise supplied by Defendants Northeast Spring and the occurrence of the accident.

35. As the result of the acts and omissions of Defendants Northeast Spring as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

36. As the result of the acts and omissions of the Defendants Northeast Spring as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

37. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co. in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT IV

BRENDA ORSICH,Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

38. Plaintiffs incorporate herein by reference Paragraphs 1 through 37, inclusive, of this Complaint.

39. The subject truck and subject leaf spring U-bolts were expected to and did reach the ultimate users, consumers and bystanders including decedent David A. Weaver without substantial change or alteration and in the same or substantially the same condition as when they left the possession and control of Defendant Mack Trucks.

40. Defendant Mack Trucks represented and warranted to the ultimate users and consumers of the subject truck and subject leaf spring U-bolts that they were fit for the purposes for which they were intended.

41. In addition to the aforesaid warranty of fitness for a particular purpose, Defendant Mack Trucks warranted that the subject truck and subject leaf spring U-bolts were merchantable and fit for said uses.

42. The subject truck and subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, or otherwise supplied by Defendant Mack Trucks in a manner which was not a good and proper workmanlike fashion, in a defective condition unreasonably dangerous to the ultimate users, consumers and bystanders, including decedent David A. Weaver.

43. The subject truck and subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, or otherwise supplied by Defendant Mack Trucks in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers, including decedent David A. Weaver.

44. The injuries to and death of the decedent David A. Weaver and the injuries and damages sustained by Plaintiffs were the direct and proximate result of Defendant Mack Trucks' designing, manufacturing, assembling, supervising, inspecting, specifying or recommending, certifying, selling, leasing or otherwise supplying the subject truck and subject U-bolts in a nonworkmanlike fashion and in a defective condition, unreasonably dangerous to the users and consumers of same, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and in breach of Defendant Mack Trucks' express and implied warranties as set forth in the applicable laws of the Commonwealth of Pennsylvania.

45. The injuries to and death of the decedent David A. Weaver and the injuries and damages sustained by Plaintiffs were the direct and proximate result of Defendant Mack Trucks' improper design, manufacture, assembly, inspection, specification or

recommendation, certification, sale, lease or supply of the subject truck and subject U-bolts, and in breach by Defendant Mack Trucks of express and implied warranties that the subject truck and subject U-bolts would be properly designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, and/or supplied, in a good and proper workmanlike fashion by Defendant Mack Trucks.

46. Alternatively, the subject truck and subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, or otherwise supplied by Defendants and the occurrence of the accident.

47. As the result of the breach of warranties of Defendant Mack Trucks as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

48. As the result of the breach of warranties of Defendant Mack Trucks as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

49. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Mack Trucks in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT V

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

50. Plaintiffs incorporate herein by reference paragraphs 1 through 49, inclusive, of this Complaint.

51. The losses and damages sustained by Plaintiffs were the direct and proximate result of the negligence and carelessness of Defendant Mack Trucks, individually, jointly and severally, generally, and in the following particulars:

a. In failing to properly design the subject truck and subject U-bolts;

b. In failing to properly manufacture the subject truck and subject U-bolts;

c. In failing to include such design features, devices, techniques, and/or other manufacturing features that would have prevented the subject truck and subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

d. In failing to design and manufacture the subject truck and subject U-bolts in such a manner as to prevent the subject vehicle truck and subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

e. In breaching the highest degree of care owed in the design, manufacture, sale, and supply of the subject truck and subject U-bolts;

f. In failing to provide a properly designed, assembled, manufactured, and inspected truck and U-bolts;

g. In designing, assembling, manufacturing, selling, leasing and supplying defective products, including the subject truck and subject U-bolts;

h. In designing, assembling, manufacturing, selling, leasing, supplying, specifying or recommending and inspecting products, not reasonably fit for their intended use;

i. In designing, assembling, manufacturing, specifying or recommending, selling, leasing, supplying, and inspecting products including the subject truck and subject U-bolts which were not reasonably safe for their intended uses;

j. In failing to properly inspect the subject truck and subject U-bolts;

k. In failing to discover the defective nature of the subject truck and subject U-bolts;

l. In failing to properly inspect and test the subject truck and subject U-bolts;

m. In failing to warn the users of the subject truck and subject U-bolts of the defective condition of the products;

n. In designing, manufacturing, assembling, selling, inspecting, specifying, and recommending the subject truck and subject U-bolts in such a manner that they would become defective during normal uses;

o. In failing to advise the users of the subject truck and subject U-bolts of the proper procedure to maintain and inspect the subject truck and subject U-bolts;

p. In selling and/or otherwise supplying the subject truck and subject U-bolts with latent defects;

q. In failing to install and supply adequate safety devices, instructions and warnings;

r. In selling products with design and/or manufacturing defects;

s. In failing to follow and in violating any governmental or industry standards which may be applicable;

✓ t. In failing to properly advise and warn users of the subject truck and U-bolts, including, but not limited to, D.C Guelich Explosive Co. and decedent David A. Weaver, following the installation of the subject U-bolts on the subject truck on or about April 25, 2000, that the newly installed subject U-bolts had to be retightened after the subject truck was driven 1,000 miles;

u. In that Defendant Mack Trucks knew, or in the exercise of reasonable care should have known, of the defective and dangerous condition of the subject truck and subject U-bolts and realized that injuries, including the loss of life, and damages would probably occur and failed to warn of the defect and risk of injury and loss of life involved when the subject truck and subject U-bolts were used, and under such circumstances, failing to make the subject truck and subject U-bolts safe for use;

v. In failing to incorporate an adequately and properly designed safety system into the design of the subject truck and subject U-bolts;

w. In failing to recall the subject truck and subject U-bolts or remedy the defect(s) in the subject truck and subject U-bolts after their sale. In the event that it is proven that there was an attempt to recall or remedy the defect(s), negligent management of the recall or attempt to remedy defect(s) in the subject truck and subject U-bolts;

x. In failing to design, develop, manufacture, assemble, inspect, specify or recommend, certify, sell, lease or otherwise supply the subject truck and subject U-bolts in a good and workmanlike fashion;

y. In failing to follow and in violating applicable laws, safety codes and regulations applicable to the subject truck and subject U-bolts and their uses thereof;

z. In failing to instruct or in improperly instructing users in the safe use and operation of the subject truck and subject U-bolts;

aa. In designing, assembling, manufacturing, selling, and supplying the subject truck and subject U-bolts when they were subject to sudden and unexpected breakage of the subject U-bolts;

bb. In failing to warn users of the subject truck and subject U-bolts that the use of the subject U-bolts could result in sudden, unwanted, and unexpected breakage of the subject U-bolts;

cc. In failing to issue proper instruction to users of the subject truck, leaf springs and leaf spring U-bolts in the event use of the subject truck and U-bolts resulted in sudden, unwanted, and unexpected breakage;

dd. In selling, leasing or otherwise supplying a motor vehicle and U-bolts that which could break unexpectedly;

ee. In selling, leasing or otherwise supplying a motor vehicle and U-bolts in such a position that they were inadequately protected, and due to their design and placement were subject to sudden, unwanted, and unexpected breakage;

ff. In otherwise breaching the highest degree of care owed in designing, development, manufacture, assembly, inspection, specification or recommendation, certification, sale, lease and/or supply of known dangerous products and instrumentalities;

gg. Alternatively, the subject truck and subject U-bolts were defective by reason of their malfunction under normal uses in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, installed or otherwise supplied by Defendants and the occurrence of the accident.

hh. In otherwise being negligent and careless, in otherwise acting or failing to act in connection with the subject truck and subject U-bolts in such a manner as would cause injury and/or loss of life under the facts and circumstances as set forth in the Complaint, and as shall appear from the facts in this case, such facts presently within the knowledge and under the control of Defendants and others, and which will be revealed during the course and discovery and trial in this case, including testimony from Defendants or others, and from records, documents or other writings in Defendants' possession, or produced during discovery at trial.

52. As the result of the negligence of Defendant Mack Trucks as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

53. As the result of the negligence of Defendant Mack Trucks as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death

54. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Mack Trucks in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT VI

BRENDA ORSICH,Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

56. Plaintiffs incorporate herein by reference thereto paragraphs 1 through 54, inclusive, of this Complaint.

56. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of Defendant Mack Truck's designing, manufacturing, assembling, inspecting, specifying or recommending, certifying, selling, leasing, or otherwise supplying the subject truck, subject U-bolts, their component parts and related systems, known dangerous products and instrumentalities, in a defective condition unreasonably dangerous to the users or consumers, including decedent David A. Weaver, in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and misrepresentations by Defendant Mack Trucks of material facts concerning the character, quality and safety of the subject truck, subject U-bolts, their component parts and related systems and Defendant Mack Trucks' safety inspections,

specifications, recommendations and certifications thereof, and therefore, Defendant Mack Trucks is strictly liable in tort to Plaintiffs under the laws encompassed in Sections 388, 402A, and 402B, and other applicable sections of the Restatement of Torts, Second and Third and other applicable Pennsylvania law.

57. Alternatively, the subject truck and subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, installed or otherwise supplied by Defendant Mack Trucks and the occurrence of the accident.

58. As the result of the acts and omissions of Defendant Mack Trucks as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

59. As the result of the acts and omissions of Defendant Mack Trucks as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

60. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Mack Trucks in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
(412) 766-1811
ATTORNEYS FOR PLAINTIFFS

VERIFICATION

The undersigned, having read the attached Complaint in Civil Action, verifies that the within Complaint is based on information furnished to counsel, as well as information gathered by counsel in the course of this lawsuit. The language of the Complaint is that of counsel and not of the signer. Signer verifies that he/she has read the within Complaint and that it is true and correct to the best of the signer's knowledge, information and belief. To the extent that the contents of the Complaint is that of counsel, I have relied upon counsel in making this Verification. This Verification is made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsifications to authorities.

Dated: 10-30-03

Brenda L. Orsich
BRENDA L. ORSICH

CERTIFICATE OF SERVICE

I, Jerome W. Kiger, Esquire, do hereby certify that a true and correct copy of the within Complaint in Civil Action was served to the following via U.S. First Class, postage prepaid 12th day of November, 2003:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Mack Trucks, Inc.
2100 Mack Boulevard
Allentown, PA 18103
VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JEROME W. KIGER, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1611
ATTORNEY FOR PLAINTIFFS

FILED
M 11:10 BSA NOCC
MAR 10 2004

William A. Shaw
Prothonotary

To All Parties
You are hereby notified to plead to the enclosed New Matter within twenty (20) days from service hereof or a default judgment may be entered against you.
By _____
Attorney for

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

DEFENDANT, TRIANGLE AUTO SPRING COMPANY'S ANSWER TO DEFENDANT, MACK TRUCKS, INC.'S JOINDER COMPLAINT

Additional defendant, Triangle Auto Spring, by and through its attorneys, Marshall, Dennehey, Warner, Coleman & Goggin, herewith answers Mack Trucks, Inc.'s Joinder Complaint:

1. Answering additional defendant admits incorporation of the referenced paragraphs without admitting the substantive averments contained therein.

2. Denied. Answering additional defendant admits incorporation of the referenced paragraphs without admitting the substantive averments contained therein.

3. Admitted.

FILED

MAR 26 2004
m/ 12:20/m
William A. Shaw
Prothonotary/Clerk of Courts
no c/c

4. Denied. Additional defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 4 of Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial. Additional defendant, despite repeated requests has not been afforded the opportunity to inspect the relevant products. Based on documentation provided by Mack Trucks, it is believed and therefore averred, that the u-bolt was, in fact, manufactured by additional defendant, Consolidated Metal Products, 1028 Depot Street, Cincinnati, Ohio 45204.

5. Denied. Additional defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 5 of Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial. Additional defendant, despite repeated requests has not been afforded the opportunity to inspect the relevant products. Based on documentation provided by Mack Trucks, it is believed and therefore averred, that the u-bolt was, in fact, manufactured by additional defendant, Consolidated Metal Products, 1028 Depot Street, Cincinnati, Ohio 45204.

6. Denied. The allegations contained in paragraph 6 of Mack Trucks' Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material. By way of further answer, it is specifically and unequivocally denied that additional defendant, Triangle Auto Spring was in anyway negligent, careless or reckless.

7. Denied. Following reasonable investigation, answering defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 7 of Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial if deemed material.

8. Denied. Following reasonable investigation, answering defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 8 of

Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial if deemed material.

9. Denied. Following reasonable investigation, answering defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 9 of Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial if deemed material.

10. Denied. Following reasonable investigation, answering defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 10 of Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial if deemed material.

11. Denied. Following reasonable investigation, answering defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 11 of Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial if deemed material.

12. Denied. Following reasonable investigation, answering defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 12 of Mack Trucks' Joinder Complaint and therefore, same are denied and strict proof thereof is demanded at trial if deemed material. It is specifically and unequivocally denied that the u-bolts, if supplied by additional defendant, were defective or unreasonably dangerous to users or consumers.

13. Denied. The allegations contained in paragraph 13 of Mack Trucks' Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

14. Denied. The allegations contained in paragraph 14 of Mack Trucks' Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material. It is specifically and unequivocally denied that additional defendant, Triangle Auto Spring was in anyway negligent, careless or reckless.

15. Denied. The allegations contained in paragraph 15 of Mack Trucks' Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material. By way of further answer, it is specifically and unequivocally denied that additional defendant, Triangle Auto Spring Company, supplied any defective product.

16. Denied. The allegations contained in paragraph 16 of Mack Trucks' Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof is demanded at trial if deemed material.

WHEREFORE, additional defendant, Triangle Auto Spring Co. demands judgment in its favor and against all other parties.

NEW MATTER

17. The Joinder Complaint fails to set forth a cause of action and/or a claim for relief against the answering additional defendant.

18. The products in question were improperly maintained and this was the cause of the accident described in the Joinder Complaint.

19. The products in question were misused and/or abused.

20. The superseding negligence of parties and/or entities over which this additional defendant had no control nor right to control relieves this additional defendant of any liability.

21. The liability of the answering additional defendant, if any, is mitigated by the provisions of the Pennsylvania Comparative Negligence Statute.

22. The plaintiff voluntarily assumed the risk.

23. Any and all claims made against the answering additional defendant are barred by the applicable statute of limitations.

24. Any and all claims made against the answering additional defendant are barred by the Pennsylvania Statute of Repose.

NEW MATTER CROSSCLAIM PURSUANT TO Pa.R.C.P. 2252(d)

25. The additional defendant avers that the accident, and any and all injuries and/or damages allegedly sustain by the plaintiffs herein are due solely and exclusively to the negligence, carelessness and/or tortuous conduct or misconduct on the part of the plaintiffs as well as defendants, Barry Kyler, t/a and d/b/a Northeast Spring & Equipment Co., Northeast Spring & Equipment Co. and Mack Trucks, Inc. and additional defendant, Consolidated Metal Products, through their respective authorized agents, servants, workmen and/or employees.

WHEREFORE, the answering additional defendant denies that it is in any fashion liable to any party herein and demands judgment in its favor. In the alternative, the answering additional defendant avers that the defendants, Barry Kyler, t/a and d/b/a Northeast Spring & Equipment Co., Northeast Spring & Equipment Co. and Mack Trucks, Inc. as well as the additional defendant, Consolidated Metal Products are alone liable to the plaintiffs, are jointly liable with and/or are liable over to this additional answering defendant for full and complete indemnification including the costs and counsel fees incurred in the defense of this litigation.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

By: _____

BRADLEY D. REMICK, ESQUIRE
Attorney for additional defendant,
Triangle Auto Spring Co.

VERIFICATION

HARRY PEHOTE being duly sworn according to law deposes and says that he is V.P. of Manufacturing of TRIANGLE SUSPENSION SYSTEMS, INC. and that he is authorized to take this verification on behalf of additional defendant, Triangle Auto Spring Co. and that the facts set forth in the foregoing Answer to Joinder Complaint of defendant, Mack Trucks are true and correct to the best of his knowledge, information, and belief. This verification is subject to 18 Pa.C.S. §4904 which provides for certain penalties for making false statements.

Harry Pehote

HARRY PEHOTE

13035-00102

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

PLAINTIFFS' REPLY TO NEW MATTER AND NEW MATTER COUNTERCLAIM OF ADDITIONAL DEFENDANT TRIANGLE AUTO SPRING

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

FILED

MAR 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

No. 03-1251 CD

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

PLAINTIFFS' REPLY TO NEW MATTER AND NEW MATTER COUNTERCLAIM OF ADDITIONAL DEFENDANT TRIANGLE AUTO SPRING

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire, Amy B. Kubisiak, Esquire and Kiger & Alpern, Esquires, and file the following Reply to New Matter of Additional Defendant Triangle Auto Spring:

17. Plaintiffs have been advised and therefore aver, that the allegations of Paragraph 17 set forth conclusions of law to which no response is required. Proof thereof is demanded.

If further answer is required, the allegations in Paragraph 17 are denied. To the contrary, Plaintiffs' Complaint and Defendant Mack Trucks, Inc.'s Joinder Complaint do state a cause of action upon which relief can be granted.

18. Denied. Upon reasonable investigation, the Plaintiffs are without sufficient information to form a belief as to the truth of the averments set forth in paragraph 18. Proof thereof is demanded. Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

19. Denied. Upon reasonable investigation, the Plaintiffs are without sufficient information to form a belief as to the truth of the averments set forth in paragraph 19. Proof thereof is demanded. Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

20. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 20 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

21. Plaintiffs have been advised and therefore aver that the allegations of paragraph 21 set forth conclusions of law to which no answer is required. If further answer is required, Plaintiffs aver that David Weaver was not contributory and/or comparatively negligent, generally and specifically. Proof thereof is demanded. Plaintiffs' claims are not barred or reduced in any manner whatsoever.

22. Plaintiffs have been advised and therefore aver that the allegations of paragraph 22 set forth conclusions of law to which no answer is required. If further answer is required, Plaintiffs aver that David Weaver did not assume any risk of injury.

Proof thereof is demanded. Plaintiffs' claims are not barred or reduced in any manner whatsoever.

23. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 23 set forth conclusions of law to which no response is required. If further answer is required, the allegations in Paragraph 23 are denied. Proof thereof is demanded.

24. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 24 set forth conclusions of law to which no response is required If further answer is required, the allegations in Paragraph 24 are denied. Proof thereof is demanded. Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

25. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 25 set forth conclusions of law to which no response is required. If further answer is required, Plaintiffs aver that David Weaver did not act negligently, carelessly or tortuously. Proof thereof is demanded. If further answer is required, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand judgment against Defendants and Additional Defendants at the proper costs and charges thereto.

KIGER & ALPERN

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
Attorneys for Plaintiffs

VERIFICATION

The undersigned, having read the attached Reply to New Matter, verifies that the within Reply is based on information furnished to counsel, as well as information gathered by counsel in the course of this lawsuit. The language of the Reply is that of counsel and not of the signers. Signers verify that they have read the within Reply and that it is true and correct to the best of the signers' knowledge, information and belief. To the extent that the contents of the Reply are that of counsel, we have relied upon counsel in making this Verification. This Verification is made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsifications to authorities.

Date: 3/21/04

Brenda L Orsich

BRENDA L. ORSICH

CERTIFICATE OF SERVICE

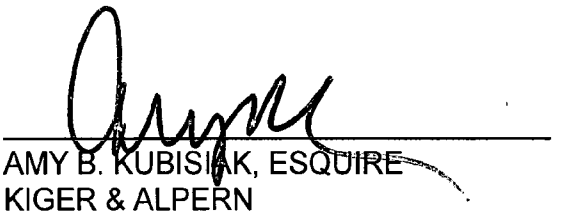
I, Amy B. Kubisiak, Esquire, do hereby certify that a true and correct copy of the within Plaintiffs' Reply to New Matter and New Matter Counterclaim of Additional Defendant Triangle Auto Spring was served to the following via U.S. Class, postage prepaid on March 26, 2004:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Consolidated Metal Products
1028 Depot Street
Cincinnati, OH 45204



AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

FILED no
m/11:30 BK cc
MAR 29 2004
KBL
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

NOTICE OF SERVICE OF PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO ALL DEFENDANTS AND ADDITIONAL DEFENDANTS

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

FILED

MAR 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

No. 03-1251 CD

NOTICE OF SERVICE OF PLAINTIFFS' FIRST SET OF OF REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO ALL DEFENDANTS AND ADDITIONAL DEFENDANTS

To: Prothonotary

I hereby certify that on March 25, 2004 Plaintiff's First Set of Request for Production of Documents were served on all Defendants and Additional Defendants by U.S. Mail, First Class, Postage Prepaid, to the following:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179
Attorneys for Defendants BARRY KYLER, trading and doing Business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103
Attorneys for Additional Defendant
TRIANGLE AUTO SPRING COMPANY

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104
Attorneys for Defendant MACK TRUCKS, INC.

Consolidated Metal Products
1028 Depot Street
Cincinnati, OH 45204
ADDITIONAL DEFENDANT

KIGER & ALPERN

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I, Amy B. Kubisiak, Esquire, do hereby certify that a true and correct copy of the within Plaintiffs' Notice of Service was served to the following via U.S. Mail, First Class, Postage Prepaid this 25th day of March, 2004:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179
Attorneys for Defendants BARRY KYLER, trading and doing Business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103
Attorneys for Additional Defendant TRIANGLE AUTO SPRING COMPANY

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104
Attorneys for Defendant MACK TRUCKS, INC.

Consolidated Metal Products
1028 Depot Street
Cincinnati, OH 45204
ADDITIONAL DEFENDANT

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

FILED NO CC
m/1:30 BK
MAR 29 2004
William A. Shaw
Prothonotary/Clerk of Courts

In The Court of Common Pleas of Clearfield County, Pennsylvania

ORSICH, BRENDA admx. Of estate of David A. Weaver, deceased
VS.
KYLER, BARRY t/d/b/a NORTHEAST SPRING & EQUIPMENT CO. al

Sheriff Docket # 15067
03-1251-CD

SUMMONS

SHERIFF RETURNS

NOW JANUARY 19, 2004 AT 11:50 AM SERVED THE WITHIN SUMMONS ON TRIANGE AUTO SPRING COMPANY, DEFENDANT AT EMPLOYMENT, MALONEY ROAD, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO NANCY PLOWS, HUMAN RESOURCE MGR. A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: MCCLEARY

Return Costs

Cost	Description
32.62	SHERIFF HAWKINS PAID BY: ATTY CK# 5649
10.00	SURCHARGE PAID BY: JOSEPH P. GREEN CK# 645

Sworn to Before Me This

14 Day Of April 2004

So Answers,

Chester A. Hawkins
Sheriff

FILED
0 8:37 BM
APR 14 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	:	No. 03-1251-CD
vs.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	:	
vs.	:	
TRIANGLE AUTO SPRING, Additional Defendant	:	

FILED

APR 14 2004

William A. Shaw
Prothonotary

REPLY BY DEFENDANT BARRY KYLER/NORTHEAST SPRING AND EQUIPMENT COMPANY TO NEW MATTER ASSERTED BY ADDITIONAL DEFENDANT TRIANGLE AUTO SPRING COMPANY

Defendant Barry Kyler/Northeast Spring and Equipment Company replies to New Matter asserted by Additional Defendant Triangle Auto Spring Company as follows:

17 through 25. To the extent that the averments of New Matter assert that liability rests with the responding party, such averments are denied in all respects. The position of the responding party as articulated in his Answer and New Matter initially filed herein is incorporated at this point by reference. The responding party committed no tortious conduct, breach of contract or other liability-producing act in any manner which was a legal or proximate cause of the alleged harm.

WHEREFORE, it is respectfully requested that judgment be entered in favor of the responding party in all respects.

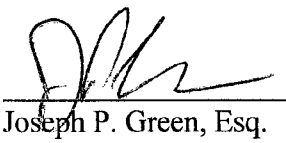
LEE, GREEN & REITER, INC

By: _____

Joseph P. Green, Esq., ID #19238
Attorney for Defendants Barry Kyler, i/t/d/b/a
Northeast Spring & Equipment Co. and
Northeast Spring & Equipment Co.
115 East High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

STATEMENT RELATING TO ABSENCE OF VERIFICATION

The foregoing pleading needs no separate verification because it restates averments of fact and/or denials which already appear of record and which were previously verified by the responding party.



Joseph P. Green, Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	:	No. 03-1251-CD
vs.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	:	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Reply by Defendant Barry Kyler/Northeast Spring and Equipment Company to New Matter Asserted by Additional Defendant Triangle Auto Spring Company was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 12TH day of April, 2004 addressed to the following:

Jerome W. Kiger, Esq.
1404 Grant Building
Pittsburgh, PA 15219

Bradley Remick, Esq.
1845 Walnut Street
Philadelphia, PA 19103-4797

Gerald Barr, Esq.
Barr & McGogney
4905 Tilghman Street, Suite 250
Allentown, PA 18104

Joseph P. Green

FILED

01:13 BG ICC to atty.

APR 14 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH,

Plaintiffs

v.

BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.

Defendants

and

TRIANGLE AUTO SPRING COMPANY,

and

CONSOLIDATED METAL PRODUCTS,

Additional Defendant

CIVIL DIVISION

No.: 03-1251 CD

PRAECIPE FOR APPEARANCE

Filed on Behalf of this Party:

Consolidated Metal Products, One of the Additional Defendants

Counsel of Record for this Party :

Lynn E. Bell, Esquire
Pa I.D. #38588

Davies, McFarland & Carroll, P.C.
Firm I.D. #281

One Gateway Center; 10th Floor
Pittsburgh, PA 15222
(412) 281-0737

FILED

APR 14 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH,	)	CIVIL DIVISION
Plaintiffs	)	
v.	)	
	)	No.: 03-1251 CD
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	)	
Defendants	)	
and	)	
TRIANGLE AUTO SPRING COMPANY,	)	
and	)	
CONSOLIDATED METAL PRODUCTS,	)	
Additional Defendant	)	

PRAECIPE FOR APPEARANCE

TO: WILLIAM SHAW, CLERK OF COURTS

KINDLY enter my appearance, Lynn E. Bell, Esquire, PA I.D. #38588, on behalf of Consolidated Metal Products, Additional Defendant, in the above-captioned matter.

Jury Trial Demanded.

Davies, McFarland & Carroll, P.C.

By: Keith T Kuntz /for

Lynn E. Bell, Esquire
Attorney for Consolidated Metal Products,
One of the Additional Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record in the following manner on the 12th day of April, 2004:

Via Facsimile	
Via Hand Delivery	
Via First Class U.S. Mail	✓
Via Overnight Mail	
Via Certified Mail/ Return Receipt Request	

Jerome W. Kiger, Esquire
Kiger & Alpern
1404 Grant Building
Pittsburgh, PA 15219

Attorneys for Plaintiffs

Attorneys for Barry Kyler t/d/b/a Northeast Spring & Equipment Co.; Northeast Spring & Equipment Co.

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Attorneys for Mack Trucks, Inc.

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103-4797

Attorneys for Triangle Auto Spring Company

DAVIES, McFARLAND & CARROLL, P.C.

By: Kristin T. Kunath

Lynn E. Bell, Esquire
Attorneys for Consolidated Metal Products, One of the Additional Defendants

FILED

M 1:08 BA NOCC

APR 14 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANTS BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

FILED

APR 14 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

No. 03-1251 CD

PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANTS BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire, Amy B. Kubisiak, Esquire and Kiger & Alpern, Esquires, and file the following Reply to New Matter of Defendants Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co.:

61. Plaintiffs have been advised and therefore aver that the allegations of paragraph 61 set forth conclusions of law to which no answer is required. Proof thereof is demanded. If further answer is required, Plaintiffs aver that the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Act do not apply to this cause of action to limit or bar Plaintiffs' claims in any manner whatsoever.

62. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 62 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, the allegations in Paragraph 62 are denied. Plaintiffs timely filed and served the Writ of Summons so as to comply with all applicable statutes of limitations.

63. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 63 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

64. Plaintiffs have been advised and therefore aver that the allegations of paragraph 64 set forth conclusions of law to which no answer is required. Proof thereof is demanded. If further answer is required, the allegations are denied. If spoliation has occurred, which is hereby denied, the Plaintiffs are not responsible for this alleged spoliation and the alleged spoliation of evidence by other parties, persons or entities cannot be an affirmative defense to Plaintiffs' claims. Plaintiffs incorporate their Complaint as if fully set forth herein.

65. Plaintiffs have been advised and therefore aver that the allegations of paragraph 65 set forth conclusions of law to which no answer is required. Proof thereof is

demanded. If further answer is required, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

66. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 66 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, Plaintiffs deny that the defenses stated in Paragraph 66 do not apply to this cause of action. Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

67. Plaintiffs have been advised and therefore aver that the allegations of paragraph 67 set forth conclusions of law to which no answer is required. Proof thereof is demanded. Plaintiffs deny that the contractual conditions, disclaimers and/or limitations set forth in Paragraph 67 do not apply to this cause of action. Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

68. Plaintiffs have been advised and therefore aver that the allegations of paragraph 68 set forth conclusions of law to which no answer is required. Proof thereof is demanded. If further answer is required, Plaintiffs aver that David Weaver was not contributory and/or comparatively negligent, generally and specially. Plaintiffs' claims are not barred or reduced in any manner whatsoever.

69. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 69 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand judgment against Defendants as set forth in the Plaintiffs' Complaint at the proper costs and charges thereto.

KIGER & ALPERN

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
Attorneys for Plaintiffs

VERIFICATION

The undersigned, having read the attached Reply to New Matter, verifies that the within Reply is based on information furnished to counsel, as well as information gathered by counsel in the course of this lawsuit. The language of the Reply is that of counsel and not of the signers. Signers verify that they have read the within Reply and that it is true and correct to the best of the signers' knowledge, information and belief. To the extent that the contents of the Reply are that of counsel, we have relied upon counsel in making this Verification. This Verification is made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsifications to authorities.

Date: 4-10-04

Brenda L Orsich

BRENDA L. ORSICH

CERTIFICATE OF SERVICE

I, Amy B. Kubisiak, Esquire, do hereby certify that a true and correct copy of the within Plaintiffs' Reply to New Matter of Defendants Barry Kyler et al. was served to the following via U.S. First Class, postage prepaid on Apr 12, 2004:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Consolidated Metal Products
1028 Depot Street
Cincinnati, OH 45204

AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

FILED
1:06 BP NOCC
APR 14 2004

William A. Shaw
Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

ORSICH, BRENDA ADMX OF ESTATE OF DAVID A. WEAVER, DEC. Sheriff Docket # 15068

VS. 03-1251-CD

KYLER, BARRY t/d/b/a NORTHEAST SPRING & EQUIPMENT CO. al

SUMMONS

SHERIFF RETURNS

NOW JANUARY 19, 2004 AT 11:50 AM SERVED THE WITHIN SUMMONS ON TRIANGLE AUTO SPRING COMPANY, DEFENDANT AT EMPLOYMENT, MALNOEY ROAD, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO NANCY PLOWS, HUMAN RESOURCE MGR. A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: MCCLEARY

Return Costs

Cost	Description
32.62	SHERIFF HAWKINS PAID BY: ATTY CK# 5650
10.00	SURCHARGE PAID BY: JOSEPH P. GREEN CK# 645

Sworn to Before Me This

15th Day Of April 2004

So Answers,

Chester A. Hawkins by Marilyn Hamm

Chester A. Hawkins
Sheriff

FILED
10:03:28
APR 15 2004

William A. Shaw
Prothonotary

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

FILED

JUN 07 2004

William A. Shaw
Prothonotary/Clerk of Courts

ADDITIONAL DEFENDANT, TRIANGLE AUTO SPRING COMPANY'S MOTION TO COMPEL DISCOVERY AGAINST PLAINTIFFS

Additional defendant, Triangle Auto Spring Company, by and through its attorneys, Marshall, Dennehey, Warner, Coleman and Goggin, hereby moves this Honorable Court for an Order in the form of the proposed Order attached hereto and in support thereof avers as follows:

1. On or about February 4, 2004, moving additional defendant served written discovery on plaintiffs consisting of Wrongful Death Interrogatories, Product Interrogatories, Expert Interrogatories and Request for Production of Documents. (See letter attached hereto and marked as Exhibit "A").

2. On or about February 13, 2004, counsel for additional defendant, Triangle Auto Spring Company, wrote counsel for plaintiffs requesting any and all photographs of the accident scene, the vehicle involved in the collision and the u-bolts. (See letter attached hereto and marked as Exhibit "B").

3. On or about March 11, 2004, counsel for Triangle Auto Spring again wrote counsel for plaintiffs requesting photographs of the relevant suspension parts and also requested dates to inspect the parts. (See letter attached hereto and marked as Exhibit "C").

4. In additional to numerous letters, counsel for Triangle Auto Spring also made several phone calls to plaintiffs' attorney seeking color copies or actual reproductions of the photographs as well as the inspection. Dates of the conversations are included but not limited to January 7, 2004, March 4, 2004 and March 11, 2004.

5. On or about March 25, 2004, despite requests for color copies or actual reproductions, counsel for plaintiffs sent black and white photographs, which are of no use to counsel for additional defendant.

6. On or about April 2, 2004, counsel for Triangle Auto Spring wrote counsel for plaintiffs again requesting the color copies of the photographs. (See letter attached hereto and marked as Exhibit "D").

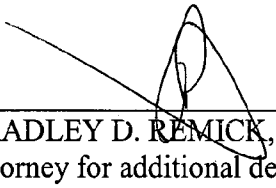
7. On or about April 20, 2005, counsel for Triangle Auto Spring wrote counsel for plaintiffs requesting color copies of the photographs and dates for the inspection. (See letter attached hereto and marked as Exhibit "E").

8. To date, plaintiffs have yet to provide counsel for additional defendant with color copies of the photographs or dates for the inspection.

9. This case is unable to move forward until additional defendant receives color copies of the photographs, dates for the inspection and answers to its outstanding discovery requests.

WHEREFORE, additional defendant, Triangle Auto Spring Company, requests this Honorable Court enter an Order in the form of the proposed Order attached hereto.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN



BRADLEY D. REMICK, ESQUIRE
Attorney for additional defendant,
Triangle Auto Spring Company

CERTIFICATION OF SERVICE

I, BRADLEY D. REMICK, ESQUIRE, hereby certify that I served true and correct copies of additional defendant, Triangle Auto Spring Company's Motion to Compel Discovery on counsel listed below by regular U.S. First Class Mail on June 4, 2004.

Jerome W. Kiger, Esquire
1404 Grant Building
Pittsburgh, PA 15219
Attorney for plaintiffs

Joseph P. Green, Esquire
115 East High Street
Bellefonte, PA 16823
Attorney for Kyler t/d/b/a Northeast Spring

Gerald M. Barr, Esquire
4905 Tilgham Street
Suite 250
Allentown, PA 18104
Attorney for Mack Trucks

Lynn Bell, Esquire
DAVIES, MACFARLAND & CARROLL
One Gateway Center
10th Floor
Pittsburgh, PA 15222
Attorney for Consolidated Metal

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

BRADLEY D. REMICK, ESQUIRE
Attorney for additional defendant,
Triangle Auto Spring Company

MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN
A PROFESSIONAL CORPORATION www.marshalldennehey.com

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Email: bremick@mdwcg.com

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MDW C&G ATTORNEYS-AT-LAW

February 4, 2004

Jerome W. Kiger, Esquire
1404 Grant Building
Pittsburgh, PA 15219

Joseph P. Green, Esquire
115 East High Street
Bellefonte, PA 16823

Gerald M. Barr, Esquire
4905 Tilgham Street
Suite 250
Allentown, PA 18104

RE: Brenda Orsich, Adm. of Weaver v. Triangle Auto Spring Co., et al
CCP of Clearfield County, PA – Civil Action No. 03-1251-CD
Our File: 13035-00102

Dear Counsel:

Enclosed please find my Entry of Appearance on behalf of additional defendant, Triangle Auto Spring Co. in the above-captioned matter. I am also enclosing a Rule to File Complaint against defendants, Barry Kyler t/d/b/a Northeast Spring & Equipment Co. and Mack Trucks, Inc., the originals of which have been filed of record with the court.

From the records provided, the U-Bolt in question was manufactured by Consolidated Metal Products, 1029 Depot Street, Cincinnati, Ohio 45204. I am enclosing for your review the Writ of Summons joining that entity into this litigation as an additional defendant. I will let you know as soon as I hear a response from them.

Also enclosed, please find Wrongful Death Interrogatories directed to plaintiff, Expert Interrogatories directed to all parties, Product Interrogatories addressed to all parties and Request for Production of Documents directed to all parties.

Finally, I would very much appreciate it if you would provide me with the current whereabouts of the vehicle as well as the parts removed from the vehicle.

DEFENDANT'S EXHIBIT "A"

Thank you for your anticipated courtesies. If you have any questions, please do not hesitate to contact me.

Very truly yours,

BRADLEY D. REMICK

BDR/tg

Enc.

A REGION DEFENSE LITIGATION LAW FIRM

MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN

A PROFESSIONAL CORPORATION www.marshalldennehey.com

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MDW C&G ATTORNEYS-AT-LAW

February 13, 2004

Jerome W. Kiger, Esquire
1404 Grant Building
Pittsburgh, PA 15219

Joseph P. Green, Esquire
115 East High Street
Bellefonte, PA 16823

Gerald M. Barr, Esquire
4905 Tilgham Street
Suite 250
Allentown, PA 18104

RE: Brenda Orsich, Adm. of Weaver v. Triangle Auto Spring Co., et al
CCP of Clearfield County, PA – Civil Action No. 03-1251-CD
Our File: 13035-00102

Dear Counsel:

Will you kindly provide me with any and all photographs of the accident scene, the vehicle involved in the collision and the U-Bolts. Thank you.

Very truly yours,

MICHELE J. MINTZ

MJM/tg

DEFENDANT'S EXHIBIT "B"

A REGION DEFENSE LITIGATION LAW FIRM

MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN

A PROFESSIONAL CORPORATION www.marshalldennehey.com

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Email: bremick@mdwcg.com

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MDW C&G ATTORNEYS-AT-LAW

March 11, 2004

Jerome W. Kiger, Esquire
1404 Grant Building
Pittsburgh, PA 15219

RE: Brenda Orsich, Adm. of Weaver v. Triangle Auto Spring Co., et al
CCP of Clearfield County, PA – Civil Action No. 03-1251-CD
Our File: 13035-00102

Dear Mr. Kiger:

I have been requesting for some time now, copies of photographs you have of the relevant suspension parts (not to mention, the request to actually inspect those parts). I would appreciate it if you could provide me with both the photographs and dates I can have my client come look at the parts.

Very truly yours,

BRADLEY D. REMICK

BDR/tg

DEFENDANT'S EXHIBIT "C"

A REGIONAL DEFENSE LITIGATION LAW FIRM

MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN
A PROFESSIONAL CORPORATION www.marshalldennehey.com

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(215) 575-2600 · Fax (215) 575-0856

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MDW C&G ATTORNEYS-AT-LAW

Direct Dial: 215-575-2762
Email: bremick@mdwcg.com

April 2, 2004

Jerome W. Kiger, Esquire
1404 Grant Building
Pittsburgh, PA 15219

RE: Brenda Orsich, Adm. of Weaver v. Triangle Auto Spring Co., et al
CCP of Clearfield County, PA – Civil Action No. 03-1251-CD
Our File: 13035-00102

Dear Mr. Kiger:

We specifically requested color copies of the photographs. Black and white photocopies do not help me. We have been waiting now for several months for this material. Will you please forward to me actual reproductions of the photographs (or at the very least color copies of the photographs). I will be happy to reimburse you the cost of the copies.

Very truly yours,

BRADLEY D. REMICK

BDR/tg

cc: Joseph P. Green, Esquire
Gerald M. Barr, Esquire
Lynn Bell, Esquire

DEFENDANT'S EXHIBIT "D"

MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN

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MDW C&G
ATTORNEYS-AT-LAW

April 20, 2004

Amy B. Kubisiak, Esquire
1404 Grant Building
Pittsburgh, PA 15219

RE: Brenda Orsich, Adm. of Weaver v. Triangle Auto Spring Co., et al
CCP of Clearfield County, PA – Civil Action No. 03-1251-CD
Our File: 13035-00102

Dear Ms. Kubisiak:

Thank you for yours of April 12, 2004. One of the things we have been requesting since the beginning of this file are color copies or reproductions of the photographs you have in your possession. I have not received these yet. The second thing we have been asking, since the inception of this file, is the ability to inspect the remnants of the u-bolt and leaf spring. Again, your office has never provided me with dates when my client and I can do so. Once again, please let this letter serve to request both of those things again. I would appreciate hearing from you within the next ten days with dates my client and I can inspect the remnants.

Very truly yours,

BRADLEY D. REMICK

BDR/tg

cc: Joseph P. Green, Esquire
Gerald M. Barr, Esquire
Lynn Bell, Esquire

DEFENDANT'S EXHIBIT "E"

FILED no cc
m/1:15 BK
JUN 07 2004
William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	:	
vs.	:	No. 03-1251-CD
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	:	
vs.	:	
TRIANGLE AUTO SPRING COMPANY	:	

FILED

JUN 09 2004

William A. Shaw
Prothonotary/Clerk of Courts

ORDER

NOW, this 9th day of June, 2004, upon consideration of Additional Defendant's Motion to Compel Discovery Against Plaintiffs, a Rule is hereby issued upon Plaintiffs to Appear and Show Cause why the Motion should not be granted. Rule Returnable is scheduled the 7 day of July, 2004, at 10:30 A.M. in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

Paul E. Cherry
Judge

FILED 4cc & service memo to Atty Kenick
JUN 09 2004

William A. Shaw
Prothonotary/Clerk of Courts

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

AFFIDAVIT OF SERVICE

I, Bradley D. Remick, Esquire, hereby certify that I served true and correct copies of additional defendant, Triangle Auto Spring Co.'s Motion to Compel with attached Order/Rule to Show Cause on counsel listed below by regular U.S. Mail, Postage Prepaid on June 15, 2004.

Jerome W. Kiger, Esquire
1404 Grant Building
Pittsburgh, PA 15219
Attorney for plaintiffs

Joseph P. Green, Esquire
115 East High Street
Bellefonte, PA 16823
Attorney for defendant, Kyler t/d/b/a Northeast Spring

FILED

JUN 16 2004

William A. Shaw
Prothonotary

Gerald M. Barr, Esquire
4905 Tilgham Street
Suite 250
Allentown, PA 18104
Attorney for Mack Trucks

Lynn Bell, Esquire
DAVIES, MACFARLAND & CARROLL
One Gateway Center
10th Floor
Pittsburgh, PA 15222
Attorney for Consolidated Metal

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

BRADLEY D. REMICK, ESQUIRE
Attorney for additional defendant, Triangle
Auto Spring Company

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	:	
vs.	:	No. 03-1251-CD
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	:	
vs.	:	
TRIANGLE AUTO SPRING COMPANY	:	

ORDER

NOW, this 9th day of June, 2004, upon consideration of Additional Defendant's Motion to Compel Discovery Against Plaintiffs, a Rule is hereby issued upon Plaintiffs to Appear and Show Cause why the Motion should not be granted. Rule Returnable is scheduled the 7 day of July, 2004, at 10:30 A.M. in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

/s/ Paul E. Cherry

Judge

I hereby certify this to be a true and attested copy of the original statement filed in this case.

JUN 09 2004

Attest.

Prothonotary/
Clerk of Courts

FILED
m 11:10 BB cc to atty.
JUN 16 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	) :) :) :)	No. 03-1251-CD
vs.	) :)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and : MACK TRUCKS, INC., Defendants	) :) :)	
vs.	) :)	
TRIANGLE AUTO SPRING COMPANY and CONSOLIDATED METAL PRODUCTS, Additional Defendants	) :) :	

To: Triangle Auto Spring Company
C/o – Bradley Remick, Esq.

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

David S. Meholick
Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830
814-765-2641 x 5982

LEE, GREEN & REITER, INC.

By: _____
Joseph P. Green, Esq., ID #19238
Attorney for Defendants Barry Kyler, i/t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co.
115 East High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

FILED No cc
m/1:21/3cy
JUN 29 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiff	) :) :)	No. 03-1251-CD
vs.	) :)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	) :) :)	
vs.	) :)	
TRIANGLE AUTO SPRING COMPANY and CONSOLIDATED METAL PRODUCTS, Additional Defendants	) :)	

COMPLAINT AGAINST ADDITIONAL DEFENDANT
TRIANGLE AUTO SPRING COMPANY

Defendant Barry Kyler t/d/b/a Northeast Spring & Equipment Co.; and Northeast Spring & Equipment Co., hereby files the following Complaint against Additional Defendant as set forth below:

1. The Original Defendant is Barry Kyler t/d/b/a Northeast Spring & Equipment Co; and Northeast Spring & Equipment Co. having an address of 3410 Philipsburg/Bigler Highway Philipsburg, PA 16866. For purposes of this pleading, said parties will be referred to collectively as "Defendant Northeast".

2. The Additional Defendant, Triangle Company ("Triangle"), is a corporation or entity having offices in Clearfield County, Pennsylvania.

3. Additional Defendant Triangle is engaged in business in the Commonwealth of Pennsylvania as a manufacturer, producer, fabricator, seller, and supplier of motor vehicle components.

4. A civil action was commenced against Original Defendant pursuant to a Complaint filed in the Court of Common Pleas of Clearfield County, Pennsylvania, a copy of which is attached hereto as Exhibit A.

5. The other Original Defendant in this matter is Mack Trucks, Inc., having offices at 2100 Mack Boulevard, Altoona, PA.

6. Plaintiff contends that the described motor vehicle accident and the resulting death of decedent David Weaver were caused by the failure of certain U-bolts which had been incorporated into and made part of a truck being operated by said decedent on August 30, 2001.

7. It is asserted that Additional Defendant Triangle sold, supplied, furnished, designed, manufactured or fabricated the subject U-bolts and related components or parts.

8. The causes of action asserted by the Plaintiff herein allege that the joining defendant is liable on the alternative grounds of negligence, strict liability, and breach of warranty.

9. Without admission or adoption, the joining defendant incorporates by reference herein the following allegations of the Complaint:

- Count I
- Count II
- Count III

10. If Plaintiff establishes that she suffered injuries and damages as alleged in her complaint, which allegations answering defendant denies, said injuries and damages were caused

solely by the tortious conduct and/or breaches of contract/warranty by Additional Defendant Triangle, its agents, servants and/or employees.

11. Without admitting any of the averments contained in Plaintiff's Complaint, or conceding the validity of same, Defendant Northeast alleges that if the injuries and damages described therein are established, in whole or in part, then said injuries were caused not as a result of any negligence, carelessness and recklessness on the part of Defendant Northeast, but rather were caused by the negligence, carelessness, and recklessness with the manufacture, design, engineering or failure to warn of the Additional Defendant Triangle.

12. The subject leaf spring U-bolts were expected to and did reach the ultimate users, consumers, and bystanders, including Decedent David A. Weaver, without substantial change or alteration in the same or substantially the same condition as when they left the possession and control of Additional Defendant Triangle.

13. Additional Defendant Triangle represented and warranted to their ultimate users and consumers of the subject leaf spring U-bolts that they were fit for the purposes for which they were intended.

14. In addition to the aforesaid warranty of fitness for a particular purpose, Additional Defendant Triangle warranted that the subject leaf spring U-bolts were merchantable and fit for said uses.

15. The subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, or otherwise supplied by Additional Defendant Triangle in a manner which was not a good and proper workmanlike fashion, in a defective condition unreasonably dangerous to the ultimate users, consumers and bystanders, including Decedent, David A. Weaver.

16. The subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, or otherwise supplied by Additional Defendant Triangle in a state which was not a good and proper workmanlike condition, lacking elements necessary to make it safe for use and containing conditions that made it unsafe for use by the ultimate users and consumers, including Decedent David A. Weaver.

17. If Plaintiff is entitled to recovery as set forth in Plaintiff's Complaint, which injuries and damages are specifically denied, Additional Defendant Triangle is solely liable to said Plaintiffs or is liable over to Defendant Northeast, or jointly and severally liable over to Defendant Northeast, for any alleged injuries, losses and/or damages which may have been suffered by Plaintiffs as a direct and proximate result of Additional Defendant Triangle's designing, manufacturing, assembling, supervising, inspecting, specifying or recommending, certifying, selling, or otherwise supplying the subject U-bolts in a non-workmanlike fashion and in a defective condition unreasonably dangerous to the users and consumers of same, lacking elements necessary to make it safe for use and containing conditions that made it unsafe for use by the ultimate users and consumers, and in breach of Additional Defendant Triangle's express and implied warranties as set forth in the applicable laws of the Commonwealth of Pennsylvania.

18. Without admitting any of the averments contained in Plaintiff's Complaint, Defendant Northeast alleges that if the injuries and damages described therein are proven to be valid, in whole or in part, then said injuries were caused by the negligence, carelessness and/or recklessness of Additional Defendant Triangle in the following respects:

a) In failing to properly design the subject U-bolts;

b) In failing to properly manufacture the subject U-bolts;

c) In failing to include such design features, devices, techniques, and/or other manufacturing features that would have prevented the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

d) In failing to design and manufacture the subject U-bolts in such a manner as to prevent the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

e) In breaching the degree of care owed in the design, manufacture, sale and supply of the subject U-bolts;

f) In failing to provide a properly designed, assembled, manufactured and inspected U-bolt;

g) In designing, assembling, manufacturing, selling, leasing and supplying a defective U-bolt;

h) In designing, assembling, manufacturing, selling, leasing, supplying, specifying or recommending and inspecting products not reasonably fit for their intended use;

i) In designing, assembling, manufacturing, specifying or recommending, selling, leasing, supplying and inspecting the subject U-bolt which was not reasonably safe for its intended uses;

j) In failing to properly inspect the subject U-bolts;

k) In failing to discover the defective nature of the subject U-bolt;

l) In failing to properly inspect and test the subject U-bolts;

m) In failing to warn the users of the subject U-bolts of the defective condition of the products;

n) In designing, manufacturing, assembling, selling, inspecting, specifying and recommending the subject U-bolts in such a manner that they would become defective during normal uses;

o) In failing to advise the purchasers and/or users of the subject U-bolts of the proper procedure to install, maintain and inspect the subject U-bolts;

p) In selling and/or otherwise supplying the subject U-bolts with latent defects;

q) In selling products with design and/or manufacturing defects;

r) In failing to follow and in violating any governmental or industry standards which may be applicable;

s) In failing to properly advise and warn users of the subject U-bolts by recalling the product for repair or replacement;

t) In failing to design, develop, manufacture, assemble, inspect, specify or recommend, certify, sell, lease or otherwise supply the subject U-bolts in a good and workmanlike fashion;

u) In failing to follow and in violating applicable laws, safety codes and regulations applicable to the subject U-bolts and the uses thereof;

v) In failing to instruct or improperly instructing the purchasers and/or users in the safe installation, use and operation of the subject U-bolts;

w) In failing to warn users of the subject U-bolts that the use of the subject U-bolts could result in sudden, unwanted, and unexpected breakage;

x) In selling or otherwise supplying U-bolts that could break unexpectedly.

19. Without admitting any of the averments contained in Plaintiff's Complaint, Defendant Northeast alleges that if the injuries and damages described therein are proven to be true, in whole or in part, then said injuries were caused as a direct an proximate result of Additional Defendant Triangle's designing, manufacturing, assembling, inspecting, specifying or recommending, certifying, selling, or otherwise supplying the subject U-bolts, in a defective condition, unreasonably dangerous to the users and consumers, including Decedent David A. Weaver, in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers, and misrepresentations by Additional Defendant Triangle of the material facts concerning the character, quality and safety of the subject U-bolts and therefore, Additional Defendant Triangle is strictly liable toward Plaintiffs under the laws encompassed in Sections 388, 402A and 402B and other applicable sections of the Restatement of Torts, Second and Third, and other applicable Pennsylvania law.

20. Alternatively, the subject U-bolts were defective by reason of their malfunction under normal use, in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, installed or otherwise supplied by Additional Defendant Triangle, and the occurrence of the accident.

21. If Defendant Northeast is held liable to Plaintiff for all or part of such injuries and damages as Plaintiffs may have allegedly suffered, Additional Defendant Triangle, is liable to Defendant Northeast by way of contribution and/or indemnity.

22. As a result of the aforesaid actions and/or omissions, Additional Defendant Triangle is solely liable to Plaintiff for any alleged injuries and damages she may have suffered.

23. If as a result of the matters alleged in Plaintiff's Complaint, Defendants Northeast Spring are held liable to Plaintiff for all or part of such injuries or damages as she may have sustained, Additional Defendant Triangle is the party primarily liable for such injuries and damages, and is liable over to defendant by way of contribution and/or indemnification, for all such damages as may be required to pay Plaintiff.

24. In the alternative, if as a result of the matters alleged in Plaintiff's complaint, Defendants Northeast Spring are held liable to Plaintiff for all or part of such injuries or damages as Plaintiff may have sustained, Additional Defendant Triangle is jointly and/or severally liable to Plaintiff based upon the foregoing allegations for such injuries and damages and liable over to defendant by way of contribution for all such damages defendants may be required to pay to Plaintiff.

25. The furnishing to the joining defendant of the subject U-bolts, having been sold, supplied, and furnished to the joining defendant by Additional Defendant Triangle, gives rise to a contractual right of indemnification in favor of Defendant Northeast should liability be assessed against said joining party.

WHEREFORE, it is respectfully requested that judgment be entered against the Additional Defendant Triangle in accordance with the theories of joinder set forth above.

LEE, GREEN & REITER, INC.

By: _____

Joseph P. Green, Esq., ID #19238
Attorney for Defendants Barry Kyler, i/t/d/b/a
Northeast Spring & Equipment Co. and
Northeast Spring & Equipment Co.
115 East High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

COMPLAINT IN CIVIL ACTION

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

NOTICE TO PLEAD

To: ALL DEFENDANTS
You are hereby notified to file a written response to the enclosed COMPLAINT within twenty (20) days from service hereof or a judgement may be entered against you.

Kiger & Alpern

ATTORNEYS FOR PLAINTIFFS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

No. 03-1251 CD

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or that if you fail to do so, the case may proceed without you and judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any claim or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE OR KNOW A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Court Administrator of Clearfield County
230 East Market Street
Clearfield, PA 16830
(814) 765-2641 ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

No. 03-1251 CD

COMPLAINT IN CIVIL ACTION

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire, Amy B. Kubisiak, Esquire and Kiger & Alpern, Esquires, make the following Complaint against the Defendants:

1. Plaintiff, Brenda L. Orsich, is an adult individual residing at 1 Southwest 4th Avenue, Clearfield, PA 16830, and was duly appointed Administratrix of the Estate of David A. Weaver, deceased, by the Register of Wills, Clearfield County, PA, on November 27, 2001 at No. 2001-686-O.C.

2. Plaintiff, Jennifer L. Weaver, minor, date of birth May 8, 1989, is the child of David A. Weaver, deceased, and Brenda L. Orsich, who were divorced prior to the

death of David A. Weaver. Jennifer L. Weaver resides with Plaintiff, Brenda L. Orsich at 1 Southwest 4th Avenue, Clearfield, PA 16830.

3. The right to bring this action is conferred upon Plaintiffs Brenda L. Orsich, as Administratrix of the Estate of David A. Weaver and upon Jennifer L. Weaver, a minor, by her parent and natural guardian, Brenda L. Orsich, by virtue of the provisions of the Wrongful Death and Survival Acts, as amended, and other applicable laws. Decedent, David A. Weaver, was survived by Jennifer L. Weaver, his daughter, and this action is brought on behalf of the Estate of David A. Weaver and Jennifer L. Weaver, his daughter.

4. Plaintiffs' decedent did not commence any action for his personal injuries during his lifetime.

5. Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. is an individual with business offices at RD 3 Box 93A, Route 322 West, Philipsburg, PA 16866, which, at all times material hereto, did and does business within Pennsylvania.

6. Defendant Northeast Spring & Equipment Co. is an company with business offices at RD 3 Box 93A, Route 322 West, Philipsburg, PA 16866, which, at all times material hereto, did and does business within Pennsylvania.

7. Defendants Barry Kyler and Northeast Spring & Equipment Co. are related Defendants (hereinafter referred to as "Defendants Norheast Spring").

8. Defendant Mack Trucks, Inc. (hereinafter referred to as "Defendant Mack Trucks") is a corporation with offices at 2100 Mack Boulevard, Allentown, PA 18103, which, at all times material hereto, did and does business within Pennsylvania.

9. At all times material hereto, Defendants Northeast Spring were engaged in business for profit and was acting on their own behalf or through their agents, servants, and employees who were acting on their behalf and within the scope and course of their authority and employment.

10. All times material hereto, Defendants Northeast Spring was in the business of selling, distributing, installing, inspecting, specifying or recommending, certifying, or otherwise supplying and servicing trucks and motor vehicles, including component and related parts and systems thereof, including, but not limited to, leaf springs and leaf spring U-bolts.

11. At all times material hereto, Defendant Mack Trucks was engaged in business for profit and were acting on its own behalf or through its agents, servants, and employees who were acting on its behalf and within the scope and course of their authority and employment.

12. All times material hereto, Defendant Mack Trucks was in the business of designing, manufacturing, assembling, inspecting, specifying or recommending, certifying, selling, leasing, or otherwise supplying and servicing trucks and motor vehicles, including component and related parts and systems thereof, including, but not limited to, leaf springs and leaf spring U-bolts.

13. Defendant Mack Trucks designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, or otherwise supplied the subject 1991 red Mack Truck, tri-axle, VIN No. 1M2P264COMMOO9212 (hereinafter referred to as "subject vehicle" or "subject truck") and component and related parts and systems thereof in which David A. Weaver, deceased, was the driver at the time of the hereinafter-

described accident. Defendant Mack Trucks also designed, manufactured, assembled, inspected, specified or recommended, certified, sold or otherwise supplied leaf spring U-bolts, and component and related parts and systems, on the right rear of the subject truck (hereinafter referred to as subject U-bolts) that were installed on the subject truck by Defendants Northeast Spring on or about April 25, 2000.

14. Defendants Northeast Spring sold, installed, inspected, specified or recommended, certified, or otherwise supplied and serviced the subject truck and/or component and related parts and systems thereof, in which David A. Weaver, deceased, was the driver at the time of the hereinafter-described accident, including the subject leaf springs and leaf spring U-bolts on the right rear of subject truck on or about April 25, 2000.

15. On or about April 25, 2000, Defendants Northeast Spring performed repair and/or maintenance on the subject truck. Defendants Northeast Spring assembled, installed, inspected, specified or recommended, certified, sold, or otherwise supplied the subject leaf springs and the subject leaf spring U-bolts and component and related parts and systems, on the subject truck owned by decedent David A. Weaver's employer, D.C. Guelich Explosive Co. Defendant Mack Trucks designed, manufactured assembled, inspected, specified or recommended, certified, sold, or otherwise supplied the subject leaf spring U-bolts to Defendants Northeast Spring. Defendants Northeast Spring installed the subject leaf springs and subject leaf spring U-bolts, and component and related parts and systems, on the right rear of the subject truck. The odometer on the subject truck at the time of the installation of the subject U-bolts read at or near 116,142 miles.

16. On or about August 30, 2001, at approximately 7:25 a.m., David A. Weaver was the driver of the subject truck, in the course of his employment with D.C. Guelich Explosive Co., the owner of the subject truck. The accident occurred in the northbound lane of SR 2023, Lawrence Township, Clearfield County, PA at or near its intersection with T-598, also known as Log Cabin Road when the subject U-bolts, sold, or otherwise supplied by Defendants Mack Trucks and Northeast Spring and installed by Defendants Northeast Spring, failed causing catastrophic loss of control of the subject truck, causing the subject truck to crash through the guardrails on the side of northbound SR2023 and roll onto its passenger side, going down a steep embankment, coming to rest on its roof on T-598 facing southwest, killing David A. Weaver. At the time of the subject accident of August 30, 2001, the odometer on the subject truck read at or near 131,491 miles.

COUNT I

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING& EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

17. Plaintiffs incorporate herein by reference Paragraphs 1 through 16, inclusive, of this Complaint.

18. The subject vehicle and subject U-bolts were expected to and did reach the ultimate users, consumers and bystanders including decedent David A. Weaver, without substantial change or alteration and in the same or substantially the same condition as when they left the possession and control of Defendants Northeast Spring.

19. Defendants Northeast Spring represented and warranted to the ultimate users and consumers of the subject truck that the subject U-bolts were fit for the purposes for which they were intended.

20. In addition to the aforesaid warranty of fitness for a particular purpose, Defendants Northeast Spring Buick warranted that the subject U-bolts were merchantable and fit for said uses.

21. The injuries to and death of the decedent David A. Weaver and the injuries and damages sustained by Plaintiffs were the direct and proximate result of Defendants Northeast Spring selling, distributing, installing, inspecting, specifying or recommending, certifying, or otherwise supplying the subject U-bolts in a nonworkmanlike fashion and in a defective condition, unreasonably dangerous to the users and consumers of same, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and in breach of Defendants Northeast Spring's express and implied warranties as set forth in the applicable laws of the Commonwealth of Pennsylvania.

22. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of Defendants Northeast Spring's improper sale, installation, inspection, specification or recommendation, certification, or supply of the subject U-bolts, and in breach by Defendants Northeast Spring of express and implied warranties that the subject U-bolts would be properly designed, manufactured, assembled, installed, inspected, specified or recommended, certified, sold, and/or supplied, in a good and proper workmanlike fashion by Defendants Northeast Spring and Defendant Mack Trucks.

23. Alternatively, the subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, installed or otherwise supplied by Defendants Northeast Spring and the occurrence of the accident.

24. As the result of the breach of warranties of Defendants Northeast Spring as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

25. As the result of the breach of warranties of Defendants Northeast Spring as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports

f. Death

26. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co. in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT II

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING& EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

27. Plaintiffs incorporate herein by reference paragraphs 1 through 26, inclusive, of this Complaint.

28. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of the negligence and carelessness, acts and omissions of Defendants Northeast Spring, individually, jointly and severally; generally, and in the following particulars:

a. In failing to ascertain if the subject truck and U-bolts were properly designed by Defendant Mack Trucks;

b. In failing to ascertain if the subject truck and U-bolts were properly manufactured by Defendant Mack Trucks;

c. In failing to ascertain if Defendant Mack Trucks included such design features, devices, techniques, and/or other manufacturing features that would have prevented the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

d. In failing to ascertain if Defendant Mack Trucks designed and manufactured the subject truck and U-bolts in such a manner as to prevent the subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

e. In breaching the highest degree of care owed in the design, manufacture, sale, installation, maintenance, service and supply of the subject leaf springs and U-bolts;

f. In failing to provide properly designed, assembled, manufactured, and inspected leaf springs and U-bolts;

g. In selling, installing and supplying defective products, including the subject U-bolts;

h. In selling, specifying or recommending, supplying, installing and inspecting products including the subject U-bolts which were not reasonably fit and safe for their intended uses;

i. In failing to properly inspect and, if appropriate under the circumstances, service and repair the subject truck;

j. In failing to properly tighten the subject U-bolts;

k. In failing to properly advise and warn users of the subject truck and U-bolts, including, but not limited to, D.C Guelich Explosive Co. and decedent David A. Weaver, following the installation of the subject U-bolts on the subject truck on or about April 25, 2000, that the newly installed subject U-bolts had to be retightened after the subject truck was driven 1,000 miles;

l. In failing to schedule a follow up appointment for the subject U-bolts to be retightened on the subject truck after the subject truck was driven 1000 miles following the installation of the subject U-bolts on or about April 25, 2000;

m. In failing to retighten the subject U-bolts on the subject truck following their installation on or about April 25, 2000 after the subject truck was driven 1,000 miles;

n. In failing to discover the defective nature of the subject truck and U-bolts;

o. In failing to properly inspect and test the subject truck and U-bolts;

p. In failing to warn the users of the subject truck and U-bolts of the defective condition of the products;

q. In selling, inspecting, specifying, installing and recommending the subject truck and U-bolts in such a manner that they would become defective during normal uses;

r. In failing to advise or warn the users of the subject truck and U-bolts of the proper procedure to maintain and inspect the subject U-bolts;

s. In selling, installing and/or otherwise supplying the subject U-bolts with latent defects;

t. In failing to install and supply adequate safety devices, instructions and warnings;

u. In selling and installing products with design and/or manufacturing defects;

v. In failing to follow and in violating any governmental or industry standards which may be applicable;

w. In that Defendants Northeast Spring knew, or in the exercise of reasonable care should have known, of the defective and dangerous condition of the subject truck and U-bolts and realized that injuries, including the loss of life, and damages would probably occur and failed to warn of the defect and risk of injury and loss of life involved when the subject truck, leaf springs and U-

bolts were used, and under such circumstances, failing to make the subject truck and U-bolts safe for use;

x. In failing to recall the subject leaf springs and leaf spring U-bolts or remedy the defect(s) in the subject truck and U-bolts after sale and installation. In the event that it is proven that there was an attempt to recall or remedy the defect(s), negligent management of the recall or attempt to remedy defect(s) in the subject truck and U-bolts;

y. In failing to sell, install, inspect, specify or recommend, certify, or otherwise supply and service the subject truck and U-bolts in a good and workmanlike fashion;

z. In failing to follow and in violating applicable laws, safety codes and regulations applicable to the subject truck and U-bolts and their uses thereof;

aa. In failing to instruct or in improperly instructing users in the safe use and operation of the subject truck and U-bolts;

bb. In selling and supplying the subject U-bolts when they were subject to sudden, unwanted, and unexpected breakage of the subject U-bolts;

cc. In failing to warn users of the subject truck and U-bolts that the use of the subject truck and U-bolts could result in sudden, unwanted, and unexpected breakage of the subject U-bolts resulting in catastrophic loss of steering control of the subject truck;

dd. In failing to issue proper instruction to users of the subject truck and U-bolts in the event use of the subject truck and U-bolts resulted in sudden, unwanted, and unexpected breakage of the subject U-bolts;

ee. In selling, installing or otherwise supplying U-bolts that could break unexpectedly;

ff. In selling, installing or otherwise supplying a motor vehicle in which the U-bolts, their component parts, and related systems, were placed in such a position that they could become weak and thus result in sudden, unwanted, and unexpected breakage;

gg. In otherwise breaching the highest degree of care owed in designing, development, manufacture, assembly, inspection, specification or recommendation, certification, sale and/or supply of known dangerous products and instrumentalities;

hh. Alternatively, the subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, installed or otherwise supplied by Defendants and the occurrence of the accident.

ii. In otherwise being negligent and careless, in otherwise acting or failing to act in connection with the subject truck and U-bolts in such a manner as would cause injury and/or loss of life under the facts and circumstances as set forth in the Complaint, and as shall appear from the facts in this case, such facts presently within the knowledge and under the control of Defendants and others, and which will be revealed during the course and discovery and trial in this case, including testimony from Defendants or others, and from records, documents or other writings in Defendants' possession, or produced during discovery at trial.

29. As the result of the negligence of Defendants Northeast Spring as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

30. As the result of the negligence of Defendants Northeast Spring as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

31. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co. in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT III

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. BARRY KYLER, trading and doing business as NORTHEAST SPRING& EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO.

32. Plaintiffs incorporate herein by reference thereto paragraphs 1 through 31, inclusive, of this Complaint.

33. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of Defendants Northeast Spring's selling, installing, inspecting, specifying or recommending, certifying, or otherwise supplying the subject leaf spring U-bolts, their component parts and related systems, known dangerous products and instrumentalities, in a defective condition unreasonably dangerous to the users or consumers, including decedent David A. Weaver, in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and misrepresentations by Defendants Northeast Spring of material facts concerning the character or quality of the subject vehicle, leaf springs and leaf spring U-bolts, their component parts and related systems and Defendants Northeast Spring's safety inspections, specifications, recommendations and certifications thereof, and therefore, Defendants Northeast Spring is strictly liable in tort to Plaintiffs under the laws encompassed in Sections 388, 402A, and 402B, and other applicable sections of the Restatement of Torts, Second and Third and other applicable Pennsylvania law.

34. Alternatively, the subject vehicle and subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold,

installed or otherwise supplied by Defendants Northeast Spring and the occurrence of the accident.

35. As the result of the acts and omissions of Defendants Northeast Spring as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

36. As the result of the acts and omissions of the Defendants Northeast Spring as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

37. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. and Defendant Northeast Spring & Equipment Co. in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT IV

BRENDA ORSICH,Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

38. Plaintiffs incorporate herein by reference Paragraphs 1 through 37, inclusive, of this Complaint.

✓ 39. The subject truck and subject leaf spring U-bolts were expected to and did reach the ultimate users, consumers and bystanders including decedent David A. Weaver without substantial change or alteration and in the same or substantially the same condition as when they left the possession and control of Defendant Mack Trucks.

✓ 40. Defendant Mack Trucks represented and warranted to the ultimate users and consumers of the subject truck and subject leaf spring U-bolts that they were fit for the purposes for which they were intended.

41. In addition to the aforesaid warranty of fitness for a particular purpose, Defendant Mack Trucks warranted that the subject truck and subject leaf spring U-bolts were merchantable and fit for said uses.

42. The subject truck and subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, or otherwise supplied by Defendant Mack Trucks in a manner which was not a good and proper workmanlike fashion, in a defective condition unreasonably dangerous to the ultimate users, consumers and bystanders, including decedent David A. Weaver.

43. The subject truck and subject U-bolts were designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, or otherwise supplied by Defendant Mack Trucks in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers, including decedent David A. Weaver.

44. The injuries to and death of the decedent David A. Weaver and the injuries and damages sustained by Plaintiffs were the direct and proximate result of Defendant Mack Trucks' designing, manufacturing, assembling, supervising, inspecting, specifying or recommending, certifying, selling, leasing or otherwise supplying the subject truck and subject U-bolts in a nonworkmanlike fashion and in a defective condition, unreasonably dangerous to the users and consumers of same, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and in breach of Defendant Mack Trucks' express and implied warranties as set forth in the applicable laws of the Commonwealth of Pennsylvania.

45. The injuries to and death of the decedent David A. Weaver and the injuries and damages sustained by Plaintiffs were the direct and proximate result of Defendant Mack Trucks' improper design, manufacture, assembly, inspection, specification or

recommendation, certification, sale, lease or supply of the subject truck and subject U-bolts, and in breach by Defendant Mack Trucks of express and implied warranties that the subject truck and subject U-bolts would be properly designed, manufactured, assembled, inspected, specified or recommended, certified, sold, leased, and/or supplied, in a good and proper workmanlike fashion by Defendant Mack Trucks.

46. Alternatively, the subject truck and subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, or otherwise supplied by Defendants and the occurrence of the accident.

47. As the result of the breach of warranties of Defendant Mack Trucks as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

48. As the result of the breach of warranties of Defendant Mack Trucks as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

49. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Mack Trucks in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT V

BRENDA ORSICH,Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian,
BRENDA ORSICH v. MACK TRUCKS, INC.

50. Plaintiffs incorporate herein by reference paragraphs 1 through 49, inclusive, of this Complaint.

51. The losses and damages sustained by Plaintiffs were the direct and proximate result of the negligence and carelessness of Defendant Mack Trucks, individually, jointly and severally, generally, and in the following particulars:

a. In failing to properly design the subject truck and subject U-bolts;

b. In failing to properly manufacture the subject truck and subject U-bolts;

c. In failing to include such design features, devices, techniques, and/or other manufacturing features that would have prevented the subject truck and subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

d. In failing to design and manufacture the subject truck and subject U-bolts in such a manner as to prevent the subject vehicle truck and subject U-bolts from breaking causing catastrophic loss of control of the steering and operation of the subject truck;

e. In breaching the highest degree of care owed in the design, manufacture, sale, and supply of the subject truck and subject U-bolts;

f. In failing to provide a properly designed, assembled, manufactured, and inspected truck and U-bolts;

g. In designing, assembling, manufacturing, selling, leasing and supplying defective products, including the subject truck and subject U-bolts;

h. In designing, assembling, manufacturing, selling, leasing, supplying, specifying or recommending and inspecting products, not reasonably fit for their intended use;

i. In designing, assembling, manufacturing, specifying or recommending, selling, leasing, supplying, and inspecting products including the subject truck and subject U-bolts which were not reasonably safe for their intended uses;

j. In failing to properly inspect the subject truck and subject U-bolts;

k. In failing to discover the defective nature of the subject truck and subject U-bolts;

l. In failing to properly inspect and test the subject truck and subject U-bolts;

m. In failing to warn the users of the subject truck and subject U-bolts of the defective condition of the products;

n. In designing, manufacturing, assembling, selling, inspecting, specifying, and recommending the subject truck and subject U-bolts in such a manner that they would become defective during normal uses;

o. In failing to advise the users of the subject truck and subject U-bolts of the proper procedure to maintain and inspect the subject truck and subject U-bolts;

p. In selling and/or otherwise supplying the subject truck and subject U-bolts with latent defects;

q. In failing to install and supply adequate safety devices, instructions and warnings;

r. In selling products with design and/or manufacturing defects;

s. In failing to follow and in violating any governmental or industry standards which may be applicable;

✓ t. In failing to properly advise and warn users of the subject truck and U-bolts, including, but not limited to, D.C Guelich Explosive Co. and decedent David A. Weaver, following the installation of the subject U-bolts on the subject truck on or about April 25, 2000, that the newly installed subject U-bolts had to be retightened after the subject truck was driven 1,000 miles;

u. In that Defendant Mack Trucks knew, or in the exercise of reasonable care should have known, of the defective and dangerous condition of the subject truck and subject U-bolts and realized that injuries, including the loss of life, and damages would probably occur and failed to warn of the defect and risk of injury and loss of life involved when the subject truck and subject U-bolts were used, and under such circumstances, failing to make the subject truck and subject U-bolts safe for use;

v. In failing to incorporate an adequately and properly designed safety system into the design of the subject truck and subject U-bolts;

w. In failing to recall the subject truck and subject U-bolts or remedy the defect(s) in the subject truck and subject U-bolts after their sale. In the event that it is proven that there was an attempt to recall or remedy the defect(s), negligent management of the recall or attempt to remedy defect(s) in the subject truck and subject U-bolts;

x. In failing to design, develop, manufacture, assemble, inspect, specify or recommend, certify, sell, lease or otherwise supply the subject truck and subject U-bolts in a good and workmanlike fashion;

y. In failing to follow and in violating applicable laws, safety codes and regulations applicable to the subject truck and subject U-bolts and their uses thereof;

z. In failing to instruct or in improperly instructing users in the safe use and operation of the subject truck and subject U-bolts;

aa. In designing, assembling, manufacturing, selling, and supplying the subject truck and subject U-bolts when they were subject to sudden and unexpected breakage of the subject U-bolts;

bb. In failing to warn users of the subject truck and subject U-bolts that the use of the subject U-bolts could result in sudden, unwanted, and unexpected breakage of the subject U-bolts;

cc. In failing to issue proper instruction to users of the subject truck, leaf springs and leaf spring U-bolts in the event use of the subject truck and U-bolts resulted in sudden, unwanted, and unexpected breakage;

dd. In selling, leasing or otherwise supplying a motor vehicle and U-bolts that which could break unexpectedly;

ee. In selling, leasing or otherwise supplying a motor vehicle and U-bolts in such a position that they were inadequately protected, and due to their design and placement were subject to sudden, unwanted, and unexpected breakage;

ff. In otherwise breaching the highest degree of care owed in designing, development, manufacture, assembly, inspection, specification or recommendation, certification, sale, lease and/or supply of known dangerous products and instrumentalities;

gg. Alternatively, the subject truck and subject U-bolts were defective by reason of their malfunction under normal uses in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, installed or otherwise supplied by Defendants and the occurrence of the accident.

hh. In otherwise being negligent and careless, in otherwise acting or failing to act in connection with the subject truck and subject U-bolts in such a manner as would cause injury and/or loss of life under the facts and circumstances as set forth in the Complaint, and as shall appear from the facts in this case, such facts presently within the knowledge and under the control of Defendants and others, and which will be revealed during the course and discovery and trial in this case, including testimony from Defendants or others, and from records, documents or other writings in Defendants' possession, or produced during discovery at trial.

52. As the result of the negligence of Defendant Mack Trucks as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

53. As the result of the negligence of Defendant Mack Trucks as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death

54. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Mack Trucks in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

COUNT VI

BRENDA ORSICH,Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH v. MACK TRUCKS, INC.

55. Plaintiffs incorporate herein by reference thereto paragraphs 1 through 54, inclusive, of this Complaint.

56. The injuries to and the death of decedent David A. Weaver and the injuries and damages sustained by the Plaintiffs were the direct and proximate result of Defendant Mack Truck's designing, manufacturing, assembling, inspecting, specifying or recommending, certifying, selling, leasing, or otherwise supplying the subject truck, subject U-bolts, their component parts and related systems, known dangerous products and instrumentalities, in a defective condition unreasonably dangerous to the users or consumers, including decedent David A. Weaver, in a manner which was not a good and proper workmanlike fashion, lacking elements necessary to make them safe for use and containing conditions that made them unsafe for use by the ultimate users and consumers and misrepresentations by Defendant Mack Trucks of material facts concerning the character, quality and safety of the subject truck, subject U-bolts, their component parts and related systems and Defendant Mack Trucks' safety inspections,

specifications, recommendations and certifications thereof, and therefore, Defendant Mack Trucks is strictly liable in tort to Plaintiffs under the laws encompassed in Sections 388, 402A, and 402B, and other applicable sections of the Restatement of Torts, Second and Third and other applicable Pennsylvania law.

57. Alternatively, the subject truck and subject U-bolts were defective by reason of their malfunction under normal use in the absence of reasonable secondary causes and without substantial changes between the time they were manufactured, sold, leased, installed or otherwise supplied by Defendant Mack Trucks and the occurrence of the accident.

58. As the result of the acts and omissions of Defendant Mack Trucks as aforesaid, Plaintiff Jennifer L. Weaver sustained the wrongful death and loss of her father, David A. Weaver, and has been, and in the future will be, deprived of his society, services, earnings, aid, comfort, guidance, companionship, consortium and assistance and Plaintiff Jennifer L. Weaver has suffered great pain, suffering and mental anguish for which she claims damages under the Wrongful Death and Survival Acts and the applicable laws of the Commonwealth of Pennsylvania.

59. As the result of the acts and omissions of Defendant Mack Trucks as aforesaid, decedent David A. Weaver sustained the following injuries until his death,

a. Injuries to the bones, muscles, tissues, and ligaments of his head and body;

b. Blunt force trauma to head, including but not limited to, abrasions and lacerations of the head; multiple cerebral contusions; and hemorrhage of the brain;

c. Blunt force trauma to his trunk and extremities;

d. Shock and injury to the nerves and strain on nervous system;

e. Other severe and serious injuries as have been or will be set forth in autopsy reports, medical records and medical reports;

f. Death.

60. As the result of these injuries and decedent's death, he and the Plaintiffs have sustained the following damages:

a. He suffered great and conscious pain, suffering, inconvenience and mental anguish until his death;

b. Loss of life and deprivation of the ordinary pleasures and enjoyment of life and family life;

c. Loss of earnings, earning capacity, social security and other benefits, during his natural life expectancy but for his death on August 30, 2001;

d. Expenses incident to his burial and administration of his Estate;

e. Loss and damage to personal property;

f. Other appropriate damages under the circumstances.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand Judgment against Defendant Mack Trucks in a sum in excess of the arbitration limits of this Court at the proper costs and charges to the Defendants.

JURY TRIAL IS DEMANDED

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

VERIFICATION

The undersigned, having read the attached Complaint in Civil Action, verifies that the within Complaint is based on information furnished to counsel, as well as information gathered by counsel in the course of this lawsuit. The language of the Complaint is that of counsel and not of the signer. Signer verifies that he/she has read the within Complaint and that it is true and correct to the best of the signer's knowledge, information and belief. To the extent that the contents of the Complaint is that of counsel, I have relied upon counsel in making this Verification. This Verification is made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsifications to authorities.

Dated: 10-30-03

Brenda L Orsich
BRENDA L. ORSICH

CERTIFICATE OF SERVICE

I, Jerome W. Kiger, Esquire, do hereby certify that a true and correct copy of the within Complaint in Civil Action was served to the following via U.S. First Class, postage prepaid 12th day of November, 2003:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Mack Trucks, Inc.
2100 Mack Boulevard
Allentown, PA 18103
VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JEROME W. KIGER, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEY FOR PLAINTIFFS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	)	No. 03-1251-CD
vs.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	)	

VERIFICATION

Barry Kyler, individually and as duly authorized representative of Northeast Spring & Equipment Co., states that he is the defendant; that he is acquainted with the facts set forth in the foregoing pleading; that the same are true and correct to the best of his knowledge, information and belief; and that this statement is made subject tc the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Barry Kyler

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH,	)	No. 03-1251-CD
Plaintiffs	)	
vs.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.,	)	
Defendants	)	
vs.	)	
TRIANGLE AUTO SPRING and Additional Defendants	)	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Complaint against Additional Defendant was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 28 day of June, 2004 addressed to the following:

Jerome W. Kiger, Esq.
1404 Grant Building
Pittsburgh, PA 15219

Bradley Remick, Esq.
1845 Walnut Street
Philadelphia, PA 19103-4797

Gerald Barr, Esq.
Barr & McGogney
4905 Tilghman Street, Suite 250
Allentown, PA 18104

Lynn Bell, Esq.
Davies, MacFarland & Carroll
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

Joseph P. Green

FILED

JUN 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

NOTICE OF SERVICE OF PLAINTIFFS' ANSWERS TO THREE SETS OF INTERROGATORIES FROM ADDITIONAL DEFENDANT TRIANGLE AUTO SPRING COMPANY

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

FILED
m/11:35 BK
JUL 06 2004 No
William A. Shaw
Prothonotary/Clerk of Courts
CC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

No. 03-1251 CD

NOTICE OF SERVICE OF PLAINTIFFS' ANSWERS TO THREE SETS OF INTERROGATORIES FROM ADDITIONAL DEFENDANT TRIANGLE AUTO SPRING COMPANY

To: Prothonotary

I hereby certify that on July 1, 2004 Plaintiff's Answers to Expert, Product and Wrongful Death/Survival Interrogatories from Additional Defendant Triangle Auto Spring Company were served on all Defendants and Additional Defendants by U.S. Mail, First Class, Postage Prepaid, to the following:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I, Amy B. Kubisiak, Esquire, do hereby certify that a true and correct copy of the within Plaintiffs' Notice of Service was served to the following via U.S. Mail, First Class, Postage Prepaid this 1st day of July, 2004:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	:	
vs.	:	No. 03-1251-CD
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	:	
vs.	:	
TRIANGLE AUTO SPRING COMPANY	:	

FILED

JUL 07 2004

William A. Shaw
Prothonotary/Clerk of Courts

ORDER

NOW, this 7th day of July, 2004, it is the ORDER of the Court that Additional Defendant's Motion to Compel Discovery Against Plaintiffs is hereby rescheduled from July 7, 2004 to **Monday, July 26, 2004 at 10:30 A.M.** in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

Paul E. Cherry
Judge

FILED
0/3:21/BH
JUL 07 2004
William A. Shaw
Prothonotary/Clerk of Courts

ICC Attys:
Kiger, Green, Barr, Remick

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

CIVIL DIVISION

No. 03-1251 CD

FILED

JUL 08 2004

William A. Shaw
Prothonotary/Clerk of Courts

Code: 004

Type of Pleading:

RESPONSE TO ADDITIONAL DEFENDANT TRIANGLE AUTO SPRING COMPANY'S MOTION TO COMPEL DISCOVERY

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

No. 03-1251 CD

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

PLAINTIFFS' RESPONSE TO ADDITIONAL DEFENDANT TRIANGLE AUTO SPRING COMPANY'S MOTION TO COMPEL DISCOVERY

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire and Amy B. Kubisiak, Esquire files the following Response to Additional Defendant Triangle Auto Spring Company's Motion to Compel Discovery:

1-7. Admitted. However, Additional Defendant Triangle Auto Spring Company (hereinafter referred to as "Triangle") served this discovery prematurely before

Defendant Barry Kyler, trading and doing business as Northeast Spring & Equipment Co. filed its joinder Complaint against Triangle, that was just recently filed with the Prothonotary.

8. Denied. On July 1, 2004, Plaintiffs provided Answers to Triangle's discovery and requested all counsel provide dates that they are available to view the subject U-bolts. On July 6, 2004, Plaintiffs provided color copies of the requested photographs to Triangle.

WHEREFORE, Plaintiffs request that Additional Defendant Triangle Auto Spring Company's Motion to Compel Discovery be denied.

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

No. 03-1251 CD

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

ORDER OF COURT

This _____ day of _____, 2004, it is ORDERED that Additional Defendant Triangle Auto Spring Company's Motion to Compel Discovery is DENIED.

_____

CERTIFICATE OF SERVICE

I, Amy B. Kubisiak, Esquire, do hereby certify that a true and correct copy of the within Plaintiffs' Response was served to the following via U.S. Mail, First Class, Postage Prepaid this 6th day of July, 2004:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

FILED NO CC
m/2:10 BH
JUL 08 2004
BAD
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	:	
vs.	:	No. 03-1251-CD
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	:	
vs.	:	
TRIANGLE AUTO SPRING COMPANY	:	
vs.	:	
CONSOLIDATE METAL PRODUCTS	:	

ORDER

NOW, this 12th day of July, 2004, it is the ORDER of the Court that Plaintiffs' Response to Additional Defendant's Motion to Compel Discovery Against Plaintiffs is included with argument currently scheduled for **Monday, July 26, 2004 at 10:30 A.M.** in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

Paul E. Cherry
Judge

FILED

JUL 13 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

JUL 13 2004

William A. Shaw
Prothonotary/Clerk of Courts

5CC Atty Kubisiak
w/ memo Re: service of rules & scheduling orders

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

AFFIDAVIT OF SERVICE OF ORDER OF COURT

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

FILED NO
m/1:20 BY CC
JUL 19 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

No. 03-1251 CD

AFFIDAVIT OF SERVICE OF ORDER OF COURT

To: Prothonotary

I hereby certify that on July 14, 2004, I served the July 12, 2004 Order of Court including Plaintiff's Response to Additional Defendant's Motion to Compel Discovery in the argument currently scheduled for Monday, July 26, 2004 to all counsel of record and the Clearfield County Court Administrator by U.S. Mail, First Class, Postage Prepaid, to the following:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179
Attorneys for Defendants BARRY KYLER, trading and doing Business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103
Attorneys for Additional Defendant
TRIANGLE AUTO SPRING COMPANY

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

FILED

JUL 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

ADDITIONAL DEFENDANT, TRIANGLE AUTO SPRING COMPANY'S ANSWER TO COMPLAINT OF BARRY KYLER t/d/b/a NORTHEAST SPRING & EQUIPMENT CO. AND NORTHEAST SPRING & EQUIPMENT CO. WITH NEW MATTER AND NEW MATTER CROSSCLAIM

1. Denied. Following reasonable investigation, answering additional defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 1 of plaintiffs' Complaint and therefore, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

2. Admitted.

3. Denied. Answering defendant did not manufacture, produce or fabricate the u-bolts allegedly involved in plaintiff's accident. Based on documents provided by Mack Trucks, it is believed and therefore

averred that the u-bolt was, in fact, manufactured by additional defendant, Consolidated Metal Products, 1028 Depot Street, Cincinnati, Ohio 45204.

4. Admitted.

5. It is admitted that the other original defendant is Mack Trucks, Inc. The remaining allegations contained in paragraph 5 of the Joinder Complaint are denied.

6. Denied. The allegations made by plaintiffs speak for themselves.

7. Denied. It is specifically and unequivocally denied that additional defendant designed, manufactured or fabricated the subject u-bolt and related components or parts. Whether additional defendant sold, supplied or furnished the u-bolts is unknown as additional defendant has not yet been afforded the opportunity to inspect the remnants despite repeated and numerous requests.

8. Denied. The allegations contained in paragraph 8 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

9. Denied. Answering additional defendant admits incorporation of the referenced counts without admitting the substantive averments contained therein.

10. Denied. The allegations contained in paragraph 10 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

11. Denied. The allegations contained in paragraph 11 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed

material. It is specifically and unequivocally denied that answering additional defendant was in anyway negligent, careless or reckless or that it manufactured, designed, engineered or failed to warn about the relevant u-bolts.

12. Denied. Following reasonable investigation, answering additional defendant is without knowledge or information sufficient to allow it to form a belief as to the truth of the averments contained in paragraph 12 of plaintiffs' Complaint and therefore, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

13. The allegations contained in paragraph 13 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

14. The allegations contained in paragraph 14 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

15. The allegations contained in paragraph 15 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material. It is specifically and unequivocally denied that answering defendant designed, manufactured, assembled, specified, recommended, certified or inspected the subject u-bolts. Whether they were sold by additional defendant is unknown as answering defendant has not yet been afforded the opportunity to inspect the u-bolts.

16. The allegations contained in paragraph 16 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material. It is specifically and unequivocally denied that answering defendant designed, manufactured, assembled, specified, recommended,

certified or inspected the subject u-bolts. Whether they were sold by additional defendant is unknown as answering defendant has not yet been afforded the opportunity to inspect the u-bolts.

17. Denied. The allegations contained in paragraph 17 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

18. Denied. The allegations contained in paragraph 18 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material. It is specifically and unequivocally denied that answering additional defendant was negligent, careless or reckless or that it designed, manufactured, engineered or assembled the u-bolts. Indeed, whether answering defendant had anything to do with the u-bolts is unknown as answering additional defendant has not yet been afforded the opportunity to inspect said u-bolts.

19. The allegations contained in paragraph 19 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

20. The allegations contained in paragraph 20 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

21. The allegations contained in paragraph 21 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

22. The allegations contained in paragraph 22 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

23. The allegations contained in paragraph 23 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

24. The allegations contained in paragraph 24 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

25. The allegations contained in paragraph 25 of the Joinder Complaint are conclusions of law to which no responsive pleading is required. To the extent any such pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

WHEREFORE, answering additional defendant demands judgment in its favor and against all other parties.

NEW MATTER

26. The Joinder Complaint fails to set forth a cause of action and/or a claim for relief against the answering additional defendant.

27. The products in question were improperly maintained and this was the cause of the accident described in the Joinder Complaint.

28. The products in question were misused and/or abused.

29. The superseding negligence of parties and/or entities over which this additional defendant had no control nor right to control relieves this additional defendant of any liability.

30. The liability of the answering additional defendant, if any, is mitigated by the provisions of the Pennsylvania Comparative Negligence Statute.

31. The plaintiff voluntarily assumed the risk.

32. Any and all claims made against the answering additional defendant are barred by the applicable statute of limitations.

33. Any and all claims made against the answering additional defendant are barred by the Pennsylvania Statute of Repose.

NEW MATTER CROSSCLAIM PURSUANT TO Pa.R.C.P. 2252(d)

34. The additional defendant avers that the accident, and any and all injuries and/or damages allegedly sustain by the plaintiffs herein are due solely and exclusively to the negligence, carelessness and/or tortuous conduct or misconduct on the part of the plaintiffs as well as defendants, Barry Kyler t/d/b/a Northeast Spring & Equipment Co., Northeast Spring & Equipment Co., Mack Trucks, Inc. and additional defendant, Consolidated Metal Products, through their respective authorized agents, servants, workmen and/or employees.

WHEREFORE, the answering additional defendant denies that it is in any fashion liable to any party herein and demands judgment in its favor. In the alternative, the answering additional defendant avers that the defendants, Barry Kyler t/d/b/a Northeast Spring & Equipment Co., Northeast Spring & Equipment Co., Mack Trucks, Inc. as well as the additional defendant, Consolidated Metal Products are alone liable to the plaintiffs, are jointly liable with and/or are liable over to this additional answering defendant for full and complete indemnification including the costs and counsel fees incurred in the defense of this litigation.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

By:_____

BRADLEY D. REMICK, ESQUIRE
Attorney for additional defendant,
Triangle Auto Spring Co.

VERIFICATION

HARRY PEHOTE being duly sworn according to law deposes and says that he is VP of Operations of TRIANGLE SUSPENSION SYSTEMS, INC. and that he is authorized to take this verification on behalf of additional defendant, Triangle Auto Spring Co. and that the facts set forth in the foregoing Answer to Complaint of defendant, Barry Kyler t/d/b/a Northeast Spring & Equipment Co., Northeast Spring & Equipment Co. are true and correct to the best of his knowledge, information, and belief. This verification is subject to 18 Pa.C.S. §4904 which provides for certain penalties for making false statements.

Harry Pehote

HARRY PEHOTE

13035-00102

FILED No CC
JUL 29 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs vs. BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	CIVIL DIVISION No. 03-1251-CD Type of Pleading: Reply to New Matter and New Matter Crossclaim Filed by Additional Defendant Triangle Auto Spring Company Filed on behalf of: Defendants Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. Counsel of Record for this Party: Joseph P. Green, Esquire PA I.D. #19238 LEE, MARTIN, GREEN & REITER, INC. 115 East High Street PO Box 179 Bellefonte, PA 16823 814-355-4769

FILED 1cc
m/1:00BK
AUG 03 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	) :) :) :)	No. 03-1251-CD
vs.	) :)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	) :) :) :)	
vs.	) :)	
TRIANGLE AUTO SPRING COMPANY and CONSOLIDATED METAL PRODUCTS, Additional Defendants	) :) :	

REPLY TO NEW MATTER BY DEFENDANTS BARRY KYLER t/d/b/a NORTHEAST SPRING & EQUIPMENT CO. AND NORTHEAST SPRING & EQUIPMENT CO. TO NEW MATTER AND NEW MATTER CROSSCLAIM FILED BY ADDITIONAL DEFENDANT TRIANGLE AUTO SPRING COMPANY

Defendants Barry Kyler t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. reply as follows:

26. Denied. The averment sets forth a conclusion of law to which no response is required. On the contrary, it is asserted that a viable joinder cause of action has been asserted.

27. Denied. To the extent that the averments of paragraph 27 would imply that the products in question were improperly maintained by the responding party, the said averments are denied. On the contrary, the responding party engaged in no act or omission which would have

constituted improper maintenance of the product. The averments are denied pursuant to Pa. R.C.P. 1029(e).

28. Denied. To the extent that the averments of paragraph 28 imply that the products in question were misused and/or abused by the responding party, it is denied. On the contrary, the responding party engaged in no act or omission which constituted a misuse or abuse of the product. The averments are denied pursuant to Pa. R.C.P. 1029(e).

29. Denied. The averments are denied pursuant to Pa. R.C.P. 1029(e).

30. No response is required to the allegations set forth in paragraph 30 inasmuch as the same set forth statement, conclusion or theory of law.

31. No response is required to paragraph 31 inasmuch as the averments relate to the plaintiff's decedent.

32. Denied. On the contrary, the claims made against Additional Defendant Triangle Auto Spring Company are not barred by a statute of limitations. The averments constitute a conclusion of law to which no further response is required. In addition, it is affirmatively asserted that claims for contribution and/or indemnification would not by any means be barred by an applicable statute of limitations.

33. Denied. On the contrary, it is asserted that there would be no applicable statute of repose which would bar the subject claim.

34. Denied. The averments are denied pursuant to Pa. R.C.P. 1029(e). In addition, the responding party hereby incorporates by reference and reasserts the averments set forth in its previously filed responsive pleadings and its joinder complaint.

WHEREFORE, it is respectfully requested that judgment be entered in favor of Defendant Barry Kyler t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. in all respects.

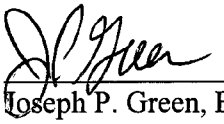
LEE, GREEN & REITER, INC.

By: _____

Joseph P. Green, Esq., ID #19238
Attorney for Defendants Barry Kyler, i/t/d/b/a
Northeast Spring & Equipment Co. and
Northeast Spring & Equipment Co.
115 East High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

STATEMENT RELATING TO ABSENCE OF VERIFICATION

The foregoing pleading needs no separate verification because it restates averments of fact and/or denials which already appear of record and which were previously verified by the responding party.



Joseph P. Green, Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	) :) :) :)	No. 03-1251-CD
vs.	) :)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	) :) :) :)	
vs.	) :)	
TRIANGLE AUTO SPRING COMPANYand CONSOLIDATED METAL PRODUCTS Additional Defendants	) :) :	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Reply to New Matter by Defendant Barry Kyler t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. to New Matter and New Matter Crossclaim filed by Additional Defendant Triangle Auto Spring Company was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 2 day of August, 2004 addressed to the following:

Amy Kubisiak, Esq.
1404 Grant Building
Pittsburgh, PA 15219

Bradley Remick, Esq.
1845 Walnut Street
Philadelphia, PA 19103-4797

Gerald Barr, Esq.
Barr & McGogney
4905 Tilghman Street, Suite 250
Allentown, PA 18104

Lynn Bell, Esq.
Davies, MacFarland & Carroll
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

Joseph P. Green

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

PLAINTIFFS' REPLY TO NEW MATTER AND NEW MATTER COUNTERCLAIM OF ADDITIONAL DEFENDANT TRIANGLE AUTO SPRING

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

FILED No CC
m/ 1:14 BV
AUG 04 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

No. 03-1251 CD

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

PLAINTIFFS' REPLY TO NEW MATTER AND NEW MATTER COUNTERCLAIM OF ADDITIONAL DEFENDANT TRIANGLE AUTO SPRING

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire, Amy B. Kubisiak, Esquire and Kiger & Alpern, Esquires, and file the following Reply to New Matter of Additional Defendant Triangle Auto Spring to Complaint of Defendants Barry Kyler t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co.:

26. Plaintiffs have been advised and therefore aver, that the allegations of Paragraph 26 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, the allegations in Paragraph 26 are denied. To the contrary, Plaintiffs' Complaint and Defendants Barry Kyler t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co.'s Joinder Complaint do state a cause of action upon which relief can be granted.

27. Denied. Upon reasonable investigation, the Plaintiffs are without sufficient information to form a belief as to the truth of the averments set forth in paragraph 27. Proof thereof is demanded. Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

28. Denied. Upon reasonable investigation, the Plaintiffs are without sufficient information to form a belief as to the truth of the averments set forth in paragraph 28. Proof thereof is demanded. Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

29. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 29 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

30. Plaintiffs have been advised and therefore aver that the allegations of paragraph 30 set forth conclusions of law to which no answer is required. If further answer is required, Plaintiffs aver that David Weaver was not contributory and/or comparatively negligent, generally and specifically. Proof thereof is demanded. Plaintiffs' claims are not barred or reduced in any manner whatsoever.

31. Plaintiffs have been advised and therefore aver that the allegations of paragraph 31 set forth conclusions of law to which no answer is required. If further answer is required, Plaintiffs aver that David Weaver did not assume any risk of injury. Proof thereof is demanded. Plaintiffs' claims are not barred or reduced in any manner whatsoever.

32. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 32 set forth conclusions of law to which no response is required. If further answer is required, the allegations in Paragraph 32 are denied. Proof thereof is demanded.

33. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 33 set forth conclusions of law to which no response is required If further answer is required, the allegations in Paragraph 33 are denied. Proof thereof is demanded. Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

34. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 34 set forth conclusions of law to which no response is required. If further answer is required, Plaintiffs aver that David Weaver did not act negligently, carelessly or tortuously. Proof thereof is demanded. If further answer is required, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand judgment against Defendants and Additional Defendants at the proper costs and charges thereto.

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
1404 Grant Building
Pittsburgh, PA 15219
Attorneys for Plaintiffs

VERIFICATION

The undersigned, having read the attached Reply to New Matter, verifies that the within Reply is based on information furnished to counsel, as well as information gathered by counsel in the course of this lawsuit. The language of the Reply is that of counsel and not of the signers. Signers verify that they have read the within Reply and that it is true and correct to the best of the signers' knowledge, information and belief. To the extent that the contents of the Reply are that of counsel, we have relied upon counsel in making this Verification. This Verification is made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsifications to authorities.

Date: 1-30-04

Brenda L. Orsich

BRENDA L. ORSICH

CERTIFICATE OF SERVICE

I, Amy B. Kubisiak, Esquire, do hereby certify that a true and correct copy of the within Plaintiffs' Reply to New Matter and New Matter Counterclaim of Additional Defendant Triangle Auto Spring was served to the following via U.S. Class, postage prepaid on 8-2, 2004:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

AMY B. KUBISIAK, ESQUIRE
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and Natural guardian, BRENDA ORSICH, Plaintiffs vs. BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	:	No. 03-1251 CD

FILED NO CC
m 11:07 6H
AUG 12 2004
William A. Shaw
Prothonotary/Clerk of Courts

DEFENDANT MACK TRUCKS, INC.'S ANSWER TO NEW MATTER CROSS CLAIM OF TRIANGLE AUTO SPRING COMPANY

34. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure. It is strictly denied that Mack Trucks, Inc. was negligent in any manner.

WHEREFORE, your within Defendant, Mack Trucks, Inc. requests this Honorable Court to dismiss Additional Defendant Triangle Auto Spring Company's New Matter Cross Claim in regards to Mack Trucks, Inc.

GERALD M. BARR, ESQUIRE
Attorney for Defendant, Mack Trucks, Inc.
BARR & McGOGNEY
4905 Tilghman St., Suite 250
Allentown, PA 18104
610-398-5398
Attorney ID No. 20024

VERIFICATION

I, Gerald M. Barr, Esquire, hereby verify that the facts contained in the foregoing Answer to Defendant Triangle Auto Spring's New Matter and New Matter Cross Claim are true and correct to the best of my knowledge, information and belief and that the signature of Defendant cannot be obtained within the time required for the filing of this pleading; and I understand that the statements made herein are subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Date: 8/10/04

Gerald M. Barr
GERALD M. BARR, ESQUIRE

GERALD M. BARR
ATTORNEY AT LAW
4905 TILGHMAN STREET
SUITE 250
ALLENTOWN, PENNSYLVANIA 18104
(610) 398-5398

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH,
Plaintiffs
vs.
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO., NORTHEAST EQUIPMENT & SPRING CO., and MACK TRUCKS, INC.

DEFENDANT MACK TRUCKS, INC.'S ANSWER TO NEW MATTER CROSS CLAIM OF TRIANGLE AUTO SPRING COMPANY

FILED

AUG 12 2004

William A. Shaw
Prothonotary/Clerk of Courts

GERALD M. BARR
ATTORNEY AT LAW
4905 TILGHMAN STREET
SUITE 250
ALLENTOWN, PENNSYLVANIA 18104
(610) 398-5398

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

PLAINTIFFS' MOTION TO COMPEL RESPONSES TO FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANTS AND ADDITIONAL DEFENDANTS

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

FILED NO CC
m/11:23 BY
OCT 12 2004
William A Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

No. 03-1251 CD

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

PLAINTIFFS' MOTION TO COMPEL RESPONSES TO FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANTS AND ADDITIONAL DEFENDANTS

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire and Amy B. Kubisiak, Esquire, move for an Order compelling Defendants and Additional Defendants to fully

and completely respond to Plaintiffs' First Set of Requests for Production of Documents within twenty (20 days), and, in support thereof, aver:

1. The above-captioned case is a wrongful death/survival action involving a fatal truck accident that occurred on August 30, 2001 in Lawrence Township, Clearfield County, PA.

2. On March 25, 2004, Plaintiffs served Requests for Production of Documents on Defendants and Additional Defendants (copy attached as Exhibit 1).

3. By letters dated July 1, 2004 and September 17, 2004, Plaintiffs requested that Defendants and Additional Defendants provide responses to this discovery. Copies of the letters are attached as Exhibit 2.

4. To date, Defendants and Additional Defendants have not provided the requested documents, etc.

5. Plaintiffs cannot properly prepare for additional discovery and trial by the failure of Defendants and Additional Defendants to provide full and complete responses to Plaintiffs' First Set of Requests for Production of Documents.

WHEREFORE, in consideration of the foregoing, Plaintiffs request an Order compelling full and complete Responses to Plaintiffs' Requests for Production of Documents within twenty (20) days or suffer appropriate sanctions.

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
1404 GRANT BUILDING
PITTSBURGH, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

PLAINTIFFS' FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANTS AND ADDITIONAL DEFENDANTS

Filed on Behalf of:
Plaintiffs

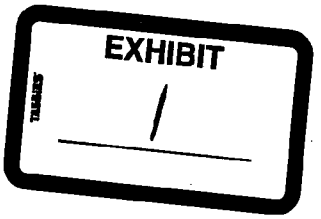
Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

No. 03-1251 CD

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

PLAINTIFFS' FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO DEFENDANTS AND ADDITIONAL DEFENDANTS

TO: ALL DEFENDANTS AND ALL ADDITIONAL DEFENDANTS

c/o Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179
Attorneys for Defendants BARRY KYLER, trading and doing Business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.

c/o Bradley D. Remick, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103
Attorneys for Additional Defendant TRIANGLE AUTO SPRING COMPANY

c/o Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104
Attorneys for Defendant MACK TRUCKS, INC.

Consolidated Metal Products
1028 Depot Street
Cincinnati, OH 45204
ADDITIONAL DEFENDANT

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire, Amy B. Kubisiak and Kiger & Alpern, Esquires, request that the above-named parties produce for copying (or provide copies by mail), within thirty (30) days of the date of service of this Request, at the law offices of Kiger & Alpern, 1404 Grant Building, Pittsburgh, Pennsylvania 15219, the following documents concerning the subject accident of August 30, 2001;

1. All information and documents pertaining to lawsuits, claims, owners' reports, field reports, NHTSA reports, inquiries or investigations, and any other reports of occurrences of the leaf spring U-bolts failing or breaking on trucks and other vehicles similar and/or comparable to the subject truck.

RESPONSE:

2. All information and documents, to include specifications, quality control, drawings, blueprints and graphical representations, regarding the leaf spring U-bolts specified for the subject model vehicle.

RESPONSE:

3. All information and documents relating to Product Change Notices (PCNs), to include the PCNs themselves, relating to changes or recalls made following the manufacture of the subject truck with respect to the leaf spring U-bolts.

RESPONSE:

4. The complete Investigation Topic File regarding the installation and failing or breaking of leaf spring U-bolts on trucks and other vehicles similar and/or comparable to the subject truck.

RESPONSE:

5. All information and documents relating to Engineering Safety Committee and Vehicle Regulations Committee documents regarding installation and the failing and/or breaking of leaf spring U-bolts on trucks and/or other vehicles similar and/or comparable to the subject truck.

RESPONSE:

6. All information and documents, to include recalls or technical service bulletins or similar documents relating to the installation and the failing and/or breaking of leaf spring U-bolts on trucks and/or other vehicles similar and/or comparable to the subject truck.

RESPONSE:

7. All instructional manuals, operator's manuals, replacement parts catalogs, service manuals, maintenance manuals, repair manuals, sales or promotional brochures, catalogs, or other similar writings for the installation, maintenance and replacement of the subject U-bolts and their fasteners.

RESPONSE:

8. All sales, service and maintenance records, invoices, etc. for the subject truck.

RESPONSE:

9. All sales, service and maintenance records, invoices, etc. for the fasteners and subject U-bolts that were installed in the subject truck by Defendant Northeast Spring Equipment & Co. on April 25, 2000. This request includes all documents from all Defendants and all Additional Defendants showing how the fasteners and subject U-bolts that were installed on the subject truck came to be in the possession of Defendant Northeast in order for the April 25, 2000 installation to occur.

RESPONSE:

10. All documentation provided by Defendant Mack Trucks, Inc. to Defendants and Additional Defendants that the manufacturer of the subject U-bolt was Additional Defendant Consolidated Metal Products as averred in paragraph 4 of Additional Defendant Triangle Auto Spring's Answer to Defendant, Mack Truck, Inc.'s Joinder Complaint.

RESPONSE:

11. The insurance policy, including all policy provisions, the face sheet or declarations page or other similar writings showing all applicable insurance coverage of Defendant/Additional Defendant, whether primary, excess, umbrella, or other, in effect on August 30, 2001.

RESPONSE:

12. All investigation materials, reports and computer file entries in the possession of Defendant/Additional Defendant and his insurance company(ies), their attorneys, consultants, surety, indemnitor, insurers and agents, including all investigation reports and memoranda, photographs and written statements of all witnesses including, but not limited to, Defendant/Additional Defendant (whether written and signed or a stenographic, mechanical, electrical, electrical recordings or a transcription thereof, which is substantially a verbatim recital of an oral statement by the person making it and contemporaneously recorded) and/or employees or other agents of Defendant/Additional Defendant.

RESPONSE:

13. All photographs, films, videotapes, drawings or diagrams in the possession of the above-described persons or entities.

RESPONSE:

14. Any and all accident/reports or other such documents or writings, including, but not limited to, a printout of all computer file entries prepared by or on behalf of Defendant/Additional Defendant and its insurance company(ies), its attorneys, investigators, consultants, surety, indemnitor, insurers and agents, regarding the subject accident.

RESPONSE:

15. All investigation materials, reports and a printout of all computer file entries in the possession of Defendant/Additional Defendants and their insurance company(ies), their attorneys, consultants, surety, indemnitor, insurers, agents, outside investigation or adjusting companies, or other such representatives, independent adjusting firms, or similar representatives or entities, concerning Plaintiffs and decedent.

RESPONSE:

16. All investigation materials, reports, statements, background investigation reports, credit investigation reports, activities investigation reports, surveillance

investigation reports, or other similar writings concerning Plaintiffs and decedent, including, but not limited to, all such materials, writings and a printout of all computer file entries in the possession and control of Defendant/Additional Defendant and his insurance company(ies), their attorneys, consultants, surety, indemnitor, insurers agents, outside or independent investigation companies, or other such representatives or entities, either in the possession of the Defendant/Additional Defendant and its insurance company(ies) and attorneys or under their control.

RESPONSE:

17. A complete copy of the insurance and/or other claims file concerning Plaintiffs and decedent, including, but not limited to, a printout of all computer file entries constituting a computerized insurance file in the possession and control of Defendant/Additional Defendant and its insurance company(ies), its attorneys, consultants, surety, indemnitor, insurers, agents, outside, inside or independent investigation or adjusting companies or other such representatives, independent adjusting firms, or other such entities producing, but not limited to, the following: file activity sheets, entries, file transfer sheets and entries, clerical instructions, file

maintenance instructions, correspondence, investigation, declarations page, file memos, suit transmittal instructions, summaries, analyses, incident reports, coverage information, liability loss notice, accord sheet, first report of loss and other discoverable portions of the file. If any part of the paper file or computer file is not produced as privileged, provide a list specifically identifying the items not produced citing the privilege.

RESPONSE:

18. To the extent that counsel has excised portions of any material attached hereto, the Plaintiffs request that counsel provide an Affidavit stating that the items redacted were read by counsel and describe in detail the facts and legal basis for the redaction of the material as set forth in Bowser v. Ryder Truck Rental Company, Inc., 141 P.L.J. 316 (1993).

RESPONSE:

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I, Jerome W. Kiger, Esquire, do hereby certify that a true and correct copy of Plaintiffs' First Set of Request for Production of Documents Interrogatories Directed to Defendants and Additional Defendants was served upon the following counsel via U.S. Mail, First Class, Postage Prepaid on 3-25, 2004:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Consolidated Metal Products
1028 Depot Street
Cincinnati, OH 45204

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

JEROME W. KIGER

ATTORNEYS AT LAW
1404 GRANT BUILDING
PITTSBURGH, PENNSYLVANIA 15219-2301

(412) 765-1811 FAX (412) 765-0440

JEROME W. KIGER
AMY B. KUBISIAK

July 1, 2004

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

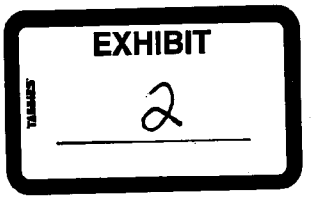
RE: Our Client: Estate of David Weaver, deceased
Date of Accident: 8/30/01
Our File No.: 82178

Counsel:

Enclosed please find the following:

1. Plaintiffs' Answers to Expert Witness Interrogatories of Additional Defendant Triangle Auto Spring Company;

2. Plaintiff's Answers to Product Interrogatories of Additional Defendant Triangle Auto Spring Company.



3. Plaintiff's Answers to Wrongful Death/Survival Interrogatories of Additional Defendant Triangle Auto Spring Company.

I contacted Mr. Remick's office this week and attempted to schedule a viewing of the U-bolts currently in our possession. I enclose calendars for July, August and September 2004. Please mark dates when you are available and return them to us as soon as possible.

Please also provide your Responses to the Request for Production of Documents we sent out in late March 2004.

If you have any questions, please advise.

Very truly yours,

AMY B. KUBISIAK
ABK/bhs
Enclosures
M:\KIGER\Weaver\cnsl-03.ltr.doc

JEROME W. KIGER

ATTORNEYS AT LAW
1404 GRANT BUILDING
PITTSBURGH, PENNSYLVANIA 15219-2301

(412) 765-1811
JEROME W. KIGER
AMY B. KUBISIAK

FAX (412) 765-0440

September 17, 2004

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

RE: Our Client: Estate of David Weaver, deceased
Date of Accident: 8/30/01
Our File No.: 82178

Counsel:

On March 25, 2004, we served Request for Production of Documents on all Defendants and Additional Defendants.

Please provide Responses to Request for Production of Documents by the end of September, or we will need to file a Motion to Compel with the Court.

If you have any questions, please advise.

Very truly yours,

AMY B. KUBISIAK
ABK/bhs
M:\KIGER\Weaver\cnsl-07.ltr.doc

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

No. 03-1251 CD

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

ORDER OF COURT

NOW, this _____ day of _____, 2004, upon consideration of Plaintiffs' Motion to Compel Responses to First Set of Request for Production of Documents, it is ORDERED that Defendants and Additional Defendants must provide full and complete Responses to Plaintiffs' First Request for Production of Documents within twenty (20) days of the date of this Order or suffer appropriate sanctions.

_____

CERTIFICATE OF SERVICE

I, Jerome W. Kiger, Esquire, do hereby certify that a true and correct copy of Plaintiffs' Motion to Compel Responses to First Set of Request for Production of Documents Interrogatories Directed to Defendants and Additional Defendants was served upon the following counsel via U.S. Mail, First Class, Postage Prepaid on Oct 8, 2004:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

No. 03-1251 CD

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

FILED 1cc Atty Kubisiak
OCT 22 2004 w/ memo
William A. Shaw Re: service
Prothonotary/Clerk of Courts

ORDER OF COURT

NOW, this 22nd day of October, 2004, upon consideration of Plaintiffs' Motion to Compel Responses to First Set of Request for Production of Documents, a Rule is hereby issued upon Defendants and Additional Defendants to Appear and Show Cause why the Motion should not be granted. Rule returnable is scheduled the 12 day of November, 2004, at 11:00 A.M. in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

Paul E. Cherry

OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830
PHONE: (814) 765-2641
FAX: 1-814-765-7649

DAVID S. MEHOLICK
COURT ADMINISTRATOR

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

MEMO: To all parties filing Petitions/Motions in Clearfield County:

Please make note of the following:

Rule 206(f) The party who has obtained the issuance of a Rule to Show Cause shall forthwith serve a true and correct copy of both the Court Order entering the Rule and specifying a return date, and the underlying Petition or Motion, upon every other party to the proceeding in the manner prescribed by the Pennsylvania Rules of Civil Procedure (see PA. R.C.P. 440) and upon the Court Administrator.

Rule 206(g) The party who has obtained the issuance of a Rule to Show Cause shall file with the Prothonotary, within seven (7) days of the issuance of the Rule, an Affidavit of Service indicating the time, place and manner of service. Failure to comply with this provision may constitute sufficient basis for the Court to deny the prayer of the Petition or Motion.

***** Please note: This also includes service of scheduling orders obtained as the result of the filing of any pleading.**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

AFFIDAVIT OF SERVICE OF ORDER OF COURT RULE RETURNABLE

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

FILED NO CC
m/1:30/BH
OCT 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

No. 03-1251 CD

AFFIDAVIT OF SERVICE OF ORDER OF COURT RULE RETURNABLE

To: Prothonotary

I hereby certify that on October 8, 2004 I served Plaintiffs' Motion to Compel Discovery and on October 26, 2004, I served the October 22, 2004 Order of Court Rule Returnable upon Defendants and Additional Defendant's to Appear and Show Cause why Plaintiffs' Motion to Compel Discovery should not be granted, Rule Returnable Friday, November 12, 2004 at 11:00 a.m. in Courtroom No. 2 of the Clearfield County Courthouse by U.S. Mail, First Class, Postage Prepaid, to the following counsel of record:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and Natural guardian, BRENDA ORSICH, Plaintiffs vs. BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	:	No. 03-1251 CD

FILED E6K NO CC
m/11:06/01
NOV 04 2004
William A. Shaw
Prothonotary/Clerk of Courts

DEFENDANT MACK TRUCKS, INC.'S ANSWER TO NEW MATTER - JOINDER OF BARRY KYLER t/d/b/a NORTHEAST SPRING & EQUIPMENT COMPANY, AND NORTHEAST SPRING & EQUIPMENT COMPANY

70. Admitted.

71. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

72. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

73. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

74. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

75. Admitted.

WHEREFORE, your within Defendant, Mack Trucks, Inc. requests this Honorable Court to dismiss Defendant Barry Kyler, t/d/b/a Northeast Spring & Equipment Company & Defendant Northeast Spring & Equipment Company's Joinder Complaint against them.

GERALD M. BARR, ESQUIRE
Attorney for Defendant, Mack Trucks, Inc.
BARR & McGOGNEY
4905 Tilghman St., Suite 250
Allentown, PA 18104
610-398-5398
Attorney ID No. 20024

VERIFICATION

I, Gerald M. Barr, Esquire, hereby verify that the facts contained in the foregoing Answer to Defendant Triangle Auto Spring's New Matter and New Matter Cross Claim are true and correct to the best of my knowledge, information and belief and that the signature of Defendant cannot be obtained within the time required for the filing of this pleading; and I understand that the statements made herein are subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Date: 4/7/04

Gerald M. Barr
GERALD M. BARR, ESQUIRE

GERALD M. BARR
ATTORNEY AT LAW
4905 TILGHMAN STREET
SUITE 250
ALLENTOWN, PENNSYLVANIA 18104
(610) 398-5398

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH,
Plaintiffs
vs.
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO., NORTHEAST SPRING & EQUIPMENT CO., and MACK TRUCKS, INC., DEFENDANTS

DEFENDANT MACK TRUCKS, INC.'S ANSWER TO NEW MATTER-JOINDER OF BARRY KYLER t/d/b/a NORTHEAST SPRING & EQUIPMENT COMPANY, AND NORTHEAST SPRING & EQUIPMENT CO.

FILED

NOV 04 2004

William A. Shaw
Prothonotary/Clerk of Courts

GERALD M. BARR
ATTORNEY AT LAW
4905 TILGHMAN STREET
SUITE 250
ALLENTOWN, PENNSYLVANIA 18104
(610) 398-5398

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH

v.

BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.

v.

TRIANGLE AUTO SPRING COMPANY

v.

CONSOLIDATED METAL PRODUCTS

CASE NUMBER: 03-1251 CD

ISSUE NUMBER:

PLEADING:

PRAECIPE FOR APPEARANCE

CODE AND CLASSIFICATION:

FILED ON BEHALF OF:

CONSOLIDATED METAL PRODUCTS, Defendant.

COUNSEL OF RECORD:

JUDITH A. MOSES, ESQUIRE
Pa. ID# 49656

CIPRIANI & WERNER, P.C.
1100 Two Chatham Center
112 Washington Place
Pittsburgh, PA 15219
(412) 281-2500

FILED NO CC
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William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.		
TRIANGLE AUTO SPRING COMPANY		
v.		
CONSOLIDATED METAL PRODUCTS		

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY OF CLEARFIELD COUNTY

Kindly enter my appearance on behalf of the additional defendant, CONSOLDIATED METAL PRODUCTS, in the above-captioned matter.

Respectfully submitted,

CIPRIANI & WERNER, P.C.

BY: _____

JUDITH A. MOSES, ESQUIRE
Attorney for the Additional Defendant
Consolidated Metal Products

A JURY TRIAL IS DEMANDED

CERTIFICATE OF SERVICE

That counsel for the Additional Defendant, Consolidated Metal Products, hereby certifies that a true and correct copy of its PRAECIPE FOR APPEARANCE has been served on all counsel of record, by first class mail, postage pre-paid, according to the Pennsylvania Rules of Civil Procedure, on the 15th day of November, 2004.

Amy B. Kubisiak, Esquire
Charles H. Alpern & Associates, P.C.
1404 Grant Building
Pittsburgh, PA 15219
Counsel for Plaintiffs

Joseph Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823
Counsel for Barry Kyler, t/d/b/a Northeast Springs & Equipment Co. and Northeast Spring & Equipment Co.

Gerald Barr, Esquire
Barr & McGogney
4905 Tilghman Street, Suite 250
Allentown, PA 18104
Counsel for Mack Trucks, Inc.

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103
Counsel for Triangle Auto Spring Co.

Respectfully submitted,

CIPRIANI & WERNER, P.C.

BY: _____
JUDITH A. MOSES, ESQUIRE
Attorney for the Additional Defendant
Consolidated Metal Products

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH,

Plaintiffs

v.

BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.

Defendants

and

TRIANGLE AUTO SPRING COMPANY,

and

CONSOLIDATED METAL PRODUCTS,

Additional Defendant

CIVIL DIVISION

No.: 03-1251 CD

PRAECIPE FOR WITHDRAWAL

Filed on Behalf of this Party:

Consolidated Metal Products, One of the Additional Defendants

Counsel of Record for this Party :

Lynn E. Bell, Esquire
Pa I.D. #38588

Davies, McFarland & Carroll, P.C.
Firm I.D. #281

One Gateway Center; 10th Floor
Pittsburgh, PA 15222
(412) 281-0737

EGK

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William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH,	)	CIVIL DIVISION
Plaintiffs	)	
v.	)	
	)	No.: 03-1251 CD
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	)	
Defendants	)	
and	)	
TRIANGLE AUTO SPRING COMPANY,	)	
and	)	
CONSOLIDATED METAL PRODUCTS,	)	
Additional Defendant	)	

PRAECIPE FOR WITHDRAWAL

TO: WILLIAM SHAW, CLERK OF COURTS

KINDLY withdraw my appearance, Lynn E. Bell, Esquire, PA I.D. #38588, on behalf of Consolidated Metal Products, Additional Defendant, in the above-captioned matter.

Jury Trial Demanded.

Davies, McFarland & Carroll, P.C.

By: _____

Lynn E. Bell, Esquire
Attorney for Consolidated Metal Products,
One of the Additional Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record in the following manner on the 22 day of Nov, 2004:

Via Facsimile	
Via Hand Delivery	
Via First Class U.S. Mail	✓
Via Overnight Mail	
Via Certified Mail/ Return Receipt Request	

Jerome W. Kiger, Esquire
Kiger & Alpern
1404 Grant Building
Pittsburgh, PA 15219

Attorneys for Plaintiffs

Joseph Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823

Attorneys for Barry Kyler t/d/b/a Northeast Spring & Equipment Co.; Northeast Spring & Equipment Co.

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Attorneys for Mack Trucks, Inc.

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103-4797

Attorneys for Triangle Auto Spring Company

DAVIES, McFARLAND & CARROLL, P.C.

By: _____
Lynn E. Bell, Esquire
Attorneys for Consolidated Metal Products, One of the Additional Defendants

CA

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

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William A. Shaw
Prothonotary/Clerk of Courts

Riger
Green
Barr
Remick
Moses

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and natural guardian, BRENDA ORSICH	:	
-vs-	:	
BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO; and MACK TRUCKS, INC.	:	No. 03-1251-CD
-vs-	:	
TRIANGLE AUTO SPRING COMPANY	:	
-vs-	:	
CONSOLIDATED METAL PRODUCTS	:	

O R D E R

NOW, this 30th day of November, 2004, upon consideration of Plaintiffs' Motion to Compel Responses to First Set of Request for Production of Documents, it is the ORDER of this Court that Defendants and additional Defendants shall provide full and complete responses to

Plaintiffs' First Request for Production of Documents within no more than twenty (20) days from the date of this Order or suffer appropriate sanctions as the Court deems fit.

BY THE COURT,

Paul E Cherry

Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	:	No. 03-1251-CD
vs.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	:	
vs.	:	
TRIANGLE AUTO SPRING COMPANY and CONSOLIDATED METAL PRODUCTS, Additional Defendants	:	

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William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATION BY DEFENDANT BARRY KYLER t/d/b/a NORTHEAST SPRING & EQUIPMENT CO. and NORTHEAST SPRING & EQUIPMENT CO. OF SERVICE OF SUPPLEMENTAL RESPONSE TO PLAINTIFFS' DOCUMENT PRODUCTION REQUEST

Joseph P. Green, Esquire, hereby certifies that he provided a Response to the Plaintiff's Request for Production of Documents by serving said response upon counsel for plaintiff on November 5, 2004, and a Supplemental Response to Plaintiffs' Request for Production of Documents on December 16, 2004, by regular U.S. Mail and addresses as follows:

Jerome Kiger, Esq.
1404 Grant Building
Pittsburgh, PA 15219

Bradley Remick, Esq.
1845 Walnut Street
Philadelphia, PA 19103-4797

Gerald Barr, Esq.
Barr & McGogney
4905 Tilghman Street, Suite 250
Allentown, PA 18104

Judith Moses, Esq.
Cipriani & Werner
2 Chatham Center
Pittsburgh, PA 15219-3437

LEE, GREEN & REITER, INC.

By: _____

Joseph P. Green, Esq., ID #19238
Attorney for Defendants Barry Kyler, i/t/d/b/a
Northeast Spring & Equipment Co. and
Northeast Spring & Equipment Co.
115 East High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH

v.

BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.

v.

TRIANGLE AUTO SPRING COMPANY

v.

CONSOLIDATED METAL PRODUCTS

CASE NUMBER: 03-1251 CD

ISSUE NUMBER:

PLEADING:
ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO 2252(d) TO TRIANGLE AUTO SPRING COMPANY'S JOINDER COMPLAINT OF ADDITIONAL DEFENDANT, CONSOLIDATED METAL PRODUCTS

CODE AND CLASSIFICATION:

FILED ON BEHALF OF:

CONSOLIDATED METAL PRODUCTS, Additional Defendant.

COUNSEL OF RECORD:

JUDITH A. MOSES, ESQUIRE
Pa. ID# 49656

CIPRIANI & WERNER, P.C.
1100 Two Chatham Center
112 Washington Place
Pittsburgh, PA 15219
(412) 281-2500

To All Parties:

You are hereby notified to plead to the enclosed **Answer, New Matter and New Matter Pursuant to 2252(d)** within twenty (20) days hereof or a default judgment may be entered against you.

Judith A. Moses, Esquire
Counsel for Consolidated Metal Products

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William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO 2252(d) TO TRIANGLE AUTO SPRING COMPANY'S JOINDER COMPLAINT OF ADDITIONAL DEFENDANT, CONSOLIDATED METAL PRODUCT

AND NOW comes the Additional Defendant, Consolidated Metal Products, by and through its undersigned counsel and files the within Answer, New Matter and New Matter Pursuant to 2252(d) to Triangle Auto Spring Company's Joinder Complaint, and in support thereof avers as follows:

1. Without admitting the substantive averments contained therein, no further response is required to this allegation.

2. This Additional Defendant does not admit to the substantive averments contained in said pleadings.

3. This Additional Defendant does not admit to the substantive averments contained in said pleadings.

4. Admitted.

5. Denied. After reasonable investigation, this Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained therein. Therefore, said averments are denied. By way of further answer, Additional Defendant does not design leaf spring U-bolts. Strict proof is demanded at the time of trial.

6. Denied. After reasonable investigation, this Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained therein. Therefore, said averments are denied. By way of further answer, Additional Defendant does not design leaf spring U-bolts. Strict proof is demanded at the time of trial.

7. The averments stated in paragraph 7 are incomprehensible and cannot be responded to as phrased. It is denied that this Additional Defendant fabricated or sold the subject U-bolts. In the alternative, the subject U-bolt was substantially changed after it left the hands of the manufacturer or supplier.

8. Denied. After reasonable investigation, this Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained therein. Therefore, said averments are denied. Strict proof is demanded at the time of trial.

9. Denied. After reasonable investigation, this Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained therein. Therefore, said averments are denied. Strict proof is demanded at the time of trial.

10. Denied. After reasonable investigation, this Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained

therein. Therefore, said averments are denied. By way of further answer, Additional Defendant does not design leaf spring U-bolts. Strict proof is demanded at the time of trial.

11. Denied. After reasonable investigation, this Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained therein. Therefore, said averments are denied. Strict proof is demanded at the time of trial.

12. Denied. After reasonable investigation, this Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained therein. Therefore, said averments are denied. Strict proof is demanded at the time of trial.

13. Denied. After reasonable investigation, this Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained therein. Therefore, said averments are denied. Strict proof is demanded at the time of trial.

14. With respect to this Additional Defendant, specifically denied.

a. Specifically denied.

b. Specifically denied.

c. Specifically denied.

d. Specifically denied.

e. Specifically denied.

f. Specifically denied.

g. Specifically denied.

h. Specifically denied.

i. Specifically denied.

j. Specifically denied.

k. Specifically denied.

l. Specifically denied.

m. Specifically denied.

n. Specifically denied.

o. Specifically denied.

p. Specifically denied.

q. Specifically denied.

r. Specifically denied.

s. With respect to this Additional Defendant, specifically denied. By way of further answer, this Additional Defendant had no duty nor breached a duty to the Plaintiff.

t. Specifically denied.

u. Specifically denied.

v. Specifically denied.

w. Specifically denied.

x. Specifically denied.

y. Specifically denied.

z. Specifically denied.

aa. Specifically denied.

15. Denied.

16. Denied.

17. Denied.

WHEREFORE, this Additional Defendant denies any and all liability and demands judgment in its favor and against the Plaintiffs, or in the alternative, against Third-Party Plaintiff, plus attorney's fees and costs.

NEW MATTER

18. This Additional Defendant's answers to paragraphs 1 through 17 are incorporated herein by reference as if same were more fully set forth at length.

19. The Complaint fails to state a cause of action upon which relief can be granted.

20. At all times material hereto, the Plaintiff's employer and/or the Plaintiff or other third persons, parties, entities or corporations failed to properly maintain, use and/or care for the involved product described in the Plaintiffs' Complaint.

21. Plaintiffs' claims are barred by reason of and in accordance with the applicable statute of limitations.

22. This Additional Defendant believes and therefore avers that the actions and/or inactions of the Plaintiffs caused the alleged accident and/or were the sole cause of any alleged injuries and/or damages and, therefore, the Plaintiffs' cause of action is barred and/or must be reduced by virtue of the Pennsylvania Comparative Negligence Act, 42 PA.C.S.A. §7102 and/or by the Doctrine of Assumption of the Risk.

23. Plaintiffs' accident, injuries and/or damages, if any, were caused by superceding causes, including, but not limited to the actions and/or inactions of the Plaintiffs and/or third parties, firms or corporations for which this Additional Defendant can be held neither responsible nor liable.

24. The accident, injuries and/or damages, if any, involved in this action were caused by and were the proximate result of the Plaintiff, generally and in the following particulars:

a. In failing to exercise reasonable care when operating his vehicle;

b. In failing to educate himself and follow instructions as to the proper procedure for inspecting his truck prior to operating it;

c. By failing to take appropriate precautions which will become apparent during discovery or at the time of trial; and

d. In failing to properly inspect the U-bolts when he knew or should have known that it was unsafe to drive his truck with improperly maintained U-bolts.

25. This Additional Defendant believes and therefore avers that the alleged product at all times relevant to Plaintiffs' Complaint was misused, abused, altered and/or in a condition substantially changed after it left the hands of the manufacturer or distributor for which this Additional Defendant can be held neither responsible nor liable.

26. It is believed and therefore averred that discovery and/or Plaintiffs' testimony at the time of trial will reveal that Plaintiffs misused and/or abused the subject product which ultimately caused their injuries.

27. This Additional Defendant pleads the Restatement of Torts, §388, otherwise known as the "Sophisticated User Doctrine" as a defense to both the strict liability as well as negligence actions filed by the Plaintiffs and Third-Party Plaintiffs. If this Additional Defendant sold the subject product, which is denied, in the alternative, all necessary warnings and information was supplied to Plaintiff's employer or others about the product and this Additional Defendant reasonably relied upon the Plaintiff's employer and/or other persons, firms or corporations to communicate the information to the ultimate user of the subject product, including the Plaintiff.

28. All of the Plaintiff's claims are limited to, barred by and subject to the provisions of the Pennsylvania motor vehicle responsibility law, 75 Pa CSA § 1701 et seq. including any amendments effective thereto.

29. The subject U-bolt and leaf springs were improperly maintained and serviced.

WHEREFORE, this Additional Defendant denies any and all liability and demands judgment in its favor and against the Plaintiffs, or in the alternative, against Third Party Plaintiff, plus attorney's fees and costs.

NEW MATTER PURSUANT TO Pa.R.C.P. 2252(d)

30. This Additional Defendant's answers to paragraphs 1 through 24 are incorporated herein by reference as if same were more fully set forth at length herein.

31. If at the time of trial, Additional Defendant Consolidated Metal Products is found liable to the Plaintiffs, a liability which is specifically denied, then this Additional Defendant alleges solely for the purpose of these cross-claims and without admitting the same, that the conduct of Barry Kyler, t/d/b/a Northeast Spring & Equipment Co., Northeast Spring & Equipment Co., Mack Trucks, Inc. and/or Triangle Auto Spring Company, as more fully set forth in Plaintiffs' Complaint was the sole, joint, several, primary and/or proximate cause of the Plaintiffs' injuries. As grounds of liability against Barry Kyler, t/d/b/a Northeast Spring & Equipment Co., Northeast Spring & Equipment Co., Mack Trucks, Inc. and/or Triangle Auto Spring Company, and solely for the purpose of this Additional Defendant's cross-claims and without admitting the same, this Additional Defendant incorporates by reference the allegations of Plaintiffs' Complaint and any Third Party Complaints.

32. If, at the time of trial, this Additional Defendant is found liable to the Plaintiffs, a liability which is specifically denied, then and in that event, and in the alternative, this Additional Defendant alleges that Barry Kyler, t/d/b/a Northeast Spring & Equipment Co., Northeast Spring & Equipment Co., Mack Trucks, Inc. and/or Triangle Auto Spring Company are solely liable to the Plaintiffs, or in the alternative, are liable over to this Additional Defendant for indemnification and/or contribution.

WHEREFORE, this Additional Defendant demands that the cause of action filed by the Third-Party Plaintiffs be dismissed with costs and in the alternative it demands contribution and /or indemnification from Barry Kyler, t/d/b/a Northeast Spring & Equipment Co., Northeast Spring & Equipment Co., Mack Trucks, Inc. and/or Triangle Auto Spring Company.

CIPRIANI & WERNER, P.C.

BY: _____
JUDITH A. MOSES, ESQUIRE
Attorney for the Additional Defendant
Consolidated Metal Products

VERIFICATION

I, Donald J. Spillane, Jr., a duly authorized representative of Consolidated Metal Products, hereby certify that the statements in the foregoing ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO 2252(d) TO TRIANGLE AUTO SPRING COMPANY'S JOINDER COMPLAINT OF ADDITIONAL DEFENDANT, CONSOLIDATED METAL PRODUCTS are true and correct to the best of my knowledge, information and belief, including information provided to me by employees of this organization. This statement and verification is made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities, which provides that if I knowingly make false statements, I may be subject to criminal penalties.

1-7-05
DATE

CERTIFICATE OF SERVICE

That counsel for the Additional Defendant, Consolidated Metal Products, hereby certifies that a true and correct copy of its ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO 2252(d) TO TRIANGLE AUTO SPRING COMPANY'S JOINDER COMPLAINT OF ADDITIONAL DEFENDANT, CONSOLIDATED METAL PRODUCTS has been served on all counsel of record, by first class mail, postage pre-paid, according to the Pennsylvania Rules of Civil Procedure, on the 14th day of January, 2005.

Jerome W. Kiger, Esquire
1404 Grant Building
Pittsburgh, PA 15219
Counsel for Plaintiffs

Joseph Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823
Counsel for Barry Kyler, t/d/b/a Northeast Springs & Equipment Co. and Northeast Spring & Equipment Co.

Gerald Barr, Esquire
Barr & McGogney
4905 Tilghman Street, Suite 250
Allentown, PA 18104
Counsel for Mack Trucks, Inc.

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103
Counsel for Triangle Auto Spring Co.

CIPRIANI & WERNER, P.C.

BY: _____
JUDITH A. MOSES, ESQUIRE
Attorney for the Additional Defendant
Consolidated Metal Products

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

PLAINTIFFS' REPLY TO NEW MATTER OF ADDITIONAL DEFENDANT CONSOLIDATED METAL PRODUCTS

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

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JAN 20 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

No. 03-1251 CD

PLAINTIFFS' REPLY TO NEW MATTER OF
ADDITIONAL DEFENDANT CONSOLIDATED METAL PRODUCTS

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire and Amy B. Kubisiak, Esquire, file the following Reply to New Matter of Additional Defendant Consolidated Metal Products:

18. No response is necessary. If further response is required, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

19. Plaintiffs have been advised and therefore aver, that the allegations of Paragraph 19 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, the allegations in Paragraph 19 are denied. To the contrary, Plaintiffs' Complaint does state a cause of action upon which relief can be granted.

20. Plaintiffs have been advised and therefore aver, that the allegations of Paragraph 20 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, Plaintiffs denies that David A. Weaver, deceased, failed to properly maintain, use and/or care for the involved product described in Plaintiffs' Complaint. Proof thereof is demanded. As to the remaining allegations, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

21. Plaintiffs have been advised and therefore aver that the allegations of Paragraph 21 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, the allegations in Paragraph 21 are denied. Plaintiffs timely filed and served the Writ of Summons so as to comply with all applicable statutes of limitations.

22. Plaintiffs have been advised and therefore aver that the allegations of paragraph 22 set forth conclusions of law to which no answer is required. If further answer is required, Plaintiffs aver that the actions and/or inactions of David A. Weaver, deceased, did not cause the subject accident and/or were not the sole cause of injuries and damages. Plaintiffs deny David A. Weaver, deceased, was contributory and/or comparatively negligent, generally and specially and/or assumed any risk of injury. Proof thereof is demanded. Plaintiffs' claims are not barred or reduced in any manner

whatsoever.

23. Plaintiffs have been advised and therefore aver, that the allegations of Paragraph 23 set forth conclusions of law to which no response is required. Proof thereof is demanded. If further answer is required, Plaintiffs deny that David A. Weaver, deceased, actions and/or inactions were the cause of the subject accident, injuries and damages. Proof thereof is demanded. As to the remaining allegations, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein. If further answer is required, the allegations are denied and proof thereof is demanded. If the Plaintiffs' injuries and damages were caused by the actions of persons or entities over whom Additional Defendant Consolidated Metal Products has no control, Plaintiffs deny Additional Defendant Consolidated Metal Products is not and cannot be held responsible or liable for Plaintiffs' injuries and damages because of any such actions by any such persons or entities. Proof is demanded.

24. Plaintiffs have been advised and therefore aver that the allegations of paragraph 24 set forth conclusions of law to which no answer is required. If further answer is required, Plaintiffs aver that David A. Weaver, deceased, did not

(a) fail to exercise reasonable care when operating his vehicle;;

(b) fail to educate himself and follow instructions as to the proper procedures for inspecting his truck prior to operating it;

(c) fail to tak appropriate precautions which will become apparent during discovery or at the time of trial; and

(d) fail to properly inspect the U-bolts when he knew or should have known that it was unsafe to drive his truck with improperly maintained U-bolts.

Proof thereof is demanded.

25. Plaintiffs have been advised and therefore aver that the allegations of paragraph 25 set forth conclusions of law to which no answer is required. If further answer is required, Plaintiffs deny that David A. Weaver, deceased, misused the subject products. As to the remaining allegations, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein. If further answer is required, the allegations are denied and proof thereof is demanded. If the Plaintiffs' injuries and damages were caused by the misuse of the products of an entity other than Additional Defendant Consolidated Metal Products, Plaintiffs deny Additional Defendant Consolidated Metal Products cannot be held responsible or liable for Plaintiffs' injuries and damages because of any such misuse of the products. Proof is demanded.

26. Plaintiffs have been advised and therefore aver that the allegations of paragraph 26 set forth conclusions of law to which no answer is required. If further answer is required, Plaintiffs deny that David A. Weaver, deceased, misused the subject products. Proof is demanded.

27. Plaintiffs have been advised and therefore aver that the allegations of paragraph 27 set forth conclusions of law to which no answer is required. If further answer is required, the allegations are denied and proof is demanded. It is denied that the "Sophisticated User Doctrine" is an applicable defense to Plaintiffs' claims. Upon reasonable investigation, the Plaintiffs lack sufficient information to form a belief as to whether Additional Defendant Consolidated Metal Product supplied all necessary warnings and information to David A. Weaver's employer or others about the subject products and whether David A. Weaver's employer and/or other persons, firms or corporations communicated the information to the ultimate use of the subject product,

including David A. Weaver, deceased. Proof is demanded.

28. Plaintiffs have been advised and therefore aver that the allegations of paragraph 28 set forth conclusions of law to which no answer is required. Proof thereof is demanded. If further answer is required, Plaintiffs aver that their claims are not subject to, limited by, and/or barred by the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Act.

29. Plaintiffs have been advised and therefore aver that the allegations of paragraph 29 set forth conclusions of law to which no answer is required. If further answer is required, Plaintiffs deny that David A. Weaver, deceased, improperly maintained and serviced the subject U-bolt and leaf springs. As to other parties, Plaintiffs incorporate by reference Plaintiffs' Complaint as if fully set forth at length herein.

WHEREFORE, in consideration of the foregoing, Plaintiffs demand judgment against Defendants and Additional Defendants as set forth in the Plaintiffs' Complaint at the proper costs and charges thereto.

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
1404 Grant Building
Pittsburgh, PA 15219
Attorneys for Plaintiffs

VERIFICATION

The undersigned, having read the attached Reply to New Matter, verifies that the within Reply is based on information furnished to counsel, as well as information gathered by counsel in the course of this lawsuit. The language of the Reply is that of counsel and not of the signers. Signers verify that they have read the within Reply and that it is true and correct to the best of the signers' knowledge, information and belief. To the extent that the contents of the Reply are that of counsel, we have relied upon counsel in making this Verification. This Verification is made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsifications to authorities.

Date: 1/16/05

Brenda L Orsich

BRENDA L. ORSICH

CERTIFICATE OF SERVICE

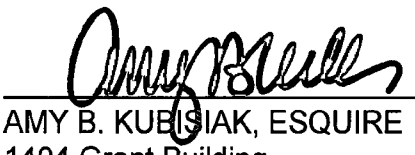
I, Amy B. Kubisiak, Esquire, do hereby certify that a true and correct copy of the within Plaintiffs' Reply to New Matter of Additional Defendant Consolidated Metal Products was served to the following via U.S. First Class, postage prepaid on 1-18, 2005:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Judith A. Moses, Esquire
Cipriani & Werner
Suite 700
650 Washington Road
Pittsburgh, PA 15228



AMY B. KUBISIAK, ESQUIRE
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

BRENDA ORSICH, Administrator of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her parent and Natural guardian, BRENDA ORSICH, Plaintiffs	:	Case No. 03-1251 CD
vs.	:	
BARRY KYLER, trading and doing business as NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	:	
vs.	:	
TRIANGLE AUTO SPRING COMPANY, Defendant	:	
vs.	:	
CONSOLIDATED METAL PRODUCTS, Defendant	:	

FILED NO CC
m/1:32 BH GK
JAN 21 2005
William A. Shaw
Prothonotary/Clerk of Courts

DEFENDANT MACK TRUCKS, INC.'S ANSWER TO DEFENDANT CONSOLIDATED METAL PRODUCTS' NEW MATTER PURSUANT TO Pa.R.C.P. 2252(d)

30. Defendant Mack Trucks, Inc. incorporates herein its Answers to Plaintiff's Complaint, paragraphs 1 through 24 as though more fully set forth herein at length..

31. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

32. Denied. This paragraph is a conclusion of law to which no answer is required pursuant to the Pennsylvania Rules of Civil Procedure.

WHEREFORE, your within Defendant, Mack Trucks, Inc. hereby requests this Honorable Court to dismiss Defendant Consolidated Metal Products' New Matter Pursuant to Pa.R.C.P. 2252(d).

GERALD M. BARR, ESQUIRE
Attorney for Defendant, Mack Trucks, Inc.
BARR & McGOGNEY
4905 Tilghman St., Suite 250
Allentown, PA 18104
610-398-5398
Attorney ID No. 20024

VERIFICATION

I, Gerald M. Barr, Esquire, hereby verify that the facts contained in the foregoing Answer to Defendant Triangle Auto Spring's New Matter and New Matter Cross Claim are true and correct to the best of my knowledge, information and belief and that the signature of Defendant cannot be obtained within the time required for the filing of this pleading; and I understand that the statements made herein are subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Date: 1-14-05

GERALD M. BARR, ESQUIRE

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

FILED 6cc NO CC
m/11:18/01
JAN 26 2005
William A. Shaw
Prothonotary/Clerk of Courts

ANSWER OF ADDITIONAL DEFENDANT, TRIANGLE AUTO SPRING CO. TO NEW MATTER AND NEW MATTER CROSSCLAIM OF ADDITIONAL DEFENDANT, CONSOLIDATED METAL PRODUCTS

18. Denied. Answering defendant admits incorporation of the referenced paragraphs without admitting the substantive averments contained therein.

19. Denied. The allegations contained in paragraph 19 of Consolidated Metal's New Matter are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

20-29. Denied. The allegations contained in paragraphs 20-29 of Consolidated Metals' New Matter are either conclusions of law to which no responsive pleading is required, or do not pertain to answering defendant and therefore, no responsive pleading is required.

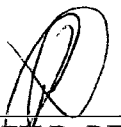
WHEREFORE, answering defendant demands judgment in its favor and against all other parties.

30. Denied. Answering defendant admits incorporation of the referenced paragraphs without admitting the substantive averments contained therein.

31, 32. Denied. The allegations contained in paragraphs 31 and 32 of Consolidated Metal's New Matter pursuant to Pa.R.C.P. 2252(d) are conclusions of law to which no responsive pleading is required. To the extent any such responsive pleading is required, said allegations are specifically and unequivocally denied and strict proof thereof is demanded at trial if deemed material.

WHEREFORE, answering defendant demands judgment in its favor and against all other parties.

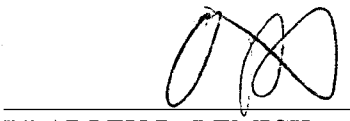
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN



BRADLEY D. REMICK, ESQUIRE
Attorney for additional defendant,
Triangle Auto Spring Company

VERIFICATION

BRADLEY D. REMICK, ESQUIRE, Attorney for Defendant, Triangle Auto Spring Company, verifies that the facts set forth in the Answer to New Matter and New Matter Crossclaim of additional defendant, Consolidated Metal Products are true to the best of his knowledge, information and belief. If the above statements are not true, the deponent is subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



BRADLEY D. REMICK

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs vs. BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	CIVIL DIVISION No. 03-1251-CD Type of Pleading: Reply by Defendant Barry Kyler/Northeast to New Matter Raised by Additional Defendant Consolidated Metal Products Filed on behalf of: Defendants Barry Kyler, t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. Counsel of Record for this Party: Joseph P. Green, Esquire PA I.D. #19238 LEE, MARTIN, GREEN & REITER, INC. 115 East High Street PO Box 179 Bellefonte, PA 16823 814-355-4769

FILED NO CC
m/11:18 BOY
FEB 03 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	) :) :)	No. 03-1251-CD
vs.	) :)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	) :) :)	
vs.	) :)	
TRIANGLE AUTO SPRING COMPANY and CONSOLIDATED METAL PRODUCTS, Additional Defendants	) :)	

REPLY BY DEFENDANT BARRY KYLER/NORTHEAST TO NEW MATTER RAISED BY ADDITIONAL DEFENDANT CONSOLIDATED METAL PRODUCTS

Reply to New Matter - General

Defendants Barry Kyler t/d/b/a Northeast Spring & Equipment Co. and Northeast Spring & Equipment Co. respond to the New Matter asserted by Additional Defendant Consolidated Metal Products as follows:

18. Denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

19. Denied. The averment sets forth a legal conclusion to which no specific response is required.

20. Denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

21. Denied. On the contrary, it is asserted that the applicable statute of limitations could not be an effective defense in this matter to the party raising same.

22. The averments of paragraph 22 are directed to the plaintiffs. To that extent, the responding parties would concur that the subject incident was caused by the conduct of the plaintiff's decedent.

23. Denied. After reasonable investigation, the responding parties are without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

24. (including subparagraphs a through d). Denied to the extent that the averments would expressly or implicitly aver that the U-bolts were defective and that such defect had a connection with the responding parties. Defendants Kyler/Northeast acted with reasonable care and prudence in all respects and committed no tortious or liability-producing conduct which would generate liability in this matter.

25 and 26. It appears that the averments of paragraphs 25 and 26 are directed to the conduct of the plaintiff's decedent. In that regard, the responding parties would concur in those allegations. To the degree that the averments of paragraphs 25 and 26 might be construed to suggest that tortious or other liability-producing conduct occurred on the part of the responding parties. Said averments are denied pursuant to Pa. R.C.P. 1029(e). In addition, it is affirmatively

stated that the responding parties acted with reasonable care and prudence in all respects and committed no tortious or other liability-producing conduct which was a substantial factor in creating the underlying harm.

27. The averments set forth in paragraph 27 require no specific response. The same assert legal statements and conclusions.

28. Admitted. It is admitted that any claims by the plaintiff would be subject to the cited statute.

29. Denied. To the extent that the averments of paragraph 29 would expressly or implicitly aver that improper maintenance or servicing was attributable to the responding parties, the same are denied. Defendant Kyler/Northeast acted with reasonable care and prudence in all respects and committed no liability-producing conduct which was a legal or proximate cause of the underlying harm.

WHEREFORE, it is respectfully requested that judgment be entered in favor of Defendant Kyler/Northeast.

Reply to New Matter Pursuant to Pa. R.C.P. 2252(d)

30. The foregoing responses are incorporated at this point by reference as well as the responses made by Defendants Kyler/Northeast in the answer originally filed in this matter.

31. On the contrary, it is asserted that the averments of paragraph 31 set forth legal conclusions to which no specific request is required. In addition, Defendants Kyler/Northeast incorporate by reference the responses set forth in their initial answer filed in this matter. Defendants Kyler/Northeast committed no tortious conduct which was a legal or proximate cause of the subject harm. In addition, the responding parties engaged in no other liability-producing conduct or breach of contract/warranty which caused the underlying accident.

32. On the contrary, it is asserted that the averments of paragraph 31 set forth legal conclusions to which no specific request is required. In addition, Defendants Kyler/Northeast incorporate by reference the responses set forth in their initial answer filed in this matter. Defendants Kyler/Northeast committed no tortious conduct which was a legal or proximate cause of the subject harm. In addition, the responding parties engaged in no other liability-producing conduct or breach of contract/warranty which caused the underlying accident.

WHEREFORE, it is respectfully requested that judgment be entered in favor of Defendant Kyler/Northeast.

LEE, GREEN & REITER, INC.

By: _____

Joseph P. Green, Esq., ID #19238
Attorney for Defendants Barry Kyler, i/t/d/b/a
Northeast Spring & Equipment Co. and
Northeast Spring & Equipment Co.
115 East High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

STATEMENT RELATING TO ABSENCE OF VERIFICATION

The foregoing pleading needs no separate verification because it restates averments of fact and/or denials which already appear of record and which were previously verified by the responding party.

Joseph P. Green, Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH, Plaintiffs	:	No. 03-1251-CD
vs.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC., Defendants	:	
vs.	:	
TRIANGLE AUTO SPRING COMPANYand CONSOLIDATED METAL PRODUCTS Additional Defendants	:	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Reply by Defendant Barry Kyler/Northeast to New Matter Raised by Additional Defendant Conslidiated Metal Products was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 1st day of Feb., 2005 addressed to the following:

Jerome Kiger, Esq.
1404 Grant Building
Pittsburgh, PA 15219

Bradley Remick, Esq.
1845 Walnut Street
Philadelphia, PA 19103-4797

Gerald Barr, Esq.
Barr & McGogney
4905 Tilghman Street, Suite 250
Allentown, PA 18104

Judith Moses, Esq.
Cipriani & Werner
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Joseph P. Green

FILED

FEB 03 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH

v.

BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.

v.

TRIANGLE AUTO SPRING COMPANY

v.

CONSOLIDATED METAL PRODUCTS

CASE NUMBER: 03-1251 CD

ISSUE NUMBER:

PLEADING:
MOTION TO COMPEL RUST REMOVAL FROM U-BOLT TO DETERMINE IDENTIFICATION CODE

CODE AND CLASSIFICATION:

FILED ON BEHALF OF:

CONSOLIDATED METAL PRODUCTS, Additional Defendant.

COUNSEL OF RECORD:

JUDITH A. MOSES, ESQUIRE
Pa. ID# 49656

CIPRIANI & WERNER, P.C.
1100 Two Chatham Center
112 Washington Place
Pittsburgh, PA 15219
(412) 281-2500

FILED

MAR 03 2005

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

MOTION TO COMPEL RUST REMOVAL FROM U-BOLT TO DETERMINE IDENTIFICATION CODE

AND NOW comes the Additional Defendant, Consolidated Metal Products ("Consolidated"), by and through its undersigned counsel and files the following Motion To Compel Rust Removal From U-Bolt To Determine Identification Code, and in support thereof avers as follows:

1. The Plaintiff-Estate brought a wrongful death and survival action against Barry Kyler, t/d/b/a Northeast Spring & Equipment Co.; Northeast Spring & Equipment Co.; Mack Trucks, Inc.; and Triangle Auto Spring Company ("Triangle") in strict liability negligence and breach of warranty alleging that U-bolts were improperly designed, inspected, tested and sold with design and manufacturing defects which allegedly caused Plaintiff-Decedent's Mack truck to lose control after it sustained suspension-related failure allegedly caused by broken U-bolts.

The Decedent-driver collided with a guard railing causing his truck to travel down a steep embankment coming to rest on Log Cabin Road on August 30, 2001. The Plaintiff-Decedent died in this vehicle crash.

2. Triangle subsequently joined Consolidated, alleging that it supplied the subject U-bolt.

3. The undersigned counsel entered her appearance on this case on or around November 15, 2004, having inherited this case from another law firm. Apparently on August 20, 2004, Plaintiff's counsel allowed for visual inspection and photographing of the subject U-bolt. On that date, Consolidated designees were not available for inspection and in fact were in China. Notwithstanding, Consolidated has reviewed photographs of the U-bolt which depict a gross formation of rust and therefore precludes an inspection of the identification stamp to determine if it sold or fabricated the U-bolt.

4. Therefore, on or around December 15, 2004, Consolidated requested that the identification stamp be removed by a rust removal process which was outlined to Plaintiff's counsel in a letter dated January 4, 2005, which is attached and marked as Exhibit "A."

5. All counsel with the exception of Plaintiff's counsel consent to the rust removal process. This process must take place in a lab and all counsel with the exception of Plaintiff's counsel agree that it may proceed at Pittsburgh Testing Laboratory.

6. On or around February 14, 2005, the undersigned received a response from Plaintiff's counsel indicating that Plaintiffs will agree to a visual inspection only at their offices on March 24, 2005. In his letter, Plaintiff's counsel directed questions about the rust removal process (see Exhibit "B").

7. Consolidated's consultant expert responded to these questions (see Exhibit "C") and affirmed that the ruse removal process will not damage the steel substrate. The rust removal process is attached and marked as Exhibit "D." A photo depicting the location of the identification stamp is marked as Exhibit "E."

8. The issue at hand is whether the rust removal process in any way can damage the steel substrate and the answer is resoundingly, no.

9. The issue of identification of supplier cannot be answered without proceeding with this process.

WHEREFORE, Additional Defendant, Consolidated Metal Products, respectfully requests that the rust removal process take place at the Pittsburgh Testing Laboratory on March 24, 2005, which date is a pre-approved date and convenient for all parties, or on another convenient date.

CIPRIANI & WERNER, P.C.

BY: _____

JUDITH A. MOSES, ESQUIRE
Attorney for the Additional Defendant
Consolidated Metal Products

CIPRIANI & WERNER

A PROFESSIONAL CORPORATION

Gerard J. Cipriani
Walter E. Werner, III
Chester A. Dudzinski
Michael W. Smith
Timothy G. Sullivan
Judith A. Moses *
Carl E. Harvison
Francis A. Veltri
Jeffrey M. Olszewski
Marty Brown Howarth *
Jamie L. Lenzi
Jacob S. Polochak
Mark J. Pecarchik
Heather C. Troxel ~

Hal A. Kestler
Of Counsel

* Also admitted in WV
~ Also admitted in Illinois

ATTORNEYS AT LAW

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Pittsburgh, Pennsylvania 15219-3437

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Suite 111
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Blue Bell, PA 19422-2352
Telephone (610) 567-0700

Scranton Office:
Suite 210
Oppenheim Building
409 Lackawanna Avenue
Scranton, PA 18503-2059
Telephone (570) 347-0600

Writer's E-mail: jmoses@c-wlaw.com

January 4, 2005

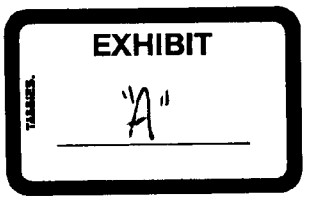
VIA FAX NO. (412) 765-0440
AND REGULAR MAIL
Jerome W. Kiger, Esquire
Suite 1404, Grant Building
Pittsburgh, PA 15219

RE: Brenda Orsich, et al. v. Barry Kyler, et al.
Our File No.: 1038-14373

Dear Mr. Kiger:

I've received information from my client regarding the process for rust removal to reveal the identification code on the subject U-bolt. I've been advised that two products can remove rust from fasteners without damaging the steel substrate. These are either MICRO-90 or Citranox. These products need to be diluted with water to a 2% solution. The solution can be heated up to 150° F to speed the action and ultrasonics can hasten the process. After cleaning, a thorough water rinsing should follow and then the product should be dried by dabbing with a cloth or paper towel and then finish drying with a hair dryer. Also light oil can be applied to the metal after observations. The process typically takes one hour and needs to be done in a laboratory.

Will all counsel agree to this removal process? This process seems easy enough to undertake at Pittsburgh Testing Laboratory or in the alternative I welcome other suggestions.



Finally, please provide dates in January so that my client with a consulting expert can examine and photograph the U-bolt in the next several weeks. Thank you.

Very truly yours,

Judith A. Moses

JAM/ram

cc: Gerald M. Barr, Esquire
Joseph Green, Esquire
Bradley D. Remick, Esquire

JEROME W. KIGER

ATTORNEYS AT LAW
1404 GRANT BUILDING
PITTSBURGH, PENNSYLVANIA 15219-2301

(412) 765-1811 FAX (412) 765-0440

JEROME W. KIGER
AMY B. KUBISIAK

February 14, 2005

VIA FAX ONLY
(412) 563-2080

Judith A. Moses, Esquire
Cipriani & Werner
650 Washington Road
Pittsburgh, PA 15228

RE: Our Client: Estate of David Weaver, deceased
Date of Accident: 8/30/01
Our File No.: 82178

Dear Ms. Moses:

On August 20, 2004, we provided a full opportunity for visual inspection and photographing to all the Defendants and additional Defendants. Only Triangle brought in house and consulting experts.

Because CMP did not send expert(s) to the August 20, 2004 inspection CMP has requested a separate opportunity to conduct a visual inspection and photographing of the subject parts.

We will agree to a visual inspection only, at our offices, by CMP on March 24, 2005.

As for the request to conduct destructive testing by removing the rust from the parts as outlined in your letter dated January 4, 2005, we will not consider such activity until CMP has determined that a visual inspection or a less destructive means of viewing identifying marks cannot be used.

With respect to the rust removal process described in CMP's protocol we have the following questions and concerns.

1. Cleaning will forever remove evidence on the U-bolt pieces and plate. Please explain the compelling reasons for cleaning and why it is not appropriate to attempt to locate the markings using visual examination of the dirty objects prior to considering cleaning.

2. Since there are two U-bolts, is the intent to clean both or just one? Please clarify intent.

EXHIBIT
B1

3. There are seven pieces, comprising two U-bolts, and one plate in custody from the subject event. Four pieces are marked Al, A2, A3, A4 from one U-bolt and three are marked B1, B2, and B3 from the other U-bolt. Please clarify which specific pieces (by above designations) you want to be cleaned, and which portion of each.

4. There appears to be no need to clean the plate, as its markings are legible in the as-is dirty condition. Please clarify intent and reasons for the need to clean the plate.

5. Is the intent to clean U-bolt fracture surfaces for future fractography? If so, it is not stated. Please clarify.

6. Please advise, in advance, where the "identification code" is expected to be located on each U-bolt in writing and on a diagram.

7. Please advise, in advance, how the code is printed on the U-bolt, for example ---stamped, embossed, raised lettering, etc.

8. Please advise, in advance, the number of characters or digits expected to be found in the identification code, the size of each digit or character, and the size of the entire identification code in inches.

9. Please advise whether CMP will agree to provide the translation, source, and meaning of each code marking so the code can be understood by all interested parties.

10. Is the "identification code" placed in the same vicinity and orientation, or does the entire non-threaded portion have to be cleaned to find it? What is the exact placement of the code.

11. If the code location is known prior to cleaning, is it possible to clean only that area from each U-bolt to minimize the destruction.

12. Is the code found on the very end of the threaded portion or on some part of the smooth shank?

13. What is the bath size of the ultrasonic cleaner proposed, and state whether each piece proposed for cleaning will be fully immersed.

***

We will respond to the proposed use of MICRO-90 or Citranox after the above issues are addressed and after consultation with our experts.

Please advise on these matters.

Very truly yours,

JEROME W. KIGER
JWK/dmf

c: Gerald M. Barr, Esquire
Joseph Green, Esquire
Bradley D. Remick, Esquire
(via fax only)

M:\KIGER2\Weaver\JM-01.LTR.doc

Judy Moses

From: Johngreyemail@aol.com

Sent: Wednesday, February 23, 2005 11:08 AM

To: Judy Moses

Subject: CMP Case - Cleaning Issues

Judy,

After reviewing the photos, Mr. Kiger's letter, and talking with Bob Wheeler, I've modified the cleaning protocol. Please see the attached document.

Here are answers to Mr. Kiger's questions:

1. The sole purpose of the cleaning is that the specimens are too rusty to make a positive identification that CMP actually made the bolts.

2. It is necessary to clean both bolts because the two products could have been made by two different companies.

3. We would propose cleaning only the sections marked A1 and B1.

4. We have no intention to clean the plate at this time because it is not a product made by CMP, but we reserve the right to clean it at some point in the future if we believe that the plate may have played a role in the failure.

5. We do not want to clean any fracture surfaces at this time, but if the products were found to be made by CMP we will need to clean those portions in the future.

6. The marks should be located approximately 1/2" to 1" above the ending of the thread.

7. The CMP markings are depressed into the steel.

8. The markings, if of CMP manufacture, would be five characters approximately 1/4" high.

9. The CMP code would be first the letter P and then two numbers indicating the month manufactured, and then followed by two numbers indicting the year they were made.

10. The CMP code is always in the same approximate location on each bolt. The only portion of the non-threaded portion that will be cleaned is that which would be within the cleaning solution as the specimen is tilted at an angle with the fracture surface raised out of the solution.

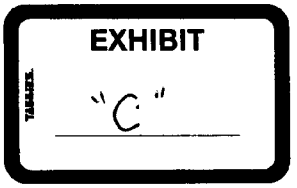
11. It is not possible to clean just that area in which the code is marked without sectioning the bolt into pieces by abrasive cutoff, or by protecting the areas not to be cleaned by immersion in liquid rubber as a shield, which has the potential to be difficult to remove and may damage the surface.

12. The CMP codes are not on the end of the bolts. They are located as previously stated in response to question number six.

13. The bath size will be approximately a one quart or larger Pyrex rectangular container, similar to sizes used to make a meatloaf. The product portions to be cleaned will not be fully immersed, but placed in the solution at an angle with the fracture surface out of the solution.

If there are any questions, please let me know.

John J. Grey
Fastener Consulting Services, Inc.
291 Butternut Lane



FASTENER CONSULTING SERVICES, INC.

291 BUTTERNUT LANE • BEREA, OH 44017
TEL: 440.243.8549 • FAX: 440.243.4984
E-MAIL: JOHNGREYEMAIL@AOL.COM

February 23, 2005

To: WHOM IT MAY CONCERN

Subject: **U-Bolt Fastener Failure**
Initial Rust Removal Protocol

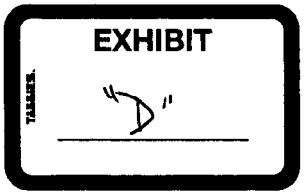
The products to be cleaned are failed portions of U-Bolts that are used to connect the axles with the leaf springs on large trucks. At this time, the only rust required to be removed is where the manufacturer's identification markings are located. These markings are located approximately ½" to 1" above the last thread. Only one leg from each U-Bolt will need cleaning to clearly identify the marks.

Two cleaning products have been shown to produce good results in removing rust from fasteners without damage to the steel substrate. We recommend either MICRO-9O or a product called Citranox. These products come in containers at full strength and need to be diluted with water to a 2% solution. This solution can be heated up to 150 F (66 C) to speed the action, and ultrasonics can also hasten the cleaning process.

We envision cleaning only the legs marked A1 and B1. They would be placed in the container of cleaning solution at an angle of approximately twenty-five degrees with the fracture surfaces remaining out of the solution. The hex nuts and flat washers on those specific legs will be submerged in the cleaning solution and by necessity will also be cleaned, as will the threads on each of these legs.

We view this metal cleaning task as an empirically developed procedure. That is, in a laboratory environment the product(s) to be cleaned have to be inspected periodically to assess the progress. Witnesses to the cleaning procedure will determine when enough rust has been removed to clearly identify the markings.

After the desired amount of cleaning is completed, a thorough water rinsing not touching the fracture surfaces should follow and then the specimen should be dried by first dabbing with a cloth or paper towel, and then finish the drying with a hair dryer. If the cleaned surface is at risk of further corrosion after cleaning, light oil can be applied to the metal after observations and/or photos. This entire process should take one to two hours or less.



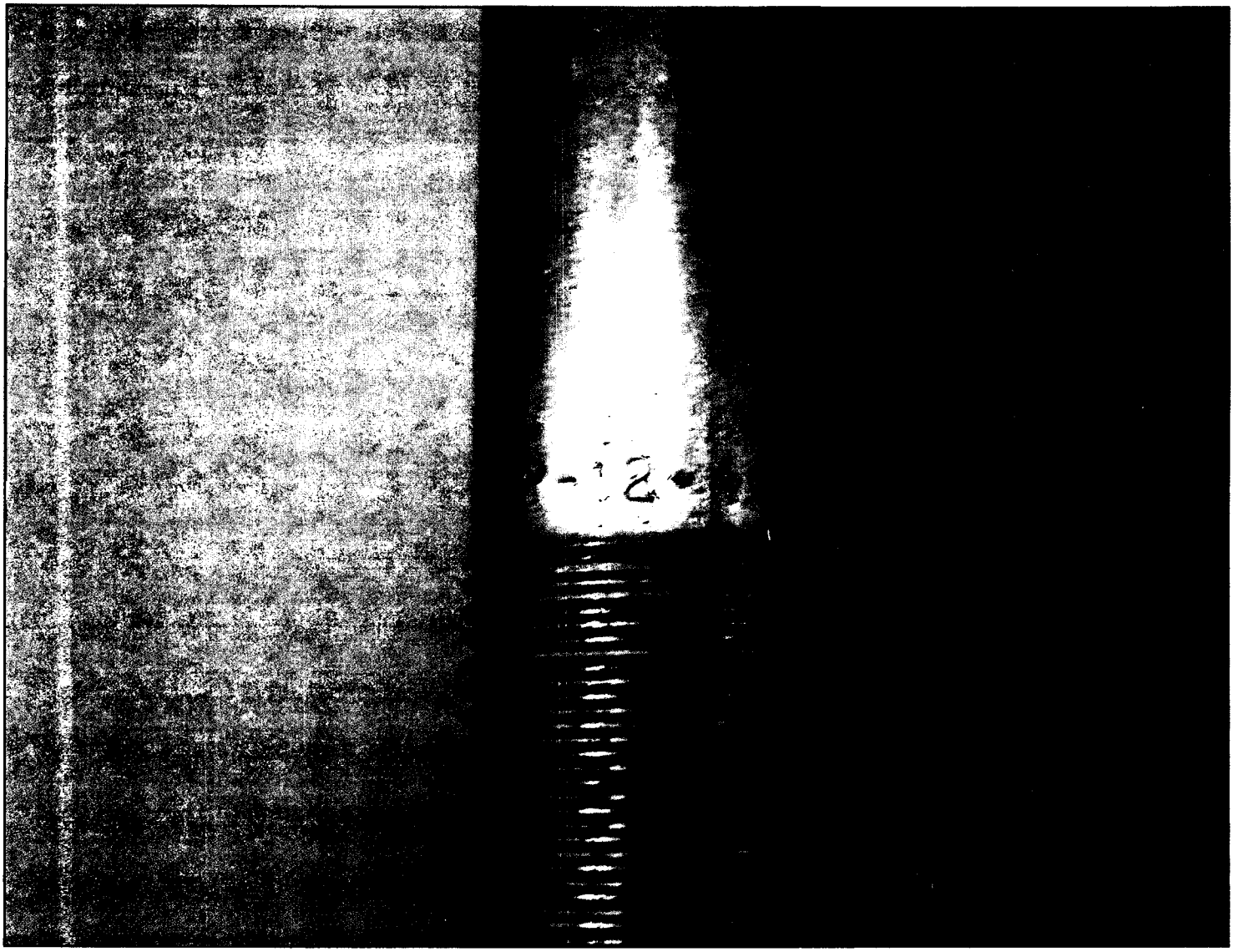
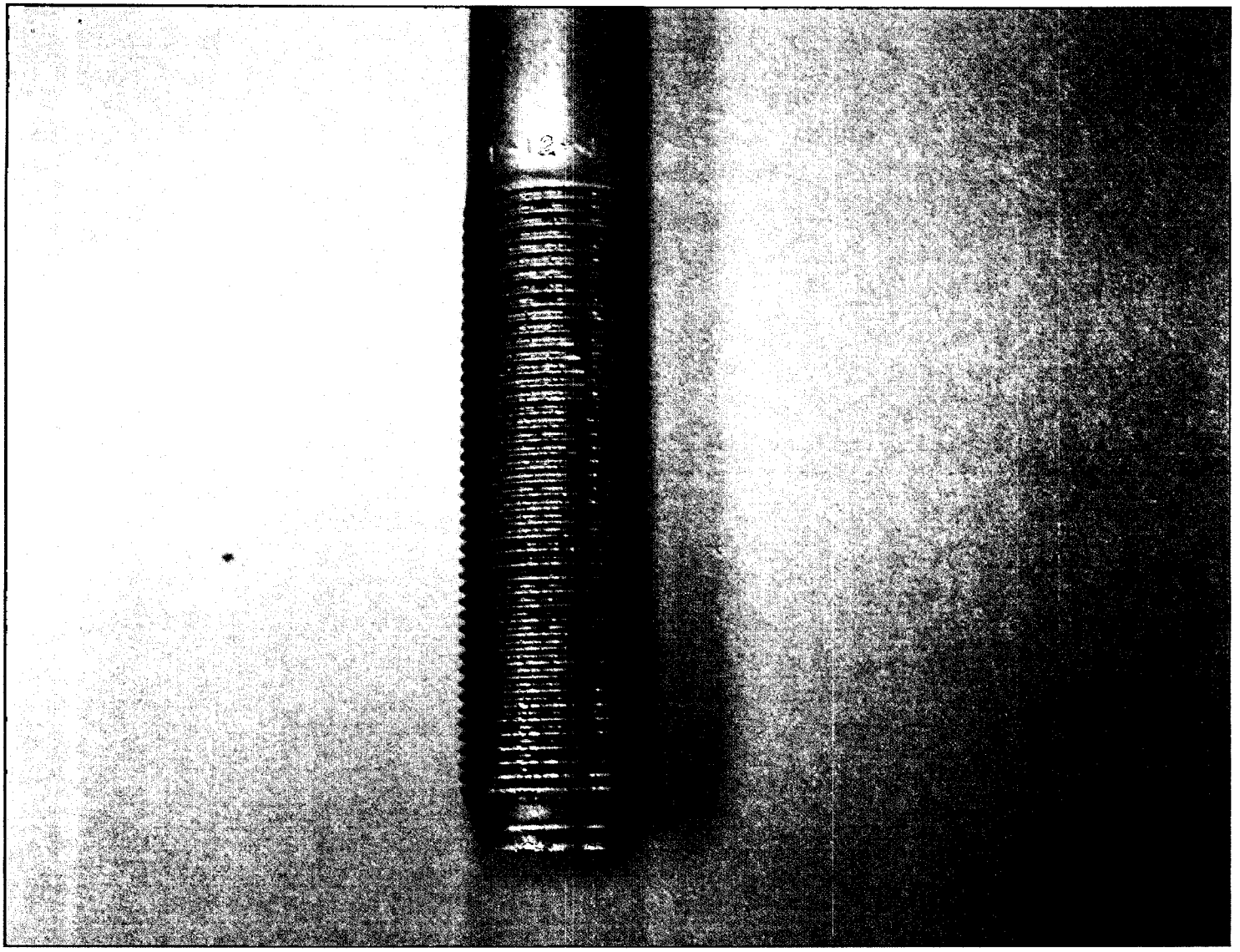


EXHIBIT
"E"



CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing MOTION TO COMPEL RUST REMOVAL FROM U-BOLT TO DETERMINE IDENTIFICATION CODE has been served on all counsel of record, by first class mail, postage pre-paid, according to the Pennsylvania Rules of Civil Procedure, on the 1st day of March, 2005.

Jerome W. Kiger, Esquire
1404 Grant Building
Pittsburgh, PA 15219
Counsel for Plaintiffs

Joseph Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823
Counsel for Barry Kyler, t/d/b/a Northeast Springs & Equipment Co. and Northeast Spring & Equipment Co.

Gerald Barr, Esquire
Barr & McGogney
4905 Tilghman Street, Suite 250
Allentown, PA 18104
Counsel for Mack Trucks, Inc.

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103
Counsel for Triangle Auto Spring Co.

CIPRIANI & WERNER, P.C.

BY: _____
JUDITH A. MOSES, ESQUIRE
Attorney for the Additional Defendant
Consolidated Metal Products

FILED

MAR 03 2005

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2005, upon consideration of the foregoing Motion To Compel Rust Removal From U-Bolt To Determine Identification Code, it is hereby ORDERED that that the rust removal process is to take place at Pittsburgh Testing Laboratory on March 24, 2005, which date is a pre-approved date and convenient for all parties, or on another convenient date for all parties.

BY THE COURT:

_____
J.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	:	NO. 03-1251-CD
V.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	:	

RULE RETURNABLE

AND NOW, this 4th day of March, 2005, upon consideration of the foregoing Motion to Compel Rust Removal From U-Bolt to Determine Identification Code, it is the ORDER of this Court that Rule is issued upon the Parties to appear and show cause why the relief requested therein should not be granted.

Rule made returnable for Hearing the 18 day of March, 2005, at 2:00 o'clock P. M., Clearfield County Courthouse, Courtroom No. 2.

BY THE COURT,

Paul E. Cherry

PAUL E. CHERRY,
JUDGE

FILED 1cc Attys:
9/4:00BM
MAR 04 2005
William A. Shaw
Prothonotary/Clerk of Courts

J. Kiger
J. Green
G. Barr
B. Remick
J. Moses

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, al	:	NO. 03-1251-CD
V.	:	
BARRY KYLER, al	:	

ORDER

NOW, this 17th day of March, 2005, the Court having received notice from Judith A. Moses, Esquire, that issues raised within Attorney Moses' Motion to Compel Rust Removal from U-Bolt to Determine Identification Code have been settled, it is the ORDER of this Court that hearing with regard to said motion scheduled for Friday, March 18, 2005, be and is hereby cancelled.

BY THE COURT,

PAUL E. CHERRY,
JUDGE

FILED
MAR 18 2005
William A. Shaw
Prothonotary/Clerk of Courts

1 cc Attys Kiger, Green, Barr, Reniek, Moses

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH

v.

BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.

v.

TRIANGLE AUTO SPRING COMPANY

v.

CONSOLIDATED METAL PRODUCTS

CASE NUMBER: 03-1251 CD

ISSUE NUMBER:

PLEADING:
PRAECIPE FOR ARGUMENT DATE

CODE AND CLASSIFICATION:

FILED ON BEHALF OF:

CONSOLIDATED METAL PRODUCTS,
Additional Defendant.

COUNSEL OF RECORD:

JUDITH A. MOSES, ESQUIRE
Pa. ID# 49656

CIPRIANI & WERNER, P.C.
1100 Two Chatham Center
112 Washington Place
Pittsburgh, PA 15219
(412) 281-2500

FILED NO CC
m/1:34BN
OCT 03 2005 (GK)
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

PRAECIPE FOR ARGUMENT DATE

TO THE PROTHONOTARY:

Kindly schedule an argument date on Additional Defendant, Consolidated Metal Products' Motion To Compel Production Of U-Bolts in the above-captioned matter.

CIPRIANI & WERNER, P.C.

BY: _____

JUDITH A. MOSES, ESQUIRE
Attorney for the Additional Defendant
Consolidated Metal Products

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing PRAECIPE FOR ARGUMENT DATE has been served on all counsel of record, by first class mail, postage pre-paid, according to the Pennsylvania Rules of Civil Procedure, on the 29th day of September, 2005.

Jerome W. Kiger, Esquire
1404 Grant Building
Pittsburgh, PA 15219
Counsel for Plaintiffs

Joseph Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823
Counsel for Barry Kyler, t/d/b/a Northeast Springs & Equipment Co. and Northeast Spring & Equipment Co.

Gerald Barr, Esquire
Barr & McGogney
4905 Tilghman Street, Suite 250
Allentown, PA 18104
Counsel for Mack Trucks, Inc.

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103
Counsel for Triangle Auto Spring Co.

CIPRIANI & WERNER, P.C.

BY: _____
JUDITH A. MOSES, ESQUIRE
Attorney for the Additional Defendant
Consolidated Metal Products

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

RULE RETURNABLE

AND NOW, this 4th day of October, 2005, upon consideration of the foregoing Motion, it is hereby ORDERED that:

(1) A rule is issued upon the Plaintiff to show cause why Additional Defendant Consolidated Metal Products is not entitled to the relief requested in its Motion to Compel;

(2) Rule returnable the 1st day of November, 2005 at 9:30 (a.m.)/p.m. in the Clearfield County Courthouse, Clearfield, Pennsylvania, in Courtroom No. 2 for argument or hearing thereon.

BY THE COURT:

FILED 1cc
01:28 Atty Moses
OCT 05 2005 GK
William A. Shaw
Prothonotary/Clerk of Courts

Paul E. Cherry, J.

FILED

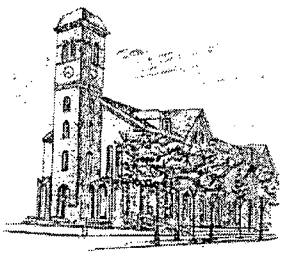
OCT 0 5 2005

William A. Shaw
Prothonotary/Clerk of Courts

FILED

OCT 0 3 2005

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

__X__ You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2005, upon consideration of the foregoing Motion To Compel, it is hereby ORDERED that the subject U-bolt pieces are to be released to Additional Defendant's counsel within ten (10) days of the date of this Order.

BY THE COURT:

_____

J.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH

v.

BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.

v.

TRIANGLE AUTO SPRING COMPANY

v.

CONSOLIDATED METAL PRODUCTS

CASE NUMBER: 03-1251 CD

ISSUE NUMBER:

PLEADING:
MOTION TO COMPEL PRODUCTION OF U-BOLTS

CODE AND CLASSIFICATION:

FILED ON BEHALF OF:

CONSOLIDATED METAL PRODUCTS,
Additional Defendant.

COUNSEL OF RECORD:

JUDITH A. MOSES, ESQUIRE
Pa. ID# 49656

CIPRIANI & WERNER, P.C.
1100 Two Chatham Center
112 Washington Place
Pittsburgh, PA 15219
(412) 281-2500

FILED no cc
m/1:34/BA
OCT 03 2005 @
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

MOTION TO COMPEL PRODUCTION OF U-BOLTS

AND NOW comes the Additional Defendant, Consolidated Metal Products ("Consolidated"), by and through its undersigned counsel and files the following Motion To Compel and in support thereof avers as follows:

1. The Plaintiff-Estate brought a wrongful death and survival action against Barry Kyler, t/d/b/a Northeast Spring & Equipment Co.; Northeast Spring & Equipment Co.; Mack Trucks, Inc.; and Triangle Auto Spring Company ("Triangle") in strict liability negligence and breach of warranty alleging that U-bolts were improperly designed, inspected, tested and sold with design and manufacturing defects which allegedly caused Plaintiff-Decedent's Mack truck to lose control after it sustained suspension-related failure allegedly caused by broken U-bolts. The Decedent-driver collided with a guard railing causing his truck to travel down a steep

embankment coming to rest on Log Cabin Road on August 30, 2001. The Plaintiff-Decedent died in this vehicle crash.

2. Triangle subsequently joined Consolidated, alleging that it supplied the subject U-bolt.

3. The undersigned counsel entered her appearance on this case on or around November 15, 2004, having inherited this case from another law firm. This Additional Defendant now wants to proceed with metallurgical testing of the U-bolts and parts in Plaintiff's possession and control.

4. On or around August 4, 2005, a Failure Analysis Protocol was forwarded to Plaintiff's counsel, at which time a request for release of the aforementioned pieces was made. A copy of the Failure Analysis Protocol is attached hereto and marked as Exhibit "A."

5. To date, Plaintiff's counsel has not agreed to release the remaining U-bolt pieces, although several telephone requests have been made by counsel.

6. The subject accident occurred four (4) years ago and this Additional Defendant is prejudiced by this stalemate, since it is entitled to an expedient resolution to prove that the U-bolt was safe for its intended use.

7. No other party objects to the release of the parts for testing.

WHEREFORE, Additional Defendant, Consolidated Metal Products, respectfully requests that the subject pieces be released to Additional Defendant's counsel within ten (10) days of the date of this Order.

CIPRIANI & WERNER, P.C.

BY: _____

JUDITH A. MOSES, ESQUIRE
Attorney for the Additional Defendant
Consolidated Metal Products

CIPRIANI & WERNER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

Suite 700
650 Washington Road
Pittsburgh, Pennsylvania 15228

Telephone (412) 563-2500
Fax: (412) 563-2080

www.C-WLAW.com

Gerard J. Cipriani
Walter E. Werner, III
Chester A. Dudzinski
Michael W. Smith
Timothy G. Sullivan
Judith A. Moses *
Carl E. Harvison
Jeffrey M. Olszewski
Jamie L. Lenzi
Jacob S. Polochak
Mark J. Pecarchik
Heather C. Feinstein ~
Nathan D. Hughes
Les A. Goldstrom, Jr.

Hal A. Kestler
Of Counsel

* Also admitted in WV
~ Also admitted in Illinois

Harrisburg Office:
Suite 201
1011 Mumma Road
Lemoyne, PA 17043-1145
Telephone (717) 975-9600

Philadelphia Office:
Suite 111
482 Norristown Road
Blue Bell, PA 19422-2352
Telephone (610) 567-0700

Scranton Office:
Suite 210
Oppenheim Building
409 Lackawanna Avenue
Scranton, PA 18503-2059
Telephone (570) 347-0600

Writer's E-mail: jmoses@c-wlaw.com

August 4, 2005

VIA FAX NO. (412) 765-0440
AND REGULAR MAIL
Jerome W. Kiger, Esquire
Suite 1404, Grant Building
Pittsburgh, PA 15219

RE: Brenda Orsich v. Consolidated Metal Products
Our File No.: 1038-14373

Dear Jerry:

Enclosed is the Failure Analysis Protocol and information about the subject laboratory. Please confirm at your earliest convenience when you will be releasing the parts so that we can proceed with testing.

Very truly yours,

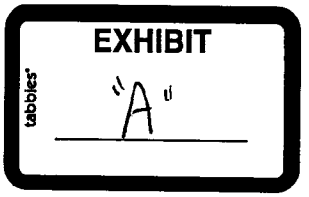
Judith A. Moses

Judith A. Moses

JAM/ram

Enclosure

cc: Gerald M. Barr, Esquire
Joseph Green, Esquire
Bradley D. Remick, Esquire



FASTENER CONSULTING SERVICES, INC.

291 BUTTERNUT LANE • BEREA, OH 44017
TEL: 440.243.8549 • FAX: 440.243.4984
E-MAIL: JOHNGREYEMAIL@AOL.COM

April 22, 2005

Ms. Judith A. Moses, Esquire
Cipriani & Werner
Attorneys at Law
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Subject: **Failure Analysis Protocol**
Re: **Brenda Orsich v. Consolidated Metal Products**
Claim No.: **15905208**
Your file No.: **1038-14373**

Per your request, the following outlines the various tests proposed to be conducted on the failed specimens. Prior to any testing, the specimens will be fully photographed in color from various angles to preserve the original appearance. Once that is completed, the sequence will begin with nondestructive evaluations, and then continue on with destructive tests that will determine the strength and metallurgical structure of the fasteners.

High-quality photos will be taken to capture each step in the evaluation.

1. Stereoscopic examination of the fracture surfaces in an "As Received" condition.

2. Scanning Electron Microscopy (SEM) of the fracture surfaces in an "As Received" condition, and also using Energy Dispersive X-Ray Spectroscopy (EDAX) to evaluate for corrosion products.

3. Scanning Electron Microscopy (SEM) of the Fracture Surfaces in a Cleaned condition
A cleaning of each of the fracture surfaces with either Micro-90 or Citranox will remove any corrosion products without altering the integrity of the surfaces. These products come at full strength and will need to be diluted with water to a 2% solution. This solution can then be heated up to 150 F (66 C) to speed the action, and ultrasonics can also hasten the cleaning process.

4. Hardness Testing
A transverse section taken from the full diameter area of one of each of the legs will be ground and polished flat. Then hardness tests shall be performed according to SAE J429, Section 6.1, and agreeing with ASTM F606, Section 3.1.3 Arbitration Test Location. As this test requires that the hardness be taken at a distance one diameter from the end of the product, an abrasive cut must be made through the nut at that location.

5. Chemical Analysis
A transverse section can be taken from the full diameter body or the threaded portion for this test from each bolt.

6. Microstructure Analysis
A transverse section can be taken from the full diameter body for this test from each bolt.

8. Tensile Strength
Machined test specimens shall be taken from each of the bolts for the purpose of determining the breaking or tensile strength of the product's material. As prescribed by SAE J429, Section 6.7, and agreed by ASTM F606, Section 3.6.1.2, a machined test specimen shall be made, one from each of the bolts, taken from the mid-radius of the full body diameter and machined with a reduced diameter section agreeing with SAE J429, Section 6.7, Table 8, having a Diameter Parallel Section of 0.350 ± 0.007". This method is further supported by ASTM E8, Figure 7, and Small-Size Specimens Proportional to Standard.

Sincerely,

John J. Grey

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing MOTION TO COMPEL has been served on all counsel of record, by first class mail, postage pre-paid, according to the Pennsylvania Rules of Civil Procedure, on the 29th day of September, 2005.

Jerome W. Kiger, Esquire
1404 Grant Building
Pittsburgh, PA 15219
Counsel for Plaintiffs

Joseph Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823
Counsel for Barry Kyler, t/d/b/a Northeast Springs & Equipment Co. and Northeast Spring & Equipment Co.

Gerald Barr, Esquire
Barr & McGogney
4905 Tilghman Street, Suite 250
Allentown, PA 18104
Counsel for Mack Trucks, Inc.

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103
Counsel for Triangle Auto Spring Co.

CIPRIANI & WERNER, P.C.

BY: _____
JUDITH A. MOSES, ESQUIRE
Attorney for the Additional Defendant
Consolidated Metal Products

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

No. 03-1251 CD

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

FILED 4cc Atty Kiger
01:37cm
OCT 31 2005
William A. Shaw
Prothonotary

ORDER OF COURT

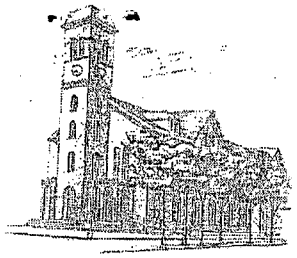
This 28th day of October, 2005, it is ORDERED that the Argument on Additional Defendant Consolidated Metal Product's Motion to Compel Production of U-Bolts is continued from November 1, 2005 at 9:30 a.m. to December 21, 2005, at 3:00 p.m. before the Honorable Judge Cherry.

Paul E Cherry

FILED

OCT 3 1 2005

William A. Shaw
Prothonotary



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

__X__ You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

MOTION TO CONTINUE ARGUMENT ON ADDITONAL DEFENDANT CONSOLIDATED METAL PRODUCT'S MOTION TO COMPEL PRODUCTION OF U-BOLTSN

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

FILED NO CC
m/11:24/64
OCT 28 2005
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Amy B. Kubisiak, Esquire, do hereby certify that a true and correct copy of the within Plaintiffs' Motion to Continue Argument was served to the following via U.S. Class, postage prepaid on October 26, 2005:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Judith A. Moses, Esquire
Cipriani & Werner
Suite 700
650 Washington Road
Pittsburgh, PA 15228

AMY B. KUBISIAK, ESQUIRE
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

No. 03-1251 CD

MOTION TO CONTINUE ARGUMENT ON ADDITIONAL DEFENDANT CONSOLIDATED METAL PRODUCT'S MOTION TO COMPEL PRODUCTION OF U-BOLTS

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire and Amy B. Kubisiak, Esquire, file the following Motion to Continue Argument:

1. Additional Defendant Consolidated Metal Products has filed a Motion to Compel Production of the U-Bolts for inspection by an expert located in the State of California.

2. The argument on this Motion has been scheduled before the Honorable

Judge Cherry on Tuesday, November 1, 2005 at 9:30 a.m.

3. Plaintiffs' counsel both have other case commitments on this date and time.

4. Counsel for Additional Defendant Consolidated Metal Products consents to this Motion.

5. The parties are both available for argument on November 9, 2005 at 1:30 p.m.

WHEREFORE, in consideration of the foregoing, Plaintiffs request that the Court grant their Motion to Continue Argument.

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
1404 Grant Building
Pittsburgh, PA 15219
Attorneys for Plaintiffs

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH

v.

BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.

v.

TRIANGLE AUTO SPRING COMPANY

v.

CONSOLIDATED METAL PRODUCTS

CASE NUMBER: 03-1251 CD

ISSUE NUMBER:

PLEADING:
RULE RETURNABLE

CODE AND CLASSIFICATION:

FILED ON BEHALF OF:

CONSOLIDATED METAL PRODUCTS,
Additional Defendant.

COUNSEL OF RECORD:

JUDITH A. MOSES, ESQUIRE
Pa. ID# 49656

CIPRIANI & WERNER, P.C.
1100 Two Chatham Center
112 Washington Place
Pittsburgh, PA 15219
(412) 281-2500

FILED 1cc
01 10:55 BY Atty Moses
NOV 08 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

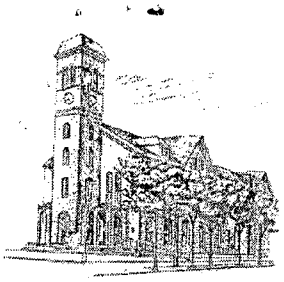
BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

RULE RETURNABLE

AND NOW, this 7th day of November 2005, upon consideration of the Defendant Consolidated Metal Products' Motion To Compel Production Of U-Bolts, a Rule is hereby issued upon Plaintiff to Show Cause why the Motion should not be granted. Rule Returnable the 30th day of November, 2005, for filing written response.

BY THE COURT:

Paul E. Cherry
J.



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

__X__ You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH

v.

BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.

v.

TRIANGLE AUTO SPRING COMPANY

v.

CONSOLIDATED METAL PRODUCTS

CASE NUMBER: 03-1251 CD

ISSUE NUMBER:

PLEADING:
AFFIDAVIT OF SERVICE OF RULE RETURNABLE

CODE AND CLASSIFICATION:

FILED ON BEHALF OF:

CONSOLIDATED METAL PRODUCTS, Additional Defendant.

COUNSEL OF RECORD:

JUDITH A. MOSES, ESQUIRE
Pa. ID# 49656

CIPRIANI & WERNER, P.C.
1100 Two Chatham Center
112 Washington Place
Pittsburgh, PA 15219
(412) 281-2500

FILED
NOV 15 2005
m/1:20
William A. Shaw
Prothonotary/Clerk of Courts
No CERT
COPIES

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

AFFIDAVIT OF SERVICE OF RULE RETURNABLE

COMMONWEALTH OF PENNSYLVANIA	)	
	)	SS:
COUNTY OF ALLEGHENY	)	

BEFORE ME, the undersigned authority, a notary public, in and for the Commonwealth of Pennsylvania and County of Allegheny personally appeared JUDITH A. MOSES, who first being duly sworn according to law deposes and says that she did serve the Rule Returnable, a copy of which is attached hereto as Exhibit "A," upon Jerome W. Kiger, Esquire at 1404 Grant Building, Pittsburgh, PA 15219 (counsel for Plaintiff); Joseph Green, Esquire at Lee, Martin, Green & Reiter, Inc., 115 East High Street, P.O. Box 179, Bellefonte, PA 16823 (counsel for Barry Kyler, t/d/b/a Northeast Springs & Equipment Co. and Northeast Spring & Equipment Co.; Gerald Barr, Esquire at Barr & McGogney, 4905 Tilghman Street, Suite 250, Allentown, PA

18104 (counsel for Mack Trucks, Inc.); and Bradley D. Remick, Esquire at Marshall, Dennehey, Warner, Coleman & Goggin, 1845 Walnut Street, Philadelphia, PA 19103, by first class mail, postage pre-paid, on or about the 9th day of November, 2005.

Judith A. Moses

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 9th DAY OF
November, 2005.

Patricia Makepeace
Notary Public

NOTARIAL SEAL
PATRICIA MAKEPEACE, NOTARY PUBLIC
JEFFERSON HILLS BOROUGH, COUNTY OF ALLEGHENY
MY COMMISSION EXPIRES OCTOBER 30, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH

v.

BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.

v.

TRIANGLE AUTO SPRING COMPANY

v.

CONSOLIDATED METAL PRODUCTS

CASE NUMBER: 03-1251 CD

ISSUE NUMBER:

PLEADING:
RULE RETURNABLE

CODE AND CLASSIFICATION:

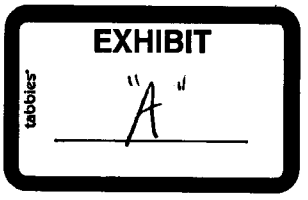
FILED ON BEHALF OF:

CONSOLIDATED METAL PRODUCTS,
Additional Defendant.

COUNSEL OF RECORD:

JUDITH A. MOSES, ESQUIRE
Pa. ID# 49656

CIPRIANI & WERNER, P.C.
1100 Two Chatham Center
112 Washington Place
Pittsburgh, PA 15219
(412) 281-2500



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

RULE RETURNABLE

AND NOW, this 7th day of November, 2005, upon consideration of the Defendant Consolidated Metal Products' Motion To Compel Production Of U-Bolts, a Rule is hereby issued upon Plaintiff to Show Cause why the Motion should not be granted. Rule Returnable the 30th day of November, 2005, for filing written response.

BY THE COURT:

/s/ Paul E. Cherry

I hereby certify this to be a true and attested copy of the original statement filed in this case

NOV 08 2005

Attest

Prothonotary/
Clerk of Courts

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing AFFIDVIT OF SERVICE OF RULE RETURNABLE has been served on all counsel of record, by first class mail, postage pre-paid, according to the Pennsylvania Rules of Civil Procedure, on the 9th day of November, 2005.

Jerome W. Kiger, Esquire
1404 Grant Building
Pittsburgh, PA 15219
Counsel for Plaintiffs

Joseph Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823
Counsel for Barry Kyler, t/d/b/a Northeast Springs & Equipment Co. and Northeast Spring & Equipment Co.

Gerald Barr, Esquire
Barr & McGogney
4905 Tilghman Street, Suite 250
Allentown, PA 18104
Counsel for Mack Trucks, Inc.

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103
Counsel for Triangle Auto Spring Co.

CIPRIANI & WERNER, P.C.

BY: _____
JUDITH A. MOSES, ESQUIRE
Attorney for the Additional Defendant
Consolidated Metal Products

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

PLAINTIFFS' RESPONSE TO MOTION TO COMPEL PRODUCTION OF U-BOLTS

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

KIGER & ALPERN
Firm #795
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

FILED NO CC
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NOV 30 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
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and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

No. 03-1251 CD

PLAINTIFFS' RESPONSE TO MOTION TO COMPEL PRODUCTION OF U-BOLTS

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire and Amy B. Kubisiak, Esquire, file the following Response to Motion to Compel Production of U-Bolts:

1-4. Admitted.

5-6. Denied as stated. Plaintiffs have not released the U-Bolts because counsel for Additional Defendant Consolidtated Metal Products (CMP) has advised that the testing will be destructive and will occur in California. Plaintiffs object to destructive testing and

objects to sending the evidence to California for the following reasons:

a. The testing will destroy distinctive markings on the U-Bolts resulting from the accident;

b. The testing will otherwise destroy the subject U-Bolts;

c. The proposed testing site is in California making it cost prohibitive for Plaintiffs' counsel and expert(s) to observe the testing;

d. CMP has not made any showing that the destructive testing is necessary;

WHEREFORE, in consideration of the foregoing, Plaintiffs object to the destructive testing proposed by Consolidated Metal Products. In the alternative, if allowed, Plaintiffs request that the testing be performed at an appropriate facility in the Pittsburgh, PA area, that Plaintiffs' counsel and expert(s) be present at the testing and that the results, photographs and other information resulting from the testing be provided to Plaintiffs at the expense of Consolidated Metal Products.

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219
Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
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BRENDA ORSICH,

Plaintiffs,

vs.

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Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

No. 03-1251 CD

ORDER OF COURT

This _____ day of _____, 200___, it is ORDERED that the testing of the subject U-Bolts proposed by Additional Defendant Consolidated Products is hereby DENIED. In the alternative, if allowed, it is ORDERED that the testing be performed at an appropriate facility in the Pittsburgh, PA area, that Plaintiffs' counsel and expert(s) be present at the testing and that the results, photographs and other information resulting from the testing be provided to Plaintiffs at the expense of Additional Defendant Consolidated Metal Products.

_____

CERTIFICATE OF SERVICE

I, Amy B. Kubisiak, Esquire, do hereby certify that a true and correct copy of the within Plaintiffs' Response to Motion to Compel Production of U-Bolts was served to the following via U.S. First Class, postage prepaid on November 28, 2005:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Judith A. Moses, Esquire
Cipriani & Werner
Suite 700
650 Washington Road
Pittsburgh, PA 15228

AMY B. KUBISIAK, ESQUIRE
1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811
ATTORNEYS FOR PLAINTIFFS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH

v.

BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.

v.

TRIANGLE AUTO SPRING COMPANY

v.

CONSOLIDATED METAL PRODUCTS

CASE NUMBER: 03-1251 CD

ISSUE NUMBER:

PLEADING:
RESPONSE TO PLAINTIFF'S OPPOSITION TO MOTION TO COMPEL PRODUCTION OF U-BOLTS

CODE AND CLASSIFICATION:

FILED ON BEHALF OF:

CONSOLIDATED METAL PRODUCTS, Additional Defendant.

COUNSEL OF RECORD:

JUDITH A. MOSES, ESQUIRE
Pa. ID# 49656

CIPRIANI & WERNER, P.C.
1100 Two Chatham Center
112 Washington Place
Pittsburgh, PA 15219
(412) 281-2500

FILED NO CC
m12:00BH
DEC 08 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

ADDITIONAL DEFENDANT CONSOLIDATED METAL PRODUCTS' RESPONSE TO PLAINTIFF'S OPPOSITION TO MOTION TO COMPEL PRODUCTION OF U-BOLTS

AND NOW comes the Additional Defendant, Consolidated Metal Products ("Consolidated"), by and through its counsel, Cipriani & Werner, P.C. and Judith A. Moses, Esquire and files the following Response to Plaintiff's Opposition To Motion To Compel Production Of U-Bolts and in support thereof avers as follows:

1. The Plaintiff-decedent's accident occurred on August 30, 2001. A Writ of Summons was commenced on August 20, 2003, followed by a Complaint filed against Barry Kyler, t/d/b/a Northeast Spring & Equipment Co., Northeast Spring & Equipment Co., and Mack Trucks, Inc. on November 14, 2003.

2. The Plaintiffs have no direct cause of action against Additional Defendant Consolidated, and the Original Defendants and Additional Defendants do not object to the failure analysis protocol propounded by this Additional Defendant, nor do they claim prejudice because destructive testing is entailed.

3. The Plaintiffs in their response to Motion to Compel Production Of U-Bolts did not plead prejudice, and allege that Consolidated has not made any showing that destructive testing is necessary.

4. In this regard, Consolidated offers Response of its expert consultant, John Grey, which is attached hereto and marked as Exhibit "A."

5. Plaintiffs have not challenged the legitimacy or credibility of the protocol, and their stated objections have no merit. Pennsylvania law does not require that the plaintiff choose the venue for the defendant's testing.

6. Plaintiffs request that this Court dictate a local testing facility located in Pittsburgh, and this request is completely inappropriate. The Plaintiffs have not plead prejudice, there is clearly enough material for both the Plaintiffs and the Defendants to test in a lab of each party's choice and the choice of the appropriate laboratory is a key element in mounting an appropriate defense on behalf of Consolidated.

7. In this day and age, the cost to fly to Philadelphia or Cleveland is not significantly different, and may cost more than flying to California.

8. Furthermore, the Plaintiffs request not only that the Court choose a local facility or "an appropriate facility in Pittsburgh" for Consolidated's testing, but that the Court require Consolidated to provide photographs and other information resulting from the testing at the expense of Consolidated is without merit. Typically all parties bear the expense for such

requests, such as color copies, etc. This Additional Defendant does not understand Plaintiffs' request in this regard.

9. Accordingly, the Plaintiffs have not shown cause why Additional Defendant Consolidated Metal Products is not entitled to the relief requested in its Motion to Compel and the Additional Defendant requests that the Plaintiffs produce the U-bolt for testing within ten (10) days from the Court's Order.

WHEREFORE, Additional Defendant, Consolidated Metal Products, respectfully requests that the Court execute the attached Order.

CIPRIANI & WERNER, P.C.

BY: _____

JUDITH A. MOSES, ESQUIRE
Attorney for the Additional Defendant
Consolidated Metal Products

FASTENER CONSULTING SERVICES, INC.

291 BUTTERNUT LANE • BEREA, OH 44017
TEL: 440.243.8549 • FAX: 440.243.4984
E-MAIL: JOHNGREYEMAIL@AOL.COM

December 5, 2005

Ms. Judith A. Moses, Esquire
Cipriani & Werner
Attorneys at Law
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Subject: **Response to Plaintiff's Objections to Motion to Compel Bolts for Testing**
Re: **Brenda Orsich v. Consolidated Metal Products**

Dear Ms. Moses:

I believe that the plaintiff's lawyer has some misunderstandings about testing the bolts. The following is my response to his objections:

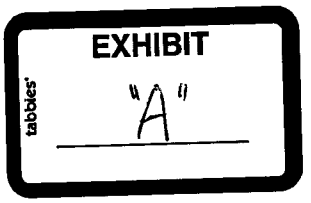
1. Destructive testing is required to be able to determine the strength of the bolts and the cause of their failure. Locating competent testing labs that have great expertise in fasteners and will work on failures that are in litigation is very difficult. The lab located in California is the most prominent lab in America to meet those criteria.

2. If it is assumed that the distinctive markings the plaintiff's lawyer refers to are the fracture surfaces, they will not be destroyed. Rather they will be photographed, preserved, with only mild non-contact cleaning if there is rust on these surfaces so that the reasons for failure can be correctly identified.

3. The U-Bolts will be carefully processed in the reasonable and customary methods defined in the protocol proposed that are used to determine fastener strength and the reasons for the failures. Some tests are destructive by necessity. However, the suggested protocol will not otherwise destroy the U-Bolts as suggested by the plaintiff's attorney.

4. All steps in the testing process will be memorialized via high-quality photography.

5. In order to defend itself, Consolidated Metal Products must be allowed to proceed with the testing.



Continued

FASTENER CONSULTING SERVICES, INC.

291 BUTTERNUT LANE • BEREA, OH 44017
TEL: 440.243.8549 • FAX: 440.243.4984
E-MAIL: JOHNGREYEMAIL@AOL.COM

6. Both of the bolts that failed in the accident have ample portions of straight lengths of metal to perform the tensile tests, and they both have fracture surfaces that can be analyzed. Therefore, it's possible to have the bolts tested at two different lab locations, provided that the exact same protocol is used at both labs and both labs have proven expertise in performing tests required in the protocol on comparable fasteners.

7. The tensile strength testing in the protocol proposed is prescribed by SAE J429 and ASTM F606. These are American standards for proving the tensile strength of fasteners. This is outlined in the submitted Failure Analysis Protocol.

8. The Stork Materials Testing & Inspection lab in California was selected because they have the required experience on fastener failures and they do the greatest amount of fastener testing of any laboratory in the United States. Therefore, since the Stork laboratory does the greatest amount of fastener testing in the United States, it has the proper equipment and properly trained personnel to do the required testing.

This explains my position on these issues. Should you have any questions, please let me know.

Respectfully submitted,

John J. Grey
President

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing RESPONSE TO PLAINTIFF'S OPPOSITION TO MOTION TO COMPEL PRODUCTION OF U-BOLTS has been served on all counsel of record, by first class mail, postage pre-paid, according to the Pennsylvania Rules of Civil Procedure, on the 6th day of December, 2005.

Jerome W. Kiger, Esquire
1404 Grant Building
Pittsburgh, PA 15219
Counsel for Plaintiffs

Joseph Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823
Counsel for Barry Kyler, t/d/b/a Northeast Springs & Equipment Co. and Northeast Spring & Equipment Co.

Gerald Barr, Esquire
Barr & McGogney
4905 Tilghman Street, Suite 250
Allentown, PA 18104
Counsel for Mack Trucks, Inc.

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103
Counsel for Triangle Auto Spring Co.

CIPRIANI & WERNER, P.C.

BY: _____
JUDITH A. MOSES, ESQUIRE
Attorney for the Additional Defendant
Consolidated Metal Products

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2005, upon consideration of the Additional Defendant Consolidated Metal Products' Motion To Compel, it is hereby ORDERED that the subject U-bolt pieces are to be released to Additional Defendant's counsel within ten (10) days of the date of this Order.

BY THE COURT:

_____

J.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	:	NO. 03-1251-CD
V.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	:	
V.	:	
TRIANGLE AUTO SPRING COMPANY	:	
V.	:	
CONSOLIDATED METAL PRODUCTS	:	

FILED 1 cc Atty's:
0/3:11 BOL J. Kiger
FEB 13 2006 J. Green
G. Barr
William A. Shaw B. Resnick
Prothonotary/Clerk of Courts J. Moses
GK

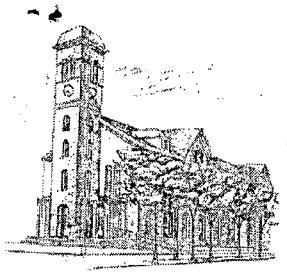
ORDER

AND NOW, this 10th day of February, 2006, following argument on the Motion to Compel Production of U-bolts and upon consideration of the same, it is the ORDER of this Court that said Motion shall be and is hereby GRANTED. Plaintiff shall release the U-bolts to additional defendant, Consolidated Metal Products, provided all testing be performed at an appropriate facility in the Pittsburgh, Pennsylvania area to permit Plaintiffs' counsel and Plaintiffs' experts to observe said testing. It is the further ORDER of this Court that all results of said testing, photographs and other pertinent information resulting from said testing shall be provided to Plaintiffs at the sole expense of Consolidated Metal Products.

BY THE COURT,

Paul E. Cherry

PAUL E. CHERRY,
JUDGE



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 2/13/06

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

CA

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

ORDER

AND NOW, this 1st day of March, 2006, upon consideration of additional defendant, Triangle Auto Spring Company's Motion to Compel Discovery, and any response thereto, it is hereby ORDERED and DECREED that said Motion is GRANTED and Consolidated Metals shall produce full, complete and responsive answers to additional defendant's discovery requests within thirty (30) days or suffer sanctions as may be deemed appropriate by the court:

Paul E Cherry
J.

FILED 1cc
01:45 BN Atty Remick
MAR 03 2006
EB

William A. Shaw
Prothonotary/Clerk of Courts

CA

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

FILED
m/12:30 BY
FEB 27 2006
William A. Shaw
Prothonotary/Clerk of Courts
NO CC
C.K.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

ADDITIONAL DEFENDANT, TRIANGLE AUTO SPRING COMPANY'S MOTION TO COMPEL DISCOVERY AGAINST ADDITIONAL DEFENDANT, CONSOLIDATED METAL PRODUCTS

Additional defendant, Triangle Auto Spring Company, by and through its attorneys, Marshall, Dennehey, Warner, Coleman and Goggin, hereby moves this Honorable Court for an Order in the form of the proposed Order attached hereto and in support thereof avers as follows:

1. On or about November 22, 2004, moving additional defendant served written discovery on Consolidated Metal Products consisting of Product Interrogatories, Expert Interrogatories and Request for Production of Documents. (See letter and discovery attached hereto and marked as Exhibit "A").

2. On or about August 1, 2005, having not received answers to its discovery requests, counsel for Triangle Auto Spring wrote counsel for Consolidated Metal Products requesting responses within ten (10) days. (See letter attached hereto and marked as Exhibit "B").

3. To date, Consolidated Metal Products has yet to provide counsel for additional defendant with answers to said outstanding discovery requests.

4. The information sought in this motion is necessary for the further preparation of the case and the withholding of additional defendant, Consolidated Metal Products' responses to discovery has prejudiced the Triangle Auto Spring Co.'s ability to defend and otherwise prepare this matter for trial.

WHEREFORE, additional defendant, Triangle Auto Spring Company, requests this Honorable Court enter an Order in the form of the proposed Order attached hereto.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

BRADLEY D. REMICK, ESQUIRE
Attorney for additional defendant,
Triangle Auto Spring Company

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

ATTORNEY CERTIFICATION OF GOOD FAITH
Pursuant to Clearfield County Local R.C.P. 208.2(e)

X a. He or she has had the contacts described below with opposing counsel or unrepresented party regarding discovery matter contained in the foregoing discovery motion in an effort to resolve the specific discovery dispute(s) at issue and, further, that despite counsel's good faith attempts to resolve the dispute(s), counsel have been unable to do so without Court intervention.
Description of effort to resolve discovery motion:

Counsel for movant sent a reminder letter to counsel for Consolidated Metal Products on August 1, 2005, several months after the initial service of the discovery requests, which was served on November 22, 2004. To date, no discovery responses have been received from Consolidated Metal Products. See additional defendant's August 1, 2005 letter attached hereto as Exhibit "B."

____ b. He or she was unsuccessful in actually contacting opposing counsel or unrepresented party in an attempt to resolve the discovery dispute(s) despite his or her good faith efforts to do so.
Description of effort to resolve discovery motion:

CERTIFIED TO THE COURT BY:

_____ _____
Date Attorney for Movant, Triangle Auto Spring Co.

CERTIFICATION OF SERVICE

I, BRADLEY D. REMICK, ESQUIRE, hereby certify that I served true and correct copies of additional defendant, Triangle Auto Spring Company's Motion to Compel Discovery on counsel listed below by regular U.S. First Class Mail on February 23, 2006.

Judith A. Moses, Esquire
CIPRIANI & WERNER
650 Washington Road
Suite 700
Pittsburgh, PA 15228

Jerome W. Kiger, Esquire
1404 Grant Building
Pittsburgh, PA 15219
Attorney for plaintiffs

Joseph P. Green, Esquire
115 East High Street
Bellefonte, PA 16823
Attorney for Kyler t/d/b/a Northeast Spring

Gerald M. Barr, Esquire
4905 Tilgham Street
Suite 250
Allentown, PA 18104
Attorney for Mack Trucks

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

BRADLEY D. REMICK, ESQUIRE
Attorney for additional defendant,
Triangle Auto Spring Company

A REGIONAL DEFENSE LITIGATION LAW FIRM

MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN
A PROFESSIONAL CORPORATION www.marshalldennehey.com

1845 Walnut Street · Philadelphia, PA 19103-4797
(215) 575-2600 · Fax (215) 575-0856

Direct Dial: (215) 575-2762
Email: bremick@mdwcg.com

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DELAWARE
Wilmington

OHIO
Akron

FLORIDA
Ft. Lauderdale
Jacksonville
Orlando
Tampa

MDW C&G ATTORNEYS-AT-LAW

November 22, 2004

Judith A. Moses, Esquire
CIPRIANI & WERNER
Suite 1100
Two Chatham Center
Pittsburgh, PA 15219-3437

RE: Brenda Orsich, Adm. of Weaver v. Triangle Auto Spring Co., et al
CCP of Clearfield County, PA – Civil Action No. 03-1251-CD
Our File: 13035-00102

Dear Ms. Moses:

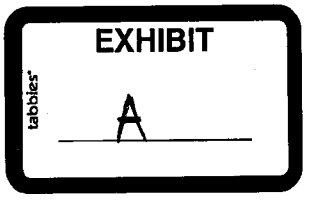
Enclosed please find Triangle Auto Spring Co.'s Product Interrogatories, Expert Interrogatories and Product Request for Production of Documents directed to your client. Kindly respond within the time frame provided by the Pennsylvania Rules of Civil Procedure.

Very truly yours,

BRADLEY D. REMICK

BDR/tg

Enc.



13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

PRODUCT INTERROGATORIES OF ADDITIONAL DEFENDANT, TRIANGLE AUTO SPRING COMPANY DIRECTED TO PLAINTIFFS AND ALL OTHER PARTIES

***(Whenever the term "product" is used in these Product Interrogatories, it shall be deemed to refer to the "rear suspension" described in the Plaintiffs' Complaint).**

Product Interrogatory #1

DOCUMENTS OF SALE AND OWNERSHIP

Identify all documents relating to the sale, possession, ownership or transfer of the product actually involved in the accident and the persons who have custody of those documents or copies thereof.

Product Interrogatory #2

IDENTIFICATION AND PURCHASE OF PRODUCT

(a) State the date on which the product actually involved in the accident was purchased or acquired by the person or company which owned it at the time of the accident.

(b) State whether the product was purchased or acquired in a new or used condition.

(c) State the names and addresses of all prior owners or possessors and give the dates of their ownership or possession.

(d) State the name and address of the manufacturer and the date the product was manufactured and state the model and serial numbers or other designation of the product.

Product Interrogatory #3

WARRANTIES

(a) Identify every written warranty which is applicable to the product actually involved in the accident and any persons who have custody of such warranty or copy thereof.

(b) Identify every warranty which is not in writing, stating the substance and dates thereof and the persons from whom and to whom given.

Product Interrogatory #4

PRODUCT LITERATURE

Identify all instruction, operating, repair, maintenance and safety manuals regarding the product actually involved in the accident and any other documents which describe the product and its use stating: titles, dates of publication, general description and amendments thereto and identify the persons who have custody thereof.

Product Interrogatory #5

PRESENT LOCATION OF PRODUCT

State the present location of the product actually involved in the accident and identify the person who has custody thereof.

Product Interrogatory #6

REPAIRS OF THE PRODUCT BEFORE THE ACCIDENT

With respect to the product actually involved in the accident, identify:

(a) Every repair or replacement made to the product before the accident;

(b) The names, addresses and employers of any person who made each repair or replacement;

(c) The nature, purpose and date of each repair or replacement; and

(d) Any document referring to each repair or replacement and the persons who have custody thereof.

Product Interrogatory #7

MODIFICATION OF THE PRODUCT BEFORE THE ACCIDENT

With respect to the product actually involved in the accident, identify:

(a) Every pre-accident alteration or addition made to the product after it left the possession of its manufacturer;

(b) The names, addresses and employers of any person who made each alteration or addition;

(c) The nature, purpose and date of each alteration or addition; and

(d) any document referring to each alteration or addition and the persons who have custody thereof.

Product Interrogatory #8

INSPECTION BEFORE THE ACCIDENT

State whether there were any inspections or examinations of the product actually involved in the accident after its manufacture and before the accident.

If so, state:

(a) When any inspections or examinations were scheduled to be made and by whom;

(b) The dates when any inspections or examinations were made and by whom;

(c) Whether there is any documentation relating to the schedule or the inspections or examinations and, if so, identify such documentation;

(d) Whether there were oral reports made with respect to any inspections or examinations and, if so, state the substance and dates thereof and the persons from whom and to whom given.

Product Interrogatory #9

COMPLAINTS AND MALFUNCTIONS BEFORE THE ACCIDENT

State whether, before the accident, there were any complaints or malfunctions regarding the product actually involved in the accident. If so, state:

(a) The substance of any complaints or malfunctions;

(b) The dates when any complaints or malfunctions occurred;

(c) The name and address of the persons who made such complaints or experienced the malfunctions;

(d) Whether the complaints or malfunctions are documented and the identification of the persons who prepared the documents; and

(e) Whether there were any oral reports made as to any complaints or malfunctions.

Product Interrogatory #10

TRAINING AND INSTRUCTION BEFORE THE ACCIDENT

Describe all training and instruction which you gave or received for the operation, use or maintenance of the product actually involved in the accident before the accident, including any classroom instruction or on-the-job training.

Product Interrogatory #11

TESTS

Identify every test that has been made, before and after the accident, on the product actually involved in the accident. Identify the persons who performed the tests, the dates on which they were performed and give a description of the tests, the purpose of the tests and the results.

Product Interrogatory #12

REPORTS OF ACCIDENT

Identify all reports and other documents (except reports of experts consulted by you whom you do not intend to call at trial) which describe the happening of the accident or the cause thereof, giving the identification of the persons who prepared the reports or documents, the dates and the persons who have custody thereof.

Product Interrogatory #13

RECALLS, RECOMMENDATIONS AND WARNINGS

Have you ever known of or received, published or distributed any (a) recalls or recommendations for repair or replacement, or (b) warnings with respect to the manufacture or usage of the product actually involved in the accident? If so, identify all such recalls, recommendations or warnings and any persons who have custody of any document referred to in your answer.

Product Interrogatory #14

ALTERATIONS OF THE PRODUCT AFTER THE ACCIDENT

With respect to the product actually involved int he accident, identify:

(a) Every alteration or addition made to the product after the accident;

(b) The names, addresses and employers of any person who authorized and made any alteration or addition;

(c) The nature, purpose and date of each alteration or addition, and

(d) Any document referring to any alteration or addition and the persons who have custody thereof.

Product Interrogatory #15

REPAIRS TO THE PRODUCT AFTER THE ACCIDENT

With respect to the product actually involved in the accident, identify:

(a) Every repair or replacement made to the product after the accident;

(b) The names, addresses and employers of any person who authorized and made any repair or replacement;

(c) The nature, purpose and date of each repair or replacement; and

(d) Any document referring to any repair or replacement and the persons who have custody thereof.

Product Interrogatory #16

Have you obtained any statements of any kind from anyone relative to this Civil Action? If so, identify:

(a) The date or dates obtained;

(b) Whether said statements are oral, written or transcribed, etc.;

(c) By whom they were obtained;

(d) The name and address of the individual or individuals whom the statement or statements were obtained.

Product Interrogatory #17

Have you obtained any photographs or motion pictures relevant to this cause of action? If so, identify:

(a) The date or dates taken;

(b) The identify of the photographer;

(c) The view or views portrayed;

(d) The present custodian thereof.

Product Interrogatory #18

Do you contend that this defendant violated any statute, code, ordinance, regulation, industry or governmental standard of any kind relevant to this litigation? If so, specify same by complete citation and provide a brief factual description of the manner in which you allege that the violation occurred.

Product Interrogatory #19

Where, when and by whom was the product in question installed.

Product Interrogatory #20

Identify all relevant physical evidence which is in the possession of any party, its representatives, agents, attorneys or expert.

MARSHALL, DENNEHEY, WARNER,
COLEMAN AND GOGGIN

BY: _____
BRADLEY D. REMICK, ESQUIRE
Attorney for additional defendant,
Triangle Auto Spring Co.

DATE: 02/04/04

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC. and TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

ADDITIONAL DEFENDANT, TRIANGLE AUTO SPRING COMPANY'S EXPERT WITNESS INTERROGATORIES DIRECTED TO PLAINTIFFS AND ALL OTHER PARTIES

1. State the name, home and business addresses and telephone numbers of all persons you expect to call as expert witnesses, either on liability or on damages at the trial of the above-captioned matter (including agents or employees of answering party, that answering party may or will designate as experts for trial purposes).

2. For all persons identified in the preceding Interrogatory, state the following:

(a) their occupation; and

(b) whether or not they specialize in any particular field, and if they so specialize, set forth their area or areas of specialization.

3. With respect to each and every expert above-named consulted or employed with respect to the occurrence involved in this case:

(a) whether or not such experts were actually retained or compensated by the answering party;

(b) whether or not such experts rendered advise or reports to the answering party; and

(c) whether or not the answering party proposes to use such experts at trial or in support of their defense.

4. State the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for the opinion, including, but not limited to, any textual material upon which the expert will rely. For any such text, please identify the name of the text, the author, the edition, the year of publication, and the page or pages of said text upon which the expert witness will rely.

5. With respect to each and every experts above-named, set forth their qualifications, including, but not limited to, the following:

(a) the schools or training programs that each has attended, including the years in attendance and degrees or certificates, etc., received;

(b) experience in their particular field or endeavor, whether related or unrelated to their area of specialty, including names and addresses of employers with years of employment; and

(c) a list of all publications offered by said person, including the title of the work, the name of the periodical or book in which it was printed, and the date of its publication.

(In lieu of answering this Interrogatory, you may attach a copy of each expert's summary of qualifications.)

6. Set forth, in detail, the factual information supplied to each such expert, including, but not limited to, the following:

(a) all objects and materials examined by the experts;

(b) the type of said objects or materials examined by the expert;

(c) the source of all objects or materials examined by the expert;

(d) the date and place of examination of said objects or materials by the expert;

(e) a description of all photographs, plans, drawings, specifications or other documents reviewed by such expert; and

(f) any locations, sites or facilities visited by the expert.

7. With respect to each such expert, state the number of cases he has investigated involving the type of service at issue in this case.

8. Has the answering party or its attorney, received a written report from any of the experts previously identified? If so, please state:

(a) the name of the expert preparing the report;

(b) the date of the report;

(c) the name, address and job title or position of the person having present custody or control of the report; and

(d) state whether you will, without a Motion to produce, provide a copy of any written report from such expert. If so, please attach same to your answers to these Interrogatories.

15. With respect to each such test, state the name, address and job title, or position of the person conducting or supervising the test.

16. With respect to each such test, state where and when the test was conducted and identify each person participating in or present during the test, or any portion thereof.

17. If not previously answered above, please list the names and addresses of any other persons, including, but not limited to, agents and/or employees of the plaintiffs, whom the answering party may or will call at the trial of this matter.

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC. and TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

REQUEST FOR PRODUCTION OF DOCUMENTS OF ADDITIONAL DEFENDANT, TRIANGLE AUTO SPRING COMPANY, DIRECTED TO PLAINTIFFS AND ALL OTHER PARTIES

***(Whenever the term "product" is used in these Request for Production of Documents, it shall be deemed to refer to the "rear suspension" which is referred to in the plaintiffs' Complaint).**

Defendant, through its attorney, Bradley D. Remick, Esquire requests that the plaintiffs and co-defendants produce the following for examination and copying at the offices of **MARSHALL, DENNEHEY, WARNER, COLEMAN AND GOGGIN**, 1845 Walnut Street, Philadelphia, Pa. 19103:

1. All photographs, motion pictures, videotapes, sketches, plans, drawings or schematics which are in any way relevant to the claims made by any party against any other party in this litigation.

A REGIONAL DEFENSE LITIGATION LAW FIRM

MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN

A PROFESSIONAL CORPORATION www.marshalldennehey.com

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MDW C&G ATTORNEYS-AT-LAW

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Direct Dial: 215-575-2762
Email: bremick@mdwcg.com

August 1, 2005

Judith A. Moses, Esquire
CIPRIANI & WERNER
Suite 1100
Two Chatham Center
Pittsburgh, PA 15219-3437

RE: Brenda Orsich, Adm. of Weaver v. Triangle Auto Spring Co., et al
CCP of Clearfield County, PA – Civil Action No. 03-1251-CD
Our File: 13035-00102

Dear Judith:

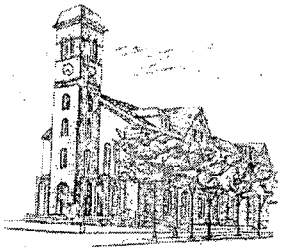
Back on April 21, 2005, I tendered the defense of Triangle Auto Spring Co. to your client, Consolidated Metal Products. Back on November 22, 2004, I also served written discovery on your client. I would very much appreciate a response to both of these issues within the next ten (10) days. If you have any questions or comments, please do not hesitate to contact me.

Very truly yours,

BRADLEY D. REMICK

BDR/tg

EXHIBIT
tabbies
B



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 3/3/06

__X__ You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH

v.

BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.

v.

TRIANGLE AUTO SPRING COMPANY

v.

CONSOLIDATED METAL PRODUCTS

* CASE NO: 03-1251-CD

Type of Case: **Civil Action**

Type of Pleading: **Certificate of Service**

Filed on Behalf of:
D. C. Guelich Explosive Co.

Counsel of Record for this Party:
John Sughrue, Esq.
Supreme Court No. 01037
23 North Second Street
Clearfield, PA 16830
Phone: (814) 765-1704
Fax: (814) 765-6959

Other Counsel of Record:
Judith A. Moses, Esq.
650 Washington Rd., Ste. 700
Pittsburgh, PA 15228

FILED
01 1:59 cc Atty Sughrue
APR 13 2006
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	) CASE NO: 03-1251-CD
v.	)
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)
v.	)
TRIANGLE AUTO SPRING COMPANY	)
v.	)
CONSOLIDATED METAL PRODUCTS	)

CERTIFICATE OF SERVICE

AND NOW, I do hereby certify that on John Sughrue, Attorney, I caused a true and correct copy of RESPONSE OF D. C. GUELICH EXPLOSIVE CO. TO SUBPOENA TO PRODUCE DOCUMENTATION, ETC., issued at the request of Judith A. Moses, Esq. on January 19, 2006 served March 6, 2006 together with CERTIFICATE OF COMPLIANCE WITH SUBPOENA TO PRODUCE DOCUMENTS OR THINGS PURSUANT TO RULE 4009.23 to be served on the following and in the manner indicated below:

By United States Mail, First Class, Postage Prepaid
Addressed as Follows:

Judith A. Moses, Esq.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Jerome W. Kiger , Esq.
KIGER & ALPERN
1404 Grant Bldg.
Pittsburgh, PA 15219-2301

Joseph P. Green, Esq.
PO Box 179
Bellefonte, PA 16823

Date: April 12, 2006

John Sughrue, Attorney for
D. C. Guelich Explosive Co.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH

v.

BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.

v.

TRIANGLE AUTO SPRING COMPANY

v.

CONSOLIDATED METAL PRODUCTS

CASE NUMBER: 03-1251 CD

ISSUE NUMBER:

PLEADING:

MOTION FOR SUMMARY JUDGMENT

FILED ON BEHALF OF:

CONSOLIDATED METAL PRODUCTS, Defendant.

COUNSEL OF RECORD:

JUDITH A. MOSES, ESQUIRE
Pa. ID# 49656

CIPRIANI & WERNER, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228
(412) 563-2500

FILED NO CC
m/11:46 BD
DEC 10 2007
GP

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

MOTION FOR SUMMARY JUDGMENT

AND NOW comes the Defendant, CONSOLIDATED METAL PRODUCTS, by and through its counsel, Cipriani & Werner, P.C. and Judith A. Moses, Esquire and files the following Motion For Summary Judgment:

1. Plaintiff filed the cause of action on August 22, 2003, against Barry Kyler, t/d/b/a Northeast Spring & Equipment Co., Northeast Spring & Equipment Co. and Mack Trucks, Inc., and alleged that on April 25, 2000, Northeast Spring performed repair maintenance on a Mack truck, specifically that it installed leaf springs and/or U-bolts designed, manufactured, assembled and supplied by Mack Trucks.

2. The Complaint further alleges that on August 30, 2001, David Weaver was the driver of a Mack truck in the course of employment with D.C. Guelich Explosive Company, the owner of the truck. The accident occurred in the northbound lane of State Route 2023, Log Cabin Road, Clearfield County, when the U-bolt sold or supplied by Mack truck and installed by Northeast Spring failed, causing loss of control of the truck and causing the truck to crash through the guardrails, coming to rest on its roof, killing David Weaver.

3. Plaintiff brought negligence, breach of warranty and strict liability claims against Northeast Spring and Mack Trucks, alleging that the U-bolt and springs were defective as supplied, and that it failed to properly tighten the subject U-bolt and/or warn the user of the truck following the installation of the U-bolt on April 25, 2000, that the newly installed U-bolt had to be re-tightened after the truck was driven 1,000 miles, and in failing to provide properly designed, assembled, manufactured and inspected leaf springs and U-bolts.

4. Mack Trucks filed a Third Party Complaint against Triangle Auto Spring, alleging that it was the manufacturer or fabricator of the subject U-bolt, and that it designed, sold or supplied the subject leaf spring U-bolt to Northeast Spring. Mack alleged that Triangle failed to design the U-bolt, failed to inspect the U-bolt and sold the U-bolt with latent defects and failed to warn end users that the U-bolts had to be re-tightened after the truck was driven 1,000 miles. Northeast Spring & Equipment also filed a Third Party Complaint against Triangle Auto Spring Company and incorporated the allegations of Plaintiff's Complaint into its Third Party Complaint.

5. Triangle Auto Spring Company filed a Third Party Complaint against Consolidated Metal Products, alleging that it was the manufacturer or fabricator of the U-bolt in question, and Triangle also incorporated all of the allegations of the Original Plaintiff's

Complaint in its Third Party Complaint. The Joinder Complaints against Triangle and Consolidated were filed after the statute of limitations.

6. In June, 2006, various sections of the involved U-bolt were metallurgically tested at R.J. Lee Group, Inc. and at Westmoreland Mechanical Testing & Research, Inc. See R.J. Lee Group, Inc. test results attached hereto as Exhibit "A."

7. The test results reveal that the subject U-bolt manufactured according to the specifications of Mack met or exceeded the Mack specifications of chemical composition, minimum yield strength, and hardness pursuant to Mack Drawing 7QK3148. Said specifications and Mack Drawing 7QK3148 are attached hereto as Exhibit "B."

It is undisputed that the U-bolt was not defective and was safe for its intended use at the time that it left the hands of the manufacturer or supplier.

8. Additionally, the Plaintiff or Third-Party Plaintiffs have no claim for product defect for failure to warn or advise end users that following the installation of the subject U-bolts in the truck on or about April 25, 2000, that the newly installed subject U-bolt had to be retightened after the subject truck was driven 1,000 miles.

9. It is undisputed that Consolidated Metal Products did not supply the U-bolt to Northeast Spring (See Barry Kyler Deposition, p. 53, l. 10-16 attached as Exhibit "C").

10. It is undisputed that Barry Kyler of Northeast Spring & Equipment Co. received literature from Triangle related to the specifications for torquing U-bolts (See Barry Kyler Deposition, p. 71 attached as Exhibit "C").

11. It is undisputed that Northeast Spring knew that U-bolts needed to be tightened after 1,000 miles. This information is contained on Northeast Springs' **invoice 7482** related to the subject installation, attached hereto as Exhibit "D" (marked as Exhibit 2 at Barry Kyler's

deposition) It is undisputed that Guelich Explosives received the subject invoice containing this information.

12. Mr. Kyler knew that it was general industry policy to make sure that U-bolts were retightened after 1,000 miles (See Barry Kyler Deposition, p. 80 attached as Exhibit "C").

13. It is undisputed that the U-bolt manufactured by Consolidated Metal Products was only one component part of the camelback suspension installed by Northeast Spring & Equipment Co. on the Mack truck driven by the Plaintiff-decedent.

14. Under Pennsylvania law, a component part manufacturer has no duty to warn the plaintiff or end users when the component is assembled by another party. In other words, Consolidated had no duty to warn D.C. Guelich Explosive Co. that the newly installed subject U-bolt had to be retightened after the truck was driven 1,000 miles following installation of the U-bolt on April 25, 2000.

15. Furthermore, the owner of a truck is responsible for its proper maintenance. D.C. Guelich Explosive Co. is a sophisticated user of Mack trucks. It is undisputed that Guelich, always employed a shop mechanic who at times replaced leaf springs. See deposition transcripts of former Guelich shop foreman Joe Sadowski and Dwayne Guelich, attached hereto as Exhibits "E" and "F." Additionally, information regarding maintenance and inspection of U-bolts are commonly contained in a truck manufacturer's maintenance manual. See pages 25-27 of the Mack maintenance manual for the involved truck, attached hereto as Exhibit "G." Finally, Guelich drivers were required to perform a pre-trip inspection every morning which included checking for cracked U-bolts and loose leaf springs.

16. Since R.J. Lee test results prove that the subject U-bolt is not defective, other secondary causes were responsible for this accident which include failure to properly maintain

the vehicle, improper installation and replacement of the spring clip, and failure of the Plaintiff-decedent to properly inspect the subject U-bolt and leaf springs.

17. The fact that the U-bolt fractured is not evidence that it is defective.

18. There is no evidence of record that the U-bolt was defective and that a defect existed at the time it left the manufacturer's control.

19. Given the above facts and law, the Plaintiff, Third-Party Plaintiffs and Crossclaim Defendants have no viable cause of action or claims against Consolidated Metal Products. By way of further information, the Plaintiff's wrongful death claim is time-barred against Consolidated since the statute of limitations for a wrongful death claim begins to run when a pecuniary loss is sustained by the beneficiaries of the person who has died due to the tort of another, which is the date of death. 42 Pa.C.S. §8301. *Sunderland v. R.A. Barlow Home Builders*, 2002 Pa. Super. 16, 791 A.2d 384 (Pa. Super. 2002).

20. There is no genuine issue of fact that Consolidated is entitled to summary judgment as a matter of law.

WHEREFORE, Defendant, Consolidated Metal Products, respectfully requests that the Court grant its motion for summary judgment and dismiss with prejudice any and all claims of the Plaintiff and Third-Party Plaintiffs and Crossclaim Defendants against Consolidated Metal Products.

CIPRIANI & WERNER, P.C.

BY: Judith A. Moses

JUDITH A. MOSES, ESQUIRE
Attorney for Consolidated Metal Products, Defendant

EXHIBIT "A"

Westmoreland Mechanical Testing & Research, Inc.
P.O. Box 388
Westmoreland Drive
Youngstown, Pa. 15696-0388 U.S.A.
Telephone: 724-537-3131 Fax: 724-537-3151
Website: www.wmtr.com
WMT&R is a technical leader in the material testing industry.

ACCREDITED
621-01 & 621-02

Accredited Nadcap Materials Testing Laboratory

July 9, 2006

CERTIFICATION

Section 1 of 3
WMT&R Report No. 6-32085
P.O. No. H31989

RJ Lee Group Inc.
350 Hochberg Road
Monroeville, PA 15146

Attention: Keith Wagner

Subject: All processes, performed upon the material as received, were conducted at WMT&R, Inc. in accordance with the WMT&R Quality Assurance Manual, Rev. 9, dated 4/1/2000.
The following tests were performed on this order: CHEMISTRY, HARDNESS and TENSILE

CHEMICAL OVERCHECK

Sample ID	Exemplar Disk	A1 3	B1 3
Test Log No.	D78133	D78134	D78135
ELEMENTS	Result	Result	Result
Nickel	0.07	0.08	0.08
Chromium	0.13	0.08	0.08
Manganese	1.70	1.58	1.56
Silicon	0.23	0.26	0.25
Carbon-Leco	0.570	0.550	0.550
Sulfur-Leco	0.022	0.028	0.027
Phosphorus	0.023	0.010	0.010
Aluminum	<0.01	<0.01	<0.01
Vanadium	0.08	0.07	0.07
Copper	0.24	0.26	0.26
Columbium	0.007	0.008	0.005

Material submitted as Carbon Steel
Equipment Used: Arc Spark and Leco
OES analysis performed in accordance with ASTM E415-99a
LECO analysis performed in accordance with ASTM E1019-03

Roy E. Starr\Matt Wojton
____ Technical Services Manager____ Tensile Supervisor July 9, 2006

KNOWINGLY OR WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT ON THIS FORM OR MAKING FALSE, FICTITIOUS OR FRAUDULENT STATEMENTS OR REPRESENTATIONS HEREIN COULD CONSTITUTE A FELONY PUNISHABLE UNDER FEDERAL STATUTES. THIS CERTIFICATE OR REPORT SHALL NOT BE REPRODUCED EXCEPT IN FULL, WITHOUT THE WRITTEN APPROVAL OF WMTR, INC.

Westmoreland Mechanical Testing & Research, Inc.
P.O. Box 388
Westmoreland Drive
Youngstown, Pa. 15696-0388 U.S.A.
Telephone: 724-537-3131 Fax: 724-537-3151
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621-01 & 621-02

Accredited Nadcap Materials Testing Laboratory

July 9, 2006

RJ Lee Group Inc.

CERTIFICATION

WMT&R Report No. 6-32085
P.O. No. H31989

HARDNESS - ASTM E18-05/ASTM F606

REQUIREMENT: No requirement

ACTUAL:

Sample ID	Reading 1	Reading 2	Reading 3	Reading 4	Average
A1 3	31.19 HRC	32.06 HRC	31.21 HRC	31.97 HRC	31.61 HRC
Exemplar Disk	32.94 HRC	33.76 HRC	33.49 HRC	34.28 HRC	33.62 HRC
B1 2	31.09 HRC	31.87 HRC	32.14 HRC	32.51 HRC	31.90 HRC

All results are reported for information only.

TENSILE RESULTS: ASTM E8-04
SPEED OF TESTING: 0.005 in./in./min.
MATERIAL: CARBON STEEL

DISPOSITION: Report

Sample	TestLog Number	Temp.	UTS ksi	0.001% YS ksi	0.02% YS ksi	0.2% YS ksi	Elong %	RA %	Modulus Msi	Ult. Load lbf	0.001% YLD. lbf	0.02% YLD. lbf	0.2% YLD. lbf
B1-2	D78128	Room	155.2	54.8	91.2	---	11	42	27.6	98910	34900	58132	---
Exemplar Disk	D78129	Room	165.1	56.0	101.9	151.9	8.0	30	26.3	105200	35669	64905	96765

A\U\R: A=ACCEPTABLE, U=UNACCEPTABLE, R=REPORT

DISPOSITION: Report

Sample	TestLog Number	Orig. Dia. (in.)	Final Dia. (in.)	4D Orig GL (in.)	4D Final GL (in.)	Orig. Area (sq. in.)	Machine Number	A\U\R
B1-2	D78128	0.9008	0.6832	3.60	3.98	0.63730399	H175	R
Exemplar Disk	D78129	0.9007	0.7524	3.60	3.88	0.63716250	H175	R

A\U\R: A=ACCEPTABLE, U=UNACCEPTABLE, R=REPORT

Roy E. Starr\Matt Wojton
____ Technical Services Manager____ Tensile Supervisor

July 9, 2006

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ACCREDITED
621-01 & 621-02

Accredited Nadcap Materials Testing Laboratory

July 9, 2006

CERTIFICATION

Section 3 of 3
WMT&R Report No. 6-32085
P.O. No. H31989

RJ Lee Group Inc.

TENSILE RESULTS: ASTM E8-04
SPEED OF TESTING: 0.005 in./in./min.
MATERIAL: CARBON STEEL
DISPOSITION: Report

Sample	TestLog Number	Temp.	0.001% YS ksi	0.02% YS ksi	0.2% YS ksi	Modulus Msi	0.001% YLD. lbf	0.02% YLD. lbf	0.2% YLD. lbf	Orig. Dia. (in.)	Orig. Area (sq. in.)	Machine Number	A\U\R
A1-2	D78127	Room	80.9	108.4	146.7	26.0	51528	69017	93394	0.9004	0.63673812	H121	R

A\U\R: A=ACCEPTABLE, U=UNACCEPTABLE, R=REPORT

Sample B1-2 0.2% YS not determined due to technical difficulties.

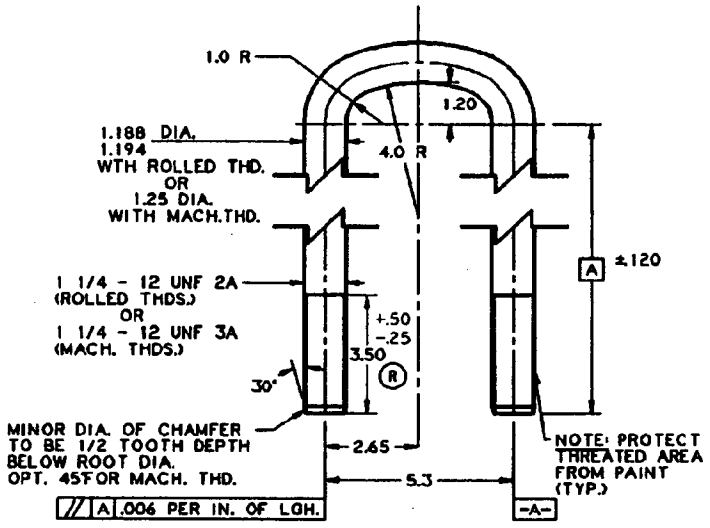
Roy E. Starr\Matt Wolfon
Technical Services Manager\ Tensile Supervisor

7-9-06
July 9, 2006

KNOWINGLY OR WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT ON THIS FORM OR MAKING FALSE, FICTITIOUS OR FRAUDULENT STATEMENTS OR REPRESENTATIONS HEREIN COULD CONSTITUTE A FELONY PUNISHABLE UNDER FEDERAL STATUTES. THIS CERTIFICATE OR REPORT SHALL NOT BE REPRODUCED EXCEPT IN FULL, WITHOUT THE WRITTEN APPROVAL OF WMTR, INC.

EXHIBIT "B"

APPLICABLE GS	
NO.	SUBJECT
614GS01100	MATL SPEC COLD FORM SPRING CLIP
424GS13	GEOM TOL
617GS132-S2	METAL PREP & PAINT
617GS126	ZINC PHOS COAT
617GS132-S4	METAL PREP&PAINT
617GS133	GEN PRIME PAINT



PART NO.	CHANGE	DATE	BY	A	C
P7	820229	11-3-82	GTM	12.0	31.0
P6	780234	10-7-78	RRP	18.0	43.0
P5	780234	10-7-78	RRP	17.0	41.0
P4	780234	10-7-78	RRP	16.0	39.0
P3	780234	10-7-78	RRP	15.0	37.0
P2	780234	10-7-78	RRP	14.0	35.0
7QK3148	780234	10-7-78	RRP	13.0	33.0

Q	8502-14
P	8708-8
N	7600-1
M	8502-18
L	8102
K	8102
J	8401-6
H	7600-3
G	7604-3
F	8512-3
E	8510-8
D	7502-2
C	7802-34
B	7802-34

PREVIOUS CHANGES

NO. 7QK3148

SYM.	ZONE	CHANGES	NO.	DATE	BY
A		ISSUED (SEE CHART)			
R	D4	REDRAWN 3.50 +.50/-.25 WAS 3.00 +.50/-.00	T9004-8	4/12/90	BDS MHA 4/12/90

APPROX. DEV.
1.25 OR 1.168/1.194 DIA X [C] ±.090 DEV.LENGTH

MATERIAL

HOT FORMED STEEL

SAE 1345 OR 4140
BRINELL HARDNESS - 285-321
MIN. YIELD STRENGTH -125000 PSI

COLD ROLLED STEEL

SAE C1541 OR 1552
MODIFIED (.03 - .05 % VANADIUM)
BRINELL HARDNESS - 272-302
MIN. YIELD STRENGTH -125000 PSI

THREADS TO BE OILED FOR RUST PREVENTION

DIMENSION [A] RELEASE PARTS IN 1.0 INCREMENTS

THE INFORMATION CONTAINED HEREON IS CONFIDENTIAL INFORMATION AND THE SOLE PROPERTY OF MACK TRUCKS, INC. AND ANY USE, DUPLICATION, RETENTION, OR TRANSMITTAL TO OTHERS WITHOUT WRITTEN PERMISSION OF MACK TRUCKS, INC. IS PROHIBITED.

INITIAL APPL.

WT. (SEE ABOVE)

MATERIAL APPR.

DESIGN R.A.TROXELL
CHKD H.A.COOK
APPD V.MAZZITELLI
CHARGE R.POTHERING
DRAWN R.POTHERING 8-21-78
SCALE 1:2
REF. SUPER. 7QK3145

MACK TRUCKS, INC.
ALLENTOWN

TITLE CLIP - SPRING

NO. 7QK3148

MACK TRUCKS, INC.

LOCATION HIGHWAY VEHICLE ENGINEERING - ALLENTOWN

GENERAL ENGINEERING SPECIFICATION
614 **GS** 01100

SUBJECT MATERIAL SPECIFICATIONS FOR COLD FORMED SPRING CLIPS

6.0 SIZE TOLERANCE - (Cont'd)

6.2 Material for Rolled Threads

For Material to produce Class 2 rolled threads, the following sizes shall apply:

Ⓑ

5/8 - 18	.5889	(14.96 mm)
3/4 - 16	.7094	(18.01 mm)
7/8 - 14	.8286	(21.05 mm)
1- - 14	.9469	(24.02 mm)
1 1/8 - 12	1.070	(29.72 mm)
1 1/4 - 12	1.1944	(30.34 mm)

Tolerance shall be +0-.005" (+0-.13 mm).

Ⓐ

7.0 DRAWING CALLOUT SPECIFICATION

This specification shall be added to all spring clip drawings.

THESE SPECIFICATIONS ARE THE PROPERTY OF MACK TRUCKS, INC. AND SHALL NOT BE REPRODUCED, COPIED, OR USED WITHOUT PERMISSION

REV.	DATE	NO.	BY	REMARKS
B	12/2/80	VGS80-93	VL	Sht.3 Rev... Para...2 Revised on Sht.3
A	1/29/80	VGS79-40	VL	Added Para. 7.0 on Sheet 3
ISSUED	1/1180	VGS79-40	VL	

ENG'G. APPR. MET. QUALITY PSC 2/29/80 DESIGN RCL 1/29/80
AUTH. Vincent PROJECT MGR. 1/29/80

MACK TRUCKS, INC.	GENERAL ENGINEERING SPECIFICATION
LOCATION HIGHWAY VEHICLE ENGINEERING - ALLENTOWN	614GS01100
SUBJECT MATERIAL SPECIFICATIONS FOR COLD FORMED SPRING CLIPS	

3.0 SURFACE PROPERTIES

The vendor shall 100% eddy current inspect the material for surface flaws.

Maximum seam depth shall be .001" per side for each 1/16" of diameter (.025 mm per side for each 1.6 mm of diameter).

Maximum surface roughness shall be 50 RMS (1.25 mm).

Aim for decarburization less than .001" for each 1/16" of diameter (.025 mm per side for each 1.6 mm of diameter).

4.0 CERTIFICATION

The vendor shall certify each lot of material. A copy of the certification shall be sent to the Quality Control Metallurgist, Allentown Manufacturing Division.

(A) Prior to the acceptance of material, the supplier shall furnish written certification that the parts meet the drawing requirements by signing and returning the acknowledgement copy of the Purchase Order.

5.0 MECHANICAL PROPERTIES

Material shall be 125,000 psi (862 MPa) minimum yield (0.2% offset).

(A) Hardness shall be 272-302 Bhn.

6.0 SIZE TOLERANCE

6.1 Material for Cut Threads

For material from 7/16 to 1-1/2" (11 to 38 mm) the tolerance on diameter shall be +0-.005" (+0-.13 mm).

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REV.	ISSUED	ITEM	DATE	NO		REMARKS
B						
A	1/2080	VGS79-40		VL		Added 2nd para. to 4.0 & Chgd. hardness at 5.0
	11/80	VGS79-40		VL		

ENG O. APPR | MFT. AUTH VL | QUALITY | PROJECT | DESIGN | MGR

MACK TRUCKS, INC.

CATION HIGHWAY VEHICLE ENGINEERING - ALLENTOWN | 614 GS01100

BJECT MATERIAL SPECIFICATIONS FOR COLD FORMED SPRING CLIPS

NOTE: Metric SI Units Shown in Parenthesis - Ref. Only SHEET 1 OF 3

1.0 SCOPE

This specification establishes dimensional and material properties of steel intended for use in producing cold formed spring clips.

2.0 MATERIAL APPROVAL

Alternate materials and/or alternate vendors shall be approved by the Quality Control Metallurgist, Allentown Manufacturing Division, and the Staff Metallurgist, Engineering Development & Test Center.

2.1 Approved Vendors & Materials

2.1.1 LaSalle Steel Company

e.t.d. 1541
Chemistry
Fine Grain Silicon Killed

Carbon	.36/.44
Manganese	1.35/1.65
Silicon	.15/.30
Phosphorus (Max)	.040
Sulfur (Max)	.050

2.1.2 Consolidated Metal

C1552 Modified
Carbon

Carbon	.50/.55
Manganese	1.20/1.50
Silicon	.15/.30
Phosphorus (Max)	.04
Sulfur (Max)	.05
Vanadium	.03/.05

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ITEM	DATE	NO.	BY	REMARKS
B	12/19/80	VGS80-93	VL	Sht.3 Retyped - Para. 6.2 Revised On Sht. 3
REV. A	1/28/80	VGS79-40	VL	Added paras.to shts.2 & 3 &Rev.5.0 on Sht.2
ISSUED	1/11/80	VGS79-40	VL	

ENG'G. APPR. MET. AUTH. V. L. QUALITY PROJECT DESIGN MGR.

FORM NO. ED1077 REV. 12-77

MAR 2 0 1980

EXHIBIT "C"

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

* * * * * * * *

BRENDA ORSICH,	*	Case No.
Administratrix of the	*	03-1251-CD
Estate of DAVID A.	*	
WEAVER, deceased, and	*	
JENNIFER WEAVER, a minor,	*	
by her parent and natural	*	
guardian, BRENDA ORSICH,	*	
Plaintiffs	*	
vs.	*	DEPOSITION
BARRY KYLER, t/d/b/a	*	OF
NORTHEAST SPRING &	*	BARRY
EQUIPMENT CO.; NORTHEAST	*	KYLER
SPRING & EQUIPMENT CO.;	*	June 1,
and MACK TRUCKS, INC.,	*	2007
Defendants	*	
vs.	*	
TRIANGLE AUTO SPRING CO.	*	
and CONSOLIDATED METAL	*	
PRODUCTS,	*	
Additional Defendants	*	

* * * * * * * *

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that come from?
A. What kind of part?
Q. Were there washers involved, nuts and things like that?
A. All that stuff would have come from Flagg.
Q. When you say Flagg, you mean they were Flagg brand from Triangle?
A. Correct.
Q. So is it correct then that you got all of the replacement parts that were used on the Guelich Company truck in the April 25th, 2000 suspension job, you got those from Triangle Spring in DuBois, PA?
A. Yes, I did.
Q. And did you go up and get them yourself?
A. I don't recall if we picked that up or if that was UPS'ed to us. I'd have to look.
Q. How far is DuBois from where your shop is?
A. About a 40, 45-minute drive, about 50 mile.

mean?
A. That's the air wrench.
Q. Okay.
A. So we had to go, you know, another 250, 300 pounds of torque and, you know.
Q. Where did you get the spec that you were using for how much torque you were going to put on the U-bolt?
A. Out at the Triangle book.
Q. And do you recall what the spec was for this particular application?
A. I don't have that in front of me that ---.
Q. But you mentioned 250 to 300 additional, is that an estimate?
A. 1300 to 1443.
Q. Can I have a look at that? So you're referencing a Flagg suspension parts booklet of some type?
A. That's their actual U-bolt threaded rod booklet that I spoke of before.

installing it on the truck and having the spring compressed.

Q. Was the Guelich truck that you worked on April 25th, 2000 loaded or unloaded when it was parked?

A. It was unloaded.

Q. So at the time that the work was done by your company on the camelback suspension on the Guelich truck in April of 2000, it was unloaded?

A. Correct.

Q. Where did you get the information that you should make sure U-bolts are retightened after 1,000 miles?

A. I don't recall exactly who gave me that information. General industry policy to do that, and I may have spoken to an individual from another spring shop that gave me that information.

Q. Who would that have been?

A. I don't recall exactly where I got the information from. It's sort

EXHIBIT "D"

NORTHEAST SPRING & EQUIPMENT CO.

RD 3 Box 93A RT 322 West
PHILIPSBURG, PENNSYLVANIA 16866
(814) 342-3420

7482

QTY	PART NO. AND DESCRIPTION	PRICE			
1	62-143-5				
1	CB120120				
4	UBW90				
4	DN9				
2	UT7619 MR				
1	DN1				

(MAY BE CONTINUED ON OTHER SIDE) TOTAL PARTS

ACCESSORIES

TOTAL ACCESSORIES

EXHIBIT
Northeast Spring & Equipment
6/11/07 RKT

NAME: D C Gu...
CUSTOMER'S ORDER NO.:
DATE:
ADDRESS:
ORDER WRITTEN BY:
PROMISED: A.M. P.M.
CITY, STATE, ZIP:
HOME PHONE:
BUS. PHONE: EXT.:
ODOMETER: 116142
YEAR, MAKE AND MODEL: 91 MACK
LICENSE NUMBER: YAS 3936
SERIAL NUMBER: 1M2P264C0MM009212
MOTOR NUMBER: 309
TERMS:

DESCRIPTION OF WORK — AMOUNT

☐ LUBE ☐ CHANGE OIL ☐ OIL FILTER ☐ TUNE-UP ☐ TRANS. ☐ DIFF.

Replaced #5 PLY IN R.R

Important: Retighten U-Bolts After 1000 Miles.

____ LITERS/GALS. OF GAS @				TOTAL LABOR	
____ LITERS/QTS. OF OIL @				TOTAL PARTS	
____ kg/LBS. OF GREASE @				ACCESSORIES	
				GAS, OIL AND GREASE	
				SUBLET REPAIRS	
I hereby authorize the above repair work to be done along with the necessary materials. You and your employees may operate above vehicle for purposes of testing, inspection, or delivery at my risk. An express mechanics lien is acknowledged on above vehicle to secure the amount of repairs thereto. It is also understood that you will not be held responsible for loss or damage to cars or articles left in cars in case of fire, theft or any other cause beyond your control.				EPA / WASTE DISPOSAL	
				TAX	
SIGNATURE: Donald Hoover				TOTAL	
				THANK YOU	

EXHIBIT "E"

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PA

CIVIL DIVISION

* * * * * * * * *

BRENDA ORSICH, *
Administratrix of *
the Estate of DAVID A.*
WEAVER, Deceased, *Case No.
and JENNIFER WEAVER, a*03-1251 CD
minor, by her Parent *
and natural Guardian, *
BRENDA ORSICH, *
Plaintiffs *
vs. *
BARRY KYLER, t/d/b/a *
NORTHEAST SPRING & *
EQUIPMENT CO., * DEPOSITION OF
NORTHEAST SPRING & * JOSEPH
EQUIPMENT CO., and * SADOWSKI, SR.
MACK TRUCKS, INC., * May 31, 2007
Defendants *
vs. *

COPY

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by the certifying agency.

TRIANGLE AUTO SPRING COMPANY, Defendant * VS. * CONSOLIDATED METAL PRODUCTS, Defendant *

DEPOSITION OF
JOSEPH SADOWSKI, SR.
MAY 31, 2007

DEPOSITION
OF

JOSEPH SADOWSKI, SR., taken on behalf of the Defendant herein, pursuant to the Rules of Civil Procedure, taken before me, the undersigned, Jacqueline L. Hazlett, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at the offices of Sargent's Court Reporting Service, 106 North Second Street, Clearfield, Pennsylvania, on Thursday, May 31, 2007 beginning at 10:37 a.m.

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PROCEEDINGS

JOSEPH SADOWSKI SR., HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

EXAMINATION
BY ATTORNEY MOSES:

Q. Hi, Mr. Sadowski. My name is Judy Moses. We met a little bit ago. You're subpoenaed to give your deposition today, and it's connected with some knowledge you may have about Guelich Explosives since you're a former employee, and secondarily related to the lawsuit filed by David Weaver's Estate. If you don't understand my question, would you stop me and tell me you don't understand the question?

A. I will.

Q. And if you don't hear all the words of the question, would you stop me and tell me to repeat it?

A. Okay.

Q. And if you answer the question, can we agree you've understood the question and you've heard it?
A. Yes.
Q. All right. Sir, would you state your full name for the record?
A. Joseph E. Sadowski, Sr.
Q. Mr. Sadowski, have you ever given a deposition before?
A. No, I haven't.
Q. As you can see the court reporter's taking your testimony down and if you give a yes or no answer, please say yes or no versus shaking your head or going like this, because she can't take it down; all right? And we would ask you to give verbal answers and not speculate about answers as well; okay?
A. Okay.
Q. Do you work today? Do you have a job?
A. A part-time job.
Q. Okay. Where do you work, Joe?

A. I just do some remodeling and stuff like that?
Q. And what is your --- may I call you Joe?
A. Yes.
Q. Thank you. What is your address, Joe?
A. P.O. Box 77, 308 Hoovertown Road, H-O-O-V-E-R-T-O-W-N, Road, Pennville, PA 15849.
Q. And are you married or single, Joe?
A. Married.
Q. And do you have any children in the area?
A. Two.
Q. Are they two adult children?
A. They are adults, yes.
Q. All right. Now, where were you employed --- I understand you are retired from Guelich Explosives.
A. Yes. That is correct.
Q. Okay. When did you retire?
A. I believe it was April the 9th of 1999.

Q. And what was your job title at Guelich Explosives?
A. I was general superintendent.
Q. I'm sorry?
A. general superintendent.
Q. And that was your job title when you retired in '99?
A. Yes, it was.
Q. And what were your job duties as a general superintendent?
A. I was in charge of the shop and of all the men, dispatching them to the jobs.
Q. When did you start at Guelich?
A. When did I start there?
Q. Yes.
A. Ma'am, I think it was August of 1976. That's not definite, but very close.
Q. That's okay. That's okay. You can approximate. That's not a problem. And when you started there in '76 or thereabouts, what did you do? What were you hired to do?

When I first started there I was just a helper on a blasting crew.
Q. Now, can you tell me anything about Guelich Explosives? Where is it located?
A. R.D. 3, Clearfield.
Q. Has it always been there?
A. Yes.
Q. The office has always been located there?
A. Yes.
Q. And what kind of business is Guelich Explosives, what do they do?
A. They're in the blasting business, quarries, road jobs and open pit mining.
Q. And when you started in '76, you said you started as a helper?
A. Yes.
Q. And what did you do as a helper?
A. We loaded trucks. We went to the jobs and laid out the explosives and did the blasting.
Q. And where would the jobs be

located?
A. All over the area. All over this area within, I would say, probably a 50-mile area.
Q. A 50-mile area of Clearfield?
A. Yeah. Yeah.
Q. And these job sites, can you describe them for me? Were they strip mine areas?
A. Yeah, strip mines. And as far as road jobs, I did very little on that, but I have been in the quarries, the limestone quarries.
Q. And the limestone quarries, is that the primary site where the explosives ---?
A. Yeah, where the holes are drilled, where the limestone is shot before it gets crushed.
Q. And to get to these limestone quarries it's all off road?
A. Yes. Once you get off the main highways, yes. And they are fairly well maintained.
Q. Now, at some point while you

were employed at Guelich did you become a driver?
A. Yes.
Q. Were you a driver first when you were a helper?
A. Yes. Yes.
Q. So you started as a driver?
A. Yes.
Q. Do you have your CDL license?
A. Yes, I do, ma'am.
Q. When did you get that?
A. Whenever the law came into effect that you had to have them. I do not know when that was.
Q. Do you know whether that was in the '80s, '70s, '80s or '90s?
A. It was probably in the '80s.
Q. Now, did you have to take any test to get your CDL license?
A. Yes, I did, ma'am.
Q. Did you have to take any tests while working at Guelich Explosives?
A. What kind of test are you referring to?
Q. An over-the-road tests or any

road tests?
A. Yes, I did. I had to take a driver's test. Yes. And who that was issued by, I do not know.
Q. Now, you started as a helper and you also drove trucks.
A. Yes.
Q. And at some point what was your next job title at Guelich?
A. Then I became like foreman, general superintendent.
Q. When did you become foreman?
A. Probably about, I would say, 1978 or '79.
Q. And what were your job duties as a foreman?
A. To dispatch the men to the jobs.
Q. How many people were employed by Guelich in the late '90s if you recall?
A. I would say in the Clearfield division, I would say, probably about 25.
Q. And what does the Clearfield

division consist of?
A. This is where the main office is and the main shop.
Q. And how about in 2001 when David Weaver, at the time of David Weaver's accident in the summer of 2001, the same, 25 employees ---?
A. I do not know, ma'am. That was over two and a half years after I retired.
Q. You retired in '99?
A. That's right.
Q. But in '99 there were about 25 employees?
A. Twenty-five (25) or 30, yes.
Q. And out of those 25 or 30, how many were drivers?
A. I would say at least 20 of them. I'm not sure, though. That's just a guess.
Q. And where are the other offices of Guelich located?
A. Somerset, Pennsylvania, which it is Friedens is the address.
Q. And do you know how many

employees work at that office?
A. No, I don't know how many employees work there.
Q. In 1999?
A. I do not know that.
Q. And is there another office?
A. Bloomsburg.
Q. Bloomsburg?
A. Yes.
Q. And where is that located?
A. East of here, probably about 130 mile.
Q. And you don't know how many employees worked there in the '90s, the late '90s?
A. No, I don't.
Q. Now, in the Clearfield office in the late '90s you said there were what, at least 20 drivers?
A. Probably so.
Q. Did Guelich buy a certain type of truck? What kind of trucks did the drivers drive?
A. Van trucks.
Q. I'm sorry?

A. Van trucks with boxes on the back that we hauled explosives in.
Q. Was there any particular manufacturer?
A. If I'm not mistaken, ma'am, they were probably all GMCs, if I'm not mistaken. There might have been an International, too.
Q. Did you know David Weaver?
A. Yes, I did, ma'am.
Q. And do you know when he was hired, first hired at Guelich?
A. No, I do not know the exact date he was ---.
Q. Do you know approximately when he was hired?
ATTORNEY MOSES:
Jerry, do you know?
ATTORNEY KIGER:
No. I have no idea.
Late 1980s.
It would have been like in August or something.
ATTORNEY KIGER:
Late 1980s.

A. Ma'am, you also asked me about trucks and I told you about van trucks, but then we also had other trucks that hauled nitrate.
BY ATTORNEY MOSES:
Q. Yes. So the van trucks were used for what?
A. For hauling explosives.
Q. Okay. And you said those were GMC?
A. Probably, just about all GMCs, maybe some Internationals.
Q. And how many of the truck drivers just hauled explosives in the late '90s?
A. Well, all of them were qualified to haul them. Yeah.
Q. But did certain drivers just haul explosives and some haul ammonium nitrate?
A. Yes. Usually, that's the way it went. Everybody had their specific job. Yes.
Q. All right.
A. But they were capable of doing

either one, a lot of them, not all of them.
Q. So van trucks were used to haul explosives, and then there was trucks that were used to haul ammonium nitrate?
A. Yeah, we called them bulk trucks, B-U-L-K.
Q. And was there a particular manufacturer that Guelich used?
A. Ma'am, we had Internationals, one Mack, and --- I'm sorry, two Macks we had and there could have been a Ford also. I can't remember exactly.
Q. All right. So there were approximately, what, four or five trucks that were used to distribute the ---?
A. Yes, approximately, yes.
Q. Yes. One more rule which I didn't tell you. Can you let me finish my question, ---
A. Okay.
Q. --- and then I'll let you

answer the question. She can't take down both of us ---
A. Okay.
Q. --- if we're talking at the same time. So let me just repeat that, Joe. So there were approximately four or five trucks that were used specifically to haul ammonium nitrate, at least in the late '90s before you retired?
A. That is correct.
Q. And you think two of those trucks were Mack trucks?
A. Yes.
Q. Joe, can you give me a summary of your educational background?
A. High school.
Q. And did you go to technical school or training or trade school?
A. No, I didn't.
Q. And any certifications? Did you obtain any type of certifications for like mechanical training, operating machinery?
A. No. I have no certifications.

Q. You did obtain a CDL license?
A. Yes, I did.
Q. And that was, you think, in the '80s?
A. I think it was late '80s, yes.
Q. Late '80s. Were you in the military?
A. No, ma'am.
Q. Have you had any experience in body shop work and maintaining or repairing machinery or vehicles?
A. Yes.
Q. And what did that training consist of, Joe?
A. I'm sorry, you said training in doing it?
Q. Yes.
A. No, I haven't had no training.
Q. Okay. No formal training?
A. No. No.
Q. Have you had on-the-job training?
A. Yes, ma'am.
Q. And what is that on-the-job --- can you go through that with me,

the on-the-job training for maintenance and servicing the vehicles and machinery?
A. Well, ma'am, probably just about all my life I've been in the construction industry with heavy equipment and heavy trucks and it was all hands on experience learning from people that did, you know, what to do and how to do and that's basically it.
Q. Now, what was your first job that involved maintaining heavy equipment or heavy trucks?
A. Probably back in the late '60s for Pipeline Construction Company.
Q. Pipeline Construction?
A. Yes. And excavating and grading.
Q. Is that the name of the company, Pipeline Construction?
A. No. The company is no longer in business. The name of the company was Haupt, H-A-U-P-T, Pipeline.
Q. Okay.

A. And then a company by the name of Joyce, J-O-Y-C-E, Western Corporation.
Q. Okay. Is that company still in business?
A. Pardon?
Q. Is that company still in business?
A. No, they're not in business either.
Q. And when did you work for Joyce Western?
A. Probably right before I came --- I finished up with them right before I came to work for D.C. Guelich Explosives.
Q. All right. Let's talk about Haupt first.
A. Yes.
Q. That was in the late '60s. How long did you work there?
A. Probably about four or five years.
Q. Okay. And what were your job duties there?

A. Ran equipment and repaired equipment.
Q. And what kind of equipment did you run?
A. Drove tractor-trailer, low boys and ran dozers, side booms.
Q. Okay. And you did the maintenance ---
A. Yes.
Q. --- and repair on that equipment?
A. Yes, helped with maintenance and repair, yes.
Q. And when you said helped with, you were in a garage?
A. Garage and out in the field.
Q. And at Joyce Western, how many years did you work there before you came to Guelich?
A. I think for about ten years, ma'am, approximately.
Q. And what did you do for Joyce?
A. Approximately the same thing I did for Haupt Pipeline, just about the same thing.

Q. And did Joyce Western have a garage?
A. Yes, they had a garage, but we worked all over the Eastern United States.
Q. And what type of maintenance work did you do on equipment?
A. The same thing I did for Haupt Pipeline Construction.
Q. The same kind of equipment?
A. Yeah, same kind of equipment.
Q. Bulldozers?
A. Yes.
Q. Low boys?
A. Yes.
Q. And what kind of trucks? Did you drive a truck for Joyce?
A. Yes. I drove tractor-trailer, low boys, hauling equipment, hauling pipe.
Q. Now, were you responsible for your truck maintenance, just you, when you worked at Joyce?
A. Yes.
Q. Were you responsible for doing

the P.M. on it?
A. Yes.
Q. And did you also do the major repairs on the tractor-trailer?
A. No, not real major repairs on them, no.
Q. Primarily the preventative maintenance?
A. Yes.
Q. Where else did you work, Joe?
A. A small stint for about a year with a company by the name of Brookville Wood Products.
Q. Okay.
A. And there I drove a log truck.
ATTORNEY KIGER:
Was this before? That was before the other job; is that right?
ATTORNEY REGENSTEIN:
I don't think he said.
BY ATTORNEY MOSES:
Q. When did you work for Brookville?
A. After Joyce.

Q. After Joyce and before Guelich?
A. And before Guelich. That was probably about a year's worth of working there.
Q. A year's worth? And you said you drove a log truck?
A. Yes.
Q. And then you started with Guelich you said in the mid-'70s?
A. Yes. I think '70-something or '76, something like that.
Q. So I think at Guelich we were up to the stage where you were a foreman. That's a promotion; correct?
A. Yes.
Q. When you were promoted to foreman. And what time frame was this?
A. That was probably --- if I started there in 1976 or '77 that was probably a couple of years later.
Q. In the late '70s?
A. Yes, I would say.

Q. And what were your duties as a foreman, Joe?
A. To dispatch the men to the jobs.
Q. Did you have any responsibilities in maintenance as a foreman, maintaining equipment?
A. Yes. I had mechanics in the shop, and I relayed to him what needed done, and he did it.
Q. Now, in the late '70s, what kind of maintenance shop did Guelich have? How many people did it employ?
A. Total people?
Q. Yes.
A. I don't know in the late '70s I could have been 12, 10 or 12.
Q. Okay. And before you retired or at the time you retired in 1999 Guelich had a shop on site?
A. Yes. It was the very same shop, yes.
Q. And who ran that shop in the late '90s?
A. Who ran the shop?

Q. Yes.
A. I did.
Q. So you were the shop foreman?
A. Yeah, more or less, yes.
Q. Okay. Was that your job title?
A. No. My job title was general superintendent, foreman, but I was in charge of the garage of the shop.
Q. And when did you formally become in charge of the garage?
A. Well, that was probably about the same time I became general superintendent.
Q. And when was that? I'm sorry, Joe.
A. Late '70s, early '80s, whatever.
Q. Did anyone else share that title with you, shop foreman?
A. Probably the man over me was the owner of the company, Dwayne Guelich.
Q. Now, in the late '90s, I think you said there were about 20 or 25 trucks owned by Guelich?
A. Yes, probably so.
Q. And in the late '90s five of those were used for ammonium nitrate and the balance were used for explosives to haul explosives?
A. I would say approximately, ma'am, yes.
Q. Now, how many people worked in the shop in the late '90s?
A. It was mostly one mechanic.
Q. There was one mechanic?
A. Yes.
Q. Okay. So had that number decreased over the years?
A. Well, sometimes we had just one. Sometimes we had two, not always.
Q. Maybe I misunderstood you. I thought you said at some point there were 12 people employed in the maintenance shop.
A. No, not in the maintenance shop. No, no. No, ma'am.
Q. Well, then I misinterpreted you.
A. No. I'm sorry.
Q. Did you use the number 12 for --- well, okay. So at any given time — strike that.
In the '70s through the late '90s, how many people were typically employed in the maintenance shop, in the garage?
A. In the garage there was always one mechanic there.
Q. And who was the mechanic in the late '90s before you retired? I saw the name Randy Knepp in a deposition.
A. That is correct. That is correct.
Q. Randy Knepp, and that's K-N-E-P-P?
A. Yes.
Q. I think. All right. Do you know whether Randy is still employed with Guelich?
A. I think he still is. I'm not sure, ma'am.

Q. Do you know when he was first hired?
A. No, I don't. No, I don't.
Q. Has he worked there at least 10 or 15 years?
A. I would say at least that long. I would say ten for sure. That was before I retired. Yeah, that's when I retired, yeah.
Q. Do you recall the names of any other mechanics over the years?
A. Jim Mitchell.
Q. Jim?
A. Mitchell, M-I-T-C-H-E-L-L.
Q. Okay. And was he the mechanic before Randy?
A. Yes.
Q. And he's no longer employed at Guelich?
A. No, ma'am.
Q. Now, what were Randy Knepp's responsibilities?
A. That if something was broke or needed fixed on a truck, it was his job to repair it.

Q. And who made that determination whether something was broke or needed to be fixed on a truck?
A. When I was told by Riley, there was something wrong or if something needed fixed, I relayed that to the mechanic.
Q. Okay. Now, was there a work order that was prepared or was it a verbal --- did you relay this verbally that so and so said something's wrong with the truck and ---?
A. Verbally.
Q. And then Randy ---?
A. And then there was a work order usually wrote --- work order wrote up on what was done.
Q. Did Guelich use any outside shops for its maintenance?
A. Yes, they did.
Q. Who did they use?
A. For some of the work, Heller Spring, Clearfield Equipment. I

don't know, there might be more. I just can't remember right at the moment.
Q. Do you know why an outside shop was used?
A. Maybe we were busy or whatever. There's stuff that we couldn't do at the moment.
Q. Do you know what Randy Knepp's background was? Did he have any certifications or receive any training as a mechanic?
A. I do not know. I do not remember, ma'am.
Q. Now, did Guelich in the late '90s have a preventative maintenance program?
A. Yes, we did.
Q. And what did that consist of?
A. It consisted of the equipment being brought in. I don't recall the number of miles that it was right now, and they were serviced and checked over and a maintenance report made out.

Q. Did the driver bring the truck in at certain intervals?
A. Yes, every so many miles, yes.
Q. So the driver brought the truck into the shop every so many miles?
A. Yes.
Q. And whose responsibility was it to know --- to track down those miles and when the driver would bring the truck in, if you know?
A. Well, it was between the mechanic and myself.
Q. I mean, was there a written schedule indicating that, you know, that Dave Weaver should bring his truck in at a certain time or the other drivers should bring their trucks in at certain times?
A. No, they kept track of it, because they made out a report every day with the mileage on the report that they had checked over their trucks, a preventative maintenance thing that everything was okay on

their truck.
Q. And when you say they, you're talking about each individual truck driver?
A. Each individual truck driver, yes.
Q. And did that report you're talking about have a certain name?
A. Mechanical defect report.
Q. And how long had those mechanical defect reports been used?
A. It was used ever since I started there, ma'am.
Q. So that report was in place?
A. Yes, and saved while I was there.
Q. And it was saved? Okay. Do you recall the names of any other truck drivers in the late '90s, Joe?
A. Mike Donahue.
Q. And did Mike haul explosives or ammonium nitrate?
A. He hauled ammonium nitrate.
Q. How was a driver selected for hauling ammonium nitrate versus

explosives?
A. Ma'am, there was some of the drivers that did both. They were capable of doing both, yes. You had to have a CDL to drive a tandem truck.
OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q. So Mike Donahue, did he drive both a truck that carried explosives and ammonium or just ammonium?
A. He could drive both.
Q. He could drive both, because he ---?
A. The majority of time he drove ammonium nitrate trucks.
Q. And he had a CDL license?
A. Yes, he did.
Q. Do you know whether he stills works at Guelich?
A. As far as I know, he still does.
Q. And we know David Weaver drove a truck carrying ammonium nitrate.
A. Yes.

Q. And he could drive both?
A. Yes, he could, ma'am.
Q. Because he had a CDL license?
A. Yes.
Q. And do you know whether David Weaver did drive both trucks?
A. I would say at times. Mostly ammonium nitrate, but sometimes he would drive one of the other trucks also.
Q. It's established that he drove a Mack truck.
A. Yes.
Q. Do you recall that?
A. Yes.
Q. David would never haul explosives in the Mack truck; is that right?
A. No. You couldn't haul explosives. They are used --- if I can explain this to you?
Q. Sure.
A. They're used for hauling ammonium nitrate and fuel oil.
Q. And how often were the Mack

trucks used, every day, five days a week, six days a week? What was the schedule?
A. Sometimes five days a week, six days a week, maybe sometimes two or three days or one day, depending on how busy we were.
Q. Now, if David wasn't hauling ammonium nitrate, he would be hauling fuel oil or what?
A. No. Ma'am, no. The fuel oil is a separate compartment that mixes with the ammonium nitrate that you put down the blast holes. That's why there's fuel oil on the truck. There's a separate tank in front of the ammonium nitrate tank, and when you auger it off it mixes with the fuel oil and it goes into the bore holes. That's why there's fuel oil hauled.
Q. Okay. Now, was the haul the same weight every time, like 30,000 pounds or something like that, or what?

A. Not every time. Sometimes 30,000, sometimes 25,000 or 20,000. It depended. It depended on the size of the job.
Q. Okay. Now, do you recall the name of any other drivers with CDL licenses when you ---?
A. Ma'am, at that time I don't remember who the rest of the drivers were honestly.
Q. Okay.
A. I do not remember.
Q. Now, do you know where David Weaver typically hauled or drove?
A. It could have been anyplace, ma'am. Anyplace in the area. Wherever our jobs were in the area, just all over.
Q. So he typically drove this 50-mile area?
A. Yes, sometimes, maybe further, maybe a little bit further. It just depended where the jobs are, you know.
Q. Now, how often did he

typically have to deliver ammonium nitrate to quarries?
A. Whenever needed, ma'am. As far as how often, it's like every day or every other day or once a week. I don't know. It was just whenever he needed to go there.
Q. Now, can you give me the names of some of these limestone quarries in the area?
A. New Enterprise Stone and Lime, Hawbaker's.
Q. What was it, Hawbaker?
A. Hawbaker, Glenn O. Hawbaker, State College.
Q. How do you spell that?
A. H-A-W-B-A-K-E-R, I think.
Q. All right. Any others that you recall?
A. They're from State College. New Enterprise is from Roaring Springs.
OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q. Are those the only ones that

you can recall? Any others?
A. There probably is more, ma'am, but it just won't come to me right now. If Hawbaker and New Enterprise isn't doing it, it's not getting done. You know that.
Q. Now, do you know whether the truck drivers received any training as to how they would inspect their trucks to see if there was a problem?
A. I would think when they looked at their trucks if they thought there was a problem or something needed done they usually asked the mechanic, or a lot of times they asked me to take a look at things.
Q. Okay. Were the drivers required to look at their trucks every day?
A. Yes, every morning. They call it a pre-trip inspection.
Q. And were they trained on how to conduct a pre-trip inspection?
A. Yes, they were.
Q. And who trained the truck

drivers?
A. Well, between myself and the mechanic or mechanics.
Q. Now, did they receive any formal training like classroom training on how to do it, how to go about the pre-trip inspection?
A. Not that I recall of. Not classroom training, no.
Q. Okay. Well then, can you describe the training they received?
A. The kind of training that they received they had to check their brakes. They had to check their lights. They had to check all the --- like the bolts and make sure there's no loose nuts or bolts or lug nuts on the tires.
Q. Okay. Anything else?
A. General appearance of the truck, and they also had to check tires.
Q. Now, when they checked the tires, how were they checking the tires?

A. Well, check to make sure there was no cuts that the tire was good, the tread was good and the air wasn't low.
Q. Okay. So they did an eyeball check?
A. Yes.
Q. All right. Anything else, Joe?
A. Not that I can think of at the moment.
Q. Now, where did they do this pre-trip inspection?
A. Right at the shop before they left.
Q. Now, how did that work? There were approximately, and correct me if I'm wrong, were there at least on any given day 20 trucks going out?
A. No, not every day there wasn't 20 trucks. There could have been two or three one day, ten the next day, 15, five or six, depending on the work load.
Q. Okay. And if a trucker wasn't

driving, what was he doing? What would he be doing?
A. We had a manufacturing plant where we manufactured what they call wet hole material. Some of them worked there when they weren't out. And we also had trucks come in to unload that brought our explosives in, you know, our blasting caps and stuff, and they had to unload those. They had a variety of jobs.
Q. Well, can you give me an example of how did the trucker know what he was supposed to do in a given week or on a day? Did he receive a schedule from you?
A. Yes. I did the scheduling, ma'am. I sent him where he had to go.
Q. So like, for example, would David Weaver know where he was to go, what he was to do every day of the week, every day of the work week? I'm just trying to get an idea of how it worked.

A. Mostly in the morning when they started, that's when they knew. Sometimes they would know the day before, but it didn't always work that way. It was mostly in the morning. I did the scheduling. When they came in I had the work laid out for them, where to go and what to do. Sometimes they went out to a job, they were there two or three hours, came back in, had to reload and go back out again.
Q. Now, if you gave David Weaver an assignment that he was to drive that morning, how would he go about inspecting his truck?
A. Well, it's up to him to inspect the truck and mark the sheets if anything was wrong or if it needed fixed or if it was okay, then he was able to go.
Q. You went over a list of typically what truck drivers inspected before they went out on the road. Did the truck drive literally

pull his truck into the shop to inspect it?
A. No, if it was a nice day they did it outside. They did it outside a day like today or whatever. They didn't need to. Sometimes if they thought something was wrong, they would pull it in and maybe the mechanic would look at it and see, or fix it or whatever the case might have been.
Q. Am I correct in stating that they mainly did an eyeball inspection of the truck before they went out?
A. Yes. Yes. Mainly an eyeball check, yeah, of your tires and ---.
Q. And the lights?
A. And the lights, yes.
Q. And the general appearance of the truck?
A. And the general appearance of the truck and check for loose lug nuts, because if a lug nut is loose the wheel will turn. You can tell. Basically, that's it. You did not

put a wrench on every nut and bolt on the truck, because you'd be there forever. You can't do that. Nobody does.

Q. Right. Okay. So the lug nuts, how would they check the lug nuts to see whether they were loose?

A. You can tell that by looking at them, ma'am.

Q. I don't know. How do you tell that?

A. Well, you just look at it and you can tell if a nut is loose or not or a bolt is loose. You can tell because if something is loose it will move back and forth or you can see where the wheel had spun. It's not like a car tire. They are totally different.

Q. Okay. So other than checking the lug nuts, no other nuts were checked?

A. No, they checked their U-bolts and everything on the truck. They check the springs to make sure

there's no broken leaves, and things like that.

Q. Now, did you ever inspect the truck drivers doing a pre-trip inspection?

A. Yes, I have.

Q. And you said that they don't bring the truck into the shop, they do it outside.

A. Yeah, they can do it on daylight today or a nice day, you can do it outside. It doesn't have to be brought in the shop to do that.

Q. And how long --- typically, how long does it take to do a pre-trip inspection?

A. It usually takes a half an hour.

Q. A half an hour?

A. Yeah.

Q. What time would the truck drivers typically show up at the shop?

A. I think our starting time was mostly eight o'clock in the morning,

and depending on the workload, it could have been seven o'clock in the morning, but I think our starting time was mostly eight o'clock.

Q. Okay. And so you personally observed every truck driver doing the pre-trip inspection for at least a half an hour?

A. Are you talking every truck every day?

Q. Yes.

A. Did I watch them?

Q. Yes.

A. No, ma'am, I did not. No, no.

Q. Okay. Well, I'm just trying to get an idea.

A. No, no. I, at one time or another, especially with a new employee that just started driving, yes, I observed that, but not every day. No, ma'am, I did not.

Q. Did you ever watch David Weaver doing the pre-trip inspection?

A. My memory really doesn't recollect that, but I probably did at

one time or another.

Q. But you don't recall?

A. I don't recall, no.

Q. Do you know whether the truck drivers used any tools to do a pre-trip inspection?

A. Not unless it was an air gauge to check tires with or something like that, ma'am, or there were things not related to the running of the truck, like the bulk unit with chains and stuff, and they had tools to fix that. But as far as a pre-trip inspection, like if something needed tightened, yes, they would tighten it or get the mechanic, because they were well versed in what to do.

Q. But they didn't typically use a tool to check the truck?

A. No, you don't have to use any tools.

Q. Now, how, if you know, how did truck drivers go about checking leaf springs?

A. Well, you can visually check

leaf springs to see if it's cracked or not. You don't usually have any tools to check that. You can use your eyes.
Q. And I mean, do you have to stoop down, do you have to get underneath the truck? How does that work?
A. Mostly you can see the springs from between the dual tires.
Q. You can see the springs between what?
A. Between the two back axles, and they're behind the tires, and you can look back there and visually see if anything's broke.
Q. And is that what the truck drivers were looking for to see if something was broke?
A. Yes, they could tell if a U-bolt was loose. They could tell if a spring was broke.
Q. Okay. Now, how can a truck driver tell if a U-bolt is loose?
A. Well, you can see if it's

loose and you can see if it's moving or if it's been moving.
Q. What indicators are there? What do truck drivers see if a U-bolt is loose?
A. If the U-bolt is loose, it will move back and forth or up and down or both.
Q. Well, when the truck is stationary, are you saying the truck driver is feeling the U-bolts?
A. You can feel it with your hand. You can visually see it if its loose because it makes marks on the spring.
Q. Were there any tools used by the truck drivers to check leaf springs?
A. No, ma'am.
Q. Now, were you ever present when a truck driver found a broken spring?
A. Probably at one time or another, yes, ma'am.
Q. Do you know whether the truck

drivers were ever shown how to inspect leaf springs and U-bolts?
A. Yes, they knew that.
Q. How do you know they knew it?
A. We showed them how, ma'am.
Q. Okay. That's what I'm trying to get at.
A. We showed them how to do it, what to look for.
Q. Are you saying that you showed each and every truck driver how to inspect leaf springs?
A. Yes. I would say at one time or another, yes.
Q. Do you recall ever showing David Weaver how to inspect leaf springs?
A. I would probably say yes, ma'am.
Q. Okay. You do not remember it ---?
A. I do not remember it.
Q. And can you tell me, did you personally show David Weaver?
A. I do not remember if it was

personally me or not.
Q. Were there certain things that you conveyed to the truck drivers to tell them what to look for when they were inspecting leaf springs or U-bolts?
A. No, they knew what to look for, ma'am. After once --- after they were taught how to do it and shown how to do it, they knew how to do it.
Q. Well, that's what I'm getting at. You said that they were taught how to do it. Who taught them how to do it and how were they taught?
A. Well, either myself or probably the mechanic, they would ask him more than they would ask me because he was in the shop. He was in charge of the shop, in charge of repairs, and if they thought something was wrong they would ask him. And then he would tell me, we need to take this truck out of service because it has a broken leaf

spring or something and it would be taken out of service and repaired.
Q. Can you give an example of a truck driver that found a broken leaf spring?
A. It probably could have been any of the one's that I've mentioned, ma'am.
Q. All right. Can you recall what you specifically told a certain truck driver as to how to inspect a leaf spring or a U-bolts?
A. Just what I told you, ma'am.
Q. Just what you just told me.
A. Just what I just told you, yes.
Q. You do an eyeball of the leaf springs?
A. I have myself, yes.
Q. No. But I'm asking you what did you tell the truck drivers?
A. Yes. You would look for broken --- you would look for broken leaves in the spring, or you can tell where a U-bolt's been working, if

it's loose, and it needed to be repaired, and it was always repaired.
Q. All right. Now, if the truck driver had a broken leaf spring, are there any like signs when you're driving? Can you detect that?
A. When you're driving, I would say no. I drove a lot of truck, and you could break a leaf in the spring and you could drive from here to Chicago and back and not know it, because it's just one leaf. As long as it's not the main leaf, you're okay. It needs repaired, but if you do not know it, and you don't see it or you're just driving non-stop, you can drive with one of your leafs as long as it's not the main leaf broke, and you will not know it. It does not affect the performance of the truck.
Q. And now, you said you won't know it unless it's the main leaf?
A. Yeah, the main leaf, at the main top leaf and all the rest of

them, there's a bolt that goes down through that holds the rest of the leaves on, and sometimes the center bolt breaks also, and then the spring just kind of shifts all over place and falls apart.
Q. But the main leaf is --- are you talking about --- is it number one?
A. Yes, number one. It's a big long one, yes. And then the next one is shorter and shorter and shorter and shorter.
Q. Have you ever driven a truck with loose leaf springs?
A. Probably in my lifetime, yes.
Q. Okay. Have you ever been able to detect loose leaf springs when driving a truck?
A. I can't, ma'am.
Q. You can't?
A. No, I can't.
Q. Now, were the truck drivers taught to look for loose leaf springs?

A. Yes, they were.
Q. How did they go about doing that?
A. How to check the loose leaf spring?
Q. Yes, how to check for loose leaf springs?
A. Visually, you can check. Visually, because they will shift and they will move.
Q. Okay. And so, when you're looking at leaf springs and one or some are loose, what are you looking at? How do you know that?
A. Well, pretend you have a deck of cards; okay. You move the cards, it's basically the same thing.
Q. Now, do you know whether the truck drivers used any tools to detect whether there were loose leaf springs?
A. No. You already asked me that.
Q. Well, I asked you about broken leaf springs. Can you think of

anything else the truck drivers would do on a pre-trip inspection?
A. Like I told you, loose nuts, bolts, springs, U-bolts, lug nuts, tires, lights.
Q. Now, the truck that David Weaver, that Mack truck that he drove, was that truck specifically assigned to him?
A. Yes and no. Yes, it was more or less like that's David's truck, but if David was on vacation and somebody had to drive it, it was driven.
Q. Okay.
A. Or whatever ---.
Q. Now, I think I asked you when David started, and I think you said in the late '80s or ---.
A. It was '78; wasn't it? '80, I think you said in the '80s.
Q. Yes. I think Jerry said in the mid-'80s. I remember you said late '80s. I don't know.
A. No. I think it was 1980,

because my son started one day and he started the next. I do remember that.
Q. Okay. So your son was a truck driver at Guelich?
A. My son used to be.
Q. How long did your son work there?
A. I believe he worked there for 13 years.
Q. Okay. What's your son's name?
A. Same as mine except Junior.
Q. Except Junior. When did he leave?
A. He left to go to Wal-Mart transportation. Well, if he started in 1980, then '93, I think '93 he went to work for Wal-Mart transportation.
Q. Did he also drive a truck? I'm sorry. Did he haul ammonium nitrate?
A. Yes, he did.
Q. All right. This certificate of road test was marked at Mr.

Guelich's deposition. It was marked as exhibit one. Can you take a look at this, Joe, and tell me whether you were the examiner of that road test?
WITNESS REVIEWS DOCUMENT
ATTORNEY ORAVETZ:
Are you going to mark this or are you just going to say Guelich One?
ATTORNEY REGENSTEIN:
I'm just going to ---.
A. It looks like my writing, my signature. And yes, I would say authentic.
BY ATTORNEY WILSON:
Q. All right. So David took the road test April 11, 1984. Is that correct, according to that ---?
A. Yes, that is probably true.
Q. So up until 1984 --- does this mean David didn't drive a truck for Guelich?
A. Probably not, ma'am, probably not. No, when he first started out, he started out, he and my son worked

at the what I explained to you before, the plant, the manufacturing plant we have.
Q. Okay. Now, there's a section on this road test that addresses pre-trip inspection and emergency equipment as part one. Can you see that on the form?
A. Is there another page?
Q. Yes. You can look through --- feel free to look through. I believe that's the only section that deals with pre-trip inspection, but look through it, Joe. Take your time.
A. It looks right.
Q. Have you had a chance to look at it?
A. It looks right to me, ma'am.
Q. So that part one, is that the only area of --- or this is the only section that deals with pre-trip inspection and emergency equipment; right?
A. Yes.
Q. I mean, you may not recall,

just tell me ---.
A. No, I don't.
Q. So this is back in 1984 when you gave this road test, this section that says pre-trip inspection and emergency equipment, do you recall what the driver had to do in connection with that pre-trip inspection?
A. What he had to do?
Q. Yes.
A. Check the brakes, the parking brakes, the lights, you know, the steering for looseness, and same thing as a tandem truck that he was driving or anything else.
Q. Okay. Well, back in 1984 when he took the test, the pre-trip inspection consisted of checking fuel and oil and excess oil on the engine, walking around the unit, tires, lights, trailer hook-up, brakes and light lines, doors and inspecting for body damage, brake action, horns, windshield wipers, instruments for

normal reading, windshield, windows, mirrors, lights and reflectors. And there's no checkmark or section here that deals with leaf springs or U-bolts or anything like that; is that right, at least, back in 1984?
A. Not in part one.
Q. Is that right, Joe?
A. Yes.
Q. Yes, there's no ---.
A. In part one, yes.
Q. So when David Weaver took the road test back in 1984, he did not perform a pre-trip inspection dealing with the suspension, the front axle and the rear axle?
A. No. This is the form that we had back then for a pre-trip inspection. That's all I remember, ma'am.
Q. And that's all that was done at that time?
A. Yes.
Q. Now, did Guelich at any time have a safety committee?

A. Yes.
Q. Or did they conduct safety training?
A. Yes. We had safety training that we did, an eight-hour safety class once a year. It'd pertain to all kind of safety, job safety, truck safety.
Q. Was there a particular person that conducted the meeting?
A. Yes, it was a company --- we had our own safety director, but it was a company that conducted the eight-hour safety training seminar every year. Diversified --- I don't know. They're up in Grampian, Pennsylvania. Diversified Services it might be. I'm not sure.
Q. So was the same company used every year?
A. Yes. Now, that's probably the last five or six years that I was there, before I retired, they used these people.
Q. The Diversified?

A. Yes.
Q. So like '94 or '99, something like that?
A. I would say, yeah. Yeah, it could be, yes.
Q. Did Guelich have an in-house training shop? Was there a service director --- I'm sorry, I mean, a safety training person?
A. Yes, they had a safety training person, yes. They had a man in charge of safety.
Q. And who was that?
A. The name was Breck Neeper.
Q. And do you know when Breck was hired? I don't think he works there any longer.
A. No, he doesn't.
Q. What was his job title, if you remember?
A. At one time he started out as a laborer. He was a bulk truck driver like David was, and a blaster and then he became safety director.
Q. Do you remember when he became

safety director?
A. No, I don't, ma'am.
Q. Do you know what he did as the safety director, what his job duties were?
A. Anything to do with safety, naturally.
Q. Okay. Do you know if he held meetings, monthly, weekly, yearly with the truck drivers?
A. He didn't exactly hold meetings. He didn't exactly hold meetings not that I recall.
Q. Do you know whether he did any training at all?
A. Any training?
Q. Yes.
A. I think he might have did some, ma'am, but I don't recall. You're getting back too many years for me.
Q. Okay. But he was there when you were retired; right?
A. Yes, he was.
Q. At some point.

A. I think until about a year or two ago.
Q. But you don't recall if he conducted any training when you were there before you retired?
A. No, I don't recall that he did any.
Q. Now, do you recall what type of training Diversified did?
A. Mostly safety training.
Q. Can you give me some subjects that they talked about?
A. Ma'am, it was mostly on the explosives end of it, on the job safety.
Q. So hazards associated with hauling explosives and dealing with explosives?
A. Hauling explosives and working with explosives.
Q. Do you know whether Diversified ever covered subjects such as pre-trip inspection and checking your truck?
A. No, ma'am, I don't think they

get into that.
Q. Now, I think --- we took Mr. Guelich's deposition, and I think he said that David was assigned a truck in '92. Do you recall whether that was the case or not?
A. No, I don't, ma'am. No, I can't remember exactly.
Q. Do you know whether Mr. Weaver ever drove a truck before working at Guelich's?
A. I don't think so. He was fresh out of high school when he came there.
Q. Do you know Mr. Weaver? I mean, did you know him personally before he was hired?
A. Personally, before he was hired?
Q. Yeah, before he was hired.
A. No, I didn't. I didn't know him before. I knew his dad. I did not know him.
Q. And were you friends with his dad?

A. Yes, I was.
Q. What was his dad's name?
A. Sam Weaver.
Q. Now, I think I asked you this generally at the beginning of the deposition, but did drivers ever do any maintenance work on their trucks?
A. Just small stuff, ma'am, like lights and small things like that. They never did any heavy maintenance of any kind, just all light maintenance, like lights and things like that.
Q. Were drivers ever required to read the driver's manual or the maintenance manual?
A. They had a --- if I'm not mistaken, I'm almost positive of this. Everybody had a copy of the U.S. DOT manual. Now, if you're going to ask me if everybody read it or not, I don't know.
Q. Okay. So other than the DOT manual, did they read like, for example, a Mack manual, a Mack

owner's manual or maintenance manual?
A. Ma'am, if you would get a Mack owner's manual or maintenance manual, it really doesn't help you that much with anything on the truck. It tells you stuff like you don't have to change the oil --- you change the oil in your car every 3,000 miles, they say don't change the Mack for 25,000, just change the filters. It tells you things like that, and just general knowledge of the truck. It is nothing about --- well, it will have some safety and maintenance tips on there, do not drive this truck with loose lug nuts. Do not do this, just the dos and the don'ts, you know, but it's no great item. It's just something that comes in the glove compartment.
Q. Now, you mentioned some outside shops that Guelich used to do maintenance and repair on the trucks earlier in the deposition. Did Guelich's shop, specifically Randy

Knepp, did he ever replace leaf springs on trucks?
A. Yes, he did.
Q. Did he do that regularly?
A. Whenever it needed done, ma'am. How often that was, I can't answer that.
Q. So that wasn't something that was assigned to an outside shop, that was something Randy could do?
A. Yes. He could --- yes, he could change leaf springs, yes. He could change springs completely, yes, or change a leaf, or whatever, or rebuild a spring.
Q. Do you recall whether Randy ever changed leaf springs at the shop?
A. Do I recall whether he ever did it at the shop?
Q. Yes.
A. Yes, he has.
Q. Now, do you recall whether he found a loose spring or a broken spring or the truck driver did?

A. I would say he found and the driver both. He may have been doing a periodic maintenance on it, oil change, grease job, whatever and found a broken spring.
Q. Have you ever changed leaf springs?
A. Yes, ma'am.
Q. Did you ever observe Randy doing it?
A. Yes.
Q. Did you ever observe --- well, I assume you watched him tighten U-bolts?
A. I would say over the years, yes, I probably have.
Q. Now, what kind of tools did the shop have, the tooling shop have, the Guelich shop have in using that the mechanic used to tighten U-bolts?
A. Wrenches and air wrenches and sockets.
Q. Wrenches, air wrenches and sockets.
A. Yes.

Q. Where did Guelich purchase its leaf springs and U-bolts from when you were a foreman?
A. We purchased some from, if I can recall, Heller Spring, and I think they purchased them, I think, from Triangle Spring and a place over by Phillipsburg. The name is in this thing here, and I can't remember what that is. I have to look and see. Northeast Spring?
Q. Oh, Northeast Spring.
A. Yeah, Northeast Spring. Is that the one down by Phillipsburg?
Q. Yes.
A. Yes. We got some from them. And they may have changed some at their shop for us. I don't know.
Q. But you do know that Randy changed springs at the shop as well?
A. Yes.
Q. Can you recall how Randy went about tightening U-bolts at the shop? Is there a certain procedure?
A. You can use a wrench. You can

use an air wrench. Then sometimes you use a wrench with a cheater pipe on it to get the extra umph there.
Q. What is that called, a cheater?
A. Cheater pipe.
Q. Why is it called a cheater pipe?
A. Because you make a wrench longer to get more torque on it, but most of the time they used sockets and air wrenches.
Q. How did Randy know how much to tighten U-bolts? Does he have to have any information?
A. There is a torque that you're supposed to use. You use a torque wrench, but don't quote me on this, but it's something like so many foot pounds or whatever. When you pull the wrench when it clicks, that's tight enough. The wrench makes a clicking noise. You set the handle and they are long wrenches. Whether Randy used a torque wrench or not, I

don't know. I can not say that he used a torque wrench.
Q. Have you ever seen a torque wrench in the shop?
A. Yes, there's a torque wrench there.
Q. But you don't think Randy used a torque wrench ---?
ATTORNEY KIGER:
I object to that question. He didn't say he didn't think Randy used it. So I object to that question for the record, please.
BY ATTORNEY MOSES:
Q. Did you ever see Randy use a torque wrench?
A. I've seen him use torque wrenches, but I can't say that I've been there if he used one on the U-bolts or not. I do not know. I do not know.
Q. And you didn't use a torque wrench when you tightened U-bolts?
A. No, ma'am, I didn't. No.

Q. And you didn't require Randy to use a torque wrench?
A. I did not, no. Not that I can recall. And also, excuse me. But one thing, I never changed any springs on any trucks for D.C. Guelich. I did not change any springs there. Other places I had, but not for D.C. Guelich.
Q. So in your other jobs you changed springs?
A. Other jobs I did, but not for D.C. Guelich.
Q. Okay. When you became foreman, shop foreman at Guelich, you didn't have any rules and regulations for Randy Knepp to follow; is that right? You didn't develop and rules and regulations for him to follow with regard to changing leaf springs or tightening U-bolts?
A. No, nothing written.
Q. And you didn't require him to use a torque wrench to tighten U-bolts?

A. No, I didn't. Not that I can recall.
Q. Did you say Randy still works there, Joe?
A. I think he still does.
Q. Now, you mentioned some of these outside shops that you believe may have replaced leaf springs for Guelich on Guelich trucks, is that right?
A. Yes. I think Northeast did. I'm not sure. We bought springs off of them. They may have. I'm not sure. They may have replaced some for us at their shop, as well as Heller or Triangle, or whatever it was. I know they have done some for us years ago.
Q. Did you ever review the Mack maintenance manual related to changing leaf springs or changing U-bolts?
A. No, ma'am.
Q. So do you know what Mack recommends in regard to how U-bolts

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should be torqued or tightened?
A. Ma'am, if I did read it or if it was in their manual, I do not remember. I do not remember.
Q. Now, do you know whether there were any charts or manuals in the shop that Randy read before he did maintenance work on the trucks?
A. There probably was. There probably was manuals there for something that he didn't know. I'm not sure. I don't remember, no.
Q. Now, do you know whether after a leaf spring is installed or re-installed whether the U-bolts are checked again after a leaf spring is reinstalled?
A. I would say if it's a whole spring that is put in, that if you buy a whole entire spring and put it in, whether they check the U-bolts or not I do not know. They may have. They may have not.
Q. And you're talking about they meaning Guelich shop?

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A. I'm taking --- you purchase this spring from whoever, and it is one piece, and it is ready to go in. And as far as I know, whether the mechanic after the spring was in, checked the U-bolts for anything. I do not know whether they did or not, because I was never there with ever phrase of the operation was done.
Q. Do you know whether the U-bolts were tightened if an outside shop installed a leaf spring?
A. No, I don't.
Q. Do you know whether Randy ever tightened U-bolts after leaf springs were installed?
A. That's something I don't know whether he did or not.
Q. Were there any written guidelines that the shop mechanic was given at Guelich?
A. I would say not. Not that I recall, no written guidelines.
Q. Did you communicate with Randy Knepp throughout the day when you

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worked at Guelich or was he basically he did his job and you did your job duties?
A. No, I communicated with him.
Q. Did you ever supervise him?
A. Yes, I was the supervisor.
Q. Did you ever supervise his work?
A. Yes. I've watched him work, do things. He wasn't the kind of man that you had to stand looking over his shoulder making sure he did it right. He was a very good mechanic, as the other mechanic, Jim Mitchell, that worked there is the same way.
Q. I may have asked you this, and I apologize, but do you know what Randy's background was before he came to Guelich?
A. No, I don't remember. I don't remember what he did.
Q. Had he been a mechanic before he came to Guelich, do you recall?
A. I don't recall, ma'am. I don't recall.

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Q. Now, what years did Jim Mitchell work at Guelich?
A. You're getting back too far here. He worked there it might be the very late '70s and probably all the '80s. I'm not sure. He worked there, I think, for 10 or 12 years.
Q. Okay. And you think Randy worked there the entire '90s?
A. Yes. And Randy and Jim also worked together there at one time at the end of Jim's tenure of working there for a few years, because Jim was the dayshift mechanic for awhile and Randy was the nightshift mechanic and then when Jim retired, Randy moved over to dayshift. So they both had worked together at different times.
Q. What were the shop hours?
A. Usually from 7:00 in the morning until 4:00 or 5:00 in the afternoon, unless somebody had to stay late and do something that needed done.

Q. Let me show you what's been marked at Dwayne Guelich's deposition as Exhibit Two. Have you ever seen these records? Maybe not those specifically, but that type of a record before?
A. Yes. That's a pre-trip inspection report.
Q. Okay.
A. That's pre-trip. That's pre-trip. Yes, they're all pre-trip, and if I'm not mistaken 309 is the truck in question.
Q. Right, exactly. Now, were these forms used when you worked there, Joe?
A. Yes, they were. They were also saved and --- yes.
Q. So are you saying that this Exhibit Two was used for a pre-trip inspection?
A. Uh-huh (yes).
Q. Because it says every 2,000, every 12,000, every 24,000, and it goes to section one here ---.

A. I'm sorry. I'm sorry. I said pre-trip. This isn't a pre-trip. This isn't a pre-trip inspection. This is every 2,000 miles when the truck came into the shop when it was checked out first for this.
Q. Who typically would complete that form?
A. Who would complete this form? The mechanics in the shop.
Q. The shop mechanic?
A. The shop mechanic, yes.
Q. Now, the first sheet here is dated 4/23/01. Are there any other records that Guelich kept that would show whether each and every item on this 2,000-mile checklist was done or is this the only record that Guelich would have indicating ---
A. For the 2,000 mile inspection?
Q. --- for the 2,000 mile inspection?
A. This, and I believe there should be --- if something was wrong here, it was checked if it was wrong

and there should have been a sheet made out that it was fixed.
Q. Now, if, for example, a spring is adjusted or lubricated there wouldn't be another record indicating that that was done; is that right?
A. You don't adjust or lubricate springs.
Q. Well, a different item that would need adjusted or lubricated.
A. If they have bushings on the end, the only thing to get lubricated on the springs, the pins. The spring does not get lubricated or oiled or anything.
Q. How about on a U-bolt? Is lubricant used on the U-bolts?
A. No, not unless you're taking the nut off and then you can spray it with WD-40 or something to ease it if it's not coming off, but you don't use any kind of lubricant on it, no.
Q. On a U-bolt?
A. No.
Q. Do you know anything about

David Weaver's accident?
A. No, I don't know. No.
Q. Have you spoken to anyone from Guelich about David Weaver's accident?
A. Not really, just basically why it would happen, and the answer I got was, well, it was years ago that I guess was under investigation. I do not know what happened.
Q. Have you ever seen a form that looks like Dwayne Guelich Exhibit Five?
A. Yes.
Q. And when did you first see that form?
A. These are the pre-trip. Yes, these are the pre-trip inspection ones. Yes. This is what the driver, when he checks the truck over in the morning, he marks all of these.
Q. Now, this form is called a vehicle mechanical defect report.
A. Yes.
Q. This particular form, you see

here on the side?
A. Yes. They use a form --- it's like a pre-trip inspection is what it is, yeah.
Q. Okay.
A. That's what I called it. It's a mechanical defect report, yes.
Q. Now, was this form used when you were shop foreman?
A. Yes, ma'am.
Q. Now, when does the driver complete the mechanical defect report typically?
A. Typically, in the morning when he checks the truck over. He also carries a copy of that with him and carries a copy of it with him, and if something throughout the day would be wrong, if they would find something that was going wrong or wrong with the truck, they would mark that sheet and put it up on the bulletin board and I would see it in the morning.
Q. Now, this form indicates engine trip out or in. Do you notice

it says out and in? Trip out, in.
A. Out means you're going out in the morning. In means you're coming in at night.
Q. When is the item out checked and why is that checked?
A. Out, that means you're going in the morning, so you're going out. And you check all this.
Q. And when is in checked, if ever?
A. Well, that means when they came in, if they found anything wrong with it they would check the in. Say the starter went out, so then they'd mark an X there, or if it was wandering or something needed adjustment in the brakes or whatever the deal might have been.
Q. Now, was the truck driver trained on how to complete this form?
A. Yes, that's part of the pre-trip inspection. Yes, that's pre-trip inspection.
Q. Yes, but did you ever

personally train David Weaver on how to complete this form?
A. I do not remember, ma'am. I do not remember if I had or not.
Q. Now, under the section tires there's an item repair and then a check mark out, what does repair mean?
A. Well, I would say that the repair means a tire was flat and needed repaired or whatever. That's what I get out of it.
Q. Okay. So if David Weaver checked repair out, to you that means that that tire --- that one of the tires on his truck needed repaired on that day?
A. No. That wouldn't mean that to me.
Q. Well, what does it mean to you?
A. That would mean to me that it's okay.
Q. That repair means okay?
A. Yes. It would be okay when he

came in if he had marked on it repair. That means that the tire was low or something.
ATTORNEY MOSES:
I don't have anything right now, Mr. Sadowski, but the other attorneys may have some questions.
EXAMINATION
BY ATTORNEY GREEN:
Q. Mr. Sadowski, my name is Joe Green and I represent Northeast. I guess, first of all, I should say do you want to take a break?
A. No, go ahead. I want to get out of here.
Q. I understand. I don't blame you.
A. I'm going to have a parking ticket anyway.
Q. I have a few questions here, and I'll probably bounce around a little bit, not to be confusing, but Ms. Moses asked a series of very complete questions, so I just want to

fill in some blanks.
One of the items that you had mentioned relative to pre-trip inspections was to check tires, and I wasn't sure that I heard you correctly. You said tire cuts, did I ---?
A. Cuts. Yeah, cuts, abrasions or bumps on the tires or something of that effect, yeah.
Q. And a truck such as this Guelich bulk ammonium nitrate truck, what would be typical reasons in your experience say, for example, a tire to have a cut or abrasion in it?
A. Well, how would you say if the tire was good, you mean, or not or needed repaired. Sometimes like --- of course, like if you going to a strip job and the quarries and the sharp rocks, a lot of time they can cut a tire on the side wall far enough that the cords show, you know, or something like that. Then on the outside of the tire you have the

rough part, the solid rubber piece. You know that can be cut and it doesn't hurt anything, but if it's on the side wall of the tire or on the face of the tire, then something needs done.
Q. When a truck such as the one involved in this matter is used in a quarry environment or a strip mine environment, is that off road?
A. Yes, that's off road, yes.
Q. In your experience could you describe for me what typically the surface you would be working on would be in a strip mine if you're delivering ammonium nitrate?
A. Well, sir, it would be someplace that was a mountain once that they took a bull dozer and they made a road, and this road has rock on it, mud, whatever and you drive through it. Your quarries are the same way. Sometimes the quarries have decent roads. Sometimes they don't.

Q. In terms of the explosive process here, it's my understanding that the strip mine application, and I'm just trying to learn this, so I'm not trying to be confusing or tricky, but the explosive that's being delivered really is two separate components which when mixed becomes an explosive mixture?
A. Yes. Ammonium nitrate and fuel oil. Ammonium nitrate is a fertilizer and fuel oil. Once they mix, of course, your hole is bored or whatever and your, what they call a cap, an explosive cap and primer, which is dynamite, goes down in the hole and then your ammonium nitrate fertilizer which comes out of a bulk truck and is mixed when it's augured out, and you put so much of it in the hole, put it back in, hook it up and away you go.
Q. You had mentioned that there was a van type truck and you used the term explosive.

A. That's with the caps and the primer. It's what they call terminology, an explosion, but it was wet hole material, a slurry, and type stuff like that get carried in your tube stuff, your packing stuff.
Q. I'm just trying to picture in mind what's happening here at the time that someone just performing this job in terms of delivering. A van truck would carry --- an explosive bulk truck would be carrying blasting caps and various other sort of self-contained explosive items; correct?
A. Yeah.
Q. And the bulk truck would be carrying also, in some general sense, explosives, too, but it's the components which when mixed together become ---?
A. They are separate when they are transported.
Q. Just so I understand what's going on, in a strip mine or in a

quarry, a strip mine in particular, there are explosives being placed in a hole that the driller has drilled; is that correct?
A. Uh-huh (yes).
Q. So the hole that has been drilled is the explosive's containment?
A. The hole that is drilled is what?
Q. It is the explosive's containment before it's ignited; correct?
A. Yes, it's a hole in the ground that's going to contain the explosive, yes.
Q. And is my understanding correct, and I'm just going to ask you generally from your experience, what's being blasted or exploded here is the overburden of the hole?
A. That's correct, yes.
Q. Typically in this area, would the overburden be sandstone, shale?
A. It could be shale, sandstone.

Q. Soil?
A. Usually if it's soil, it doesn't need blasted. It has to be some type of rock, solid rock.
Q. So whenever a strip mine and blasting application is being taken, generally you're dealing with some type of solid form of rock?
A. Uh-huh (yes).
Q. You have to say yes or no.
A. Yes, it's solid, yeah.
Q. And do I understand correctly that, generally, in the surface mining business that this explosive --- this explosive truck in this case would basically follow or comes to the scene and fill the holes that the driller or drilling company drilled; correct?
A. Yes.
Q. Now, would that typically be --- I would imagine that they're blasting just once a day, get everything ready to go and they blast it at the end of the day or first

thing in the morning, do you know?
A. Well, it wouldn't be exactly at the end of the day. It would be when the holes are drilled they'd call. When the shot is ready, you would go and you would put your chargers in the hole, put your ammonium nitrate, stem the hole, wire the shot, shoot the shot. It could be one o'clock, two o'clock, three o'clock.
Q. But it's coordinated in some safe manner?
A. Yeah.
Q. And it's true, is it not, that in order to break up and prepare the overburden for removal, that the driller might be drilling 200 holes that have to filled or 50, a hundred or several hundred holes that need to be filled depending on the size of the job?
A. Typically around here it's in the 40s. It used to be in the 40 to 50-hole pattern.

Q. Very good. And whenever the holes in the explosive pattern are prepared, the truck would then be driving in this area, which would not be a road, but in an area that is going to be eventually blasted in order to allow the deposit and mixture of the ammonium nitrate and the fuel oil down into the explosive container, which in this case is a drilled hole in rock; correct?
A. Yes.
Q. And now, just so I understand what the driver would do, is there then an explosive expert, other than the driver who puts in the igniters and that type of thing, or would Mr. Weaver have also done that part of the job?
A. The blaster would put the chargers in the hole. He would measure the hole. Dave would run the truck with the lever, ammonium nitrate goes up an auger, out an auger, down a pipe and into a hole.

Q. And what is the conduit or device that brings the ammonium nitrate to the holes? Is it some heavy duty hose, or is it like a funnel or something?
A. It's a hose. It's hooked on the end of a nozzle.
Q. I see.
A. And points down to the hole.
Q. Now, ammonium nitrate is dry, but it's like a pebble or particular type thing that can flow; correct?
A. Yes. It's called a trill, a little wee round thing. It looks like the same stuff you can buy to put on your garden.
Q. And when the truck is being used in the open pit mining operation to go deliver the ammonium nitrate to the pattern of holes, is it moving from hole to hole?
A. It does not move from hole to hole. Sir, if you have, say, 25 holes. Five, ten, 15, 20, 25, there is a row between the hole --- between

holes --- there's rows, they are something like 10 by 12 spacings. You can back a bulk truck down like a row and you can get from probably one settings, because the auger turns around you can probably get eight or ten or 12 holes, and then you move ahead and you get the rest of them. Then you back down the next row and get them and out. You have labor there backfilling the holes and then the bulk truck moves out of the way. The van truck moves out of the way that brought the explosives, and it's wired up and it is shot.
Q. I'm just trying to get a picture of how a typical day here unfolds.
A. But he does not --- the bulk truck does not drive from hole to hole.
Q. I would imagine it would place itself as far as the hose --- I think it's four or five holes, you move, but you're not moving each time you

move?
A. You're not moving. Not for each hole, no.
Q. And if a typical blasting pattern involves, say, 40 holes, is that usually in one full Guelich truck load, or is that many order trucks loaded? I'm trying to get an idea.
A. Sir, it depends how deep the holes are. How much it requires. They could be 25 feet deep. They could be 40. They could be a hundred feet deep, you know, and then there may be an additional truck needed after one, we call it the bulk off.
Q. That's pretty much a function of what the coal operator or whatever quantity he needs will determine how many truck loads?
A. Pardon?
Q. The quantity the coal operator needs will be told to Guelich and they'll send the required number of trucks?

A. That's correct, yes.
Q. Once the ammonium nitrate and fuel oil is delivered and placed in the holes, is the Guelich driver pretty much done then and he returns, or does he have an kind of follow-up activity after the blast?
A. After the blast if he has product on enough and he's needed at another job then he goes there, or if there's something assigned for him, he may have to come back to the shop, refuel and reload to maybe go out to another one.
Q. Now, all your years as a maintenance person for Guelich or as a superintendent I should say for Guelich, have you ever heard of a bulk truck whether in a quarry application or an open pit application getting hung up?
A. You mean stuck?
Q. Stuck in some manner.
A. Stuck in some manner in the mud or something?

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Q. No. Hung up on something. In other words, part of the undercarriage contacting rock or somehow getting caught on or stuck on some type of solid object.
A. You're talking the chassis is stuck on something?
Q. Yes.
A. No.
Q. Never is ---?
A. I've never --- I don't know of any that ever got stuck on any rocks or anything. I've had them sink in the mud before and things like that, but ---.
Q. Let me ask you different --- in a slightly different manner. In the strip mine application or quarry application, have you ever or had you ever, as employee of Guelich, encounter situations where one of the trucks suffered undercarriage or suspension damage?
A. Not that I'm aware of, sir.
Q. No. I don't want to belabor

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the point here. So you worked for Guelich for how long?
A. Twenty-five (25) years.
Q. And I'll move on to the next point here, but is my understanding that your answer is, in 25 years in this position, you've never encountered or heard of a bulk delivery truck delivering product to a stone quarry or an open pit mine sustaining undercarriage or suspension damage?
A. Not that I can recall of, sir, no.
Q. Okay.
A. Not that I can recall.
Q. Sir, the mechanics in the shop --- we had talked about Mr. Knepp. Is there a certification for the types of mechanics that Guelich would employ? I'm not talking necessarily about a governmental certification, any type of certification like an industrial certification?
A. Not that I'm aware of.

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Q. And by the way, who was your successor in your position?
A. Bill Stephens.
Q. And you might have covered this before, is he still with Guelich?
A. I believe so.
Q. In terms of the general inspection protocol, in particular pre-trip inspections, was there ever any process at the shop whereby you would, in order to perform the inspection would clean the undercarriage? Did mud and road dirt and other type of debris become accumulated under a truck, such as this, and if so, was it necessary to hose down and clean those components before one could even perform a visual inspection?
A. Were they cleaned to perform an inspection?
Q. Yes.
A. They were cleaned, but I would not necessarily say to perform an

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inspection, but on the other hand, if a driver sometimes would think that something was wrong and you can't see through the mud, it would be power washed. Either he would do that --- most of the time the driver would do that, yes.
Q. You had provided some explanation as to the need for nut tightening, especially with respect to U-bolts, and you had mentioned that visual evidence or there may be some audible evidence if something was rattling, or maybe you could hear something, but am I correct that the criteria that you would have had in the shop to determine whether a U-bolt nut needed to be tightened or re-tightened would be whether or not you saw some visible evidence of looseness. That'd be the only criteria?
A. Yes, that's a visual, yes.
Q. By the way, you had mentioned, sir, there are a number of different

Guelich shops. There's a location in Somerset and ---.
A. Bloomsburg, yes.
Q. Does each one have a mechanical shop?
A. Yes.
Q. Are there different satellite locations approximately the same size, or do you have a main home office that's much bigger than the smaller satellites?
A. Let me think now. The one in Somerset might be a little bit smaller. Yeah, it's probably a little smaller. The one in Bloomsburg may be the same size, maybe it's a little smaller, and who performs their work I do not know.
Q. In connection with --- given Guelich Explosive's location, is the truck terminal or storage facility and the shop all in one area or one particular location? In other words, the shop's not a mile away from the yard?

A. No. Everything is one complex, yes.
Q. So when trucks come and go in a given day and people report to work or whatever, you're all in the same sort of ---?
A. Yeah, you walk out the door and there is the yard.
Q. With respect to required state inspections, state inspections --- the Commonwealth, yeah.
A. Were the trucks required to be state inspected?
Q. Yes.
A. Yes.
Q. I understand that was someone's records, but I just wanted to get a couple of follow-ups, and I think the documents we have might even answer some of these question. Let me just kind of revisit the same subject. A truck such as a bulk delivery, a bulk of ammonium nitrate delivery truck, this type of commercial truck, would that be in

every six months inspections as opposed to your passenger motor vehicle obtained every year?
A. Sir, I'm not sure. I'm not sure if it's every six months on them or if it's a year. I did not hold a Pennsylvania inspection license. Mr. Knepp did, the mechanic, and Mr. Mitchell, and I think there was another gentleman up there that did the inspecting.
Q. And like I said, we have some of the records here. I'm just trying to refresh --- revisit this in my own mind, but Guelich company itself had its own employees who had inspection licenses?
A. That's correct.
Q. So at Guelich or any other commercial operator of vehicles, is authorized to inspect his own vehicles?
A. Yes. If you have a Pennsylvania state inspection station license, yes.

Q. In fact, Guelich did do that, would inspect its own vehicles?
A. Pardon?
Q. Guelich would inspect its own vehicles?
A. Yes.
Q. Did they ever outsource inspections?
A. Might have at times. I think they might have at times, maybe if a mechanic wasn't there or whatever, I'm not sure.
Q. I'm sure this is available, but I know you weren't a licensed inspector, but is there a Commonwealth notebook or inspection manual for commercial vehicles?
A. I'm sure there is, sir. I'm sure there is.
Q. I'm just curious as to whether ---.
A. I'm sure there is.
Q. The fact that I'm being a little silent here means I'm going over my notes, which also indicates

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that I'm getting towards the end here, so give me a second, and I'll ---.
The once per year safety training, that was by a company that you thought you recalled was Diversified Services, Grampian, PA?
A. Yes. Don't quote me on it. It's Diversified Services. It's Diversified something. I've been gone from there for eight years.
Q. So you don't know whether they're still in business or not?
A. I think they still might do their inspection. I'm not sure.
Q. You mentioned that Guelich would have had what you described as a torque wrench in the shop. Do you recall what make, model, what type of torque wrench ---?
A. No, I don't. No, I don't.
Q. But is my understanding correct, that if U-bolts were being tightened or re-tightened on, say, a Mack truck or any bulk truck of this

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sort that the normal procedure at Guelich would have been to use an air wrench and then a ratchet wrench with an extended handle?
A. Yes. A long bar on it to give you a lot of leverage or put a pipe on it too to give you more leverage. You only can get things so tight, and basically that's it.
Q. Now, Mr. Sadowski, I realize that you were gone by the time this event transpired, the accident, and the work by Northeast, but I just want to ask you a question in regard to your recollection of the general practices. If a vendor such as Northeast had installed U-bolts and had advised, as part of its work order, were you tightening the U-bolts within a 1,000 miles, if that were the case, normally, would you ever had had any type of practice or procedure at Guelich to engage in a re-tightening of, say U-bolt nuts without seeing some visible evidence

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of looseness, just as a matter of maintenance protocol?
A. Would it have been done if --- You're asking me that if they didn't say re-tighten them in 1,000 miles, would it have been done anyway?
Q. No, I'm saying if the vendor, the supplier of the U-bolts or the installer of these U-bolts, said re-tighten after 1,000 miles, would that normally have been done?
A. Carried out?
Q. Yes.
A. Yeah.
Q. Would there be a record of that?
A. I don't know whether there'd be a record of it or not. Something maybe as simple as that. No, I don't think so.
Q. Would that have been done, in theory, I realize you weren't there at the time, but would a re-tightening have been done even if there wasn't some visual evidence of

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some kind or feel evidence of some kind of looseness?
A. I do not know whether the mechanic would have did it or not, sir. I do not know.
Q. If a re-tightening was done as a matter of course, it would have been done by the mechanic?
A. Yes, and there is probably things that a mechanic does in a day, and I've been around this all my life, that it isn't something that you do and you write down on a piece of paper, I did this, I did that. That kind of is known as like petty stuff that --- it's something you do. If you're a mechanic, you're knowledgeable about equipment. You know this and you don't make out a special form or a slip or do something like that.
Q. But would you agree with me, though, that a re-tightening of U-bolt nuts on a bulk truck would be something a bit more extensive and

complicated than ---?
A. No. I'm not saying that that is the petty part, but a mechanic can do stuff. He can do something like that and there's no form to fill out or put no checkmarks here. Maybe he can change the tires on the tandem, you know, maybe changing the tire. And while he was under there, he could check the U-bolts and tighten them up and put new tires back on or repaired one or something, and just write down that he did it or something like that. But no, it's not a petty thing. I'm not saying that.
Q. And I didn't mean to say that, but ---.
A. But it's something that's not documented.
Q. I didn't mean to minimize it. I just meant petty sounded like a short-term type quick ---.
A. No. I didn't mean it that way, no.

ATTORNEY GREEN:
Sorry. That's all I have right now. There may be some from the other attorneys.
EXAMINATION
BY ATTORNEY ORAVETZ:
Q. I'm Justin Oravetz. I met you earlier. I represent Triangle Auto.
A. Who are you with?
Q. Triangle Auto.
A. Triangle, okay.
Q. I'll try to be short. I just want to clarify a few things. I don't know anything about car maintenance, so truck maintenance is a whole other level. I hope you can help me out a little bit here. But you were, in --- I think you said 1978 or 1979 you became a foreman?
A. Yeah, foreman, general superintendent.
Q. And that's when you were in charge of the shop, the maintenance shop?
A. Yes.

Q. Now, from that time until when you retired in 1999, did you perform any maintenance on the trucks?
A. Actually, did I do any? Yes, I probably did some, probably. Probably nothing heavy, simple things, you know. Or let's put it this way, if the mechanic needed a hand and I was there, I helped. I'm not the knowledgeable mechanic. I'm just a helper.
Q. What type of maintenance jobs did you do on the trucks? I know you said minimal, so like I said, I don't even know what minimal is.
A. I might have changed a tire or light, or maybe --- who knows, at one time or another I might have tightened U-bolts or something.
Q. Do you ever recall tightening a U-bolt?
A. Pardon?
Q. Do you ever recall tightening a U-bolt?
A. No, I don't know.

Q. Do you recall ever, I guess, replacing or changing a leaf spring?
A. I probably have helped a mechanic. Maybe he's putting a whole new spring in that I went over to Triangle and got or --- you know, and he's putting it in, and you need a hand getting the spring in. I may have helped him do that because there was nobody else there and he needed a hand, so I gave a hand, but as far as physically changing one myself, no.
Q. Is that a complex process to change a leaf spring?
A. Not a complex process, very heavy, it's a burden. It's heavy to put into place.
Q. And does it take one person or two?
A. If you're going to leaf spring in a tandem truck, you better have help.
Q. About how long does it take to replace a spring?
A. I don't know, take one out,

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put one in, I don't know, three hours, maybe four.
Q. And does that include the tightening of U-bolts or checking the U-bolts when you're changing a leaf spring?
A. It probably would, but generally if you buy a whole complete spring, a whole complete spring comes from the factory, the manufacturer who got five weeks, ten weeks, whatever and you just set it in. Yeah, you set it in, then your U-bolts go around it and then your nuts go on, but once you get the spring in then the U-bolts go over top it and they go to a saddle which has holes in it and you put the nuts on then. Then you tighten them up.
Q. So you really wouldn't have to check the bolts for tightening, because you're physically ---?
A. Well, the only thing that was holding the spring together is the center bolt down the middle, and then

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your U-bolts once you put it on the truck, it's what holds it to the axle. The spring holds it to the axle with the U-bolts, and your bushing's on both ends to the body of the truck.
Q. I know you mentioned that sometimes that center axle breaks in the trucks. You mentioned that earlier. Was that something that the drivers checked for on the daily pre-trip inspections?
A. You're talking about the center bolt?
Q. Yes.
A. The center bolt holds the spring together. When the center bolt breaks the spring leaves will shift or start shifting and you get this shuffle thing like with cards. You see them moving and you can tell that even though the U-bolts are there holding it, you can tell when that happens.
Q. And if you were driving a

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vehicle at that time when a spring broke, you would be able to feel that or no?
A. I wouldn't be able to.
Q. No?
A. No.
Q. Was it your job to take new drivers out to be certified or take them --- I guess it's Exhibit Guelich One, certification of road test?
A. Yes. I'd take them out, and I think the safety director took some out, too. I took some out and he took some out. I don't think I didn't certify them all. I'm almost positive of that.
Q. Well, on the form that we were looking at, Guelich One, I believe Counsel mentioned that this form was filled out in 1984 for the pre-trip inspection, it didn't have any indication of a U-bolt check on that or checking the leaf spring?
A. No. I looked at it. I don't think it has anything on here.

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Q. Did that form change over the years to be more similar to what is depicted on Guelich Exhibit Five, do you recall or know that?
ATTORNEY KIGER:
For the record, I'm going to enter an objection. It's already been established it's two different forms for two different purposes. The one's a driving test and the other is an actual vehicle mechanical defect report.
ATTORNEY ORAVETZ:
I understand. I just wanted to know if ---.
ATTORNEY KIGER:
The driving test is for a different kind of vehicle than the bulk truck. It's for a van truck.
A. Yes, this is for a van truck. This wasn't even for a bulk unit. This was just for ---.
BY ATTORNEY ORAVETZ:

Q. Did your pre-trip inspection for the van truck, did you teach them how to check the U-bolts or check the leaf springs?
A. Probably so, sir.
Q. I guess a better question is, why don't you explain to me, how you would go about teaching a driver the pre-trip inspection. How to perform a pre-trip?
A. If I'm not mistaken they were required to read the DOT manual, the Bible that I was talking about. They're required to read that and that's where they're supposed to gain their knowledge, and then from guys like me, the mechanics, maybe other drivers, look for this, look for that, you know, look --- Springs are visual. You look at the tires. Make sure all the lights work, the brake lights and the turn signals. Make sure all your safety equipment is there. We were checked by U.S. DOT.
Q. Okay. I guess where I'm going

at is if the DOT manual says check the tire for cracks, and me being the common laymen and looks at a check tire I wouldn't be able to find a crack even if there was, so is this something that you would physically take the guys out and say this is what you check for, a crack?
A. Yes. Look at this tire. Here's a junk tire here and there's a cut in the side wall and this tire is no good. It has to come off. It's off and that's why it's off. So the tire is not safe.
Q. Now, is that ongoing training or do you just teach them once what to do for the pre-trip inspection and they ---?
A. Yes. There's no ongoing training there.
Q. So how would Guelich know if the drivers were unsure how to check for a specific part on the pre-trip inspection?
A. How would Guelich know that?

Q. Yes.
A. That they wouldn't --- that the driver?
Q. Yes.
A. I don't know how to answer that. Once a man's trained what to do --- not unless somebody like me who's in charge of him as superintendent, that I seen something I said, for instance, you know, that don't look right to me or something like that. I'm not saying it happened. I'm saying it would be someone like me.
Q. That kind of makes sense. What I'm trying to get at is how the drivers know that everything checks out in the pre-trip inspection.
A. Well, basically when the driver --- once you're taught how check the truck over and you check it over once, twice, every day, you know exactly what to look for.
Q. And you said the teaching comes from the DOT manual?

A. Yes, the DOT manual.
ATTORNEY KIGER:
For the record, he said that they show them how to do it, so it wasn't just the manual.
BY ATTORNEY ORAVETZ:
Q. I'm almost done. I forget what we called this, but it's Exhibit Guelich Two.
ATTORNEY MOSES:
They weren't renamed, they were just referred to.
BY ATTORNEY ORAVETZ:
Q. Guelich Two, this is the vehicle check for every 2,000 miles or every 12,000 miles.
A. Yes.
Q. I have some highlighted things on there, and if you can see I think it's the rear springs. It's under the check of every 2,000 miles.
A. Yes.
Q. Does that include checking the U-bolts, would you know?

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A. Well, according to this, it says every 12,000 miles tighten U-bolts.
Q. Okay.
A. I don't believe it says anything about U-bolts in here. I don't see nothing.
Q. That's why I highlighted, because one says bolts, does that include the U-bolts, would you know?
A. That says belts.
Q. That says belts.
A. B-E-L-T-S. I'm pretty sure. Take a look.
Q. Yes. You are correct. And then this steering, U-joint and bolts, that's not ---?
A. No. Steering and U-joints --- U-joints are on the drive shaft, steering is in the front of the truck.
Q. Okay. That's what I thought, just wanted to clarify that. Did you do any inspection of U-bolts at Guelich that you can remember?

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A. Have I did any? I probably have, sir, but I don't recall.
Q. Do you know the circumstances why you would have inspected a U-bolt or checked under a truck?
A. No. No, not unless --- maybe I was looking at it and thought it was loose or something, but did the mechanic check this, you know, but it could be. I could have.
Q. What would be the difference between the meaning tightening the U-bolt or to replace the whole U-bolt?
A. Well, you wouldn't replace a U-bolt, not unless it was broken or it was loose or it couldn't be tight.
Q. What are some of the circumstances why a U-bolt could be broken?
A. I don't know, sir. You can along the highways and byways and find this stuff laying all over the side of the road. Why it's there, I don't know. Brake parts and steering

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parts and U-bolts, a piece of U-bolt, leaf spring. Why they break, I don't know.
Q. What about --- like, you said can't tighten it, why would if you would have to replace it you can't tighten it, what are some ---?
A. Sometimes if a U-bolt got loose and you tried to tighten the nut, they have nuts on them, and they're a fine thread, and they will not tighten, then you have to replace the U-bolt.
ATTORNEY ORAVETZ:
Mr. Sadowski, that's all I have.
EXAMINATION
BY ATTORNEY KIGER:
Q. Mr. Sadowski, my name is Jerry Kiger. I represent David Weaver Estate and I have one or two questions.
A. Go ahead, because I have to go to the bathroom.
SHORT BREAK TAKEN

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BY ATTORNEY KIGER:
Q. Joe, I'm going to show you what's been marked Dwayne Guelich deposition Exhibit Two, which you were showed before, and the first page there's some highlighted things on it. And under the 2,000 mile check it says rear springs. Now, would rear springs be the type of spring that we've been talking about here today?
A. Very well, yes.
Q. And if you looked at and checked the rear springs on a Mack bulk truck such as the one Guelich Company had, you would see the U-bolt, too; is that right?
A. Yes, you can see the U-bolt. Yes.
Q. So when you check the spring you'd be checking the U-bolt, too?
A. Yes, because it was holding the spring in place under the axle.
Q. The U-bolt is part of the spring?

A. That's correct.
Q. So whenever this form indicates every 2,000 miles to check rear springs, that would be rear springs and U-bolt?
A. That's correct.
Q. And then I have this other exhibit you were shown, which is Dwayne Guelich Exhibit Five, which is a vehicle mechanical defect report filled out by, in this instance, David Weaver. Under the procedure of the Guelich Company up until the time that you left, was the procedure that if you checked the vehicle and it was okay, you would put a checkmark in the out column?
A. That's correct.
ATTORNEY KIGER:
That's all the questions I have at this time.
Your date of birth?
A. 3/14/37.
RE-EXAMINATION
BY ATTORNEY MOSES:

Q. Joe, I just have a couple follow-up. You mentioned earlier that you used a cheater pipe when tightening U-bolts. And can you tell me, what did the cheater pipe connect to?
A. You have a socket on a bolt, okay, and you have what they call a breaker bar on it. It is a solid bar. It is a solid bar that goes into the socket and then you put a piece of pipe over this that is longer that makes a long handle and then you get a lot of torque when you tighten.
Q. Now, this cheater bar, where is that purchased? Where do you get a cheater bar?
A. Ma'am, it's just a piece of pipe. It's just a piece of pipe.
Q. And the cheater bar --- and cheater bars were used in the shop, right, in Guelich's shop?
A. Yes. They're used all over the country.

Q. And how long was the cheater bar that was used in the shop?
A. It could be three to four feet long.
Q. And what's the diameter?
A. I'd say it could be anywhere from an inch and a half to two inches.
Q. And before you left, before you retired from Guelich, how many cheater bars were in that shop?
A. Oh, God, I don't know, ma'am. There could have been two or three. There could have been a half a dozen or a dozen.
Q. And have you seen Randy Knepp using a cheater bar?
A. I would say, yes, I have over the years. Yes.
Q. And you've seen him use a cheater bar to tighten U-bolts?
A. Yes.
Q. Now, you mentioned earlier in the deposition that typically drivers don't stop their truck if they find

that a leaf spring is broken, unless it's a main spring, that they continue driving their truck?
A. Ask me that again, ma'am.
Q. I think you said earlier in the deposition that drivers can continue driving a truck if a leaf spring is broken --- let me rephrase. The drivers typically continue driving a truck if a leaf spring is broken, and the only time they don't drive a truck is if the main leaf spring is broken?
A. Yes. Now, they do not intentionally drive a truck with a broken spring. One of the leaves can break when you're going down the road or coming out of a job.
Q. Right.
A. Other than your main leaf, it can break and you do not know it until you do your inspection on it, and then you see your spring is there and there's a crack in it. You can notice that, because the broken piece

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will start to move.
Q. Right.
A. Yes, but not intentionally drive it with a broken spring.
Q. Now, were Guelich drivers ever told never drive a truck with a broken leaf spring?
A. As far as I know, yes.
Q. And who told them that? Who conveyed this?
A. I would say that I probably did. I would say the mechanic probably did.
Q. Do you recall independently ever telling your drivers?
A. No. As far as --- I probably have, but I don't remember who I told it to or when I told it.
Q. Now, if a driver discovered a broken leaf spring and he's at a jobsite, was he ever told not to drive the truck back to the shop?
A. I don't remember that, ma'am. I don't remember of anybody calling in that had a broken leaf. I don't

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remember.
Q. Now, if a number like --- for example, let's say number five ply is the broken spring and not number one, would the driver attempt to come back to the shop if it's in the middle of the stack, if a broken ply is like number five in the middle?
A. Would a driver attempt to drive back in?
Q. Right.
A. I don't know whether he would or not, ma'am. I don't know.
Q. Well, if a leaf spring is broken, what are the consequences of that if one leaf spring is broken?
A. One leaf in the spring is broke, if it's broke so far, the consequences?
Q. Yes.
A. I can't say. I can say you can probably drive it from here to your home in Pittsburgh and never know it, ma'am.
Q. What about loose springs?

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A. A loose ---?
Q. What about when springs are loose? Were drivers at Guelich ever told never drive your truck if your springs are loose?
A. Yes, they were told not to drive, yes.
Q. And why were they told not to drive when the springs are loose?
A. Well, it's dangerous.
Q. What makes it dangerous?
A. Well, if the spring is loose, if the U-bolt is loose, well, the axle will shift and if the axle shifts it could break the U-bolts. It breaks them completely off.
Q. Now, when leaf springs are loose, is there any indication in the saddle that they're loose? Can you tell if the springs are loose by looking at the saddle?
A. Yes, you can only see the outside of the saddle is all you can see. Yes, you can see if it was loose. You can see when it works

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because they're on top of the axle, and it would move back and forth and you can see that the U-bolts were working. You can see the spring is moving, the axle is moving.
Q. So, if there's wear on the saddle, does that mean the leaf spring has been loose for a while?
A. I would think so.
Q. And if the leaf springs have been loose for awhile, would that affect driver performance, the performance in the handling of the truck?
A. It could, to some effect, give you a little bit of a movement.
Q. And what would the driver feel when he's driving the truck if there are loose leaf springs?
A. That depends on how loose the spring is, ma'am. If it's real loose, it's real bad. I mean, it would move a lot, but if it's just, say, loose and not very much, it would move a little bit and you

probably wouldn't notice the difference at all.
Q. So you wouldn't notice any problem with driving the truck?
A. No. If it was just loose a little bit and you didn't know it, that something happened, you might not know the difference. It depends on the driver. I don't know.
Q. Well, let's use an experienced driver as an example and say that the springs are very loose. How would that scenario affect the performance of the truck and the handling of the truck?
A. Well, you would be able to feel it when you're driving the truck. You'd be able to feel it when you're leaving or when you're stopping, when you're pulling out or you're stopping.
Q. What would happen?
A. Well, you would feel like a little jerk. You could also see in your mirror, if you looked at your

tires you could also see that.
Q. In the pulling, when you brake the truck, what would ---?
A. Well, if you would brake the axle would move a little bit.
Q. Now, you don't remember whether you personally trained David Weaver to do a pre-trip inspection; is that right?
A. The only thing I see is this paper here and that was on a van truck and as far as a bulk truck I do not know. I do not know.
Q. And I think we discussed that. The pre-trip inspection, as part of the road test, was done on a van truck, and that did not include the inspection of the rear axle or leaf springs or anything to that effect; is that right?
A. That's correct.
Q. And you do not know whether Randy Knepp ever showed David Weaver how to perform a pre-trip inspection?
A. I would say either him or Jim

Mitchell, the other mechanic, but I am not sure. I'm not sure. I do not remember.
Q. Is a cheater pipe the same as a breaker bar?
A. No. A breaker bar --- let me show you. Suppose this is a socket, okay. It goes over a nut. And the breaker bar is the square thing that holds it. It goes in there and it's a straight piece of steel coming out here. It's a breaker bar. It's yay big around, and then this pipe goes over it to give you more leverage to tighten it. Common of the industry throughout whatever you're doing on heavy equipment or whatever.
RE-EXAMINATION
BY ATTORNEY GREEN:
Q. Just one final page. Page two of Dwayne Guelich Exhibit Five, this is the one that shows the checklist here for every 12,000 miles, and that does include the tightening of U-bolts. Do you see that?

A. Yes, that tighten U-bolts and I would say the way that this line goes down through there from here to here, that this was all checked.
Q. Understood.
A. See, this was not checked. An engine tune-up you don't do.
Q. I understand. My question to you, and maybe you were asked this and I missed it. Who would fill this out? Would that be the mechanic?
A. The mechanic, whoever the mechanic was.
Q. Right. And that would have been, obviously, truck number 309. Trucks were given numbers
A. Yes. That's the truck in question.
Q. And that would be on February 22nd, 2001.
A. 2001, yes.
Q. With the mileage being on that day, presumably, 129,104.
A. Uh-huh (yes). Yes.
Q. You have to say yes or no.

A. Yes.
ATTORNEY GREEN:
That's all I have.
Thank you.
RE-EXAMINATION
BY ATTORNEY KIGER:
Q. Joe, your interpretation of the form that you were just shown which was a 12,000 mile check at 129,104 is that the checkmarks that show a check at the beginning and then a line through means everything there was checked?
A. No. I think the way they did this was they checked all this. This means it was all checked. The air cleaner wasn't checked and the fire extinguisher. The tire depth maybe wasn't checked. I don't remember what the interpretation of this is. I think it means --- it could mean everything from top to bottom. I'm pretty sure that's what it meant.
Q. So on the 12,000 mile check on February 22, 2001 there's a line

through tighten U-bolts.
A. Yes. That means that was done.
ATTORNEY KIGER:
That's all the questions I have.
ATTORNEY MOSES:
We're done. Thank you, Joe.
* * * * * * * *
DEPOSITION CONCLUDED AT 1:13 P.M.
* * * * * * * *

EXHIBIT "F"

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PA

CIVIL DIVISION

* * * * * * * * *

BRENDA ORSICH, *
Administratrix of *Case No.
the Estate of *03-1251 CD
DAVID A. WEAVER, *
Deceased, and *
JENNIFER WEAVER, *
a minor, by her *
Parent and natural*
guardian, BRENDA *DEPOSITION OF
ORSICH, *DUWAYNE GUELICH
Plaintiffs *DECEMBER 21, 2005
vs. *
BARRY KYLER, *
t/d/b/a NORTHEAST *
SPRING & EQUIPMENT*
CO.; NORTHEAST *
SPRING & EQUIPMENT*
CO.; and MACK *

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TRUCKS, INC. *
vs. *
TRIANGLE AUTO *
SPRING COMPANY *
vs. *
CONSOLIDATED METAL *
PRODUCTS, *
Defendants *
* * * * * * * *

DEPOSITION OF
DUWAYNE GUELICH
DECEMBER 21, 2005

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DEPOSITION
OF
DUWAYNE GUELICH, taken on behalf of the Defendant herein, Consolidated Metal Products, pursuant to the Rules of Civil Procedure, taken before me, the undersigned, Aimee L. Adams, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at Sargent's Court Reporting Service, 106 North Second Street, Clearfield, Pennsylvania, on Wednesday, December 21, 2005, at 11:11 a.m.

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PROCEEDINGS

DUWAYNE GUELICH, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

EXAMINATION

BY ATTORNEY MOSES:

Q.Mr. Guelich, my name is Judy Moses. I represent a Defendant in the lawsuit filed by Brenda Orsich, administratrix of the estate of David Weaver. My client is Consolidated Metal Products in that lawsuit. You've been subpoenaed to bring records and to attend this deposition, and you received a copy of --- or you received a Notice of Deposition; is that correct, of a corporate designee of Guelich Explosive Company?

A.Yes.

Q.Okay. And did you review the deposition with your attorney?

ATTORNEY SUGHRUE:

Excuse me one moment.

OFF RECORD DISCUSSION

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ATTORNEY MOSES:

Go ahead.

ATTORNEY GREEN:

Joe Green on behalf of Barry Kyler and Northeast Equipment.

ATTORNEY REMICK:

Brad Remick on behalf of Triangle.

ATTORNEY KIGER:

Jerry Kiger for the Plaintiffs.

ATTORNEY BARR:

And Jerry Barr for Mack Trucks, Inc.

ATTORNEY SUGHRUE:

And John Sughrue representing the witness and D.C. Guelich Explosive Company, Incorporated.

BY ATTORNEY MOSES:

Q.Did you review the deposition notice, Mr. Guelich?

A.Yes, we did.

Q.And are you able to testify about the matters listed in A through E of that deposition notice?

A.Yes, to the best of my ability.

Q.Okay. All right. Can you tell me a little bit --- can you give me some background information about Guelich Explosives Company, Mr. Guelich?

A.The company was incorporated in 1971. We are an explosives distributor, and we do down the hole drilling and blasting for road jobs, for coal strippings, stone quarries, site preparation jobs, just about every place where there's a need for explosives.

Q.And what is the territory of your business, generally?

A.We have offices and branches in Somerset, Clearfield, Bloomsburg and York, PA. So we basically cover practically the whole State of Pennsylvania.

Q.Are you an officer in the company?

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A.I'm the president.

Q.And can you give me the names of the other officers?

A.Robert W. Adams, he is the vice-president.

Q.All right.

A.And that's it.

Q.How many trucks did your company own in August --- approximately, in August of '01?

A.Probably a total, and this is just strictly guessing, probably about 30 or 40.

Q.And were they tractor-trailer trucks?

A.A combination of everything from straight trucks to tractor-trailer trucks to tandems, pickups.

Q.And how many employees did you have back in '01, in 2001?

A.Again, I'm just guessing right now. Probably about 70 to 80, somewhere in there. And this is counting our drilling division, too.

Q.All right. I understand. And

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of those 70 or 80, how many of those employees were truck drivers?
A.I would probably say about 70 percent.
Q.And did the truck drivers work out of all the various offices?
A.Yes.
Q.Now, what does Guelich transport in its trucks?
A.We transport high explosives, detonators, ammonium nitrate, anything used in our blasting operation.
Q.And was that the case in 2001?
A.Yes.
Q.Now, what is the capacity of the trucks that transport the ammonium nitrate?
A.That depends on the size of the truck. We have trucks that transport ammonium nitrate, 15-ton units up to 30,000 --- or 30-ton units.
Q.All right. Now, does Guelich Explosives maintain its own trucks and service its own trucks?
A.Yes, with the exception of some

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of the outlying branches where there's not enough people there, that we farm that work out to garages and that type of thing.
Q.All right. Does each office have a garage on its property?
A.No.
Q.Does the Clearfield branch of Guelich Explosives have a garage on its property?
A.Yes.
Q.Now, David Weaver, where did he work out of?
A.He worked out of the Clearfield branch.
Q.And did he reside in Clearfield?
A.Yes.
Q.And can you tell me when David Weaver was employed by Guelich Explosives?
A.He goes clear back, probably --- I don't know his exact date of employment, but in reviewing some records and that, he was employed in the '90s. Probably in the '80s,

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actually. He started when he was a fairly young boy. When he first come to Clearfield, he started working for us.
Q.And what was his first job with Guelich Explosives?
A.He would have been a laborer.
Q.And what would he do as a laborer, generally?
A.He would accompany the blasters out on jobs and help load holes, things like that.
Q.And what other titles did he have, did he hold with the company, job titles?
A.As he progressed down the road, then he became a --- the normal progression is going from a laborer to a truck driver.
Q.Do you know when he obtained his CDL license?
A.Somewhere in the '90s. I don't have the exact date.
Q.Do you know where he got the training?

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A.He got the training --- basically, there's no required actual training, but he does get training from our people, you know, going along and watching our other people doing it. And he also got training from our shop foreman at the time. He goes out with a checklist, he makes sure that he knows what to check on the trucks and things like that. And then also to obtain a CDL license, there's certain requirements that the State of Pennsylvania requires to get the CDL. And they actually watch them and monitor them at the time of their license, when they get their license, to see that they have the proper training before they can get their license.
Q.How many years had he driven for Guelich prior to his accident in August of 2001?
A.He probably started driving somewhere in the '90s. The truck he was driving was a '92.

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Q. **Okay.**
A. He was the first driver on that truck.
Q. **All right.**
A. He drove that truck since it was new.
Q. **Who was the shop foreman for Guelich?**
A. Bill Stevens.
Q. **And how long had he been the shop foreman?**
A. He probably only been shop foreman about two years prior to that. We had another man that retired.
Q. **So what, in '99 he became the shop foreman?**
A. I'd say '99, somewhere around that area.
Q. **And prior to Bill, who was the shop foreman?**
A. Joe Sudowski (phonetic).
Q. **All right. And when had he been employed with Guelich?**
A. Joe Sudowski probably started with me probably around '75.

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Q. **And did he begin as a shop foreman?**
A. Not in the beginning. We didn't have a shop when I first started my business.
Q. **Okay.**
A. He probably started --- he probably started out as a laborer, the same as everybody else, and progressed up and got his license and then he was a truck driver. And he brought experience with us when he came because he was an old gas line man and he could run all kinds of equipment.
Q. **Okay. Now, was David Weaver given a road test by Guelich Explosives?**
A. Yes.
Q. **And do you still have that record of the road test that was given to him?**
A. Yes. It's somewhere in this file somewhere.
Q. **Did you bring a copy of that with you?**

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ATTORNEY SUGHRUE:
Yes. I think he provided a copy for everybody, didn't you?
A. Yes.
ATTORNEY SUGHRUE:
Yes. If you go to the bottom of the file, start from the bottom, below the long paper, you'll find a section that starts with the --- it's the section that begins with the registration for the truck. At the very bottom, Ms. Moses, at the bottom. It's all the same order.
ATTORNEY MOSES:
Okay. Well, mine doesn't --- isn't in that order.
ATTORNEY SUGHRUE:
Oh, I'm sorry. Okay. Is that the one I gave you for ---?
ATTORNEY MOSES:
Yes.
ATTORNEY SUGHRUE:

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Okay. Let me do this for you. Here, let's ---.
ATTORNEY MOSES:
I don't think I see it in my packet here.
ATTORNEY SUGHRUE:
May I?
ATTORNEY MOSES:
Sure.
ATTORNEY SUGHRUE:
I think I set it down. In number two, if you look at that section, the record is on the bottom.
ATTORNEY MOSES:
Okay.
ATTORNEY SUGHRUE:
If you will go through that packet, you'll come up with various things that have to do with Mr. Weaver. And you'll see the Certification of Road Test in that.
ATTORNEY MOSES:
Okay.

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OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q.Let me show you this, Mr. Guelich, and ask you, is that what you're referring to? Is that the road test that David Weaver took?
A.Yes.
ATTORNEY MOSES:
Let's mark this Exhibit One.
ATTORNEY REMICK:
Judith, could we make that Duwayne Guelich One?
ATTORNEY MOSES:
Yes, that's fine.
(Duwayne Guelich Exhibit One marked for identification.)
BY ATTORNEY MOSES:
Q.Can you tell from reviewing this document, Mr. Guelich, who administered this test to Mr. Weaver?
A.Joe Sudowski.
Q.And it appears that this test was administered on April 11th of 1984?

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A.That's right.
Q.Now, did Mr. Weaver receive any specific training by Guelich, by anyone at Guelich?
A.We're not required to give any specific training. But what we had been --- like we've given road tests. If you look at the next document on there.
Q.What document, I'm sorry?
A.Record of Road Test.
Q.Yes. Okay.
A.And it goes on, it shows the pre-trip inspection and things like that that was required.
Q.All right. Now, the pre-trip inspection is generally about checking fuel and water, steering, brake action, windshield wipers, et cetera. Is that the maximum amount that the driver was required to check or look for?
A.When they're actually a driver, they check their whole truck over.
Q.Okay. Well, I think that's what I'm trying to get at. Who taught them how to check their whole truck and how to go about checking it?

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A.It would have been Mr. Sudowski at the time.
Q.Do you know how he went about telling them how to check the truck, the driver?
A.No, I don't.
Q.Okay. And do you know whether he used any materials or documents in teaching them how to check the truck?
A.No, I don't.
Q.Now, the Certification of Road Test and the Record of Road Test, has Guelich used a different form since 1984 or is this the current document that Guelich uses?
A.Any time a driver takes a truck out, we have a different form, a pre-trip inspection and that that they have to complete.
Q.Okay. It's different from ---
A.This, yes.
Q.--- this form?
A.Yes.

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Q.Now, had Mr. Weaver ever been involved in an accident driving a truck for Guelich?
A.Not that I can recall.
Q.Had he ever driven as a --- had he ever driven as a truck driver for any other company prior to being employed with Guelich?
A.I don't believe so.
Q.Do you know where --- is Joe Sudowski --- does he still live in the area?
A.He lives in Pennville, PA.
Q.I'm sorry?
A.Pennville, PA.
Q.Okay. Do you happen to know his address?
A.No, I don't.
Q.Could you provide it for us if we asked, ---
A.Sure.
Q.--- or provide it to Mr. --- to John?
A.Yes.
Q.Do you know his phone number as

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well?
A. No.
Q. When is the last time you spoke with Mr. Sudowski?
A. At our company Christmas party on December the 10th. He's retired. We invite all of our ex-employees to our parties.
Q. How about Bill Stevens? Was Bill Stevens responsible for training truck drivers that worked for Guelich with regard to how to check a truck over?
A. Yes.
Q. And what documents or information did he use, if he did at all?
A. It would be the same document that the pre-trip driver would go out with. He would go over it with them to make sure that they're performing that right.
Q. All right. And is the document similar to the Record of Road Test, which was marked as Exhibit One?

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A. Similar, but somewhat different.
Q. In what way is it different?
A. If you give me a minute, I'll show it to you.
Q. Okay.
ATTORNEY KIGER:
I got to find that.
ATTORNEY MOSES:
Okay.
A. Here's the pre-trip inspection.
BY ATTORNEY MOSES:
Q. All right.
A. All of our drivers are required to fill it out before they leave.
Q. All right. Okay. The document that you've just handed me is titled Vehicle Mechanical Defect Report; is that right?
A. That's right.
Q. Okay. And we'll mark this one. I am going to ask you some questions about this document. When was this form first used by Guelich?
A. You mean the first time we used it?

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Q. Yes.
A. I don't have that knowledge right now.
Q. Was it recently?
A. It goes way back to the first --- this is a Department of Transportation, Bureau of Hazardous Materials required document.
Q. All right. Now, did --- here, I'll just give you that. Did David Weaver --- was that document used in conjunction with the Record of Road Test when David Weaver was hired as a truck driver for Guelich?
A. When he was hired as a truck driver?
Q. Yes.
A. No.
Q. Okay. Was he ever required by anyone to see whether he understood how to fill one of these out, and was he ever required to go over with the shop foreman each and every one of these checklists or checks to ensure that he understood how to do them?

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A. I can't answer that, but I'm sure that Mr. Sudowski, when he first started driving, went over this with him. This is the same thing basically when you go to get your CDL license, it was the same thing that the examiner would check and see if you're aware or know how to do these things.
Q. Okay. And now you indicated that David Weaver was assigned a truck when he began as a truck driver, when he began driving?
A. Not when he first began driving.
Q. Okay.
A. We require --- the way that works is we require all of our laborers to get their CDL license because there is times when we're out on a shot --- they go out as a laborer, they'll actually be with the blaster, who is the truck driver that goes out. But there might be times when, once they get a shot started, a blaster is not allowed to leave. He has to stay there. But there could be times when

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the laborer has to take a truck and go back and pick up something and then come back. So we required all of our laborers back at that time to get their CDL license.

Q.Okay.

A.So to answer your question then, was he assigned a specific truck at the time when he first got his CDL license, the answer would be no.

Q.Okay. Now, at some point in time, he was assigned a truck?

A.Right. When he moved from the position of laborer to a truck driver, then he was assigned a certain unit to drive.

Q.Okay. And are you aware of the unit number that he was assigned to drive?

A.309 is the only one I can think of right at the moment.

Q.And can you tell me, what kind of vehicle was 309?

A.It was a tandem Mack.

Q.All right. And is that vehicle

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described in the Notice of Deposition directed to you, the 1991 Mack ---

A.Yes.

Q.--- Model RD690S?

A.That's right.

Q.And the VIN number is IMP264COMMOO9212?

A.Yes.

ATTORNEY KIGER:

If he knows the VIN number by heart.

A.We have too many trucks to know that.

BY ATTORNEY MOSES:

Q.Well, did you make an investigation whether the information contained in the depo notice is the involved truck that David Weaver was driving on the date of his accident?

A.Yes.

Q.All right. Now, the '91 Mack truck, where did Guelich purchase that truck?

A.Shaw Mack in DuBois.

Q.And was that purchased new?

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A.Yes, it was. And we have a copy of the bill of sale.

Q.All right. And is that in this packet?

A.It's somewhere in this packet.

Q.Were there any miles on the truck?

A.When we bought it new?

Q.Yes.

A.I don't think. I mean, I can't recall whether --- you know, sometimes there's two or three miles or 30 miles on it when they're brought into the garage, but ---.

Q.All right. Typically, how many miles would --- strike that. Did David Weaver have an assigned territory to drive for Guelich?

A.No. But he actually --- wherever Guelich went in the --- out of the Clearfield office.

Q.Okay. I mean, is there a certain territory?

A.No, we don't have an assigned

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territory. Wherever our work happens to be at the time.

Q.All right. And on the average, how many miles did he put on that truck, if you know?

A.I think on the average of about 8,000 miles.

Q.And no one else drove that truck other than Mr. Weaver?

A.I can't answer that. To the best of my knowledge it was --- you know, I'm not saying that somebody else might not have driven that truck when he was on vacation or something like that.

Q.All right. Do you have a list of the truck drivers' names in August of 2001?

A.With me, no.

Q.I mean, you have them at the company, that worked out of the Clearfield office?

A.Yes.

Q.Is that right, you do?

A.That's right.

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Q. **All right. Where would David Weaver go to pick up the truck?**
A. He would come to the Clearfield office.
Q. **And how far away did he live from your office, if you know?**
A. I think he only lived about five miles. I'm just guessing.
Q. **All right. Had David Weaver ever received any traffic citations while employed at Guelich?**
A. Not that I can recall. In fact, we have a record somewhere in this file where we're required as to check with the State of Pennsylvania, the driver's driving record.
Q. **Okay.**
A. And we have those with us here today, too.
Q. **All right. How many days a week did David Weaver work?**
A. At least five.
Q. **And sometimes he worked more than five?**
A. Sometimes he worked Saturday.

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Q. **And what were his hours?**
A. Generally, his hours would normally start around eight o'clock. And the type of work we did, he worked until the job was finished.
Q. **What would the latest time be that he would have worked?**
A. Roughly guessing, depending whether it was summertime or wintertime --- we're not allowed to blast in our business after dark. So in the summertime, they could work longer hours than they would in the wintertime because of the daylight factor.
Q. **All right. Do you have a record of where David drove and his hours in the month of August 2001? Would you have a record at your company?**
A. I think we got --- in this one packet that I showed you here there's a route sheet. As far as other records, we weren't required to keep them for any length of time, so all I would really have would be where he went that one particular day.

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Q. **You don't have the records of where he was the day before?**
A. No.
Q. **Do you have a record of how many hours he worked the week of his accident?**
A. No, I don't have that.
Q. **All right. Now, I think you brought with you the maintenance records on this particular vehicle?**
A. Yes.
Q. **We had some records I think that were subpoenaed by Joe Green, I believe. And I'm not sure if they're the same records. You may have produced the same records. The ones that I had in my file began July 15th of '92, and the most recent date was April 23rd of '01.**
ATTORNEY SUGHRUE:
Those documents are in the packet that we gave you.
ATTORNEY MOSES:
Okay. Are they in his packet? I just want him to look

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to see if those are the dates that he provided. Those are the --- which for some reason, mine are ---.
ATTORNEY SUGHRUE:
Let's see. Right after the long sheet, which is the State inspection records, attached to the State inspection records.
ATTORNEY MOSES:
My stuff is out of order. The last thing I have is the State inspection records. Okay.
ATTORNEY BARR:
They're attached to the State inspection.
ATTORNEY MOSES:
Oh, they are? No, I think ---.
ATTORNEY SUGHRUE:
That's it right there, on top there. You're mixing your old and your new. If you don't keep our packet separate, we'll

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have a hard time helping you.
But we did provide --- if I may,
you should find the vehicle
maintenance records for truck
309 from April 23rd, '01 back to
---.
ATTORNEY MOSES:
7/15/92.
ATTORNEY SUGHRUE:
That's right, ma'am.
ATTORNEY MOSES:
All right. Can you mark
these Two?
ATTORNEY KIGER:
What is Exhibit One then?
ATTORNEY BARR:
One is his Certification
of Road Test. It's five pages.
And Exhibit Two is going to be
the back of that, here.
(Duwayne Guelich Exhibit
Two marked for
identification.)
BY ATTORNEY MOSES:
Q.I'm showing you what's been

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marked as Exhibit Two, Mr. Guelich.
Who made the markings on all of this,
on all of those pages, beginning
7/15/92 through April 23rd of '01, if
you know?
A.I don't know exactly, because
there's no signature on here, but
probably the shop mechanic at the time
when he performed service.
Q.Okay, sir. And do you have the
same shop mechanic that was working for
you in '92?
A.Yes.
Q.Okay. If you'll notice, the
first bill was documented as July 15th,
'92.
A.The first or the last one?
Q.Well, the oldest, the oldest
document is July 15th. It's at the
bottom, your order is different than
mine.
A.That's April 15th, '92. That's
July 15th.
Q.Yes, July 15th, '92 is the
oldest document that was provided. And

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the most recent document, entitled
vehicle maintenance, is April 23rd,
'01?
A.Right.
Q.And who was your shop
maintenance --- your shop mechanic?
A.Randy Knepp would have been ---.
ATTORNEY SUGHRUE:
K-N-E-P-P.
BY ATTORNEY MOSES:
Q.And Randy was hired when?
A.I don't have his hire date, but
he's been with me a long time.
Q.He worked for you in '92?
A.Yes.
Q.Okay. Is Randy the only shop
mechanic?
A.No. Okay. Now we have ---
Randy is still a mechanic for me, but
now he has moved up. He's a mechanic
in our drill shop, where he works on
our drills and that. But we have
another shop mechanic now.
Q.When did he move to the drill
shop?

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A.Right about this date right
here. Somewhere right after 4/23/01. I
think he moved up there in August.
Q.Okay. And who is the shop
mechanic now?
A.Right now it would be Dwayne
Dobb (phonetic).
Q.And was he the shop mechanic in
August of '01, after this?
A.No, Randy Knepp still would
have been at that time.
Q.Okay. Now, are there any other
records, other than these vehicle
maintenance records marked as Exhibit
Two, which would document what the shop
mechanic did on unit number 309 between
July 15th of '92 through April 23rd of
'01?
A.This is copies here of shop
repair orders.
Q.Why don't we hold onto that, and
then I'll mark my copy.
ATTORNEY SUGHRUE:
That would be marked item
number four in the packet. It's

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a little blue sheet.
ATTORNEY MOSES:
All right. Let's mark
these Three.
(Duwayne Guelich Exhibit
Three marked for
identification.)
ATTORNEY MOSES:
If you'll show him that
document so I can look at the
document, John?
BY ATTORNEY MOSES:
Q.Now, you're looking at a copy of Exhibit Three, Mr. Guelich. What is that document --- what are those documents?
A.That's one of our shop repair orders.
Q.And I can read Randy Knepp's signature on the April 23rd, '01 document. How about on the February 22nd, '01 document, can you tell who prepared that document?
A.No. It wasn't signed. I can't tell you --- it still looks like

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Randy's writing.
Q.Now, it's my understanding that Northeast Springs did work on this truck, on the '91 Mack?
A.Yes, they did.
Q.And those invoices aren't contained in this packet marked Exhibit Three; is that right? Or did I miss them?
A.No. This was our shop repair order out of Clearfield.
Q.Okay.
A.Any time we'd bring a truck into our own garage, our mechanic does a shop repair order.
Q.All right.
A.And some of these indicate State inspections. If he pulled the truck in, he done a State inspection. If he did a service, he marks that on it.
Q.Okay. All right.
A.Anything as far as what was sent out, there would be other records, not --- because this is only what came through our shop.

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Q.And this represents the total of work done, the total work done on that Mack truck between July 15th of '92 through April 23rd, '01, by the Guelich shop?
A.To the best of my knowledge, that would be the work that was done in the Clearfield office. I don't know what all might have been done at other places.
Q.All right. So work could have been done on the '91 Mack truck at another office for Guelich?
A.At another branch office?
Q.Yes.
A.No.
Q.Well, that's what I'm trying to get at. This packet of information that you supplied, marked Exhibit Three, does this represent the total work done on the truck, service work done on the truck by Guelich?
A.By Guelich, correct.
Q.Just by Guelich?
A.Yes.

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Q.Okay. And no other branches or garages of Guelich's would have worked on that truck?
A.Not with my knowledge.
Q.Has that ever happened?
A.Well, you know, if we happened to have a truck down working in another branch for a period of time or a couple days, something like that, if something happens, there's a possibility that something could get fixed there.
Q.All right. And did you bring records with you that reflect work done, maintenance work done on the '91 Mack truck by someone --- or by an entity other than Guelich?
A.Yes.
Q.All right. And where are they in this packet of information?
ATTORNEY SUGHRUE:
If I may, that would be the one marked with the blue ticket, number three.
ATTORNEY BARR:
What's that look like?

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ATTORNEY SUGHRUE:
It's got the invoice from Shaw Mack on the truck when it was purchased, and we wrote on the front of it.
ATTORNEY MOSES:
Okay. It's marked item three?
ATTORNEY SUGHRUE:
Yes. Right. It's got a blue ticket on it marked three. We may not have marked all you gentlemen's copies, but ---.
ATTORNEY MOSES:
Would you mark this?
(Duwayne Guelich Exhibit Four marked for identification.)
BY ATTORNEY MOSES:
Q.Now, you don't have any independent knowledge of what work was done on one of your trucks; is that right? We'd have to ask Randy Knepp?
A.Yes.
Q.All right. You're looking at

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the documents which were marked as Exhibit Four. I've got the marked document, right, that's in front of you?
A.Yes.
Q.Okay. Why don't we go through this document more specifically, Mr. Guelich? What is the first page of this document?
A.This is a copy of the invoice when we purchased the truck new.
Q.All right. And the second page?
A.This is a copy of an invoice of some work that was done by Shaw Mack.
Q.And can you tell what was done by reviewing this document?
A.It looks like they replaced a temperature gauge.
Q.All right. And the third page?
A.Another invoice from Shaw Mack for work that was done there. And it looks like they put a temperature gauge.
Q.All right. The third page, what is the date of that invoice?

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A.8/6/01.
Q.All right. Now, this invoice references a U-bolt kit. Do you see that, ---
A.Yes, I do.
Q.--- the last entry? What do you know about that?
A.I'm not familiar with this particular work that was done at that time.
Q.Is this the first time you became aware that U-bolt work could have been done on that truck in August of '01?
A.This is the first time that, you know, that I'm aware of any other U-bolt work that was done prior to the work that was done by Northeast Spring.
Q.Okay.
ATTORNEY KIGER:
I'm going to enter an objection as to foundation on that last question since there's no indication that this was U-bolt work that was done on a

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rear spring assembly.
BY ATTORNEY MOSES:
Q.Do you have any other documents from --- what's the name of this company? What did you say, Shaw Mack?
A.This is Shaw Mack.
Q.Do you have any other documents which would clarify whether Shaw Mack did U-bolt work on that truck driven by David Weaver?
A.No, this is all I would have.
Q.All right. Now, is there anything --- how did you determine that the work --- that these invoices marked Exhibit Four and these documents marked Exhibit Four relate to unit 309, the truck that David Weaver drove? How do we know that from looking at these documents?
A.There's a marking on the bottom over here that --- we had more than one Mack at the time. And this, there's a notation on there, bulk truck 317 and bulk truck 309, temperature gauge within 309.

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Q.**Where are you looking? I'm sorry.**
A.At the bottom.
Q.**What page? The third page?**
A.This is the third page.
Q.**Okay. All right. BT317 and BT309. I'm sorry, I was looking for the document. What did you just say?**
A.I said it looks like there's an indication on the bottom here that bulk truck 317 and bulk truck 309 had work done pertaining to this invoice. I can't specify to you whether this work was done on 309 or 317, except that it does indicate that the temperature gauge was done on bulk truck 309.
Q.**Okay. All right. Going through these documents, the fourth page, the invoice dated June 14th, '01, does this work relate to 309, or can you tell?**
A.I'd say it's related to 309 because it's indicated so on it.
Q.**Okay. All right. And I can't read the date of the next document. Is that May?**

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A.I think it's 5/29.
Q.**Is that '01?**
A.I can't be sure.
Q.**Okay. All right.**
ATTORNEY REMICK:
Which document?
ATTORNEY BARR:
Page five.
ATTORNEY MOSES:
It appears the date is May 29th. I can't read the year.
ATTORNEY KIGER:
Well, yes, it says May 29th. Is that the one you're referring to?
ATTORNEY MOSES:
Yes. I can't read the year. He indicated May 29th.
ATTORNEY KIGER:
Right here? Are you talking about this document? Is this what you're talking about?
ATTORNEY MOSES:
No. The fifth page.

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One, two, three, four --- the fifth page.
ATTORNEY REMICK:
That's my fifth page.
A.Yeah, that was a purchase order that their ---.
ATTORNEY BARR:
That's not what she's talking about here.
A.She's talking about this, but I think this purchase order relates to this one.
ATTORNEY BARR:
See, we don't have that.
ATTORNEY MOSES:
You don't have a copy of that purchase ---.
ATTORNEY KIGER:
Can I just see?
ATTORNEY MOSES:
Sure.
ATTORNEY KIGER:
Not in that order. I don't know if it's anywhere else in mine.

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A.It's cut off there. You see that first few numbers 33221? This is 33221 ---.
ATTORNEY REMICK:
Well, the purchase order seems to match up with the parts ordered in that.
A.The gauge and the knob.
ATTORNEY REMICK:
Yes.
ATTORNEY MOSES:
All right. So the 6 ---.
ATTORNEY REMICK:
Even though we don't have the other copy.
OFF RECORD DISCUSSION
ATTORNEY MOSES:
Do you want a copy of it now, this page?
ATTORNEY KIGER:
I would.
OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q.**Mr. Guclich, if you look through Exhibit Four, I went through all those**

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documents. It looks like --- let me
count them. The eighth document from
the bottom relates to a Northeast
Spring invoice. And they may be copied
differently than mine.
ATTORNEY SUGHRUE:
No. This is a check.
BY ATTORNEY MOSES:
Q.Okay. And that check relates to
work done by Northeast Spring; is that
right?
A.That's right.
Q.All the rest of the documents in
Exhibit Four are Shaw Mack invoices or
with reference to their work; is that
right?
A.Yes.
Q.I just wanted you to clarify
that for me. Is that right?
A.Yes, that's right.
Q.All right. Let's go to the
invoice --- the Northeast Spring
invoice dated 8/23/99. And I think
you're looking at it right now; is that
right?

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A.8/23/99.
Q.All right. Now, can you tell
from looking at this invoice dated
8/23/99, what truck does it relate to?
Do you know if it's unit 309
maintenance work?
A.Just by looking at the invoice,
I can't tell you that.
Q.How did you accumulate these
documents and how do you know what
documents relate to which trucks?
A.There's a purchase order,
purchase order number 31263.
ATTORNEY SUGHRUE:
And that's the last
document on the grouping.
ATTORNEY MOSES:
Okay. All right.
BY ATTORNEY MOSES:
Q.So 31263, I see that. It
references truck 309.
A.Right.
Q.And there's a number on that
document, number 7163. Is that
significant?

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A.I think that might be the work
order number of Northeast Springs.
Q.That relates to work order 7163?
A.Right.
Q.Which can you read what was done
on the --- can you read what Northeast
did?
A.Rebush Mack, replace side
torque, torque rod on --- it's hard to
read.
Q.On rear?
A.On rear rear-end.
Q.Do you know what that means?
Can you tell us what type of work was
done on the truck, unit 309?
A.I can't tell you exactly what
that was, but there's bushings and
torque rods on it, and it looks like
they rebushed the torque rods.
Q.Now, the invoice dated 8/23/99,
do you have a purchase order for that
invoice?
A.That is one right here.
8/23/99, that is the purchase order for
that.

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Q.Which one?
A.Purchase order 8/23/99 ---.
Q.Okay. All right. So the
invoice --- the Northeast Spring
invoice dated 8/23/99 relates to
purchase order 31263; is that right?
A.That's right.
Q.And can you tell us from looking
at that Northeast Spring invoice what
work was done on unit 309 on August
23rd, '99 or thereabouts?
A.It looks to me like they
replaced the U-bolts and --- it's hard
for me to tell exactly what everything
was, U-bolts, nuts, washers. They
replaced the trunion bushing.
OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q.Can you tell what U-bolts were
replaced by looking at this invoice?
A.No, I can't.
Q.But Randy would be able to?
A.Randy Knepp would be able to.
Q.Okay. And he's the only other
person that would be able to interpret

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these maintenance records?
A.Our shop foreman may be able to.
ATTORNEY KIGER:
Northeast Equipment would
be able to.
A.Yeah, Northeast Equipment.
ATTORNEY MOSES:
I mean that works ---.
ATTORNEY KIGER:
That's an invoice.
There's actually a work order
that goes with that, describing
the work as rebush Mack side
torque rod on rear rear-ends.
It says right there.
ATTORNEY BARR:
It has a different date,
though.
ATTORNEY KIGER:
Yes. But it's the same
purchase order.
A.But they reference that work
order, 7163, on the invoice.
ATTORNEY KIGER:
Yes, the invoice is dated

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after the work order, but it's
the work --- the purchase order
matches the invoice, but the
actual work order from Northeast
Spring, number 7163, says what
was done.
ATTORNEY MOSES:
Well, I think we want a
witness from Guelich to say
that.
BY ATTORNEY MOSES:
Q.**Go ahead.**
ATTORNEY KIGER:
The documents show it.
A.The paperwork speaks for itself.
ATTORNEY MOSES:
Well, Jerry, I mean, you
know, I'm just trying to get
through these documents. Okay?
I mean, ---.
ATTORNEY KIGER:
Well, no. You're asking
him whether somebody at his
company would know what the
stuff that's on a Northeast

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Equipment Company invoice is.
That was the question that I
interrupted.
ATTORNEY MOSES:
I said would someone else
at his company, other than
Randy, be able to interpret the
invoice and what work was being
--- what work was done on the
truck. That's what I asked him.
And he said the shop foreman
could do that as well.
BY ATTORNEY MOSES:
Q.**And the shop foreman is? Who is**
that again?
A.Bill Stevens.
Q.**Okay. Now, if you'll notice, on**
the invoice, the work order 7163, or
Northeast Springs invoice number 7163,
do you see in the middle of that
document it says important, retighten
U-bolts after 1,000 miles?
A.Yes, I do.
Q.**Is there any document evidencing**
whether the U-bolts were retightened

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after 1,000 miles?
A.After 1,000 miles, no.
Q.**Do you know whether U-bolts were**
retightened by anyone on that unit 309?
A.There was a subsequent State
inspection that I know that the U-bolts
and that are checked on.
Q.**Pardon me?**
A.Subsequent State inspections, on
the State inspection records. This one
right here. It's one of the required
things on that.
Q.**Okay. But my question, Mr.**
Guelich, was do you have a document
evidencing that the U-bolts were
tightened, retightened?
A.Do we make up a document saying
we tightened the U-bolts in it?
Q.**Yes.**
A.No, we don't.
ATTORNEY SUGHRUE:
For the record, I'd
object to a lack of foundation
on that question. This
important, retighten U-bolts

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after 1,000 miles is a pre-
printed item and there's no
indication that the U-bolts ---
that U-bolts on the rear-end
were replaced with that
particular work. I don't --- as
the witness stated, he can't say
what work was done pursuant to
that work order.
ATTORNEY MOSES:
All right.
ATTORNEY KIGER:
There are also
maintenance records that have on
there the checks for tighten
U-bolts and check U-bolts and
springs.
ATTORNEY MOSES:
Okay. Thank you for
that, Jerry.
ATTORNEY KIGER:
You're not going to thank
John?
ATTORNEY MOSES:
Huh?

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ATTORNEY KIGER:
You're not thanking John?
ATTORNEY MOSES:
Well, Jerry, I mean, my
question was clear.
ATTORNEY KIGER:
Well, I don't find them
to be too clear. They're pretty
general whenever you have
records in front of you that
shows it's been checked and you
ask the man if he has any other
records when you're looking at
them.
ATTORNEY GREEN:
At this point I'm going
to have to object. You're
cueing the witness. You're
trying to send a signal or an
answer to this witness here.
That's not an objection. That's
not any valid response to this
discussion at all other than
trying to cue this witness. And
I object to you doing that, and

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I'd ask that you stop it.
ATTORNEY MOSES:
Thank you.
ATTORNEY KIGER:
Are you talking to me ---
ATTORNEY GREEN:
Yes.
ATTORNEY KIGER:
--- or to her? Well, I
disagree with your
characterization of what you've
heard.
ATTORNEY GREEN:
Excuse me. Jerry, I'm
talking directly to you.
ATTORNEY KIGER:
And I'm talking to you
directly, Joe. If she has
records in front of her, she
can't be asking him does he have
any records. He just gave them
to her.
ATTORNEY GREEN:
She asked a very simple,
direct, straightforward

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question.
ATTORNEY KIGER:
We have a disagreement
about that then.
ATTORNEY MOSES:
Well, you're answering
questions, Jerry. You've been
doing it, so ---.
ATTORNEY KIGER:
No, I'm not doing that.
ATTORNEY MOSES:
Yes, you have.
ATTORNEY KIGER:
You have records that
were produced and you're asking
him if he has records. They're
in front of you.
ATTORNEY MOSES:
This witness --- I showed
him an invoice, and this witness
has said that U-bolt work was
done on the truck. I mean ---
and based upon that answer, I
asked him the follow-up
question.

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ATTORNEY KIGER:
You asked him whether
they have any records showing
that U-bolts were tightened on
the truck when you have records
sitting in front of you that say
that they do.
ATTORNEY MOSES:
Okay. And you're the
next witness. You've been sworn
in here.
ATTORNEY KIGER:
I can make whatever
objections I want, and I've made
my objection.
ATTORNEY MOSES:
I can ask any ---.
ATTORNEY KIGER:
Why don't you ask the
next question?
ATTORNEY MOSES:
I can ask any question I
want to.
ATTORNEY KIGER:
Then ask the next one.

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ATTORNEY MOSES:
Just quit butting in.
ATTORNEY KIGER:
I'll object if I think
it's appropriate.
ATTORNEY MOSES:
Well, no, you're not
objecting.
ATTORNEY KIGER:
Yes, I am objecting.
ATTORNEY MOSES:
No, you're not. You're
testifying. You're not
objecting, you're testifying.
ATTORNEY KIGER:
I don't think so.
ATTORNEY MOSES:
Well, I think you know
you are.
BY ATTORNEY MOSES:
Q.I'm sorry about that, Mr.
Guelich. Mr. Guelich, would you ---?
ATTORNEY SUGHRUE:
Would you repeat the last
question that was asked Mr.

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Guelich and his answer, please?
OFF RECORD DISCUSSION
ATTORNEY SUGHRUE:
For the record, you
understand and Mr. Guelich
understands that he's testifying
from his documents.
ATTORNEY MOSES:
Absolutely.
ATTORNEY SUGHRUE:
And you're discussing
these documents and what they
reflect, not what he knows
personally.
ATTORNEY MOSES:
Well, and I asked him, is
there someone at Guelich, other
than the mechanic, that can talk
about these documents, and then
he added the shop foreman.
Absolutely.
ATTORNEY SUGHRUE:
Bill Stevens.
ATTORNEY MOSES:
Yes. I think you've made

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it clear.
ATTORNEY SUGHRUE:
Okay. Go ahead and ask
your next question.
BY ATTORNEY MOSES:
Q.The document dated --- the
Northeast Spring invoice dated April
25th of 2000, do you have that in front
of you, Mr. Guelich?
A.Yes, I do.
Q.All right. Now, can you tell me
what you believe this document is?
Just identify the document.
A.It's an invoice from Northeast
Spring and Equipment Company.
Q.All right. And can you tell
from looking at this invoice what work
was done on the truck, generally?
A.Generally, it looks like they
replaced some U-bolts.
Q.Can you tell where they were
replaced?
A.No.
Q.Do you have any background at
all in maintaining trucks?

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A. Do I have any background?
Q. Yes, doing maintenance work on trucks or cars or anything.
A. Yes, I do. I have 30 --- 18 years in the Pennsylvania National Guard as a warrant officer in charge of maintenance.
Q. Can you be more specific? What did your job duties entail?
Maintaining what?
A. Maintaining all types of heavy equipment.
Q. All right. And how many years did you do that?
A. Eighteen (18) years.
Q. Are you comfortable reviewing these invoices?
A. Except I'm not comfortable when they use a lot of abbreviations here that I don't understand.
Q. I just wanted to make sure. What makes you uncomfortable? Okay. So what abbreviations ---?
A. Looking at abbreviations that I don't understand.

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Q. Okay. All right. And looking at that invoice dated April 25th, 2000, what abbreviation ---?
A. PNF --- W/PNF, I don't know what that means.
Q. Where are you looking?
A. That's on the first line going across.
Q. Point it out to me.
ATTORNEY REMICK:
Under description.
A. Right there, W/PNF. I don't know what that means.
BY ATTORNEY MOSES:
Q. All right. Now, do you know whether Mr. Weaver ever had any complaints about this truck and the handling of the truck?
A. No, I don't know. I would assume that he's never had any complaints because I don't recall any.
Q. Now, would a driver make complaints to you about a truck not handling well or properly?
A. No. They would probably go to

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the shop foreman.
Q. And that's Bill Stevens?
A. Yes.
Q. All right. Now, Mr. Guelich, do you know whether you have any written documentation that the U-bolts on unit 309 were tightened after 1,000 miles?
A. After 1,000 miles?
Q. Yes.
ATTORNEY SUGHRUE:
I would object to the form of the question. Can you say at what point in time? And I know you're maybe not as familiar with these documents as I am, but without trying to set your agenda, you will note that the invoice that you referred to, dated April 25th, '00, has attached to it the Northeast Spring work order, 7482?
ATTORNEY MOSES:
Right.
ATTORNEY SUGHRUE:
They all tie in, along

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with the purchase order 32101.
ATTORNEY MOSES:
Right. Okay.
ATTORNEY SUGHRUE:
And are we correct in --- or am I correct in interpreting your question that you're talking --- when you asked your question of the retightened U-bolts after 1,000 miles, you're talking about after the work that was conducted ---
ATTORNEY MOSES:
In April of 2000.
ATTORNEY SUGHRUE:
--- April of 2000?
ATTORNEY MOSES:
Yes, specifically.
ATTORNEY SUGHRUE:
Pursuant to work order 7482 ---?
ATTORNEY MOSES:
Yes. Thank you for clarifying that for me. Yes, in April of 2000.

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A. They would have been retightened after 1,000 miles. But I don't have any documentation of it except in our State inspection records and that and some of our service records. That's one of the items that is performed then. For me to say did somebody actually go out when the speedometer hit 1,000 miles and retightened it right then, I don't have any record of that.

BY ATTORNEY MOSES:

Q. All right.

A. But they were --- subsequently passed several State inspections, where one of the requirements in that is tighten U-bolt springs and things like that.

Q. All right. Well, one of the reasons I'm asking you is that I'm looking at your vehicle --- I'm looking at Exhibit Two. The title of the document is not copied on mine. I think it's the vehicle maintenance records.

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ATTORNEY SUGHRUE:

We'll have it. Okay. I'm showing to the client at your request, Ms. Moses, a D.C. Guelich Explosive Company series of documents titled vehicle maintenance, and they're marked Exhibit Two.

ATTORNEY MOSES:

That's right, they were marked Exhibit Two. Thanks.

BY ATTORNEY MOSES:

Q. Why don't you go to the document dated March 18th, 2000? And I just wanted some explanation. That document indicates that every 2,000 miles certain things are done; is that right?

A. That's right.

Q. Certain things are checked and lubricated?

A. Yes, that's right.

Q. The next document that we received from you is dated October 31st, 2000. And the vehicle --- there's more than 2,000 miles on it between that time frame. Are there documents kept in between this? Do you have documents every 2,000 miles, indicating what is done every 2,000 miles on this vehicle?

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A. We should have, but I don't know. I can't answer that.

Q. But if you see what I'm saying, the documents that were provided, which indicate every 2,000 miles, the next check-up exceeds 2,000 miles. Do you know what I mean? And I'm just trying to find out if you have other documents beside these vehicle maintenance records in the possession of Guelich.

ATTORNEY SUGHRUE:

And may I --- as Counsel, I would advise you that the search has been made, and we do not have any records other than --- for that type of service, other than the ones that have been presented to you.

ATTORNEY MOSES:

All right.

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ATTORNEY SUGHRUE:

And I recognize the discrepancy between the mileage recorded when the work was done and that preprinted form.

ATTORNEY MOSES:

Okay. All right. That's all I want to know.

BY ATTORNEY MOSES:

Q. Now, the work that was done in April by Northeast Spring, the mileage on that truck was 116,192 at the time the work was done in April; is that right?

A. That's what it indicates here.

Q. Okay. All right. And the vehicle maintenance --- the first vehicle maintenance record of Guelich's after that service work done by Northeast is dated October 31st, 2000; is that right?

A. That is correct.

Q. And if you'll notice, the only document which reflects that U-bolts are tightened is the 12,000 mile check.

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And that is not checked off on that October 31st document; is that right? Only the 2,000 mile check is checked, so there's no indication that the U-bolts were tightened after the Northeast Spring work done in April 2000; is that right?
A. That's right.
Q. And if you'll notice that the mileage on the October 31st, 2000 invoice is 124,288; is that right, on your vehicle maintenance document?
A. Okay.
Q. Okay. Now, you provided documents that --- the first page of the document is vehicle maintenance --- or vehicle --- I'm sorry, Vehicle Mechanical Defect Report, and there's a tab number one. And we'll mark this as an exhibit because I want you to identify those documents, Mr. Guelich, for me.
ATTORNEY MOSES:
And I think we're on Number Five.

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(Duwayne Guelich Exhibit Five marked for identification.)
OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q. Now, you have in front of you a document entitled Vehicle Mechanical Defect Report, which has been marked as Exhibit Five; ---
A. That's right.
Q. --- is that right? What is that document, Mr. Guelich?
A. That is a document that is required by PennDOT, Bureau of Hazardous Materials, whenever a driver that's carrying hazardous materials has to do a pre-trip inspection on his truck.
Q. All right.
A. And that's what it is. The driver physically goes out and he does this work. If he finds a defect, he checks the defect off, and he might put it down under the remarks section. Then that truck does not go out. Then it

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comes in and their defect sheet will go to the mechanic, and the mechanic will make the repairs before the truck goes out.
Q. All right. And the driver is required to complete this report every day that he drives the truck?
A. Every morning when he takes the truck out he's required to complete this report.
Q. And the document --- you called it a pre-trip inspection record.
A. Well, they fill this out. Before they go out --- before --- it's pre-trip, before they go out with their truck, they fill out this Vehicle Mechanical Defect Report.
Q. Okay. Now, in the subpoena and in the designee deposition notice, I asked that you provide pre-trip inspection records related to the truck David Weaver drove on August 30th, 2000 for time frame August 1st, 2000 through August 30th of 2001. I don't think those records were provided, were they?

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A. They were not provided because we do not keep them after 30 days.
Q. Okay. All right. Did you provide those records to anyone else, those pre-trip inspection ---?
A. This record here --- the reason we have this particular record here is that at the time of the accident, the investigating officer, Mr. Brooks, asked us for a copy of his truck papers. And that's the reason we had these.
Q. Okay. But my question was, did anyone else ask you for pre-trip inspection records before August 30th of 2001, which David Weaver may have completed, like an insurance company, an officer?
A. You mean before this date?
Q. Yes, before that day, ---
A. No.
Q. --- previous records.
A. I don't recall that.
Q. Okay. All right. I'm just trying to get an idea of whether

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they're --- someone else has a copy of these records. You didn't provide them to anybody else?
A. No, I provided Mr. Sughrue a copy.
Q. But you only provided him a copy of the August 30th, 2001 pre-inspection record?
A. Yes.
Q. No others completed by David Weaver?
A. No others.
Q. Okay.
ATTORNEY SUGHRUE:
And for your information, this particular form is not maintained by truck. It's maintained by date, with all the other pre-trip inspections of all the other equipment. And it's maintained in the shop and just routinely disposed of in the course of time. And Mr. Stevens would be the individual who maintains those and then

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disposes of them. And we have made a search and confirmed that --- your subpoena is as you indicate. And we've made the search and determined that all of our pre-trip things are disposed of, anywhere from usually 90 to 120 days after they're used because the equipment's moved on, for all practical purposes.
ATTORNEY MOSES:
All right.
ATTORNEY SUGHRUE:
And I'm pretty informed with respect to this, and I'm not aware of any other copies that were given to anybody after that. The copies just don't exist and they're gone.
ATTORNEY MOSES:
All right. Okay.
BY ATTORNEY MOSES:
Q. Let's look at this exhibit, Mr. Guelich. Now, do you know specifically

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how Mr. Weaver went about checking each item on this document marked Exhibit Five?
A. No, I don't know how he did it.
Q. Do you know one way or the other whether he, indeed, did check every item listed on this document marked Exhibit Five?
A. The only way I can tell is that he signed it that he did.
Q. Okay. Do you know how a truck driver is trained to check U-bolts at Guelich Explosives?
A. I don't know of any particular way that they're trained other than they are taught to check them for looseness. That's one of the things that's required when they take their CDL test, is to be able to prove that they're capable of doing those things.
Q. Do you know how a driver would go about checking a U-bolt for looseness? Do you personally know how to do that?
A. I would know how, yes.

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Q. How do you do it?
A. I would get on a creeper, I'd go underneath and I'd put a wrench on and check them.
Q. Okay. And what do you do with a wrench when you're on a creeper and you're ---?
A. Well, you put it on a U-bolt nut and tighten it.
Q. Well, how do you determine whether the U-bolts are loose? What do you look for? How do you test for that?
A. Well, sometimes if you're trained in that at all, you can look if a U-bolt is loose. A lot of times you'll see like rust around certain places on it where the nut tightens up, and that's one of the things you can look for.
Q. Okay. Well, would Mr. Weaver have gone under the truck to check the U-bolts on the day before he went on this trip on August 30th, 2001?
A. Would he have done it? I don't

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know.
Q.**Well, if he had done it, where would he have done this?**
A.He would have done it at the shop in Clearfield.
Q.**And as a matter of course, do your truck drivers get under the truck to inspect U-bolts?**
A.Yes.
Q.**Have you ever seen them doing it before they go off on a trip?**
A.Yes. But then you got to understand, I'm not there all the time. I'm in the office. I mean, the shop foreman would have to be the one that can answer that question.
Q.**All right. What kind of --- what type of wrench is used to tighten U-bolts?**
A.Socket and ratchet.
Q.**How big is it?**
A.Generally, it's a three-quarter to an inch ratchet.
Q.**And where is this tool kept?**
A.At the shop.

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Q.**And would a truck driver know how to tighten a U-bolt?**
A.They should have demonstrated their ability to do that whenever they took their CDL test and whenever their --- my man, I think at the time it was Joe Sudowski.
Q.**So you're saying at the time that David Weaver began driving for you, and that was back in '84, when he took that road test, he was required to demonstrate to Joe Sudowski how to tighten a U-bolt?**
A.Was he required by me or Joe Sudowski ---?
Q.**Well, by Guelich?**
A.Yes, he would have been required.
Q.**I think you went over that inspection report. I don't think there was any checkmark or area in that driver road test that would indicate that the driver did, indeed, go over that or was trained to do it or was observed by Joe Sudowski, that his**

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competency was observed?
A.All I can say to that point right there is, you know, David Weaver signed the forms that he did.
Q.**Okay. Have you ever had any problems with your drivers not properly doing pre-inspection?**
A.No.
Q.**Have you lost any U-bolts on any other trucks owned by Guelich?**
A.Have we lost any U-bolts?
Q.**Have they ever been fractured or ---?**
A.Not that I can recall. Whenever we change springs, anything like that, we generally always replace the U-bolts.
Q.**Based upon your mechanical experience, is there a certain time frame that springs need to be changed on a truck?**
A.No.
Q.**What's the determining factor for needing that changed?**
A.Most of the time, the springs

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will get a little bit of sag to them, they get a little bit weak or maybe you might find a broken spring leaf or something like that, then we change them.
Q.**Now, speaking of broken spring leafs, you know that invoice, Northeast Spring's invoice dated April --- I think ---.**
ATTORNEY MOSES:
What exhibit was it?
ATTORNEY SUGHRUE:
Four.
ATTORNEY MOSES:
Yes, Four. April 25th.
ATTORNEY KIGER:
I'm not sure if you ever actually marked that one.
ATTORNEY MOSES:
Yes. It's marked as Exhibit Four. Yes, the invoice dated --- Northeast invoice dated April 25th of 2000.
BY ATTORNEY MOSES:
Q.**Can you tell from looking at the**

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purchase order 7482 was ---?
A.That's not the purchase order.
Q.Oh, okay. Well, the work order number, I guess. Is that right?
A.7482.
Q.Yes, the work order number. Can you tell whether just one spring was replaced from looking at that?
A.It looks like just one spring was replaced, number five ply in right rear.
Q.Okay. And do you know how many plies this type of spring has?
A.No, I don't.
Q.Do you know whether number five would be categorized as in the middle, at the end? Do you know how they're numbered?
A.Well, if there was ten plies, it would be in the middle. If there's only five plies, it might be at the top.
Q.Okay. All right.
A.But I don't know how many plies, so I can't answer that question.

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Q.Okay.
ATTORNEY MOSES:
Mark this one Six. I think we're on Six; right?
ATTORNEY REMICK:
What's the next one going to be, Judy?
ATTORNEY MOSES:
Six.
ATTORNEY REMICK:
What is it, though?
ATTORNEY MOSES:
It's the route sheet that was attached to that pre-trip inspection.
(Duwayne Guelich Exhibit Six marked for identification.)
ATTORNEY SUGHRUE:
That's Number Six?
ATTORNEY MOSES:
Yes.
ATTORNEY SUGHRUE:
I forget the date. Okay.
A.Okay. This is a DOT-required route sheet.
BY ATTORNEY MOSES:
Q.Let me just ask the question so the record reflects it. You're looking at a copy of what's been marked as Exhibit Six. Can you tell me what that is, Mr. Guelich?
A.This is a DOT-required route sheet. The DOT wants to know what roads the driver is going to be on at any particular time.
Q.All right.
A.And this is filled out --- this is our route sheet, and it's filled out by Bill Stevens, our shop foreman, who gives it to the operator, and he looks at it and signs it. And it gives the destination of where he's heading for.
Q.You said it's filled out by whom? I'm sorry.
A.The shop foreman fills this out when he assigns the work for the man in the morning. He fills this out and gives it to him. They take it. Like in this particular case, David Weaver signed it that he understands this.
Q.All right. So the handwriting is Bill Stevens' and this is David Weaver's signature?
A.That's right.
Q.All right. Can you tell me what was the destination on August 30th of '01?
A.Brandy Camp, PA.
Q.And Mr. Weaver was leaving from Clearfield, your office in Clearfield?
A.Yes.
Q.And can you describe --- or can you tell me what the route was?
A.He was to take --- this is legislative, 2024 west to 2023, to 153, to 879, to I80, to 153 again, to 219 north, to 2003 east and left into the job site.
Q.Okay. Now, this 0153 north, left to job, what is left to job? Am I reading that right?
A.He was on --- he was traveling east on 2003. When he come to the entrance road to the job, and this

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particular place here it was a coal strippings, ---
Q.**Okay.**
A.--- he makes a left into the job site.
Q.**All right. Now, do you recall what road Mr. Weaver was traveling on at the time of his accident?**
A.2023.
Q.**And do you know how many miles he had traveled approximately from leaving Guelich?**
A.Half a mile, approximately.
Q.**Do you know anything about the accident?**
A.Do I know anything about the accident? Yes, I do.
Q.**Can you tell me what you came to learn, be it speaking to investigators or police officers?**
A.Well, after being --- after getting over the shock of the accident, because David Weaver and his father was a very close friend of mine, and after getting over the initial shock of it

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and talking to the officers and that, they said at the time that they thought the U-bolts broke, which caused the truck to --- because it's a camelback in suspension, when the U-bolts broke, it left the body drop down onto the tires, and it was just like applying the brakes on it, and it threw the truck to the right and down over the embankment.
Q.**All right. What was David Weaver carrying in the unit 309 on the date of his accident?**
A.I have to back up one sheet.
Q.**You'll need to look at the bill of lading to answer the question?**
A.Yes.
ATTORNEY MOSES:
Okay. Let me mark that exhibit --- have that marked Exhibit Seven.
(Duwayne Guelich Exhibit Seven marked for identification.)
BY ATTORNEY MOSES:

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Q.**All right. What is Exhibit Seven, Mr. Guelich?**
A.Exhibit Seven is --- again, it's a DOT-required bill of lading for transportation.
Q.**All right. And what was he carrying?**
A.He was carrying 30,000 pounds of ammonium nitrate and 2,400 pounds of fuel oil.
Q.**All right. Do you recall what time the accident occurred, approximately?**
A.I think it was somewhere around eight o'clock in the morning.
Q.**Do you know what time Mr. Weaver left Guelich to make this delivery?**
A.Probably took him about ten minutes maybe to get to that point.
Q.**Okay. All right. Do you know what the weather was like that day?**
A.I don't recall, but I think it was sunny. I don't recall any rain or anything like that.
Q.**Okay. Are drivers trained to**

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look for warning flags that resemble loose --- that resemble a problem with the truck, specifically loose leaf springs? Are they trained ---?
A.Well, only whenever they do their walk-around checks and that. They look for broken spring leafs and things like that.
Q.**All right. And how do they have to go about doing that? Do they have to get under the truck to be able to examine the leaf springs?**
A.Sometimes they might have to be.
Q.**Pardon me?**
A.Sometimes. But to examine the leaf springs, see if there's broken leafs and that, they don't have to, no.
Q.**Well, how do they go about doing that?**
A.Visual.
Q.**Can you describe for me how they would go about doing that? What do they have to do?**
A.They would walk around the truck and if they see a broken leaf on their

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spring, they would report it then.
Q.Are they able to visualize all of the springs?
A.Pretty much so, yes.
Q.What about loose springs? How do they go about examining loose springs?
A.They would have to look if they see any signs where something would be working or ---.
Q.I'm sorry, something would be working?
A.Well, or maybe two things were maybe rubbing a little bit and creating some kind of marks where they could identify a loose spring.
Q.And how would they go about making that determination? Would they have to get under the truck to do that?
A.They very could possibly do that.
Q.That's the only way you could make that determination; right?
A.That's right.
Q.What about the handling of the

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truck? If a truck has a loose spring or springs, how does it handle?
A.It would have to be very bad to be able to --- you know, they'd have to handle something that's really erratic. I can't see --- my experience in driving a truck, you can have a broken leaf and it doesn't affect the handling of the truck.
Q.Okay. You have no warning whatsoever if you have loose springs?
A.No.
Q.How about an untightened U-bolt, what does a truck driver experience when they're driving a truck that has a U-bolt that isn't tightened?
A.You wouldn't --- I don't think you would experience anything.
Q.Have you ever driven a truck that had a loose U-bolt?
A.Not that I can recall.
Q.How about loose springs?
A.Not that I can recall either.
Q.Did Guelich conduct any safety meetings after David Weaver's accident?

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A.After the accident?
Q.Yes.
A.I don't recall that.
Q.Okay. Did you or the shop foreman or anyone at Guelich meet with the truck drivers after David Weaver's accident to discuss safety matters related to U-bolts or springs?
A.I don't recall any particular instance, but we do that all the time.
Q.Now, what do you do all the time?
A.Discuss safety items. A lot of times we get the drivers together. We have --- every year we got to get so much MSHA training to go over it with the drivers at that point in time. And that generally occurs like in January. We'll go down and we'll cover all those kind of things, safety, first-aid, everything that we can cover at that point in time.
Q.Are these meetings that you're talking about, is it a safety meeting?
A.It's safety meetings. We have a

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classroom in our office.
Q.And where is the classroom located, in Clearfield?
A.In Clearfield, in our office.
Q.Do the drivers that work out of your other offices have to attend?
A.Yes.
Q.Is it a one-day meeting?
A.No, it's two days.
Q.And these meetings occur in January every year?
A.Generally in January because that's our slower time.
Q.And who chooses the topics of the meetings?
A.Breck Neeper, our safety director.
OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q.And he's the safety director you said?
A.Yes.
Q.And how long has he been employed with Guelich?
A.Over 20 years.

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Q.And what are his job duties?
A.His job duties, he's in charge of keeping us informed of all the rules and regulations, all types of safety items and in charge of training.
Q.Now, are materials used, documents used, videos used at these safety meetings?
A.Yes.
Q.And does Guelich hold on to these materials?
A.It depends where Breck got them from at the particular time. He may have got them from our supplier, so we might have some.
Q.Do you know whether the subject of the examination of leaf springs and U-bolts has ever been a topic at one of these safety meetings or any of the safety meetings?
A.I don't know for sure.
Q.Is there a way that you can check that out and investigate that?
A.That would have to be answered by Breck Neeper.

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Q.And would Mr. Neeper also be able to tell us whether videos --- strike that.
Did you ever attend a safety meeting where that subject was discussed?
A.I attend them all, so I'm sure I did.
Q.Okay. Do you ---?
A.But I don't recall what particular time.
Q.Do you know one way or the other whether it was the subject of a safety meeting?
A.No, I'm not sure.
Q.Okay. Was this subject, checking U-bolts and checking loose leaf springs, ever discussed with your truck drivers at any time after David Weaver's accident?
A.I'm sure it was, but I can't recall that.
Q.And why are you sure that it was?
A.It's just one of the things we

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would have done.
Q.Okay. Do you know whether the drivers were given literature or written documentation in connection with that subject?
A.I don't believe so.
Q.Did you come to learn at any time after David Weaver's accident that your truck drivers didn't know how to inspect leaf springs or weren't inspecting them?
A.Did I --- repeat the question, please.
Q.Did you ever come to learn after David Weaver's accident that your truck drivers or some of them didn't know how to examine leaf springs?
A.No, I didn't come to learn that, no.
Q.Okay. Did you ever discuss this with --- strike that.
After David Weaver's accident, did you have any conversations with your shop foreman or mechanic about whether your drivers knew how to

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inspect for loose springs or broken springs or loose U-bolts or broken U-bolts?
A.I don't recall.
Q.Well, was it an area of concern for you after David Weaver's accident?
A.Sure.
Q.Okay. Did you require or your company require that drivers be retested on the examination of leaf springs and U-bolts?
A.No.
Q.Well, did you come to learn from the investigating police officer that the U-bolt wasn't tightened on the truck that David Weaver was driving on the date of his accident?
A.No, I didn't learn that from that accident. I was just told that the U-bolts broke.
Q.Do you know the causes --- as a mechanic or a maintenance person with experience of heavy equipment, do you know all the reasons why a U-bolt can break?

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A No.
Q Did you ever learn that in your service?
A No.
Q Have you since learned that, what could cause a U-bolt to break?
A No. I still don't know why some U-bolts break and some other ones don't.
Q Do you know why leaf springs become loosened?
A Yes.
Q What causes a leaf spring to become loosened?
A They become loosened over a period of time just from heavy use.
Q Do you know one way or the other whether leaf springs can become loosened because the U-bolt isn't tightened properly?
A Well, if the U-bolt is not tightened, the springs automatically would be loose.
Q Do you know what happened to the truck, unit 309, after David Weaver's

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accident?
A Yes. It was taken by Eagle Recovery to their Milesburg yard.
Q All right. And do you know what became of the truck, where it is today?
A I don't know where it's at today. I thought it might be down at W.W. Williams in Kylertown.
ATTORNEY SUGHRUE:
W.W. Engine.
A Oh, W.W. Engine, yeah. It used to be W.W. Williams. But in Kylertown, it's a salvage yard. He evidently bought it salvage.
BY ATTORNEY MOSES:
Q Okay. Do you know whether this --- what was it, W.W. Williams you said?
A W.W. Engine. I'm sorry.
Q Do you know whether this company was told not to disperse of the parts or not to sell any of the parts of that truck?
A I don't recall if we were told that or not.

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Q Have you ever seen the missing spring --- strike that. Have you ever seen springs that were discharged or these missing springs from unit 309 after David Weaver's accident?
A No. You mean the missing --- after the accident?
Q Yes.
A I saw the U-bolts at one time.
Q Okay. Did you come to learn that there were approximately, and don't quote me on that, eight missing springs or I guess plies, is that what they're called?
ATTORNEY KIGER:
What do you mean by missing? Now missing you mean or ---?
ATTORNEY MOSES:
Yes. Well, I think there were only three on the --- the eight leaf springs were never recovered, I don't believe.
A I don't know that.

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ATTORNEY KIGER:
I just meant you weren't asking him whether before the accident there were only three instead of eight?
ATTORNEY MOSES:
Well, no, no.
BY ATTORNEY MOSES:
Q Did you understand my question? I mean, after the accident there were --- it was determined there were eight springs that were missing. And I was wondering ---.
A I didn't know that.
Q Oh, okay. All right. I was wondering if you had ever spoken to the police officers and whether you knew one way or the other whether the police had recovered some of the springs or any of the springs.
A The only thing I know that was recovered was the U-bolts.
Q Do you recall what David Weaver's wages were back in August of 2001?

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A I'm not sure right now.
Q Did he receive any benefits from Guelich?
ATTORNEY SUGHRUE:
I object to the form of the question. Could you explain what you mean by benefits?
ATTORNEY MOSES:
Well, did he get benefits, medical benefits?
ATTORNEY SUGHRUE:
Well, working or after he died or ---?
ATTORNEY MOSES:
No, no, no. I mean in connection with these wages.
A You mean before the accident?
BY ATTORNEY MOSES:
Q Yes, before the accident.
A Oh, sure, he would have gotten benefits. He'd have hospitalization, he would have had vacations, holidays.
Q Okay. I'm just trying to get an idea of what his benefits were. Anything other than that?

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A We provided uniform service. That's basically it.
Q Okay. Are your truck drivers required to take a physical?
A Yes. And they take drug and alcohol tests, too.
Q How often are physicals done?
A I think it's every two years.
Q Okay.
A And they take a required physical when they start employment.
Q Do you know when the last physical --- when was the last physical David Weaver had before his accident?
A No, I don't know.
Q Is there documentation of when that physical was?
A There would be in his employment file, I'm sure.
Q Okay.
ATTORNEY SUGHRUE:
For the record, his personnel --- that was not provided today because it wasn't within the scope of the

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subpoena. However, it was within the scope of Mr. Green's prior subpoena and the personnel file, which I believe contains physicals, are in that personnel file.
ATTORNEY MOSES:
I think I saw one, a copy of one physical. Okay. Is that the --- do you recall?
ATTORNEY SUGHRUE:
Well, I don't know what you saw, but I would think that there would be several because I observed several in the personnel file, but I didn't copy them. But I'd be glad to check it myself ---.
ATTORNEY MOSES:
All right.
ATTORNEY SUGHRUE:
I'd be happy to accommodate you if you check what you have and if you have some desire for something

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additional.
ATTORNEY MOSES:
Yes. I know, John, I would be --- I will be requesting the safety meeting documentation which Guelich utilizes, videos and anything related to inspection of a truck, things of that nature which I can put in writing. If you want me to subpoena it, I will, but however you want me to do it.
ATTORNEY SUGHRUE:
Yes, I think you'd have to subpoena it, and then we would comply.
ATTORNEY MOSES:
Okay.
ATTORNEY SUGHRUE:
After all, we're not a party to this, and we're not going to get involved ---.
ATTORNEY MOSES:
No, that's fine. Can you

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mark this? I think we're on
Eight.
(Duwayne Guelich Exhibit
Eight marked for
identification.)
A.Are you moving on from this one?
BY ATTORNEY MOSES:
Q.Yes. I just want to get through some of the documents you brought just so you can identify them for me, Mr. Guelich. I'm showing you what's been marked as Exhibit Eight. What are those documents?
A.This is a copy of the
Pennsylvania State inspection records
when the mechanic does the inspections
on the trucks.
Q.And I notice that on that document there is highlighting on each page.
A.The highlighting refers to truck
309.
Q.And what is the time frame of those records?
A.This goes all the way back when

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we had the truck new until the time of
the accident.
Q.All right.
A.There was two inspections
required per year.
Q.And where were those inspections conducted?
A.At our shop.
Q.And when was the last inspection before David Weaver's accident? Was that April 23rd, '01?
A.Yes.
Q.Okay.
A.See, I got it right up here.
Q.Oh, okay. And who did that inspection, Mr. Guelich?
A.Randy Knepp.
Q.Did he do all the inspections?
A.I think he did them all.
Q.And you said how often --- how often did they have to be done?
A.This is a semi-annual
requirement.
Q.And who did the one on October 31st, 2000?

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A.Randy Knepp.
Q.Okay. I'm showing you this two-paged document. I haven't marked it. I just want you to tell me what it is, those two pages.
A.This is a check requisitioned by
Sorema North America, issuing us a
check for $36,885, along with a copy of
the check.
Q.And what does it relate to?
A.It relates to the damage to the
truck.
Q.All right.
ATTORNEY SUGHRUE:
Sorema is S-O-R-E-M-A.
ATTORNEY MOSES:
We'll mark this.
(Duwayne Guelich Exhibit
Nine marked for
identification.)
ATTORNEY KIGER:
What is that document?
ATTORNEY MOSES:
It's this handwritten
document. I think it's the only

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handwritten one.
BY ATTORNEY MOSES:
Q.Can you tell me what Exhibit Nine is?
ATTORNEY SUGHRUE:
That was in the packet at
the bottom, Jerry.
ATTORNEY KIGER:
Thank you.
A.This is a note from Jack
Anderson, my general manager.
BY ATTORNEY MOSESS:
Q.I'm sorry, I didn't hear you, sir.
A.You asked me to identify this.
Q.Yes. I just didn't hear you.
A.This is a note from Jack
Anderson, who is my general manager, to
Duane Allen, who worked for the
insurance company. He must have been
--- I think he was an adjuster at the
time.
Q.Okay.
A.He evidently requested
information that Jack Anderson sent

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him.
Q.Information about what?
A.It looks like he's requesting information from the last rebuild, for the rears --- the front and rear tandems.
Q.On unit 309?
A.On unit 309. And a --- just a question, like asking for the wheel base, the size of the unit, a 15-ton unit, 300-gallon diesel fuel tank. And I already said that this was a note --- this is Jack Anderson give this to Duane Allen.
Q.Okay. Had the truck ever been rebuilt?
A.No.
Q.Okay. All right.
ATTORNEY BARR:
I'd just ask who Duane Allen worked for?
A.Sorema.
ATTORNEY BARR:
Sorema.
BY ATTORNEY MOSES:

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Q.I have 15 pages here, and I just wanted you to look through them and tell me whether this is David Weaver's driver record. There may be more pages here. I just want to mark it in one exhibit.
A.As I said earlier, we're required to investigate our drivers' records every so often. And these are all reviews and paperwork from the State where we requested the records of David Weaver. Basically, we was checking for if he had any violations or --- and I seen where he only had one violation, and that was a stop sign.
Q.I'm just trying to get it marked as an exhibit. Is that the driver record?
A.Yes.
Q.Okay. Here's seven more pages. And these also are a part of David Weaver's driver record. I just want you to identify that so we can mark it as an exhibit.
ATTORNEY KIGER:

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That's 17 pages?
ATTORNEY MOSES:
It would be, I think, 22.
Wait, those are seven pages.
A.Yes. This is from all the same records.
ATTORNEY MOSES:
I don't think that they're in order, Jerry.
They're 22 pages. And we'll mark these as Exhibit Ten.
ATTORNEY REMICK:
Judy, can you just flip through the last couple pages for me so I can see where the break is? Does it include these?
ATTORNEY SUGHRUE:
Yes. It includes those internal documents, violations, ---.
ATTORNEY REMICK:
It looks like I have some more driver records after that.
ATTORNEY MOSES:

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Oh, okay. All right.
ATTORNEY KIGER:
I don't think they're in the same order that she has.
ATTORNEY MOSES:
Well, mine are all messed up, too. Okay. Here's two more pages, so ---.
BY ATTORNEY MOSES:
Q.That's part of the driving record? Why don't we just get you to look at all the ---.
A.Yes, they are the same.
ATTORNEY REMICK:
But there's actually more behind them.
ATTORNEY KIGER:
There are.
ATTORNEY MOSES:
That's 24.
BY ATTORNEY MOSES:
Q.And these other records are not the driver record; right?
A.I'd have to see them.
Q.Yes. Why don't you look at

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those? We have 24 pages so far of the driver record. I didn't think those were his driver record.
A.This is the copy that ---.
Q.Well, I don't want you to identify it. I just want you to look through them and see if any of those pages are the driver's record. And I'll put them with this exhibit, Mr. Guelich.
ATTORNEY SUGHRUE:
You're not asking his training ---?
ATTORNEY MOSES:
No. Just what would be part of his driver record.
ATTORNEY SUGHRUE:
Driver licensing record with the State with respect to violations, that's all those documents are.
ATTORNEY MOSES:
Right.
ATTORNEY SUGHRUE:
There's an internal

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document where he certifies no violation and a State confirmation.
ATTORNEY MOSES:
So these are separate; right?
ATTORNEY SUGHRUE:
Right.
ATTORNEY MOSES:
And then I'll ask him about these. I just wanted them to be identified. Okay. We'll mark these as Ten. I think they're 24 pages.
(Duwayne Guelich Exhibit Ten marked for identification.)
OFF RECORD DISCUSSION
ATTORNEY MOSES:
Would you mark this 11?
ATTORNEY REMICK:
Eleven (11) is?
ATTORNEY MOSES:
This thing titled Institute of Makers of

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Explosives.
BY ATTORNEY MOSES:
Q.Before it's marked, is this a two-page report, Mr. Guelich, or is that separate?
A.No, this --- do you want me to identify these or do you want them back?
Q.Well, I just want to know, are these ---?
A.No, they're separate.
Q.Okay. All right. And now I'll ask you.
ATTORNEY MOSES:
Okay. This is 11.
ATTORNEY REMICK:
Eleven (11) is the vehicle accident report?
ATTORNEY MOSES:
Yes, 11 is the vehicle accident report. And 12 will be the explosive report.
(Duwayne Guelich Exhibits 11 and 12 marked for identification.)

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BY ATTORNEY MOSES:
Q.Okay, Mr. Guelich. What is Exhibit 11?
A.Exhibit 11 is a vehicle accident report that we sent to the Institute of Makers of Explosives, which is an organization we belong to. And we are required, belonging to this, to let them know of any incident like this so they can get it on file.
Q.All right. Did this company do an independent investigation of David Weaver's accident?
A.No.
Q.Did OSHA investigate David Weaver's accident?
A.I don't believe OSHA did. DEP did. And I think that's the next document you have.
Q.Okay. I'm going to put this up. I'm going to change this. Okay. I'm showing you Exhibit 12. What is that, sir?
A.This is an explosive report by the Bureau of Environmental Resources

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on the accident.
Q.Who completed that report; do you know?
A.Donald Hubel. He would have been --- he would have worked for DEP out of our Hawk Run office.
Q.Did Mr. Hubel come to your place and speak with you about the accident?
A.I think he did, it indicates here that we met at the scene, so ---
Q.Okay.
A.--- I think he came to the accident scene.
Q.Okay. And do you remember speaking with him?
A.No, I don't.
Q.Do you know one way or the other if you did or you just don't remember?
A.I don't remember if I did.
Q.All right. Can you tell me from looking at this report who was at the scene of the accident?
A.Breck Neeper would have been. Jack Anderson would have been. Breck Neeper is our safety director. Jack

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Anderson would have been. He's our general manager. Of course, naturally, I was there. There's two other names here. I don't know who they were.
Q.Can you read the names?
A.Mr. Witherow and Mr. Halstrom.
Q.You don't know who they were employed by?
A.No.
Q.Okay.
A.We did have a mechanic, a drill mechanic, by the name of Brian Witherow, but I don't know that was him or not, because he works at a different shop.
Q.Okay.
ATTORNEY SUGHRUE:
For your information, Mr. Witherow, and Mr. Brian Witherow no doubt, were from Clearfield County, and Mr. Halstrom is, I forget his first name, but they are responders to spills out of the Clearfield County Emergency Management Office.

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BY ATTORNEY MOSES:
Q.How were you notified of David Weaver's accident?
A.Well, down the street there's a gas station. I was there getting gas and somebody said there was a bad accident up the road. And I just --- up towards the shop. And I just took off and it was probably about three miles and I come upon it.
Q.And what did you witness when you got to the scene of the accident? What road were you on?
A.I was on that --- we call it the Glen Richey Highway. I was on the Glen Richey Highway. I think the route number now is 2003. I think that was the route. When I come up on it, there was, you know, crowds and crowds of people.
Q.Okay. And where did you see the vehicle?
A.The vehicle was down over an embankment. And at that point in time, they were stopping people from going

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down there. I couldn't even go down there myself.
Q.And the vehicle was on what roadway, if you know?
A.They call it Log Cabin Highway, Log Cabin Road.
Q.And what did you observe? What did the vehicle --- how was the vehicle resting on that road?
A.It was laying down. I think it was laying --- if I recall, it was like laying on its side.
Q.On what side? Was it the driver's side or the passenger's side?
A.I believe it was laying on the passenger side, but I'm not a hundred percent sure now.
Q.Okay. Who was there on Log Cabin Road at the time? Was there anyone there?
A.There was Lawrence Township Police. There was a lot of people. My specific thing then was his father come upon the scene. And his father and I were good friends.

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Q.David Weaver's father?
A.Yes.
Q.What is his name?
A.Samuel Weaver.
Q.Where does he live?
A.He's deceased now.
Q.When did he die?
A.He died two years ago.
Q.How old was he?
A.He was my age, 68.
Q.Okay.
A.Him and I were good friends. I took it as my responsibility to keep him away from the accident. I didn't want him down there because everybody told me it was terrible.
Q.Okay.
A.That was what I did.
Q.Did he make it down to Log Cabin Road or you kept him away?
A.No. I kept him away. That was at the request of everybody there.
Q.So he was not able to observe --- from where you were standing and Mr. Weaver was standing, he wasn't able

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to observe his son in the truck?
A.No.
Q.Okay. Were there any other family members that came upon the scene of the accident?
A.I don't believe so.
Q.Now, David Weaver was divorced?
A.Yes.
Q.And he had a daughter?
A.Yes.
Q.Okay. Had you ever met his daughter?
A.Related to me.
Q.In what way?
A.David Weaver's mother --- now, wait a minute. Get this straight. David Weaver's first wife, Brenda, was the daughter of a cousin of mine.
Q.How old was David --- what's her name, his ---?
A.The daughter?
Q.Yes, the daughter.
A.Jennifer.
Q.Jennifer. And how old was she in August of 2001?

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A.I don't know. I'm just guessing. Maybe about eight. I really don't know for sure.
Q.You don't know, okay. When was the last time you --- when had you last seen her?
A.I haven't seen her for --- I think probably about a year ago in a parade. I think she was like a member of the band.
Q.All right. She lived with the ex-wife?
A.She lives in Curwensville with the ex-wife.
Q.Okay. All right. Had you spoken with any police officer --- strike that.
Do you know, after having any conversations with any investigating officers, as to whether David Weaver was ever conscious following the accident?
A.I can't recall ever having a conversation like that with any police officers.

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Q.Okay.
A.All I know is they said it was bad.
Q.Okay. You've copied the police report for us. And on the last few pages of the police report, if you'll look at the attachments, the vehicle accident reports and accident report narrative and this document, the driver's vehicle inspection report, did you attach these documents or were these part of the police report, those documents I just read off?
A.This first document you have here, this one of the vehicle, accident report, that's the same document that I already showed you, that went to the IME.
Q.Right. But was that attached to a copy of your police report, or did you just attach it?
A.I think we just attached that.
Q.Okay. I'm just trying to get an idea of were these three pages attached to the police report or did you attach

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them?
ATTORNEY SUGHRUE:
Those documents all
attached together are believed
to be responsive to that
particular part of your
subpoena.
A.Yeah, I think we attached these.
BY ATTORNEY MOSES:
Q.Okay. Fine. Do you know the name of the tow truck driver ---
A.No, I don't.
Q.--- from Eagle?
A.No.
Q.Had you ever spoken with anybody from Eagle in connection with this truck and the towing of the truck?
A.I think the only thing I might
have said at the time, and I'm not real
sure, is I think they asked me where we
wanted it to go. And I said, take it
to your salvage yard.
Q.All right. This report titled Accident Report Narrative Taken From The Police Report, who prepared that

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report?
A.We probably copied this from one
of the reports and sent it along ---
attached it and sent it along with this
to the IME. This is not --- I don't
think this is our wording. I don't
recall. I think this accident --- I
think this is a narrative that came
from one of the police statements.
Q.Okay. But I mean, who actually typed this report up? Was it somebody from Guelich?
A.I think it was a copy of
something.
Q.Okay.
ATTORNEY SUGHRUE:
I know, if you care to
know, my understanding is this
report to the Institute of
Explosives was forwarded with
this document attached, and that
this attached document was
prepared by Jack Anderson and
Breck Neeper as part of their
report to the Institute.

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ATTORNEY MOSES:
Well, how about if we
---?
ATTORNEY SUGHRUE:
And the source was simply
--- the source with respect to
the accident was copied --- as
it notes, was copied from the
police report for the benefit of
the Institute. And you'll see
the same note at the bottom,
indicating where the truck was
taken. So I know that was
prepared by D.C. Guelich's
people, and I believe the
supervisor was Jack Anderson.
ATTORNEY REMICK:
But we don't know who
typed it; right?
ATTORNEY SUGHRUE:
Right, we don't know who
typed it. I'm just giving you a
background.
ATTORNEY MOSES:
Okay. Why don't we mark

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this 13 just so we have ---
okay.
(Duwayne Guelich Exhibit
13 marked for
identification.)
BY ATTORNEY MOSES:
Q.So the document that you just testified about, titled Accident Report Narrative Taken From The Police Report dated October 2nd, 2001, we'll mark that Exhibit 13. And you said you believe that was prepared by Jack Anderson?
A.Yes.
Q.Can you tell me what this document entitled Employee Certification is?
A.This is an Employee
Certification where David has got
certified that he's qualified under the
hazardous materials training and
testing, that he was qualified to haul
hazardous materials.
Q.And these other two pages are connected with his training in

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hazardous materials?
A.That is correct.
Q.And I think they all have the same date, January 10th, 2000?
A.Yes. That's probably right about the time that I was speaking earlier, some of the training we did in January. It was probably part of the training at that particular time.
Q.So this is a three-page document; right? These three pages go together?
A.Yes.
ATTORNEY MOSES:
We'll mark this 14.
(Duwayne Guelich Exhibit 14 marked for identification.)
OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q.I'm showing you what will be marked Exhibit 15. It's titled Brake Inspector Qualifications. What is that document?
A.This is a certificate basically

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that's saying that David has signed it, saying that he has passed his CDL, Commercial Driver's License Air Brake Knowledge and Skills Test.
ATTORNEY SUGHRUE:
That's Number 15.
ATTORNEY KIGER:
That's Exhibit 15?
ATTORNEY REMICK:
Yes.
(Duwayne Guelich Exhibit 15 marked for identification.)
BY ATTORNEY MOSES:
Q.Where was this brake inspector training gotten or received by David Weaver?
A.I'm not sure.
Q.He didn't receive the training at Guelich; is that right?
A.I'm not sure.
Q.You can't tell from that record, Exhibit 15?
A.No, I can't tell from this for sure. It does say that D.C. Guelich,

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their shop right there.
Q.And I think the last record I'm going to have marked as 16 is titled EAP Training Certification. What is that document, sir, Exhibit 16?
(Duwayne Guelich Exhibit 16 marked for identification.)
A.This is a training certification on --- basically where they're going over and taught about drugs and what it means to drive and things like that. And it consisted of --- can see what it says, consisted of a 60-minute video.
BY ATTORNEY MOSES:
Q.Okay.
A.And David was an attendee of that class, and it was given by Breck Neeper, our safety director.
Q.All right. Thank you. Going back to Exhibit 15, David Weaver didn't check the brake-related maintenance and/or inspection training on that Exhibit 15, did he? I think that this form asks to give the name of the

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course, the name of the school, the subject, the date, and that form isn't filled out --- or this Exhibit 15 isn't filled out by him.
A.I notice he didn't check that off. I don't know why he didn't do that.
Q.Okay. Well, I mean, do we know one way or the other whether David Weaver did undergo or attend a course related to brake-related maintenance and inspection?
A.I would have to say he did because he signed it. That's all I can say.
ATTORNEY MOSES:
Just mark this. This is the last thing.
(Duwayne Guelich Exhibit 17 marked for identification.)
BY ATTORNEY MOSES:
Q.And what is 17, Mr. Guelich?
A.Seventeen (17) is a copy of the truck --- the then current registration

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on the truck.
Q.Okay. Thank you.
ATTORNEY MOSES:
And I'm just marking the
depo notice as 18.
(Duwayne Guelich Exhibit
18 marked for
identification.)
ATTORNEY MOSES:
That's all I have, sir.
OFF RECORD DISCUSSION
SHORT BREAK TAKEN
EXAMINATION
BY ATTORNEY GREEN:
Q.Mr. Guelich, I'm Joe Green. I represent Mr. Kyler and his company, Northeast Spring & Equipment. I won't be nearly as long as Ms. Moses. And I might be jumping around a little bit here from one subject to another just to fill in a couple of gaps. But let me just go ahead and get started with just sort of a general description of the job sites that David Weaver or a person in his position would visit. I

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know that there's not a big market in terms of customers for explosives. It's kind of a specialized industry. And you had mentioned that I think Mr. Weaver was going to surface or strip mining that day?
A.He would --- yes, that particular day he was going to a surface coal mining operation.
Q.And what company was that?
A.Energy Resources, Incorporated.
Q.Do they have just one site in Clearfield County?
A.No, they have more than one.
Q.Is that a regular customer?
A.Yes.
Q.I assume that a lot of your customers are what I'd call regular customers?
A.Repeat customers, yes.
Q.But say for the year, year and a half prior to the accident, was Energy Resources a customer of your company in terms of the need for explosives?
A.Yes.

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Q.In that context, a company such as Energy Resources, would you be delivering to a company of that sort like once a week, once a month? Can you give me some general frequency as to what ---?
A.It depends on the size of the company. But that particular company there, we might have been going to two or three of their jobs maybe three or four times a week. And it might be --- one day it might be this job here and maybe on another site and another place the next day. It just moves around.
Q.Did they have two or three job sites in Clearfield County?
A.Yes.
Q.Did Energy Resources have any job sites out of county that you serviced?
A.I think they might have had one over around --- Brandy Camp might have been --- I don't want to say Centre County. It would be Clearfield County

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---. I think they're pretty much all in Clearfield County.
Q.With respect to surface mining, that would be traditionally I guess what we refer to as a strip mine, that would involve the use of explosives?
A.Yes.
Q.And could you tell me or explain to me what the truck driver's job is in that context? Does he just deliver, for example, the bulk explosive material, and then some other specialist handles the setting it up and using it? How does it --- how does he ---?
A.Okay. That's Dave's job. If you want to keep it in relationship to David Weaver, ---
Q.Yes.
A.--- he was driving a bulk truck.
Q.Right.
A.The bulk truck was carrying ammonium nitrate and fuel oil. He would go to the job site. And generally, at the same time, one of our

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other trucks would be going to the job site, carrying the high explosives and the detonators. When they'd get to the job site, there would be X amount of holes that had to be loaded. They would be loaded with a detonator and a stick of dynamite. You would take the cap, put in a stick of dynamite, lower it down the hole. Then depending whether there was water in the hole or whether the hole was a dry hole, then Mr. Weaver would bring his truck in to haul the bulk material. And the truck was set up with a boom on the top that would swing around and there would be a hose on it. And from the back of the truck there's meters, and they would load those holes bulk out of the back of the truck.

Q.You're talking about a hole that's drilled into the ground by ---?

A.It might be anywhere from 30 to 40 or 50 feet deep. Generally, six and a quarter, six and a half inches in diameter.

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Q.And would that load, for example, that Mr. Weaver had, 30,000 pounds of ammonium nitrate, would that all be used typically that day on that job?

A.Probably not particularly that day. They might come back with material still on their truck.

Q.Would a person who was overseeing a job, such as the job that Mr. Weaver had that day, would he be at the job site all day, or is this a 15-minute delivery or a half-an-hour delivery? What's the nature of the time frame that he spends there?

A.I'd say on the average maybe four hours to get a shot loaded and detonated.

Q.Because there would be multiple holes that have to be filled with the ammonium nitrate; correct?

A.Right.

Q.Now, the site of these holes that are being loaded with the explosives would be the actual portion

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of the job site that the coal is being extracted from?

A.Yes. This would be loosening up the overburden on the top of the coal.

Q.So you would be blasting the whatever, the soils or the stone formations that is over the seam of coal; correct?

A.Right.

Q.And what's the general terrain? Could you describe, just from your knowledge, what the terrain is that you'd be working in? I assume that the topsoil has been removed by bulldozers or something?

A.That's right.

Q.And there'd be heavy equipment by the operator of the strip mine in that area?

A.Yes.

Q.And then there would be these drilling machines, I suppose?

A.That's right.

Q.And does the truck actually go to the hole itself, the job site?

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A.Yes.

Q.Are these --- I don't know whether to use the term four-wheel drive, but is it rugged terrain that these trucks are especially designed to handle whenever you're off road?

A.No special design.

Q.But the truck --- the delivery truck, I'll call it, Mr. Sherman (sic), more than that, but a tri-axle, such as a Mack, is off the highway; correct?

A.Yes.

Q.It's at a strip mine site that's being prepared for demolition and blasting?

A.Yes.

Q.The area where blasting has occurred, would that be --- is it possible for you to give me like a typical size of that area? Is it four or five acres' worth of holes or ---? I'm not sure whether I'm even in the right ball park here with descriptive language, but what's the area that a delivery driver would be servicing?

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A. If you're asking what the size of the area is of a particular shot that we'd be going to detonate, that really a lot of times depends on what the operator of the job is after. But you know, roughly, you could say maybe a 50 to 60 hole pattern. And the spacing might be 15 feet. So you take 50 times 15 and that would give you the length, times maybe four or five rows.

Q. In order to remove the overburden, is it usually just one shot that gets you down to the coal or is there a level of blasting that occurs and the broken-up rock is removed, and then the truck has to go in on the site again?

A. It depends on each job. There could be more than one seam of coal. Generally, once you get down to the first seam of coal, then they'll remove that. And then if they can't get --- even with their equipment, they can't get down to the next seam, then they'll bring a drill in and they'll drill and

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shoot down to the second seam.

Q. Is it possible for the undercarriage of a tri-axle truck to come in contact with the surface of rock, the various terrain features that you would encounter at a strip mine?

A. It's possible.

Q. You mentioned that you have other types of customers, for example, at highway jobs or quarries; is that correct?

A. That's right.

Q. Would Mr. Weaver have serviced a mixture of strip mines, highways or quarries, or was he just a strip mine delivery man?

A. Mixture.

Q. Could you give me just a general idea as to the nature of your business in terms of the percentage of customers? Is it like one-third, one-third, one-third or is the bulk of your business strip mining?

A. It changes year to year.

Q. Yes.

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A. Probably right now, this year we're in right now, there's probably 60 percent strip mine.

Q. How about back in ---?

A. Previous years, back in '01, I don't have that in front of me to tell you, but we were probably maybe 40 percent strip mine --- maybe 60 percent strip mines, maybe 30 percent quarries, stone quarries, and maybe the rest is site preparation jobs and road jobs and things like that.

Q. In the strip mines that you serviced back in 2001, what was the typical overburden material? Was it like a sandstone, shale, what?

A. Both. Anything that their piece of equipment can't dig. It depends on the operator, on what size equipment they have. If they have a B11, we don't have to shoot as much for it. If they have B9s, then you have to shoot more for them.

Q. And you're talking about different types of Caterpillar

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bulldozers?

A. Right.

Q. The B11 is the large one?

A. Right.

Q. In terms of quarry work, can you just name a couple of the quarries that Mr. Weaver would have serviced?

A. New Enterprise Stone & Lime Company, Hawbaker, Mellott.

Q. New Enterprise, that would be limestone?

A. Yes.

Q. And Hawbaker, that's limestone in Centre County?

A. Limestone also.

Q. Is Mellott also limestone?

A. Mellott is limestone also.

Q. Most of your quarry work in this general area would be limestone?

A. Would be limestone.

Q. How about just finally highway jobs, Interstate 80 type of --- or I'm sorry, maybe like Interstate 99 would be a highway job?

A. Well, we did that work --- if

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you travel through State College, we did a high percentage of that work.
Q. **That's all limestone there, heavy cuts there; is that correct?**
A. Yes.
Q. **That now would be --- I guess it is called or will be called Interstate 99?**
A. Yes.
Q. **And that work was being done back in 2001?**
A. I think some of it was being done back then.
Q. **Whenever you have to outsource some type of repair, go to a vendor or contractor such as Northeast for any type of repair, is that something within the authority of the driver himself to arrange, or does he have to go to the shop foreman? What's your procedure on that?**
A. He has to go to the shop foreman. And that depends on what gets done there as to how busy the mechanic might be. The mechanic might be really

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busy, so we might outsource the work. Or it might be a scope of work that our mechanic doesn't want to do himself, and we'll outsource it.
Q. **Mr. Guelich, do you recall whether you ever received any type of, oh, recalls or advisories or notifications relative to U-bolts of the type that you would use with this particular kind of tri-axle truck?**
A. I don't recall ever receiving them.
Q. **Am I using the term tri-axle accurately?**
A. No. That was a tandem truck. It wasn't a tri-axle.
Q. **Okay. Just to cover the bases, let me ask that same question then relative to a tandem.**
A. The only difference between a tandem and a tri-axle is a tandem's got the bogies in the back. And if it's a tri-axle, they stick that extra tag axle on the front of it. But a tandem can also end up being a tri-axle if

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they put the extra axle on the front.
Q. **In connection with your company procedures, I see you have a job title of safety director. You mentioned a fellow who was your safety director. What generally are his duties?**
A. His duties are to keep us informed of any changes in regulations. He is keeping us up-to-date on safety and compliance.
Q. **Are there any particular type of specific safety manuals --- I'm not talking so much about compliance, but safety guidelines or manuals or books that you give to your truck drivers for procedures in strip mines and quarries, on the open highway and so forth?**
A. I don't recall any right now, but Breck Neeper, the safety director, might.
Q. **In terms of ---.**
A. To back up, all our drivers do get that handbook, the DOT handbook.
Q. **Of your --- all the vehicles that you have or operate, do you have**

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tow trucks or wreckers --- I'll call it a wrecker, but a tow truck, retrieval vehicles?
A. No.
Q. **If you ever have had occasion to have one of your vehicles retrieved for a breakdown or something like that, you'd independently contract?**
A. Yes.
Q. **With regard to your procedures generally, in terms of U-bolt tightening, is that a specialized job at all or can the driver do that or the shop foreman or a particular grade of mechanic? In other words, is that assigned to a specialized person, anyone familiar with the ---?**
A. It's not a specialized job. I mean, it's just a matter of getting underneath there on a creeper, if you don't mind getting muddy and getting something heavy enough to get on the U-bolts and tighten them up.
Q. **Sir, just to change gears here a little bit. I warned you I was going**

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to jump around here in the interest of time. But I have been provided in this case with some investigation material. And I'm not sure whether you brought it with you today, but I think you've probably seen it. There was a man by the name of William Wetzel, who has a consulting service in Ridgway, Pennsylvania, and he performed a site visit and investigation for your company very soon after the accident occurred. Do you know that?

A. Yes.

Q. Did you know Mr. Wetzel? Have you done business with him before this?

A. No, I did not know him. My attorney, Mr. Sughrue, hired him for me.

Q. Okay. Yes. His report is to Mr. Sughrue. And I see that he was on the --- at the accident scene as early as September 1st, 2001, and that he was over at Eagle Tire on September 5th, 2001. So I take it he would have been contacted fairly soon after you found

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out about this accident?

A. Yes, I'd say.

Q. Was there a particular reason why you hired Mr. Wetzel to conduct an investigation?

A. Mr. Sughrue recommended we do it so we'd get the complete picture.

Q. I'm not questioning you, a serious accident and so forth, but --- or I'm not questioning that you did that. I was just curious as to how you contacted him. And that was a referral from your attorney; is that right?

A. Uh-huh (yes).

Q. You have to say yes or no for the record.

A. Yes.

Q. One of the fellows who is mentioned in here who I think helped Mr. Wetzel was a gentleman by the name of Cessna, C-E-S-S-N-A?

A. Yes.

Q. And did you know him or did he come along with Mr. Wetzel's company?

A. He came along with Mr. Wetzel's

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company.

Q. After Mr. Wetzel conducted his investigation, was there any type of personal follow-up? Did you have any type of meetings with him or discussions with him, or was his product simply his report?

A. I don't recall any personal meeting with him after that. I just --- all I can recall is he reported that.

Q. His report was dated October 24th, 2001, and it was directed to John Sughrue. I'm just showing the cover of this to you. Did you get a copy of that report and review it?

A. I believe we did.

Q. Okay. Other than the report though, you're not aware of any supplemental report, supplemental meetings or anything that you recall that involved discussion of his findings?

A. I don't recall anything, no.

Q. Do you know this Mr. Cessna?

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A. Yes, I do.

Q. And is he still around this area? Do you know where he lives?

A. I don't know where he lives. But he's still around. I see him quite often.

Q. So you know him to see him?

A. Yes.

Q. Did you know him before this accident?

A. Yes, I did.

Q. And tell me a little bit about you or your company's background then with Mr. Cessna, because he helped in this investigation.

A. I knew Mr. Cessna because he was one of the men --- he was a prior State Trooper. He was the State Trooper that came around and checked our shop because he was a State inspection trooper at the time. And he'd come around and he'd check the inspection records and things like that.

Q. If you recall, did you recommend that Mr. Wetzel consult with Mr. Cessna

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in this case or bringing him on board in terms of the investigation?
A.No, I didn't recommend --- I don't recall recommending him bringing him on.
Q.I noticed that one communication that the company had sent to Eagle Tire & Towing had more or less said Mr. Cessna will be the man who will pick up the U-bolts that you had possession of. Do you recall that?
A.I don't recall that, no, but ---.
Q.Are you aware of any specific reports or notes or conclusions that Mr. Cessna might have arrived at, other than perhaps as described in Mr. Wetzel's report?
A.I'm not aware of anything else.
Q.Did you ever talk with Mr. Cessna about the facts of this accident or his findings or his investigation?
A.I may have, but I can't recall.
Q.The bulk deliveries that you make in terms of explosives, is that

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always ammonium nitrate and fuel oil or are there other chemicals that sometimes you deliver that have an explosive character?
A.On that particular truck, that was it.
Q.So that particular truck would have only carried ammonium nitrate and fuel oil?
A.Right.
Q.Is the ammonium nitrate --- that's granular --- not quite powder, but it's a granular substance?
A.It looks like a BB, a little white BB.
Q.And that would be carried sort of in the V-shaped --- I'll call it the hopper section in the rear?
A.Right.
Q.Or the tank?
A.That's right.
Q.And is the fuel oil also transported in the same truck in a tank of some sort?
A.Transported on the same truck,

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in a separate tank.
Q.Okay. And then eventually, whenever the explosive combination is put together, the fuel oil and the ammonium nitrate is mixed together?
A.Yes.
Q.Is that mixed together as it's put in the hole?
A.Yes.
Q.And then the ignition is the actual detonator you talked about?
A.Right. That's right.
Q.The other vehicle that would carry the detonators and so forth, is that like another unit that would always go with a person like Mr. Weaver? In other words, he would carry the bulk materials and there would be a separate truck that would be with him at each delivery?
A.Yes.
Q.Was there a particular, I'll call him a partner or other individual who might have usually worked with Dave Weaver on his deliveries or could that

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be, you know, ---?
A.No. Mr. Weaver would go wherever Bill Stevens would dispatch him.
Q.So his partner, so to speak, could be someone different?
A.Could be somebody different every time.
Q.On the date of this accident, if you know, was the other truck traveling with Mr. Weaver right behind him or would he have just met him or been out in front of him? I'm just wondering if they would have traveled together to the job site?
A.I'm not a hundred percent sure, but the normal procedure is that most of the time the truck with the detonators on it would be ahead. He would be ahead. He would get to the job first and get things prepared, and then the bulk truck would come along later.
Q.Bill Stevens, he's the present job foreman?

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A.Yes, he is.
Q.And he's the successor to Joe Sudowski, who's the fellow who lives in Pennville; is that correct?
A.That's right.
Q.I saw the name Edward Blake as a safety director. Does he still work for you or is he still your safety director?
A.He was not safety director at that point in time.
Q.Okay.
A.He had been a safety director quite a few years ago.
Q.Between the date of the work that was performed by Northeast, which would have been in April of 2000, and the date of the accident, which was the end of August 2001, there's a gap in terms of time of roughly about 16 months. And during that 16-month period, about 15,400 miles were put on the truck. And I would translate that into about 950 miles a month for a truck such as the one Mr. Weaver was

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operating. Would that be typical usage?
A.Would you mind repeating that question, the time period?
Q.Sixteen (16) month time period, and in that 16 months, not quite 16,000 miles were put on the truck. According to the records, it was about 15,400 or something. So I'm just going to guesstimate 950 miles a month. And that was typical of that --- or I was curious as to whether that would be a typical mileage or usage.
A.I think that would be typical. We don't put a lot of miles on our trucks. This Mack was a diesel. I think it only had, at the end, like 130,000-some miles. And that's not a lot of miles for a Mack truck.
Q.You spent a number of years as a warrant officer in the Guard and --- was it a transportation unit?
A.Yes. Starting off as a transportation unit, and then went into engineers.

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Q.But was that with trucks as opposed to other types of vehicles?
A.Yes.
Q.Was that mainly five-ton trucks?
A.No, all size trucks.
Q.Was that the local Guard unit?
A.I was working out of the local Guard unit, but --- actually, I worked out of Punxsutawney, Johnstown, then I spent time in Aberdeen Proving Grounds.
Q.We had discussed the subject of retightening, retightening U-bolts. What's the importance of that, if you know, retightening U-bolts at a proper interval?
A.Just to make sure that they were tightened up the way they should be.
Q.And what's the significance of them being properly tightened or property retightened?
A.Well, the significance is you don't want them to be loose.
Q.If U-bolts are loose, that would allow excessive strain on the structure; would it not?

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A.Probably.
ATTORNEY GREEN:
I think some of the other attorneys might have a few questions, but thank you very much. That's all I have.
ATTORNEY REMICK:
Anybody else?
EXAMINATION
BY ATTORNEY REMICK:
Q.My name is Brad Remick. We met carlier. The documents that you produced today, does that give us all of the maintenance records for the particular truck that your company has in its possession?
A.Yes.
Q.All right. How is ammonium nitrate loaded into this type of truck?
A.The truck would pull under a bin, like an overhead bin, and with a gate on it, and there's --- at the top of the truck there's lids. They open the lid up and fill it out of the bin.
Q.Who's responsible for loading

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the truck before it goes out to make a delivery?
A. The driver.
Q. So on the morning of the incident, Mr. Weaver would have been the one to load this particular truck?
A. That is correct.
Q. And how is the fuel oil loaded on the trucks?
A. We have a fuel island. And we have off-road fueling, we have on-road fueling and we have gasoline. And they pull into the fuel island to fill their tank.
Q. And again, is that the driver who fills the tank?
A. Yes, it is.
Q. Is it the driver that calculates or puts in the weights of the load?
A. It can be. But it can also be Bill Stevens, the shop foreman. He'll take --- depends on the size of the shot that they have. He'll calculate how much material they're going to need.

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Q. Are there any inspections done on your vehicles with regard to corrosion?
A. Yes. I mean, there is --- you know, the pre-trip inspection, the driver should pick up if there's any serious corrosion anywhere. State inspections, they should pick it up.
Q. I mean, it's my understanding that ammonium nitrate is fairly corrosive to certain metals?
A. Uh-huh (yes). It is.
Q. Are any of --- are there any steps taken to help corrosion-proof any of the components on the trucks?
A. No, other than whenever we buy a truck, we'll make sure that they have the good epoxy paints on the tanks and things like that.
Q. Have there been other trucks, or any trucks, that have corrosion issues in the body or the suspension or anything like that that you're aware of?
A. Over a period of time, yes.

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Q. Do you know whether there are any corrosion issues with this particular truck?
A. There wasn't that I know of.
Q. How about other equipment in your inventory, like drills and that sort of thing also have corrosion issues?
A. Everything, when it starts getting a period of time and then it starts getting corrosion of some kind.
Q. Other than the epoxy paint that you'll have, I guess, the dealers or manufacturers apply, are there any other protective measures taken by your company to prevent corrosion?
A. Only whenever we see a lot of rust forming and things like that, we'll sandblast and repaint and do things like that.
Q. How about before that corrosion starts, any coatings applied to any of the components on your vehicles by your company?
A. No.

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Q. Do you know why the truck Mr. Weaver was operating on the day of his accident had the U-bolts replaced back --- when was it, in '00?
A. Well, I would say that the reason --- I'd have to answer that yes because they found a broken spring ply.
Q. Okay. And I think you told us that if you replaced any of the spring plies, you would then replace the bolts at that time?
A. Yes.
Q. Do you know how the broken spring ply was detected?
A. No, I don't know.
Q. Do you know who found it?
A. It could have been David Weaver might have found it on his pre-trip inspection, or one of the mechanics might have found it when they was checking the truck out. I don't know.
Q. Do you know who was in charge of making the purchases of the particular parts that were used in your shop?
A. Generally, it was Bill Stevens.

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Sometimes it might be the mechanic.
Q.And am I correct that because
Mr. Weaver was the gentleman who
operated the truck, would he be the one
who would go pick it up from Northeast
Spring, for example?
A.Since it was his truck, I could
see that he would have been the driver
that was sent over there to pick it up.
Q.And if you look at Exhibit Four,
and we have the invoices from Northeast
Spring. And we have --- I guess it's
the second page from the end of my
packet, which is number 7163. Do you
have that? It's the one dated 8/17/99.
A.Okay.
Q.I think that's the one. And is
that Mr. Weaver's signature that
appears at the bottom?
A.Yes, it is.
Q.And then moving forward in time,
we also have 7482, which has
description of work is replaced number
five ply in R.R.?
A.Yes.

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Q.Is that, likewise, Mr. Weaver's
signature?
A.Yes, it is.
Q.And he would have been the one
to pick up the truck then?
A.Yes.
Q.Do you know what the total
weight of the truck was, including the
load Mr. Weaver was carrying on the day
of the accident?
A.No, I can't answer that right
now.
Q.We could find out first the
vehicle weight and then add the load to
that?
A.Uh-huh (yes).
Q.You said uh-huh.
A.Yes.
Q.Okay.
ATTORNEY REMICK:
I think that's all I
have. Thank you.
EXAMINATION
BY ATTORNEY BARR:
Q.I just have a couple of

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questions just to clarify. I believe
Exhibit Four has some invoices in the
beginning from Shaw Mack. Are you
familiar with that? Do you have those
there?
A.What page are you looking at?
Q.Just again, the first one is
Shaw Mack Sales and Service. That's
the invoice where you purchased ---?
A.That's the invoice of purchase.
Q.And then the pages after that,
there are some invoices. And who are
those invoices from?
A.They are from Shaw Mack.
Q.What's the name at the top here?
A.W.W. Engine.
Q.Now, how are they related to
Shaw Mack?
A.Well, the same person who owns
W.W. Engine owns Shaw Mack.
Q.Are they ---?
A.That would be John Niebauer.
Q.Are they at the same place
physically?
A.No. Shaw Mack is in DuBois.

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W.W. Engine is out closer to Kylertown.
Q.So why would an invoice have
W.W. Engine at the top and then have
Shaw Mack in the middle and then it
would be purchased through your
company, if you know?
A.I don't know. There again,
because we bought the truck from Shaw
Mack, I would have to assume that maybe
on this particular occasion the
temperature gauge wasn't working, so
maybe they stopped and got it fixed at
W.W. Engine, and they turned around and
remitted it to Shaw Mack Sales.
Q.So the truck would have been
taken to W.W. Engine?
A.It looks like that's probably
what happened in this case.
Q.How about the following pages,
could that be true for ---?
A.I don't really know how the
procedure was on that at the time.
They're all ---.
Q.So you don't know if the truck
was ever taken back to Shaw Mack or was

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it taken to W.W. Engine? You don't know where the truck went to when it was serviced?
A. I can't tell from this, no. The only thing I can tell is that my purchase orders say Shaw Mack.
Q. But you don't have any personal knowledge of whether the truck was taken to W.W. Engine or to Shaw Mack?
A. I don't have any personal 100 percent knowledge, but I would say they were probably taken to Shaw Mack up in DuBois because it was a lot closer and that's where we bought them at.
Q. The safety inspections that are done or the safety director --- strike that.
Does the safety director ever get into the mechanical part of the safety of the truck? In other words, would your safety director ever instruct people as to the tightening of the U-bolts?
A. I don't know for sure how to answer that question. He may have, but

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--- he might.
Q. Or would that instruction come from the maintenance department?
A. Probably more so it would come from the maintenance department, which would be done by Bill Stevens.
Q. I'm sorry. How long was Bill Stevens there?
A. He's a long-time employee. He's probably been there, working for the company, probably since about 1980, at least.
Q. And how long was he in charge of maintenance? Or is he still in charge of maintenance?
A. He took over after Mr. Sudowski left. It was somewhere around '01.
Q. So you don't recall --- or do you recall whether Mr. Sudowski or Mr. Stevens was the maintenance person from '00 to --- from April of '00 to August of '01?
A. I think right at that point in time there it was Bill Stevens.
Q. Were there any formal training

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guides given to your drivers in regards to the inspection of the truck?
A. Well, they're given a manual whenever they first go for their CDL and that by the State and that --- the guidelines on things to prepare themselves for when they go for their CDL license.
Q. If a maintenance manual would come, such as from Mack Trucks, would they be instructed to review that manual?
A. The maintenance manual like that would go to Bill Stevens, the shop foreman.
Q. But not to the drivers themselves?
A. No.
Q. Who would schedule the various inspections of the truck? In other words, I think your inspection schedules show that some things are done every 2,000 miles, some things are done every 12,000 miles. Whose responsibility was it for making sure

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that those inspections were performed?
A. The shop foreman.
Q. And that's Mr. Stevens?
A. Yes.
ATTORNEY BARR:
All right. That's all I have.
ATTORNEY KIGER:
I don't have any questions at this time.
ATTORNEY MOSES:
I just have just a couple follow-ups.
RE-EXAMINATION
BY ATTORNEY MOSES:
Q. This April 25th invoice from Northeast Spring, which was signed by David Weaver, David Weaver's signature merely evidences his authorization for that repair; is that right?
A. The authorization for the repair is in the work order, within that purchase order.
Q. Okay. But what I'm asking you is, is his signature here authorizes

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the repair of the vehicle; does it not?
Doesn't that written statement ---?
A.That's what it says. It
normally just --- when they pick it up,
this is when they get this.
Q.That's when who gets it?
A.That's when David would have got
this, when he went over to pick the
truck up.
Q.Okay. After the repair?
A.After the repair.
Q.Okay. All right. How often are the trucks washed?
A.That's a tough question. I
don't know. They get washed, but how
often? As time presents it.
Q.And given the areas where the truck goes, like these quarries and strip mines, I would assume debris collects on the bottom of the truck?
A.Sure.
Q.But you don't know one way or the other how often the truck is washed?
A.No.

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Q.And who would do that task? Who would wash the trucks?
A.The driver would wash it or any
--- any time when there's extra people
floating around the garage, you try and
get them washed.
Q.Okay. One more thing. These came with the packet of information that Joe Green had subpoenaed from Guelich. And I didn't see --- I don't know if those were in the documents you produced or not.
A.I think this is, more or less,
stats of the truck when it was moved,
you know, different things that was on
the truck, what they call like a line
set ticket.
Q.That's not a repair invoice or that doesn't ---?
A.No. No, this is not a repair
invoice.
Q.That is just a complete description of the truck?
A.It's a description of the truck
that --- in other words, it's a build

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ticket of the truck, you know, the
transmission and under the transmission
and all that kind of thing.
Q.Does it have the weight of the truck on it?
A.The weight?
Q.Yes.
A.No.
Q.All right.
ATTORNEY MOSES:
Why don't we just mark
that?
BY ATTORNEY MOSES:
Q.It involves unit 309; right?
ATTORNEY KIGER:
That's 18, 19?
ATTORNEY MOSES:
Let me see, Jerry.
COURT REPORTER:
Nineteen (19).
(Duwayne Guelich Exhibit
19 marked for
identification.)
A.I would say that's 309 because
this was printed in 02/06/91.

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ATTORNEY SUGHRUE:
That's why that was
provided to Joe Green, because
it is a computer runoff that is
given to the company when they
buy the --- to give all the
specs on the truck so you know
what the parts of the truck are.
That probably came from Mack.
A.It's a line set ticket, line
schedule, the build ticket.
BY ATTORNEY MOSES:
Q.Do you still have the maintenance manual for this truck?
A.I don't know. I'd have to check
with Bill Stevens, the shop foreman.
Q.Okay.
ATTORNEY SUGHRUE:
We looked and
preliminarily, we couldn't
locate it.
OFF RECORD DISCUSSION
ATTORNEY KIGER:
Thank you. So is he
going to read and sign?

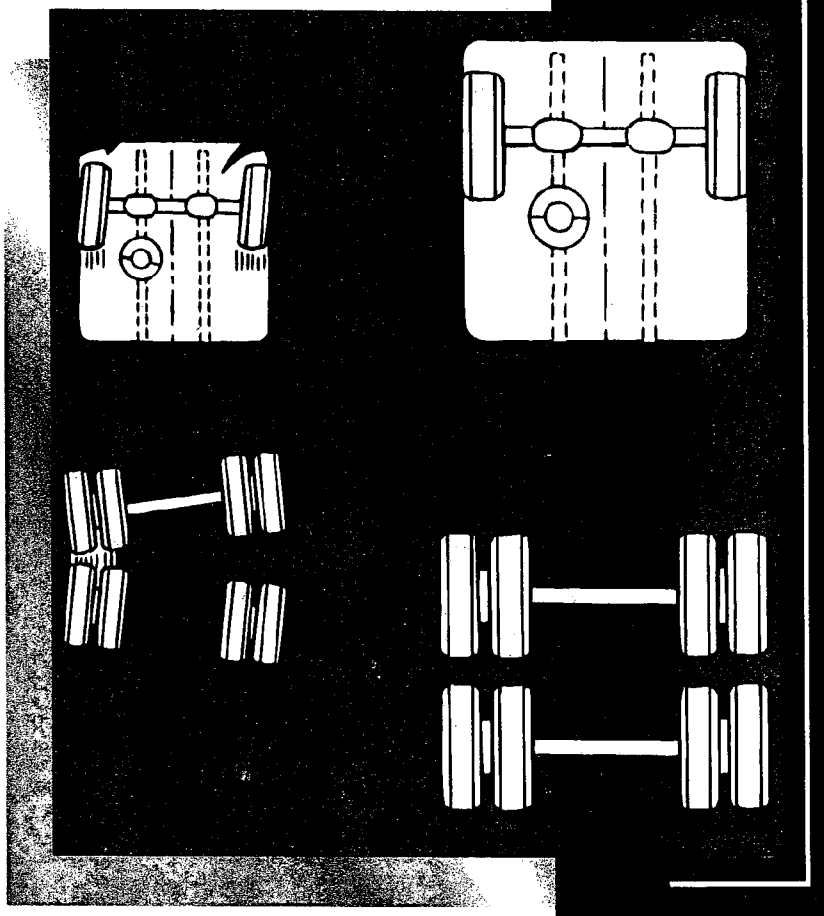
ATTORNEY SUGHRUE:
Do you want an opportunity to read your deposition and sign it and make any corrections? That means you can't change it or clarify it, it only means you can correct an obvious error. Or do you want to trust this lady to get the transcript accurately?
A She looks trustworthy.
ATTORNEY SUGHRUE:
We'll waive signature.

* * * * * * * *

DEPOSITION CONCLUDED AT 2:32 P.M.

* * * * * * * *

EXHIBIT "G"



FRAME, AXLE AND SUSPENSION SERVICE AND TOTAL VEHICLE ALIGNMENT

OCTOBER 2004
(REVISED)
14-103

Control — Cycle the shock absorber in and out. The shock absorber should require approximately four to five times more force to extend than compress. If the shock absorber moves easily in both directions, the unit is defective, and must be replaced. Note, however, that the shock can have an air bubble which will be pumped out within one to three strokes. An air bubble can be experienced in new shock absorbers in stock, or in units on vehicles which have not been driven for a day or two.

Binding — Compress the unit fully, and back off 1/4 inch (6 mm). Rotate the shock. It must rotate freely without resistance. Extend the unit to within 1/4 inch (6 mm) of full extension. Rotate the unit. Severe resistance to rotation is cause for replacement.

Leakage — In the fully extended position, collection of dirt and/or oil near the top of the reserve tube is an indication of a leaking seal and imminent shock absorber failure. Note that dirt and/or oil toward the bottom of the reserve tube can come from sources other than the shock absorber itself. A leaking shock absorber may still have proper control, but must be replaced.

Mounting — The rubber grommets on the stem or in loop-mounted shock absorbers can crack and deteriorate. Apparent surface cracks are not damaging, and may only be cracks in surface paint. Severe splits or pieces of rubber missing are an indication of a failing mounting rubber, and are cause for replacement. Also inspect the mounting brackets for damage, missing hardware and secureness.

Spring Clips (U-Bolts)

Tightening of the front and rear axle spring clip nuts at proper intervals on new vehicles and on vehicles with replaced springs is important to prevent spring shifting, breaking of leaves and center bolt shearing. Loose spring clips will also cause axle misalignment which could adversely affect tire wear.

ON NEW VEHICLES

On new vehicles, spring clip (U-bolt) torque, both front and rear axles, must be checked as follows:

- **Spring and walking beam suspensions** — during the first 3,000 miles/5000 km or 3–4 months (whichever occurs first) of service. After the initial break-in period, spring clip torque must be checked at every C and D inspection interval.
- **All MACK air suspensions** — at the end of the first 1,000 miles/1610 km of service and at each A, B, C and D inspection interval thereafter.

AFTER SERVICE REPLACEMENT

After any service that involves the removal and reinstallation of a spring on either the front or rear axle, spring clip torque must be checked as follows:

- **Spring and walking beam suspensions** — after a minimum of one day and a maximum of one week, or 3,000 miles/5000 km of service. Thereafter, at each C and D inspection interval.
- **All MACK air suspensions** — after a minimum of one day and a maximum of one week, or 1,000 miles/1610 km of service. Thereafter, at each A, B, C and D inspection interval.

⚠ CAUTION

Loose spring clips can result in broken spring leaves, followed by severe axle misalignment which would affect vehicle control.

All vehicles with MACK suspensions must have the spring clips retorqued at Schedule C and D maintenance inspections. Center bolt nuts must be retorqued to 20–30 lb-ft (27–40 N•m).

To correct spring shifting on chassis with S34, S38, S58 and S65 series axles, special hardened flat washers must be installed under the spring clip nuts. The washers increase the clamping force of the spring clip. On chassis not originally equipped with these washers, the seating area of the nut on the underside of the trunnion must be examined for galling. If evidence of galling is found, it is recommended that the trunnion be replaced. If the damage is not excessive, the area may be remachined to provide a flat surface for the washer to seat against.

After installing the special washers under the spring clip nuts on chassis with SS34, SS38, SS58 and SS65 series axles, torque spring clips to specifications. Retorque spring clip nuts after the first day of operation, followed by a torque check at the end of 3,000 miles or 90 days, whichever comes first.

SERVICE HINT

If a torque wrench of the capacity shown in the accompanying chart is not available, use B.K. Sweeney Manufacturing Co., Torque Multiplier Model 392.

SPRING CLIP TORQUE CHECK AND SPRING CLIP INSTALLATION

When tightening the spring clip nuts on highway vehicles on either the front or rear springs, follow the recommended tightening sequence after lubricating the spring clip threads with the recommended lubricant. The lubricant ensures adequate clamping of the spring pack with the nuts tightened to the specified torque. A mixture of synthetic white lead and SAE 30 engine oil in a proportion of one pound (0.45 kg) of lead to one-eighth pint (0.06 liter) of oil is the recommended lubricant. As an alternate, NEVER-SEIZE® compound may be used. Lubricant must also be applied to washers used on the spring clips to remove frictional drag on the nuts, if applicable. Torque requirements are the same for either type of lubricant used. Follow the procedures outlined for tightening the spring clip nuts.

To correctly tighten spring clip nuts, first tighten all the nuts until they are snug.

Next, tighten the nuts using the sequence shown in the following drawing until approximately one-third of the recommended torque is achieved.

Repeat tightening the nuts, using the same sequence, gradually increasing the torque through a second, third and fourth stage, until the recommended final torque is attained.

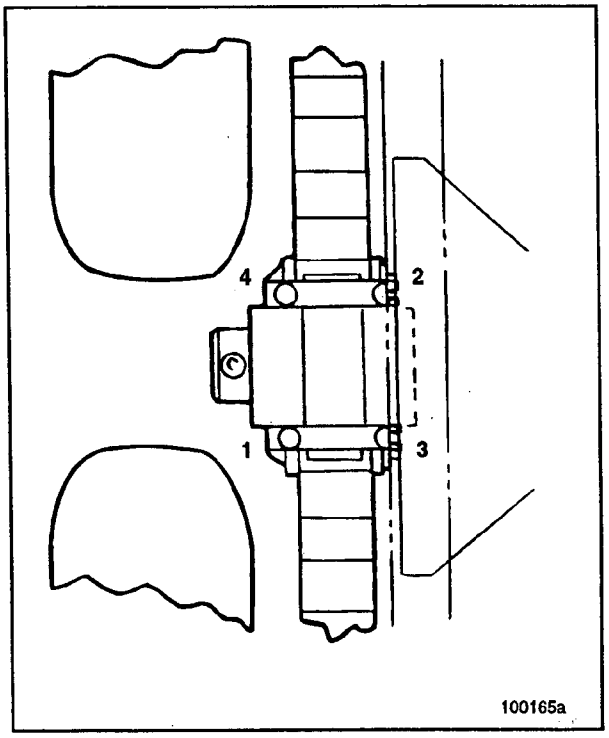


Figure 19 — Tightening Sequence of Spring Clip Nuts

Example

Correct tightening of the rear spring clips is particularly important. The following increments are recommended for 1.25 inch (31.8 mm) spring clips:

1st Stage	400 lb-ft (542 N•m)
2nd Stage	800 lb-ft (1085 N•m)
3rd Stage	1200 lb-ft (1627 N•m)
4th Stage	1500 lb-ft (2034 N•m)

The three main leaf springs released after December, 1979 for the 34,000 pound (15 400 kg) and 38,000 pound (17 200 kg) axles use a cast steel spacer, replacing the formerly used fabricated spring clip retaining plate. This change requires spring clips that have a radius at the top in place of the flat-style spring clips. A hardened flat washer is also used in conjunction with the spring clip nuts.

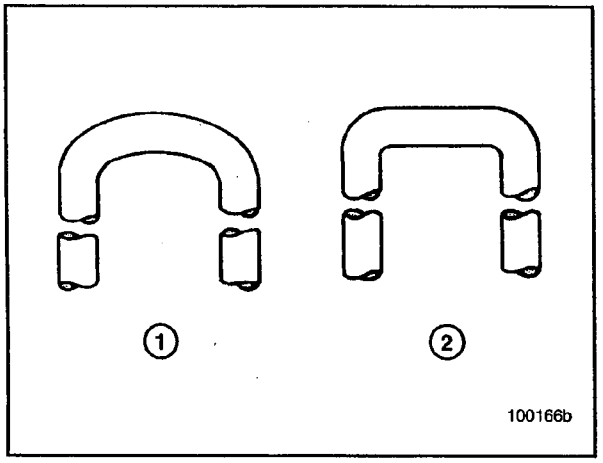


Figure 20 — Spring Clip Design

1. Current Design	2. Noncurrent Design

The current springs and related parts are not interchangeable with replaced parts. To upgrade older vehicles to this new arrangement, it is necessary to install **new** springs, trunnion, spring clips, spacers, and in the case of the former SWS56 series axles, new bracket caps. Be sure to use the proper replacement parts when working on these axles.

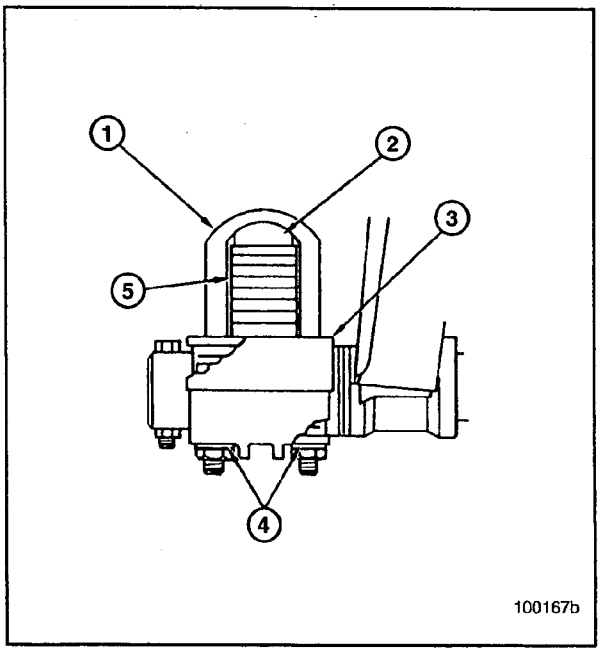


Figure 21 — Current Spring Arrangement

1. Current Spring Clip 2. Cast Spring Spacer 3. Redesigned Upper Trunnion	4. Hardened Washers 5. Three Main Leaf Springs

SPRING CLIP DIAMETER AND NUT TORQUE

Spring Clip Diameter		Spring Clip Nut Torque	
Inches	**MM**	**Lb-Ft**	**N•m**
0.625 (5/8)	15.9	200–225	271–305
0.750 (3/4)	19.0	320–340	434–461
0.875 (7/8)	22.2	500–550	678–746
1.000 (1)	25.4	800–880	1085–1193
1.125 (1-1/8)	28.6	1050–1150	1424–1559
1.250 (1-1/4)	31.8	1400–1500	1898–2034

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing MOTION FOR SUMMARY JUDGMENT has been served on all counsel of record, by first class mail, postage pre-paid, according to the Pennsylvania Rules of Civil Procedure, on the 7th day of December, 2007.

Jerome W. Kiger, Esquire
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Counsel for Barry Kyler, t/d/b/a Northeast Springs & Equipment Co. and Northeast Spring & Equipment Co.

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Barr & McGogney
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Counsel for Triangle Auto Spring Co.

CIPRIANI & WERNER, P.C.

BY: Judith A. Moses
JUDITH A. MOSES, ESQUIRE
Attorney for Consolidated Metal Products, Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

ORDER OF COURT

AND NOW, to-wit, on this _____ day of _____, 200____, it is hereby ORDERED, ADJUDGED and DECREED that Defendant, Consolidated Metal Products' Motion for Summary Judgment is GRANTED and that the docket be marked dismissed with prejudice on any and all claims of the Plaintiff and Third-Party Plaintiffs and Crossclaim Defendants against Consolidated Metal Products.

BY THE COURT:

_____

J.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

SCHEDULING ORDER

AND NOW, to-wit, on this 11th day of December, 2007, it is hereby ORDERED that argument on Defendant Consolidated Metal Products' Motion for Summary Judgment is hereby scheduled for January 11, 2008 at 2:30 pm. in Courtroom 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

Paul E Cherry
J.

FILED 5cc Atty Moses
014:00/61
DEC 11 2007
GW

William A. Shaw
Prothonotary/Clerk of Courts

FILED

DEC 11 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/11/07

___X___You are responsible for serving all appropriate parties.

_____The Prothonotary's office has provided service to the following parties:

_____Plaintiff(s) _____Plaintiff(s) Attorney _____Other

_____Defendant(s) _____Defendant(s) Attorney

_____Special Instructions:

FILED
DEC 24 2007
m/ 11:20 cc
William A. Shaw
Prothonotary/Clerk of Courts
NO C/C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH

v.

BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.

v.

TRIANGLE AUTO SPRING COMPANY

v.

CONSOLIDATED METAL PRODUCTS

CASE NUMBER: 03-1251 CD

ISSUE NUMBER:

PLEADING:

MOTION FOR CONTINUANCE OF ARGUMENT DATE

FILED ON BEHALF OF:

CONSOLIDATED METAL PRODUCTS, Defendant.

COUNSEL OF RECORD:

JUDITH A. MOSES, ESQUIRE
Pa. ID# 49656

CIPRIANI & WERNER, P.C.
650 Washington Road, Suite 700
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(412) 563-2500

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

MOTION FOR CONTINUANCE OF ARGUMENT DATE

AND NOW comes the Defendant, CONSOLIDATED METAL PRODUCTS, by and through its counsel, Cipriani & Werner, P.C. and Judith A. Moses, Esquire and files the following Motion For Continuance of Argument Date:

1. Defendant Consolidated Metal Products filed its Motion for Summary Judgment and Brief in Support of Motion for Summary Judgment on December 10, 2007.

2. On December 11, 2007, a Scheduling Order was issued by the Honorable Paul E. Cherry scheduling argument on the Motion for Summary Judgment for January 11, 2008 at 2:30 p.m.

3. Counsel for Consolidated Metal Products is scheduled to be out of the state on January 11, 2008 and is not available for argument on said date.

4. Counsel for Consolidated Metal Products also has a trial scheduled for the end of January, 2008, in the Court of Common Pleas of Allegheny County, Pennsylvania and requests that argument be re-scheduled during the week of February 18, 2008 or February 25, 2008.

WHEREFORE, Defendant, Consolidated Metal Products, respectfully requests this Honorable Court reschedule argument on its Motion for Summary Judgment to February, 2008.

CIPRIANI & WERNER, P.C.

BY: _____
JUDITH A. MOSES, ESQUIRE
Attorney for Consolidated Metal Products,
Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing MOTION FOR CONTINUANCE OF ARGUMENT DATE has been served on all counsel of record, by first class mail, postage pre-paid, according to the Pennsylvania Rules of Civil Procedure, on the 21st day of December, 2007.

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Counsel for Triangle Auto Spring Co.

CIPRIANI & WERNER, P.C.

BY: _____
JUDITH A. MOSES, ESQUIRE
Attorney for Consolidated Metal Products, Defendant

JA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor, by her Parent and natural guardian, BRENDA ORSICH	)	CASE NO: 03-1251 CD
v.	)	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO.; and MACK TRUCKS, INC.	)	
v.	)	
TRIANGLE AUTO SPRING COMPANY	)	
v.	)	
CONSOLIDATED METAL PRODUCTS	)	

SCHEDULING ORDER

AND NOW, to-wit, on this 2nd day of January, 2008, it is hereby ORDERED that argument on Defendant Consolidated Metal Products' Motion for Summary Judgment is hereby scheduled for February 19, 2008 at 1:30 p.m. in Courtroom 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

Paul E Cherry
J.

FILED 5CC
01:30/BL Atty Moses
JAN 03 2008
GK
William A. Shaw
Prothonotary/Clerk of Courts

FILED

JAN 03 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/3/08

X You are responsible for serving all appropriate parties.

____ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions:

CA

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
v.	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED
v.	:	
CONSOLIDATED METAL PRODUCTS	:	

ORDER

AND NOW, this _____ day of _____, 2007, upon consideration of the Motion for Summary Judgment of Additional Defendant, Triangle Auto Spring Company, and any responses thereto, said motion is GRANTED and all claims, cross claims and counter claims against Triangle Auto Spring Company are hereby DISMISSED with prejudice.

BY THE COURT:

_____

J.

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
v.	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED
v.	:	
CONSOLIDATED METAL PRODUCTS	:	

FILED NO CC
JAN 07 2008
William A. Shaw
Prothonotary/Clerk of Courts

MOTION FOR SUMMARY JUDGMENT OF ADDITIONAL DEFENDANT TRIANGLE AUTO SPRING COMPANY

Additional Defendant, Triangle Auto Spring Company ("Triangle Auto"), by and through its attorneys, Marshall, Dennehey, Warner, Coleman and Goggin, hereby submits this Motion for Summary Judgment and avers as follows:

I. JOINDER OF ARGUMENT OF MOTION FOR SUMMARY JUDGMENT OF ADDITIONAL DEFENDANT CONSOLIDATED METAL PRODUCTS

1. Triangle Auto hereby joins in and incorporates by reference the facts and arguments set forth in Motion for Summary Judgment of Additional Defendant Consolidated Metal Products ("Consolidated Metal") as if same were set forth fully herein.

II. MOTION FOR SUMMARY JUDGMENT

2. Plaintiffs filed the instant Complaint on August 22, 2003 against Defendants Barry Kyler d/b/a Northeast Spring & Equipment Co. ("Kyler"), Northeast Spring & Equipment Co. ("Northeast Spring") and Mack Trucks, Inc. ("Mack Trucks") alleging injuries with occurred as a result of a fatal accident which occurred on or about August 30, 2001.

3. The Complaint alleges that on or about August 30, 2001, decedent David A. Weaver ("Weaver") was the driver of Mack truck in the course of his employment with D.C. Guelich Explosive Co. ("Guelich") when a U-bolt, which was sold or supplied by Mack Trucks and Northeast Spring and installed by Northeast Spring, failed and caused catastrophic loss of the Mack truck.

4. In setting forth claims of negligence, breach of warranty and strict liability against Mr. Kyler, Northeast Spring and Mack Trucks, Plaintiffs allege that the aforementioned Defendants defectively designed, manufactured and/or supplied the U-bolt, failed to properly tighten the U-bolt during the installation of the U-bolt on or about April 25, 2000, failed to inspect the U-bolt following installation, and/or failed to re-tighten the U-bolt after the truck was driven 1,000 miles or failure to advise that the U-bolt had to be re-tightened after 1,000 miles.

5. On or about February 19, 2004 and after the statute of limitations, Mack Truck filed a Joinder Complaint against Triangle Auto, incorporating by reference the claims set forth in Plaintiffs' Complaint and further alleging that Triangle Auto was the manufacturer or fabricator of the subject U-bolt.

6. Thereafter, Triangle Auto filed a Joinder Complaint against Consolidated Metal, incorporating by reference the claims set forth in Plaintiffs' Complaint and Mack Trucks' Joinder Complaint and further alleging that Consolidated Metal was, in fact, the manufacturer of the subject U-bolt.

7. Triangle Auto was merely the pass-though supplier of the subject U-bolt and, as such, it did not modify, alter or change the subject U-bolt.

8. The subject U-bolt is a component part which was manufactured by Consolidated Metal, supplied (unmodified) to Northeast Spring by Triangle Auto, installed into the Mack truck's camelback suspension assembly (final product) by Northeast Spring and delivered to Guelich and Mr. Weaver.

9. In June 2006, the subject U-bolt was metallurgically tested at R.J. Lee Group, Inc. and Westmoreland Mechanical Testing & Research, Inc. (See a true and correct copy of R.J. Lee Group, Inc.'s test results attached hereto as Exhibit "A").

10. The test results reveal that the subject U-bolt, which was manufactured according to the specifications of Mack Trucks, met or exceeded Mack Trucks' specifications of chemical composition, minimum yield strength, and hardness pursuant to Mack Drawing 7QK3148. (See a true and correct copy of specifications and Mack Drawing 7QK3148 attached hereto as Exhibit "B").

11. It is undisputed that the U-bolt was not defective and was safe for its intended use at the time that it left the hands of the manufacturer and supplier.

12. Neither Plaintiff nor Third Party Plaintiffs have any claims for failure to warn or advise end users that the subject U-bolt had to retightened after 1,000 miles following Northeast Spring's installation of the component part (U-bolt) into the finished product (camelback suspension system) on or about April 25, 2000.

13. Both Mr. Kyler and Northeast Spring knew that the U-bolt had to be retightened after 1,000 miles, a fact which was made known to Guelich and Mr. Weaver on the invoice document in connection with the installation on or about April 25, 2000. (See a true and correct copy of Northeast Spring Invoice 7482 attached hereto as Exhibit "C").

14. Furthermore, Mr. Kyler knew that U-bolts had to be retightened after 1,000 miles and made it business policy to inform his customers of same. (See a true and correct copy of Deposition of Barry Kyler dated June 13, 2007 attached hereto as Exhibit "D", at pp. 76-77).

15. Mr. Kyler testified that it was general industry policy to retighten U-bolts after 1,000 miles. (Ex. "D" at p. 80).

16. Guelich is a sophisticated user of Mack trucks and is responsible for proper maintenance of its trucks. Guelich employed a shop mechanic on site who replaced leaf springs and tightened U-bolts, the rear springs and U-bolts were inspected by Guelich every 2,000 miles and Guelich's drivers, including Mr. Weaver, were required to perform a pre-trip inspection every morning which included checking for cracked U-bolts and loose leaf springs. (See true and correct copies of Joe Sadowski and Dwayne Guelich attached hereto as Exhibits "E" and "F").

17. Additionally, information regarding maintenance and inspection of the U-bolts were contained in the truck manufacturer's maintenance manual. (See a true and correct copy of Mack Maintenance Manual for the subject truck attached hereto as Exhibit "G", at pp. 25-27).

18. Under Pennsylvania law, a component part manufacturer, who is not involved in the design and/or manufacture of the finished product, that supplies a mere component part that is incorporated into a finished product by another has no duty to warn. See Jacobini v. V.& O. Press Company, 588 A.2d 476 (Pa. 1991); Wenrick v. Schloemann Siemag, A.G., 564 A.2d 1244 (Pa. 1989).

19. Here, Triangle Auto is not even the component part manufacturer. It is merely a pass-through supplier of a component part, did not alter, modify or change the component part, and was not involved in the installation or manufacture of the finished product – the camelback suspension system.

WHEREFORE, Additional Defendant Triangle Auto Spring Company respectfully requests that this Honorable Court grant its Motion for Summary Judgment and dismiss any and all claims against Additional Defendant Triangle Auto Spring Company.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

By: _____

BRADLEY D. REMICK, ESQUIRE
JUSTIN W. ORAVETZ
Attorney for Additional Defendant,
Triangle Auto Spring Co.

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
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BY: Bradley D. Remick, Esquire
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BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
v.	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED
v.	:	
CONSOLIDATED METAL PRODUCTS	:	

MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OF ADDITIONAL DEFENDANT TRIANGLE AUTO SPRING COMPANY

Additional Defendant, Triangle Auto Spring Company ("Triangle Auto"), by and through its attorneys, Marshall, Dennehey, Warner, Coleman and Goggin, hereby submits this Memorandum of Law in Support of Motion for Summary Judgment and, in support thereof and avers as follows:

I. JOINDER OF ARGUMENT OF MOTION FOR SUMMARY JUDGMENT OF ADDITIONAL DEFENDANT CONSOLIDATED METAL PRODUCTS

Triangle Auto hereby joins in and incorporates by reference the facts and arguments set forth in Motion for Summary Judgment of Additional Defendant Consolidated Metal Products ("Consolidated Metal") as if same were set forth fully herein.

II. STATEMENT OF FACTS

Triangle Auto hereby incorporates by reference the facts set forth in its accompanying Motion for Summary Judgment as if same were set forth fully herein.

III. LEGAL ARGUMENT

A. Standard of Review

Rule 1035.2 of the Pennsylvania Rules of Civil Procedure states, in pertinent part, that a party may move for summary judgment, in whole or in part, "if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury." Pa. R.C.P. 1035.2. The Explanatory Comment to this rule states that when a defendant is the moving party, summary judgment will be entered if the defendant can direct the court to materials which demonstrate that the plaintiff is unable to fulfill an element of the cause of action.

"Summary judgment is properly entered where the pleadings, depositions, answers to interrogatories, admissions and affidavits demonstrate that no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law." Pa. R.C.P. 1035.2; Adamski v. Allstate Ins. Co., 738 A.2d 1033, 1035 (Pa. Super. 1999). Although the evidence must be viewed in the light most favorable to the non-moving party, that party may not rely solely upon the pleadings to survive a motion for summary judgment. Pa. R.C.P. 1035.2; Young v. Pennsylvania Dep't of Transp., 744 A.2d 1276, 1277 (Pa. 2000). The failure of the non-moving party to produce evidence on an issue essential to the non-moving party's case

establishes that there is no issue of material fact and that the moving party is entitled to judgment as a matter of law. Ertel v. Patriot-News Company, 674 A.2d 1038, 1042 (Pa. 1996)(citing Celotex Corp. v. Catrett, 477 U.S. 317, 91 L. Ed. 2d 265, 106 S. Ct. 2548 (1986)).

B. Additional Defendant Triangle Auto Cannot be Liable as it was Merely a Pass Through Supplier

"A seller of a chattel manufactured by a third person, who neither knows nor has reason to know that it is, or likely to be, dangerous, is not liable . . . because of his failure to discover the danger by an inspection or test of the chattel before selling it." Restatement (2d) Torts, § 402.

In the instant matter, Triangle Auto cannot be liable as it was merely a pass though seller which did not modify, alter or change the subject U-bolt. Triangle Auto did not know, nor had reason to know, that the subject U-bolt was in any way dangerous. In fact, the subject U-bolt was metallurgically tested at R.J. Lee Group, Inc. and Westmoreland Mechanical Testing & Research, Inc. (Ex. "A"). The test results reveal that the subject U-bolt, which was manufactured according to the specifications of Mack Trucks, met or exceeded Mack Trucks' specifications of chemical composition, minimum yield strength, and hardness pursuant to Mack Drawing 7QK3148. (Ex. "B"). It is undisputed that the U-bolt was not defective and was safe for its intended use at the time that it left the hands of the manufacturer and supplier.

Accordingly, Additional Defendant Triangle Auto Spring Company must be dismissed as a matter of law.

C. There is no Evidence Supporting Plaintiffs' and Third-Party Plaintiff's Claims Against Triangle Auto.

In order to prevail under a theory of strict liability against a particular defendant, a plaintiff must prove the following:

(1) that the product was defective;

(2) that the defect existed when it left the hands of the defendant; and

(3) the defect caused the harm.

Ellis v. Chicago Bridge and Iron Co., 545 A.2d 906, 909 (Pa. Super. 1988)(citing Berkebile v. Brantly Helicopter Corp., 337 A.2d 893, 898 (Pa. 1975)); see also Micciche v. Eastern Elevator Co., 645 A.2d 278, 280 (Pa. Super. 1994)(to successfully litigate a products liability suit, a party must assert a product or component was in a defective condition as sold). Without a showing of a defect, the supplier of a product has no liability under Section 402A. Berkebile, 337 A.2d at 898. Thus, the plaintiff's proof requires demonstrating that the product at issue was defective at the time it left the manufacturer's and/or seller's possession and that the defect is the cause of the plaintiff's injury.

In the instant case, the subject U-bolt was metallurgically tested and the test results revealed that the subject U-bolt met or exceeded Mack Trucks' specifications of chemical composition, minimum yield strength, and hardness pursuant to Mack Drawing 7QK3148. (Ex. "B"). It is undisputed that the U-bolt was not defective and was safe for its intended use at the time that it left the hands of the manufacturer and supplier.

Accordingly, Additional Defendant Triangle Auto Spring Company must be dismissed as a matter of law.

D. There is no Expert Evidence Supporting Plaintiffs' and Third-Party Plaintiff's Claims Against Triangle Auto.

To establish negligence, a plaintiff must establish that defendant owed a duty to plaintiff; that it breached that duty and that the breach was the actual and proximate cause of damages sustained by plaintiff. Hicks v. Metropolitan Edison Co., 665 A.2d 529 (Pa. Cmwlth. 1995), alloc. denied 675 A.2d 1253 (1996).

Expert testimony is required to prevail on the negligence or strict liability claims which involve the design, manufacture and/or service of complex components, or defects in the design or manufacture of a product that is beyond the knowledge of an average layperson. In order to prove a case against a party [Triangle Auto], through the use of expert testimony, must establish that the product [U-bolt] was defective at the time it left such party's possession and that the defect is the cause of Plaintiff's injury. See Micciche v. Eastern Elevator Co., 645 A.2d 278, 280 (Pa. Super. 1994); Ellis v. Chicago Bridge and Iron Co., 545 A.2d 906, 909 (Pa. Super. 1988) (citing Berkebile v. Brantly Helicopter Corp., 337 A.2d 893, 898 (Pa. 1975)).

Under Pennsylvania law, a component part manufacturer, who is not involved in the design and/or manufacture of the finished product, and that supplies a mere component part that is incorporated into a finished product by another has no duty to warn. See Jacobini v. V.& O. Press Company, 588 A.2d 476 (Pa. 1991); Wenrick v. Schloemann Siemag, A.G., 564 A.2d 1244 (Pa. 1989).

In the instant case, Plaintiffs and Third-Party Plaintiff's attempt to set forth a claim of negligence against Triangle Auto by alleging that it failed to properly tighten the U-bolt during the installation of the U-bolt on or about April 25, 2000, failed to inspect the U-bolt following

installation, and/or failed to re-tighten the U-bolt after the truck was driven 1,000 miles or failure to advise that the U-bolt had to be re-tightened after 1,000 miles.

However, Triangle Auto was merely the pass-though supplier of the subject U-bolt and, as such, it did not modify, alter or change the subject U-bolt. Triangle Auto was not involved in the installation or manufacture of the finished product – the camelback suspension system. The subject U-bolt is a component part which was manufactured by Consolidated Metal, supplied (unmodified) to Northeast Spring by Triangle Auto, installed into the Mack truck's camelback suspension assembly (final product) by Northeast Spring, and delivered to Guelich and Mr. Weaver.

Neither Plaintiff nor Third-Party Plaintiffs have averred any claims against Triangle Auto for failure to warn or advise end users that the subject U-bolt had to retightened after 1,000 miles following Northeast Spring's installation of the component part (U-bolt) into the finished product (camelback suspension system) on or about April 25, 2000.

In fact, both Mr. Kyler and Northeast Spring knew that the U-bolt had to be retightened after 1,000 miles, a fact which was made known to Guelich and Mr. Weaver on the invoice document in connection with the installation on or about April 25, 2000. (Ex. "C"). Mr. Kyler knew that U-bolts had to be retightened after 1,000 miles, and made it business policy to inform his customers of same. (Ex. "D", at pp. 76-77). Mr. Kyler additionally testified that it was general industry policy to retighten U-bolts after 1,000 miles. (Ex. "D" at p. 80).

Moreover, Guelich is a sophisticated user of Mack trucks and is responsible for proper maintenance of its trucks. Guelich employed a shop mechanic on site who replaced leaf springs and tightened U-bolts, the rear springs and U-bolts were inspected by Guelich every 2,000 miles

and Guelich's drivers, including Mr. Weaver, were required to perform a pre-trip inspection every morning which included checking for cracked U-bolts and loose leaf springs. (See Ex. "E" and "F"). Information regarding maintenance and inspection of the U-bolts were contained in the truck manufacturer's maintenance manual. (Ex. "G", at pp. 25-27).

III. CONCLUSION

For all the aforementioned reasons, Additional Defendant Triangle Auto Spring Company respectfully requests that this Honorable Court grant its Motion for Summary Judgment and dismiss any and all claims against Additional Defendant Triangle Auto Spring Company.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

By:_____
BRADLEY D. REMICK, ESQUIRE
JUSTIN W. ORAVETZ
Attorney for Additional Defendant,
Triangle Auto Spring Co.

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	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED

CERTIFICATION OF SERVICE

I, Bradley D. Remick, Esquire, attorney for additional defendant, Triangle Auto Spring Company, hereby certify that I served true and correct copies of Triangle Auto Spring Company's Motion for Summary Judgment with accompanying Memorandum of Law on counsel listed below this date by regular U.S. Mail.

Jerome W. Kiger, Esquire
KIGER & ALPERN
1404 Grant Building
Pittsburgh, PA 15219

Joseph P. Green, Esquire
115 East High Street
Bellefonte, PA 16823

Gerald M. Barr, Esquire
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Suite 250
Allentown, PA 18104

Judith A. Moses, Esquire
CIPRIANI & WERNER
650 Washington Road
Suite 700
Pittsburgh, PA 15228

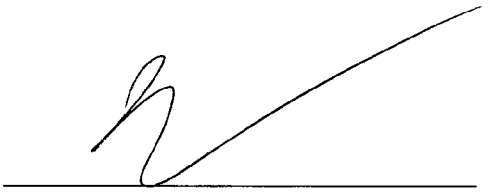
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

BRADLEY D. REMICK, ESQUIRE
Attorney for additional defendant,
Triangle Auto Spring Company

DATE: 1/4/08

VERIFICATION

BRADLEY D. REMICK, Attorney for additional defendant, Triangle Auto Spring Company, verifies that the facts set forth in the Motion for Summary Judgment and accompanying Memorandum of Law of Triangle Auto Spring Company are true to the best of his knowledge, information and belief. If the above statements are not true, the deponent is subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



BRADLEY D. REMICK

Westmoreland Mechanical Testing & Research, Inc.
P.O. Box 388
Westmoreland Drive
Youngstown, Pa. 15696-0388 U.S.A.
Telephone: 724-537-3131 Fax: 724-537-3151
Website: www.wmtr.com
WMT&R is a technical leader in the material testing industry.

ACCREDITED
621-01 & 621-02

Accredited Nadcap Materials Testing Laboratory

July 9, 2006

CERTIFICATION

WMT&R Report No. 6-32085
P.O. No. H31989

RJ Lee Group Inc.
350 Hochberg Road
Monroeville, PA 15146

Attention: Keith Wagner

Subject: All processes, performed upon the material as received, were conducted at WMT&R, Inc. in accordance with the WMT&R Quality Assurance Manual, Rev. 9, dated 4/1/2000.
The following tests were performed on this order: CHEMISTRY, HARDNESS and TENSILE

CHEMICAL OVERCHECK

Sample ID	Exemplar Disk	A1 3	B1 3
Test Log No.	D78133	D78134	D78135
ELEMENTS	Result	Result	Result
Nickel	0.07	0.08	0.08
Chromium	0.13	0.08	0.08
Manganese	1.70	1.58	1.56
Silicon	0.23	0.26	0.25
Carbon-Leco	0.570	0.550	0.550
Sulfur-Leco	0.022	0.028	0.027
Phosphorus	0.023	0.010	0.010
Aluminum	<0.01	<0.01	<0.01
Vanadium	0.08	0.07	0.07
Copper	0.24	0.26	0.26
Columbium	0.007	0.008	0.005

Material submitted as Carbon Steel
Equipment Used: Arc Spark and Leco
OES analysis performed in accordance with ASTM E415-99a
LECO analysis performed in accordance with ASTM E1019-03

Roy E. Starr\Matt Wojton
____ Technical Services Manager____ Tensile Supervisor July 9, 2006

KNOWINGLY OR WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT ON THIS FORM OR MAKING FALSE, FICTITIOUS OR FRAUDULENT STATEMENTS OR REPRESENTATIONS HEREIN COULD CONSTITUTE A FELONY PUNISHABLE UNDER FEDERAL STATUTES. THIS CERTIFICATE OR REPORT SHALL NOT BE REPRODUCED EXCEPT IN FULL, WITHOUT THE WRITTEN APPROVAL OF WMTR, INC.

Westmoreland Mechanical Testing & Research, Inc.
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Telephone: 724-537-3131 Fax: 724-537-3151
Website: www.wmtr.com
WMT&R is a technical leader in the material testing industry.

ACCREDITED
621-01 & 621-02

Accredited Nadcap Materials Testing Laboratory

July 9, 2006

CERTIFICATION

Section 2 of 3
WMT&R Report No. 6-32085
P.O. No. H31989

RJ Lee Group Inc.

HARDNESS - ASTM E18-05/ASTM F606

REQUIREMENT:No requirement

ACTUAL:	Sample ID	Reading 1	Reading 2	Reading 3	Reading 4	Average
	A1 3	31.19 HRC	32.06 HRC	31.21 HRC	31.97 HRC	31.61 HRC
	Exemplar Disk	32.94 HRC	33.76 HRC	33.49 HRC	34.28 HRC	33.62 HRC
	B1 2	31.09 HRC	31.87 HRC	32.14 HRC	32.51 HRC	31.90 HRC

All results are reported for information only.

TENSILE RESULTS: ASTM E8-04
SPEED OF TESTING: 0.005 in./in./min.
MATERIAL: CARBON STEEL

DISPOSITION: Report

Sample	TestLog Number	Temp.	UTS ksi	0.001% YS ksi	0.02% YS ksi	0.2% YS ksi	Elong %	RA %	Modulus Msi	Ult. Load lbf	0.001% YLD. lbf	0.02% YLD. lbf	0.2% YLD. lbf
B1-2	D78128	Room	155.2	54.8	91.2	—	11	42	27.6	98910	34900	58132	---
Exemplar Disk	D78129	Room	165.1	56.0	101.9	151.9	8.0	30	26.3	105200	35669	64905	96765

A\U\R: A=ACCEPTABLE, U=UNACCEPTABLE, R=REPORT

DISPOSITION: Report

Sample	TestLog Number	Orig. Dia. (in.)	Final Dia. (in.)	4D Orig GL (in.)	4D Final GL (in.)	Orig. Area (sq. in.)	Machine Number	A\U\R
B1-2	D78128	0.9008	0.6832	3.60	3.98	0.63730399	H175	R
Exemplar Disk	D78129	0.9007	0.7524	3.60	3.88	0.63716250	H175	R

A\U\R: A=ACCEPTABLE, U=UNACCEPTABLE, R=REPORT

Roy E. Starr\Matt Wojton
____ Technical Services Manager____ Tensile Supervisor

July 9, 2006

KNOWINGLY OR WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT ON THIS FORM OR MAKING FALSE, FICTITIOUS OR FRAUDULENT STATEMENTS OR REPRESENTATIONS HEREIN COULD CONSTITUTE A FELONY PUNISHABLE UNDER FEDERAL STATUTES. THIS CERTIFICATE OR REPORT SHALL NOT BE REPRODUCED EXCEPT IN FULL, WITHOUT THE WRITTEN APPROVAL OF WMTR, INC.

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July 9, 2006

CERTIFICATION

Section 3 of 3
WMT&R Report No. 6-32085
P.O. No. H31989

RJ Lee Group Inc.

TENSILE RESULTS: ASTM E8-04
SPEED OF TESTING: 0.005 in./in./min.
MATERIAL: CARBON STEEL
DISPOSITION: Report

Sample	TestLog Number	Temp.	0.001% YS ksi	0.02% YS ksi	0.2% YS ksi	Modulus Msi	0.001% YLD. lbf	0.02% YLD. lbf	0.2% YLD. lbf	Orig. Dia. (in.)	Orig. Area (sq. in.)	Machine Number	A\U\R
A1-2	D78127	Room	80.9	108.4	146.7	26.0	51528	69017	93394	0.9004	0.63673812	H121	R

A\U\R: A=ACCEPTABLE, U=UNACCEPTABLE, R=REPORT

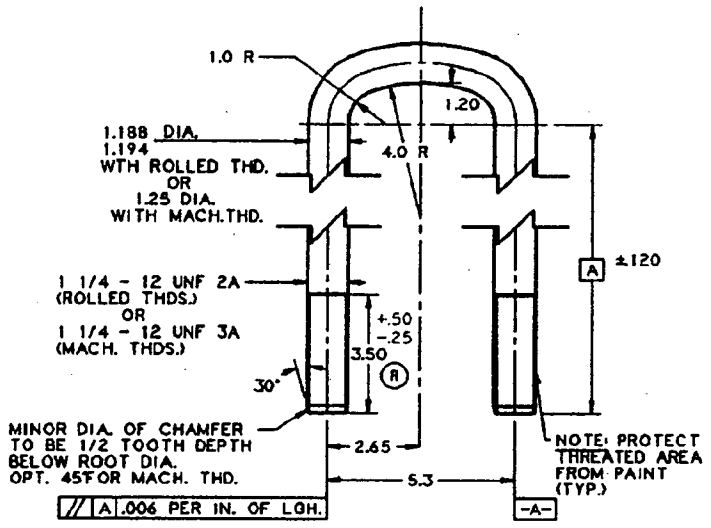
Sample B1-2 0.2% YS not determined due to technical difficulties.

Roy E. Starr/Matt Wolton
Technical Services Manager / Tensile Supervisor

7-9-06
July 9, 2006

KNOWINGLY OR WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT ON THIS FORM OR MAKING FALSE, FICTITIOUS OR FRAUDULENT STATEMENTS OR REPRESENTATIONS HEREIN COULD CONSTITUTE A FELONY PUNISHABLE UNDER FEDERAL STATUTES. THIS CERTIFICATE OR REPORT SHALL NOT BE REPRODUCED EXCEPT IN FULL, WITHOUT THE WRITTEN APPROVAL OF WMTR, INC.

APPLICABLE QS	
NO.	SUBJECT
614GS01100	MATL SPEC COLD FORM SPRING CLIP
424GS13	GEOM TOL
617GS132-S2	METAL PREP & PAINT
617GS126	ZINC PHOS COAT
617GS132-S4	METAL PREP&PAINT
617GS133	GEN PRIME PAINT



PART NO.	CHANGE	DATE	BY	A	C
P7	820229	11-3-82	GTM	12.0	31.0
P6	780234	10-7-78	RRP	18.0	43.0
P5	780234	10-7-78	RRP	17.0	41.0
P4	780234	10-7-78	RRP	16.0	39.0
P3	780234	10-7-78	RRP	15.0	37.0
P2	780234	10-7-78	RRP	14.0	35.0
7QK3148	780234	10-7-78	RRP	13.0	33.0

Q	18502-4
P	18708-8
N	18402-4
M	18503-8
L	18107
K	18102
J	18401-6
H	18402-3
G	18406-4
F	10312-3
E	10310-8
D	10308-2
C	780234
B	780234

PREVIOUS CHANGES

NO. 7QK3148

STK.	ZONE	CHANGES	NO.	DATE	BY
A		ISSUED (SEE CHART)			
R	D4	REDRAWN 3.50 +.50/-.25 WAS 3.00 +.50/-.00	T9004-8	4/12/78	BDS MHA 4/12/78

APPROX. DEV.
1.25 OR 1.188/1.194 DIA X [C] ±.090 DEV. LENGTH

MATERIAL

HOT FORMED STEEL

SAE 1345 OR 4140
BRINELL HARDNESS - 285-321
MIN. YIELD STRENGTH -125000 PSI

COLD ROLLED STEEL

SAE C1541 OR 1552
MODIFIED (.03 - .05 ± VANADIUM)
BRINELL HARDNESS - 272-302
MIN. YIELD STRENGTH -125000 PSI

THREADS TO BE OILED FOR RUST PREVENTION

DIMENSION [A] RELEASE PARTS IN 1.0 INCREMENTS

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WT.	(SEE ABOVE)
MFG. ENGRG.	MATERIAL
DESIGN R.A.TROXELL	
PROJ. ENGR. H.A.COOK	
SUPV. V.MAZZITELLI	
CHKD RPOTHERING	
DRAWN RPOTHERING	DATE 9-21-78 SCALE 1:2
REF.	DWG. NO. 7QK3145

MACK TRUCKS, INC.
ALLENTOWN

TITLE: CLIP - SPRING

NO. 7QK3148

MACK TRUCKS, INC.

LOCATION HIGHWAY VEHICLE ENGINEERING - ALLENTOWN

GENERAL ENGINEERING SPECIFICATION
614 **GS** 01100

SUBJECT MATERIAL SPECIFICATIONS FOR COLD FORMED SPRING CLIPS

6.0 SIZE TOLERANCE - (Cont'd)

6.2 Material for Rolled Threads

For Material to produce Class 2 rolled threads, the following sizes shall apply:

Ⓑ

5/8 - 18	.5889	(14.96 mm)
3/4 - 16	.7094	(18.01 mm)
7/8 - 14	.8286	(21.05 mm)
1- - 14	.9459	(24.02 mm)
1 1/8 - 12	1.070	(29.72 mm)
1 1/4 - 12	1.1944	(30.34 mm)

Tolerance shall be +0-.005" (+0-.13 mm).

Ⓐ

7.0 DRAWING CALLOUT SPECIFICATION

This specification shall be added to all spring clip drawings.

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REV.	ISSUED	ITEM
B	12/2/80	VGS80-93
A	1/28/80	VGS79-40
	1/1/60	VGS79-40
	DATE	NO.
	VL	
	VL	
	VL	
	BY	

Sht. 3 Revised -- Para. 6.2 Revised on Sht. 3

REMARKS Added Para. 7.0 on Sheet 3

ENG'G. APPR. | MFT. | QUALITY PSO 12/2/80 | DESIGN RCL 12/2/80

AUTH. Vilcari | PROJECT | MGR. [illegible] 1/29/80

3.0 SURFACE PROPERTIES

The vendor shall 100% eddy current inspect the material for surface flaws.

Maximum seam depth shall be .001" per side for each 1/16" of diameter (.025 mm per side for each 1.6 mm of diameter).

Maximum surface roughness shall be 50 RMS (1.25 mm).

Aim for decarburization less than .001" for each 1/16" of diameter (.025 mm per side for each 1.6 mm of diameter).

4.0 CERTIFICATION

The vendor shall certify each lot of material. A copy of the certification shall be sent to the Quality Control Metallurgist, Allentown Manufacturing Division.

(A) Prior to the acceptance of material, the supplier shall furnish written certification that the parts meet the drawing requirements by signing and returning the acknowledgement copy of the Purchase Order.

5.0 MECHANICAL PROPERTIES

Material shall be 125,000 psi (862 MPa) minimum yield (0.2% offset).

(A) Hardness shall be 272-302 Bhn.

6.0 SIZE TOLERANCE

6.1 Material for Cut Threads

For material from 7/16 to 1-1/2" (11 to 38 mm) the tolerance on diameter shall be +0-.005" (+0-.13 mm).

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MATERIAL SPECIFICATIONS FOR COLD FORMED SPRING CLIPS

NOTE: Metric SI Units Shown in Parenthesis - Ref. Only

1.0 SCOPE

This specification establishes dimensional and material properties of steel intended for use in producing cold formed spring clips.

2.0 MATERIAL APPROVAL

Alternate materials and/or alternate vendors shall be approved by the Quality Control Metallurgist, Allentown Manufacturing Division, and the Staff Metallurgist, Engineering Development & Test Center.

2.1 Approved Vendors & Materials

2.1.1 LaSalle Steel Company

e.t.d. 1541
Chemistry
Fine Grain Silicon Killed

Carbon	.36/.44
Manganese	1.35/1.65
Silicon	.15/.30
Phosphorus (Max)	.040
Sulfur (Max)	.050

2.1.2 Consolidated Metal

C1552 Modified
Carbon

Carbon	.50/.55
Manganese	1.20/1.50
Silicon	.15/.30
Phosphorus (Max)	.04
Sulfur (Max)	.05
Vanadium	.03/.05

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REV.	DATE	NO.	BY	REMARKS
B	12/19/80	VGS80-93	VL	Sht.3 Retyped - Para. 6.2 Revised On Sht. 3
A	1/28/80	VGS79-40	VL	Added paras. to shts. 2 & 3 &Rev. 5.0 on Sht. 2
ISSUED	1/11/80	VGS79-40	VL	

ENG'G. APPR. | MET. | AUTH. V. L. | QUALITY | PROJECT | DESIGN | MGR.

MAR 2 0 1980

NORTHEAST SPRING & EQUIPMENT CO.

RD 3 Box 93A RT 322 West
PHILIPSBURG, PENNSYLVANIA 16866
(814) 342-3420

7482

QTY.	PART NO. AND DESCRIPTION	PRICE
1	62-143-5	
1	CB120120	
4	UBW90	
4	DN9	
2	UT7619 MR	
1	DN1	

(MAY BE CONTINUED ON OTHER SIDE) TOTAL PARTS

ACCESSORIES

TOTAL ACCESSORIES

NAME: D C Gutin
CUSTOMER'S ORDER NO.:
DATE:
ADDRESS:
ORDER WRITTEN BY:
PROMISED: A.M. P.M.
CITY, STATE, ZIP:
HOME PHONE:
BUS. PHONE: EXT.:
ODOMETER: 116142
YEAR, MAKE AND MODEL: 91 MACK
LICENSE NUMBER: YAS 3936
SERIAL NUMBER: 1M2P264C0MM009212
MOTOR NUMBER: 309
TERMS:

DESCRIPTION OF WORK — AMOUNT

☐ LUBE ☐ CHANGE OIL ☐ OIL FILTER ☐ TUNE-UP ☐ TRANS. ☐ DIFF.

Replaced #5 PLY in R.R.

Important: Retighten U-Bolts After 1000 Miles.

____ LITERS/GALS. OF GAS @	TOTAL LABOR
____ LITERS/QTS. OF OIL @	TOTAL PARTS
____ kg/LBS. OF GREASE @	ACCESSORIES
	GAS, OIL AND GREASE
	SUBLET REPAIRS
	EPA / WASTE DISPOSAL
	TAX
	TOTAL

I hereby authorize the above repair work to be done along with the necessary materials. You and your employees may operate above vehicle for purposes of testing, inspection, or delivery at my risk. An express mechanics lien is acknowledged on above vehicle to secure the amount of repairs thereto. It is also understood that you will not be held responsible for loss or damage to cars or articles left in cars in case of fire, theft or any other cause beyond your control.

SIGNATURE: David Horn

THANK YOU

EXHIBIT
Northeast Dep 2
6/11/07 RKT

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

BRENDA ORSICH,	*	Case No.
Administratrix of the	*	03-1251-CD
Estate of DAVID A.	*	
WEAVER, deceased, and	*	
JENNIFER WEAVER, a minor,	*	
by her parent and natural	*	
guardian, BRENDA ORSICH,	*	
Plaintiffs	*	
vs.	*	DEPOSITION
BARRY KYLER, t/d/b/a	*	OF
NORTHEAST SPRING &	*	BARRY
EQUIPMENT CO.; NORTHEAST	*	KYLER
SPRING & EQUIPMENT CO.;	*	June 1,
and MACK TRUCKS, INC.,	*	2007
Defendants	*	
vs.	*	
TRIANGLE AUTO SPRING CO.	*	
and CONSOLIDATED METAL	*	
PRODUCTS,	*	
Additional Defendants	*	

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DEPOSITION
OF

BARRY KYLER, taken on behalf of the Plaintiffs herein, pursuant to the Rules of Civil Procedure, taken before me, the undersigned, Rhonda K. Thorpe, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at the office of Sargent's Court Reporting Service, Inc., 106 North Second Street, Clearfield, Pennsylvania, on Friday, June 1, 2007, beginning at 10:00 a.m.

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I N D E X

WITNESS: BARRY KYLER
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Seven	U-Bolt Product Information	112
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Nine	Tips, Why to Re-Torque	116

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PROCEEDINGS

BARRY KYLER, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

EXAMINATION

BY ATTORNEY KIGER:

Q. Would you state your name and address for the record, please?

A. My name is Barry Paul Kyler. My address is 2640 Old Erie Pike in West Decatur, Pennsylvania.

Q. My name is Jerry Kiger, we met before, and I represent the Estate of David Weaver as the result of an accident that happened on August 31st, 2001, in a lawsuit that's been filed which you've been asked to come and give a deposition. I would ask if you don't hear a question or don't understand a question that you speak up and tell me so I can repeat it or rephrase it; is that agreeable?

A. That's agreeable, yes.

OFF RECORD DISCUSSION

BY ATTORNEY KIGER:

Q. Tell me about your background, Mr. Kyler.

A. I've been self-employed for pretty much my entire life. Started out when I was 19 I bought my own coal truck and I hauled coal for probably 15 or 18 years in my own truck. I did most of my own service work on the truck. After that I sold that truck and opened up Northeast Spring & Equipment Company.

Q. What year would that have been?

A. That was in 1988.

Q. What's your date of birth?

A. July 16th, 1955.

Q. Born in Clearfield or Philipsburg?

A. I was born in Philipsburg.

Q. Do you still have family there?

A. Yes, I do.

Q. Are you married?

A. Yes.

Q. What's your wife's maiden name?
A. Crater.
Q. How do you spell that?
A. C-R-A-T-E-R.
Q. And her first name?
A. Sherry.
Q. Do you have any children?
A. Yes, I do. I have two children of my own.
Q. And what are their names?
A. Craig Alan Kyler and Robby Lee Kyler.
Q. Both boys?
A. Both boys.
Q. How old are they?
A. Craig is 24 and Robby's 19.
Q. Married?
A. No, neither one.
Q. Is your wife Sherry from the Philipsburg area?
A. She was originally from DuBois.
Q. Does she still have family there?

A. Yes.
Q. When you first opened Northeast Spring & Equipment Company, where was it located?
A. A mile and a quarter outside of Philipsburg on Route 322.
Q. Is it a different location than now?
A. No.
Q. So it's been in the same location since you opened it in 1988 until the present?
A. That's correct.
Q. Do you rent there?
A. No.
Q. You own the facility?
A. I own the facility. I since have sold the facility. I sold it in January of this year.
Q. Who did you sell it to?
A. Jim Scott.
Q. Spell his name.
A. S-C-O-T-T.
Q. Does he have a business?
A. He bought the entire business

from me. He actually had similar business before that.
Q. Okay. So in January 2007, you sold the real estate, the building, all the equipment and the company Northeast Spring & Equipment to Jim Scott?
A. That's correct.
Q. Is he related to you in any way?
A. No.
Q. So where are you employed presently then?
A. Glenn O. Hawbaker in State College.
Q. What do you do there?
A. I'm the shop foreman there.
Q. And what's that job entail?
A. I am in charge of the mechanics. I have six mechanics that work day shift. I'm in charge of directing their work for the day on triaxle trucks, low boys, tractor-trailers, equipment.
Q. What kind of business

generally is Hawbaker?
A. They're a heavy construction company.
Q. Do you have a CDL license?
A. That's correct.
Q. How long have you had that?
A. I've had that for probably, and I'm sort of guessing here, probably 18 years, give or take a year or two. I'm sorry, no, excuse me. I'm incorrect there. The CDL license I would have had whenever they mandated that because I was --- back when I started driving trucks in the mid '70s, there were no CDL licenses at that time.
Q. Yes.
A. And I think it was maybe '82 or something like that, and I had them from that point forward.
Q. Nobody we've questioned seems to know what year that was.
A. I don't recall exactly what year that was.
Q. Did you graduate from high

school?
A. Yes, I did.
Q. Went to Philipsburg High School?
A. Philipsburg-Osceola.
Q. What year would that have been?
A. 1973.
Q. Did you have any training after high school, formal training or education?
A. No.
Q. So no college, no trade school, nothing like that?
A. No.
Q. Okay. Did you ever go to any type of program to help you to learn to be a mechanic?
A. No.
Q. How did you once you opened Northeast Spring & Equipment, how did you learn to do what you're supposed to do?
A. My father was a mechanic.
Q. What's his first name?

A. Lionel.
Q. Is he still alive?
A. No.
Q. I'm sorry to hear that.
A. So most of the training that I had I learned from him. I also learned that during the time I had my truck.
Q. What type of a mechanic business was your dad in?
A. My dad used to own his own gas station, did mechanical work there. He also worked later on for J.J. Powell, Incorporated, in Philipsburg. He did mechanic work on their vehicles.
Q. What kind of a business was that?
A. It was an oil company.
Q. So what did you do to go about learning how to do spring work?
A. When I was in the trucking business I did all my own maintenance on my truck.
Q. Did that include changing leaf

springs?
A. That's correct.
Q. What kind of trucks did you have?
A. I had Macks, International.
Q. The type of Mack?
A. B Model Mack was the first truck I had. I also had an International.
Q. What type of rear suspension did the Mack B model have?
A. Camelback.
Q. And the International?
A. The International had Hendrickson. And I also had two Fords that had Hendrickson suspension.
Q. What year was the Mack B Model?
A. 1961.
Q. And the International?
A. Don't remember exactly what year that was.
Q. The Fords.
A. One was a 1986, the other was

a 1979 I believe.
Q. Did you ever change the suspension on the camelback, the camelback suspension on the Mack?
A. Yes, I did.
Q. How many times did you do that?
A. I don't really recall.
Q. More than once?
A. Yes.
Q. How long did you have that truck?
A. About two years.
Q. While you had the 1961 Mack B Model with the camelback suspension, have you changed the camelback suspension more than once in two years?
A. We've worked on it more than once. At one time we rebushed the suspension.
Q. Okay. Did you ever replace any leafs on it?
A. Not that I recall.
Q. Ever replace any U-bolts on

it?
A. When we rebushed the truck, we would have replaced U-bolts on.
Q. On the suspension?
A. On the suspension.
OFF RECORD DISCUSSION
BY ATTORNEY KIGER:
Q. Before you started Northeast Spring & Equipment Company in 1988, other than what you just described, the work concerning the camelback suspension on a 1961 Mack that you owned, had you ever done any work of any type on a camelback suspension before opening the shop?
A. Don't really recall. I did work for a while at J.J. Powell in the evening as a mechanic in there for them just in the evenings part time. We may have but I don't recall.
Q. We'll call the Northeast Spring & Equipment Company the shop; is that okay?
A. Yes, that's fine.

Q. When you opened the shop in 1988, who worked there?
A. Louie Jacoby was my first employee.
Q. How do you spell his last name?
A. J-A-C-O-B-Y.
Q. Was he a mechanic?
A. That's correct.
Q. What was his experience?
A. He had owned his own trucks and equipment. I don't know how many years he did that. They also did all their maintenance in probably three or four different trucks. He had people that worked for him.
Q. When you opened the shop, was it a spring shop at the beginning?
A. Yes, it was.
Q. Okay. Did you do anything yourself to educate yourself about spring work when you opened the shop other than your past experience that you had?
A. No.

Q. Did you go to any educational programs put on by any spring manufacturers or retailers or distributors?
A. No.
Q. How long did Mr. Jacoby work for you?
A. Two years.
Q. And he left?
A. I actually fired him.
Q. What's the reason for that?
A. Insubordination.
Q. During that two-year period, did you do any work on camelback suspensions?
A. I don't recall.
Q. And then did you hire anybody else after that?
A. Yes, I did.
Q. Who did you hire?
A. The next employee that I had was Dave Kuklinski.
Q. Spell that for us.
A. K-U-K-L-I-N-S-K-I.
Q. Mr. Jacoby from Philipsburg?

A. Houtzdale.
Q. Is he still around?
A. Yes.
Q. And Mr. Kuklinski, where is he from?
A. Curwensville.
Q. And how long did he work for you?
A. Probably six years.
Q. Was he just the only mechanic other than yourself that was there?
A. I did hire two other people in that time period.
Q. Okay.
A. Nick Sidorick, S-I-D-O-R-I-C-K.
Q. Where is he from?
A. I don't know where he's from now. I believe he lived in Houtzdale.
Q. How long did he work there?
A. I don't recall exactly. I don't have those figures with me.
Q. And who was the other person?
A. Rick Shaffer.

Q. S-H-A-F-F-E-R?
A. That's correct.
Q. Where is he from?
A. Philipsburg.
Q. How long did he work there?
A. Again, I don't have exact dates for you.
Q. So Kuklinski worked until 1996 and they came and went in that same time period?
A. No. Actually, Dave Kuklinski left, and that's when I hired James Baldwin.
Q. So that would be 1996. Oh, I'm sorry. When did Kuklinski leave?
A. Kuklinski left, I believe it was probably around 1996 is when he left, and at that point I hired James Baldwin.
Q. Okay.
A. So actually I had three mechanics at that point.
Q. So you had three, Baldwin, Kuklinski and who else?
A. Baldwin, Nick Sidorick and

Rick Shaffer at that point then.
Q. Okay. And how long did that continue?
A. Nick Sidorick left to go to work for Wal-Mart. And Rick Shaffer left to go into computer networking.
Q. And Baldwin stayed?
A. Baldwin stayed. He was there for about nine or ten years.
Q. So was he there up until the time you sold the business?
A. No. He had actually left about three years, three or four years before I sold the business.
Q. So what year would that have been?
A. 2004.
Q. Where did he go?
A. He went to Fullington Bus Company.
Q. In Clearfield here?
A. Clearfield.
Q. Where does he live?
A. I really have no idea.
Q. Did you replace him?

A. Yes, I did.
Q. Who replaced him?
A. The last mechanic that I had there was William Phillips.
Q. Where is he from?
A. Philipsburg.
Q. You're aware that the work that's the subject of this matter was performed in April 25th, 2000; is that right?
A. Yes.
Q. And that was work done on a Mack truck from Guelich Explosives Company?
A. Yes.
Q. Okay. Who were the employees of your company at that time?
A. James Baldwin was the only employee I had at that particular time.
Q. Okay. So it was Mr. Baldwin and yourself?
A. Yes.
Q. And did you do mechanical work, too?

A. I did some mechanical work.
Q. Tell me what the breakdown between the work that was being done prior to April 25th, 2000 by Mr. Baldwin and whatever you were doing?
A. You mean as a percentage or ---?
Q. No, the types of work or how did you divide it up?
A. Jim actually did most of the work out in the shop. I handled the majority of the counter work, selling parts and things. When there were needs that arose when he needed a hand, something lifting or tightening or whatever, I would help him. We would have customers that come in during the day and want U-bolts made or springs made or things like that, and I would do those things.
Q. So you would give Jim a hand if he needed help with lifting?
A. Correct.
Q. Anything else?
A. Maybe aligning bolts, anything

that would have taken two people.
Q. Tightening things?
A. Yes.
Q. So tell me about what the business was before April 25th, 2000, what the nature of the business of your company, Northeast Spring & Equipment was?
A. We sold springs and suspension parts, and we installed springs and suspension parts. We did Pennsylvania state inspections. We also did service work for a number of companies in the Philipsburg area, the vehicles.
Q. And when you say service work what do you mean?
A. Oil changes, general maintenance on their vehicles, replacing defective parts.
Q. So did the company have --- or your business have a specialty then?
A. Springs and suspensions were our specialty.
Q. Was Jim Baldwin before April

25th, 2000, experienced in installing springs and suspensions?
A. Yes, he was.
Q. Where did he get that experience?
A. He worked for Gargasz Excavating in Philipsburg there.
Q. How do you spell that? Gargasz?
A. Gargasz.
Q. With a G?
A. Yes. I don't know the exact spelling of it. Before that he worked for the truck stop, exit --- I believe it was Exit 19. He was a mechanic there, and he was also shop leader at that particular place.
Q. He was a heavy equipment mechanic?
A. Yes.
Q. Do you have a state inspection license?
A. Yes, I did.
Q. Before April 25th, 2000, what did you or you and Mr. Baldwin or Mr.

Baldwin do in terms of any education or training in the installation of camelback suspensions?
A. Nothing that I can recall.
Q. So you and Mr. Baldwin from 1988 through April 25th, 2000, didn't go to any seminars or programs or educational things of any type put on then by any manufacturer or distributor, wholesaler of springs and suspensions?
A. No.
Q. Okay. Prior to April 25th, 2000, how many camelback suspensions had you and Mr. Baldwin worked on at the company?
A. I would not have any idea.
Q. Between 1988 when you started the company and April 25th, 2000, did you and/or Mr. Baldwin or your company work on any camelback suspensions at all?
A. Would you say that question again, please?
Q. From the time you opened the

shop in 1988 through April 25th, 2000 when you did the work on the Guelich Mack truck, camelback suspension, before that work did you or Mr. Baldwin do any work on any camelback suspensions?
A. Yes, yes.
Q. How many can you estimate that you did?
A. That would be hard to estimate. We worked on hundreds and hundreds of vehicles.
Q. Is the camelback a common suspension?
A. It's not as common as it used to be.
Q. Can you tell me any of your other customers that came to you for work on a camelback suspension?
A. Austin Powder Company.
Q. Was that before April 25th, 2000 when you worked on the Guelich truck?
A. Yes, yes.
Q. And how many times did they

come in?
A. We did service work on their vehicles, we did oil changes, maintenance. Their vehicles were in there every week. I have no idea how many spring repairs we would have done on any of their vehicles.
Q. What kind of business is Austin Powder Company?
A. They're a blasting outfit, blasting company same as Guelich.
Q. So they're a similar business to Guelich, and do they have bulk trucks that haul ammonium nitrate and fuel oil?
A. Yes, they do.
Q. Do they have trucks that are similar to the Guelich trucks?
A. Yes, they do.
Q. Does Austin Powder Company have Mack camelback bulk trucks?
A. At that time they did.
Q. So before the work done on the Guelich Mack truck on April 25th, 2000, did your company do any work on

a camelback suspension for the Austin Powder Company?
A. Yes.
Q. When was that?
A. I don't have specific dates.
Q. Was it five years before, the week before, anything like that?
A. I really don't have any specific dates.
Q. Would Mr. Baldwin have done that work?
A. I don't know.
Q. Well, Mr. Baldwin came there in 1996, so would the Austin Powder work have been before 1996?
A. We were servicing their trucks at the time he was there so, you know, it's very possible that he could have done them.
Q. Is it your recollection that your company did suspension work for Austin Powder Company?
A. Yes.
Q. Okay. And it's your recollection that that was done

before April 25th, 2000?
A. Yes.
Q. Do you have any recollection of what type of work you did on the Austin Powder Mack trucks?
A. We did front springs and rear springs. I don't have all the specifics.
Q. Are there records of any of this?
A. Probably.
Q. Where would they be?
A. They would be stored at my house.
Q. I would ask that you maintain those records until they can be searched for records on the Austin Powder vehicles. How many Mack camelback bulk trucks did Austin Powder have?
A. Probably three. I don't know for sure.
OFF RECORD DISCUSSION
A. There were other companies that had trucks like Wampum Hardware,

they're also an explosives company, they had camelback suspension trucks. Al Hamilton Contracting.
BY ATTORNEY KIGER:
Q. They have the camelback suspension trucks, too?
A. Camelback suspension trucks. Glen-Gery Brick. There were a lot of companies that had those trucks.
Q. Did you work on the camelback suspensions on the trucks for Wampum Hardware, Al Hamilton, Glen-Gery?
A. Yes, we did. Devecchis, they're no longer in business. They were in State College. They had camelback suspension trucks.
Q. What was that name?
A. Devecchis, D-E-V, and I can't spell the rest of it.
ATTORNEY BARR:
D-E-V-E-C-C-H-I-S.
A. I believe they're no longer in business I don't think.
BY ATTORNEY KIGER:
Q. Were they a blasting company?

A. No. They hauled bricks and cement pipes.
Q. So Austin Powder Company was a blasting company, Wampum Hardware was a blasting company. How about Al Hamilton?
A. Coal.
Q. Coal?
A. Uh-huh (yes).
Q. Glen-Gery Brick was brick?
A. Yes.
Q. And do you have a recollection of working on the camelback suspensions of Mack trucks for those companies before April 25th, 2000?
A. We would have. I couldn't give you specific dates.
Q. Did you replace any rear leaf springs on those companies trucks before April 25th, 2000?
A. Yes.
Q. What did you do to learn how to replace a leaf spring on a camelback suspension before April 25th, 2000?

A. Basically learned from having my own truck.
Q. That original Mack truck?
A. The original Mack.
Q. Did Jim Baldwin come to work for you already knowing how to work on a camelback suspension?
A. I couldn't answer that.
Q. Was a camelback suspension something unique to Mack brand trucks?
A. Yes, it is.
Q. Prior to April 25th, 2000, did you have Mack service maintenance manuals at your shop?
A. No.
Q. Why not?
A. I don't believe we had any heavy truck manuals for the Mack trucks.
Q. Did you have any heavy truck manuals for any other brands?
A. There were heavy truck manuals there. I don't recall the brands that were there.

Q. With reference to working on a Mack camelback suspension, did you have, prior to April 25th, 2000, any type of manual or instruction book on how to work on the suspension?
A. Not that I recall, no.
Q. Prior to April 25th, 2000, did you sell actual genuine Mack parts as opposed to a replacement part or an aftermarket part?
A. We could have purchased something through Mack. There were occasions when we would have had to have purchased something through Mack that may not have been available through another supplier.
Q. And when you say purchased through Mack, did you purchase it directly from Mack or would you purchase it from a Mack dealer?
A. From a Mack dealer.
Q. So who would the dealer be?
A. Would have been Shaw Mack or possibly ABC Mack. It's now all the same company.

Q. At one time were they two different companies?
A. Yes.
Q. And how does Shaw Mack, ABC Mack and WW Engine Company all relate together?
A. WW Engine Company, all those are now WW Engine. They're all owned by John Neibaurer.
Q. Back in April — prior to April 25th of 2000, did John Neibaurer and WW Engine Company own Shaw Mack?
A. I don't know.
Q. Who owned ABC Mack?
A. I have no idea.
Q. Where is ABC Mack?
A. Altoona.
Q. And Shaw Mack's in DuBois?
A. DuBois.
Q. So prior to April 25th, 2000, or before April 25th, 2000 you could purchase genuine Mack replacement parts if you chose at your business?
A. Yes.

Q. Now with reference to camelback suspensions before April 25th, 2000, where else did you purchase replacement parts or a camelback suspension for that matter?
A. Our main supplier was Triangle Spring Company.
Q. Where are they located?
A. In DuBois.
Q. Did you ever go up to DuBois to Triangle Spring Company?
A. Yes, I did.
Q. So would you go and pick parts up there?
A. Yes.
Q. Did Triangle Spring Company have a salesperson that would call on your business?
A. Yes.
Q. And who was that?
A. Fritz Campbell.
Q. Say it again?
A. Fritz Campbell.
Q. Was he the representative of Triangle Spring up until the time you

sold the business in January of 2007?
A. No, no.
Q. Before April 25th, 2000, was Fritz Campbell the representative?
A. Yes.
Q. Does he still work for Triangle do you know?
A. No, he's retired.
Q. Where does he live?
A. Luthersburg.
Q. Where is that?
A. Near DuBois.
Q. How often would he come to your shop?
A. Probably every couple months.
Q. What would he do when he would come?
A. See if there were any new parts were available he would bring supplements down with the new parts and generally talk about the business and you know, if things were going good or bad or in general.
Q. The impression I'm getting is that you mainly worked the counter,

did the ordering, did the books, took care of running the business, and Mr. Baldwin or another mechanic did the actual mechanical work. Is that a fair statement?
A. I supervised them, yes.
Q. And when you say you supervised them, what do you mean?
A. Means I make sure that the work that was being done was being done correctly.
Q. Did you ever go up to Triangle Spring for any type of educational program?
A. I toured the plant.
Q. What did that consist of?
A. I went over and looked at all the aspects of building springs, the machinery that they had to make springs to put them together.
Q. When would that have been?
A. Probably maybe 1989. I'm guessing. Shortly after I opened.
Q. But you never went up there for any type of instructional program

on —
A. No.
Q. — how to work with their products?
A. No.
Q. Did Mr. Campbell, was he a mechanic?
A. No.
Q. Did you ever have any discussions with him before April 25th, 2000, on how to do the work on camelback suspensions?
A. No.
Q. Did Triangle — was it Triangle Auto Spring, is that what it is? Did Triangle Auto Spring or is that what it is or —?
A. Well, now it's Triangle Suspension Systems. It was Triangle Auto Spring at that time.
Q. Did Triangle give you any type of instruction manuals or bulletins or anything like that on working with their suspension products?
A. Occasionally we got bulletins

for different things.
Q. They come in the mail?
A. Generally, yes.
Q. Do you recall if any of those bulletins would have been received before April 25th, 2000, and concerned the service or installation or leaf springs on camelback suspensions?
A. No.
Q. Would any of those prior to April 25th, 2000, concerned the installation of U-bolts on camelback suspensions?
A. No.
Q. So as of the time you started the job for Guelich that was done on April 25th, 2000, what did you have as any type of reference material on how to do the suspension work?
A. None that I can think of.
Q. So is it correct then it was done based just on your experience and Mr. Baldwin's?
A. Yes.

Q. Were you personally involved in the installation of the replacement spring on the Guelich explosive company truck on April 25th, 2000?
A. Yes.
Q. What did you do?
A. I helped Jim to tighten the U-bolts.
Q. You have actual recollection of that?
A. Tightening U-bolts up on a Mack is generally a two-man job.
Q. Why was that?
A. Because when we tighten the U-bolts up back we tighten them up with an air wrench. We take a breaker bar or a ratchet wrench and put a pipe on that and then we torque them further with that, and it takes two people to do that job.
Q. So do you have actual recollection of doing the work on the Guelich truck in April of 2000?
A. Yes. I would say yes.

Q. So you actually today remember the truck coming in for the suspension job in April of 2000?
A. Yes.
Q. Who brought the truck in?
A. I don't know who drove the truck down that day.
Q. What kind of a truck was it?
A. It was a Mack. I believe it was either an R or a DM model Mack.
Q. An R or a DM model?
A. Yeah. Probably an R model.
Q. Do you remember taking the order for the repair on the truck?
A. Yeah. I remember them calling me on the phone.
Q. Do you remember who called?
A. No.
Q. Before April 25th, 2000, had you done much work, service work for Guelich Company?
A. We had done service work for them. I can't recall how much.
Q. Generally what type of service work?

A. Usually spring work.
Q. The spring work that you had done before April 25th, 2000, was it on Mack camelback suspensions?
A. I don't recall.
Q. I asked you this but I don't remember what you said. Do you recall who called you about doing work in April?
A. No, I don't remember.
Q. Do you remember what they wanted?
A. They wanted to have a leaf replaced in the spring.
Q. So you told them bring the truck over?
A. They brought the --- yes.
Q. Now once the truck arrived, did you order parts before it got there, did you have parts in stock or did you have to look at the truck first?
A. That I don't recall. If there was one leaf broke, they may have told us what was broken, and we may

have ordered that. Or it may have come in and we may have gotten the parts at that time. I don't recall exactly.
Q. What leaf was broken?
A. That I don't recall without looking at the work order.
Q. Okay. If I told you it was a number five, number five ply, which leaf would that be?
A. Mack starts from the bottom up so that would have been the fifth ply up from the bottom.
Q. How many plies are there on that suspension?
A. I don't recall how many were on there.
Q. So it would be the fifth one up from the bottom?
A. Correct.
Q. And the camelback sort of looks like a camelback like that; right?
A. Right.
ATTORNEY GREEN:

Can we mark those as an exhibit?
ATTORNEY KIGER:
Sure. Off the record.
OFF RECORD DISCUSSION
BY ATTORNEY KIGER:
Q. So Mack counts from the bottom up and this was the work order says the fifth ply, that would be the fifth one from the bottom?
A. Correct.
Q. Okay. So what did you do once you got this job?
A. Well, Jimmy would have worked on it, and you know, I don't recall if I may have gone and helped him take any of it apart or not. That part I don't remember. But, you know, I do recall that when it came time to tighten the U-bolts that I would have been there and helped him to do that.
Q. And do you remember today that you did that as opposed to that's what you usually did?

A. Yeah. I can remember doing it.
Q. So you remember today on April 25th, 2000, that you went out and helped Jim Baldwin in your shop tighten those U-bolts with, as you described, with a wrench and breaker bar?
A. Yes.
Q. So the truck came in. Tell me what happened after the truck arrived for the repair that was on the repair order that was dated April 25th, 2000.
A. Well, he would have jacked it up, put jack stands under the truck to make sure everything was secure, taken the tires off, removed the end cap bolts on both ends of the spring. We would have cut the old U-bolts off with a torch because they are not re-serviceable. Cut the center bolt and spring and removed all of the plies from the spring, and then they would have all been checked for

cracks or hairline cracks or anything that made any other leaf from the spring unserviceable. And then those plies would have been cleaned, brushed, you know, from any rust or debris, and then the center bolt would have been put in and the springs would have been restacked back together, compressed and tighten the center bolt to be tightened and then be reinstalled in the truck with attachment hardware.
Q. All right. So after you cleaned and brushed the springs and put the replacement spring in place, was that all off the truck?
A. Yes.
Q. And then you said they were compressed. What does that mean?
A. Sometimes you have to compress the spring to get --- not all the leaves are always made to conform exactly with each other. Sometimes there's a little bit of a gap in there and --- I don't know on this

particular truck. I'm saying that's a normal procedure. On certain springs sometimes we would use a hard press to compress the spring a little bit if we have to. On a Mack suspension sometimes you can do that after you put the U-bolts on it and start tightening the U-bolts. If there's a hole in the top ply that you can actually tighten the center bolt up.

Q. Did you do that on this job?

A. I couldn't tell you.

Q. All right. So you put the springs back together with the replacement leaf in place, and you put the center bolt back in and then what do you do then?

A. Put the spring back on the truck or you can either put it back in one piece or with a Mack suspension you can put the center bolt in the center bolt hole and you can actually just stack the leaves back together that way. I don't know

how that would have --- which way he would have done it.

Q. So it could have been either way?

A. It could have been either way.

Q. So the springs are put back on the truck center bolt that goes through the middle of the springs?

A. Right.

Q. And then what happens next?

A. Then the U-bolts, top plate is put on. The U-bolts are put on.

Q. On this particular job on the Guelich truck on April 25th, 2000, where did you get the replacement spring, replacement leaf?

A. The replacement leaf was from Triangle Spring.

Q. Was that something you had in stock or did you order it?

A. No, that's something we ordered, I believe.

Q. And the center bolt which you used, where did you get that from?

A. That would have also been from

--- well, from Flagg Suspension which is Triangle Springs.

Q. That's a Triangle Spring brand?

A. Yes. It was a separate company.

Q. So you would call a different company to get that?

A. Same company.

Q. So you called Triangle Spring, and you'd ask them for a number five ply leaf ---

A. Yes, right.

Q. --- and center bolt?

A. Well, the U-bolts were under Flagg Suspension's parts, but it was --- a division between the springs and suspension parts.

Q. So Flagg was a division of Triangle?

A. Yes.

Q. And what about the other hardware that you would need to install the center bolt, U-bolts, reinstall the springs, where would

that come from?

A. What kind of part?

Q. Were there washers involved, nuts and things like that?

A. All that stuff would have come from Flagg.

Q. When you say Flagg, you mean they were Flagg brand from Triangle?

A. Correct.

Q. So is it correct then that you got all of the replacement parts that were used on the Guelich Company truck in the April 25th, 2000 suspension job, you got those from Triangle Spring in DuBois, PA?

A. Yes, I did.

Q. And did you go up and get them yourself?

A. I don't recall if we picked that up or if that was UPS'ed to us. I'd have to look.

Q. How far is DuBois from where your shop is?

A. About a 40, 45-minute drive, about 50 mile.

Q. Do you recall the replacement leaf coming in from Triangle?
A. No.
Q. With respect to the U-bolts and the other hardware that was used, which you had gotten from Triangle, did you order it for this job or did you already have it in inventory?
A. I believe we ordered one U-bolt. Normally at that point in time I usually stocked two U-bolts of different length for different applications. I believe we had one U-bolt there and that we ordered another U-bolt in for that.
Q. Is that from memory or from looking at your reference?
A. That would be from looking at my records.
Q. So you had one U-bolt that you had previously obtained from Triangle, and you believe you ordered a second matching U-bolt from Triangle?
A. Yes, uh-huh (yes).

Q. And that was for use on this Guelich Company job?
A. Yes, yes.
Q. Did you have the option then you could have gotten genuine Mack replacement parts from the Mack dealer; is that correct?
A. Yes, I could have.
Q. And what would have been the difference if you had done that?
A. As opposed to ---?
Q. Well, why did you choose to get the replacement parts, Triangle replacement parts as opposed to genuine Mack parts?
A. Because Triangle was our primary supplier.
Q. Had you ever gotten U-bolts or camelback suspension parts from Mack or its dealer?
A. I don't recall. I believe we probably did. I know there were things from time to time that may have been out of stock or maybe there were things that Triangle didn't make

at the time. I can't recall specific instance.
Q. The U-bolts that you used on the Guelich truck when you replaced the leaf spring in April 2000, did those U-bolts come to you already bent and ready to use?
A. Yes.
Q. So that the Triangle U-bolts that you installed on the Guelich Mack truck on April 25th, 2000, came to you from Triangle already bent and ready to install?
A. Yes.
Q. Did you have to do anything to those U-bolts in terms of any additional bending?
A. No.
Q. Did you have to do anything involving heat to those U-bolts?
A. You do not heat a U-bolt.
Q. So you did not heat the U-bolts?
A. No.
Q. What type of U-bolts were

they?
A. They were an inch and a quarter grade eight. U-bolts were made by Consolidated Metals.
Q. Did you know at the time they were made by Consolidated Metal?
A. Yes, I did.
Q. How did you know that?
A. Because we bought --- brought also from --- through Triangle that was made by Consolidated Metals that we used to --- with our U-bolt bending machine to make other U-bolts for trucks.
Q. So you had the ability there to actually make a U-bolt?
A. Certain U-bolts, yes.
Q. Okay. So if you bought the rod you could bend it?
A. Yes.
Q. And would you thread it also?
A. No. The rod was pre-threaded when we bought it.
Q. Was the bending machine used on the Guelich job that we're talking

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about?
A. No, I don't bend inch and a quarter bolts.
Q. What size you bend?
A. The biggest I ever bent was inch and an eighth, and that was about as big as the machine would bend. And then you needed the correct dies also to form the proper bends for each U-bolt which I did not have Mack dies for those particular U-bolts.
Q. When the U-bolts arrived from Triangle that were used on the Guelich job in April 2000, how did they come to you?
A. Initially at that time they put them in burlap type of a bag and they tied the top off on the bag. That's how we received them.
Q. Did it say anything on the bag?
A. There would be a tag on the bag with the part number and size.
Q. And so if you got it by UPS

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with a bag you put inside some type of box?
A. It would have been in a box that we got from UPS.
Q. And if you went and picked it up from DuBois ---?
A. It would be in a burlap bag.
Q. And the burlap bag, did it have any logo on it or anything like that?
A. No.
Q. Have any instructions on it?
A. No.
Q. What would be inside the bag?
A. Just the U-bolt.
Q. One U-bolt?
A. Or two if you ordered two.
Q. Okay. So is the burlap bag like a supermarket bag that they put whatever you ordered into or is it special to the U-bolt?
A. It was just a burlap bag probably, you know, maybe 12, 14 inches wide, about 18 inches, 20 inches high.

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Q. And so if you ordered five U-bolts they would be in that bag?
A. No. They wouldn't put more than two in a bag. Probably just because of the weight. You have to pick them up and move them.
Q. So the U-bolt itself did not come in some type of special box or packaging meant for it only?
A. Not at that time, no.
Q. Was there anything else in the bag besides the U-bolts?
A. No.
Q. And if you ordered any type like fasteners, nuts, things like that, would they come in a separate package?
A. They would be in a separate package.
Q. Whenever you ordered these U-bolts from Triangle did they come with any instructions?
A. No.
Q. Did they come with any type of warning sticker?

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A. No.
Q. So there was nothing supplied to your company by Triangle that you could read to find out how to install the U-bolt?
A. No. The only thing that I had would have been some torque specifications in the back of their threaded catalog.
Q. So you had a catalog from Triangle.
A. Correct.
Q. But what I'm interested in is with the U-bolt itself when you purchase by either picking it up or was delivered from UPS, is it correct that it did not come with any instructions?
A. You're correct, it did not.
Q. Is it correct that the U-bolt did not come from Triangle with any type of warning stickers or page with warnings on it?
A. No, no. You're correct.
Q. So there was no warnings, no

instructions that came with the U-bolt?
A. No warnings, no instructions.
Q. Okay. With the replacement leaf, were there any warnings or instructions that came with it?
A. No.
Q. And how did it come packaged?
A. It would have just been the leaf. There wouldn't have been ---.
Q. No packaging?
A. No packaging.
Q. Did the U-bolts have any type of tags attached to them or stickers on them?
A. No.
Q. Did you ever order anything directly from Consolidated Metal Products?
A. No.
Q. Did any representative of Consolidated Metal Products ever come to your shop?
A. No.
Q. Did you ever go to a

Consolidated Metal Products facility at any time?
A. No.
Q. With reference to the Guelich job, did you or Mr. Baldwin, to your knowledge, call Triangle or Consolidated Metal Products for instructions on how to install the U-bolt?
A. No.
Q. At any time prior to the Guelich Company job when you were working on a camelback suspension, had you or a mechanic from your shop to your knowledge called Triangle or Consolidated Metal Products for instructions?
A. No.
Q. With reference to the Guelich job in April of 2000, did you or Mr. Baldwin to your knowledge call Mack for any instructions?
A. No.
Q. Did you call a Mack dealer for any instructions?

A. No.
Q. So what happened next then in the installation? I think we stopped when you had the spring leafs back in place and the center bolt in place.
A. Okay. We had to put an air gun on them.
Q. Air gun on ---?
A. On the U-bolts.
Q. You would have put the U-bolts in place first?
A. Put the U-bolts in place.
Q. And would that be done on the truck?
A. Yes.
Q. With the wheels on or off?
A. Off.
Q. So you got the truck wheels. The tires off, wheels off and you got it up on jacks and you put the camelback suspension back into place and you put the center bolt and the U-bolts in place?
A. Correct.
Q. And what did you do next? Is

that when you came out or ---?
A. Well, he would have taken an air wrench, and he would have tightened up the U-bolts with the air wrench.
Q. How would have he had done that?
A. You alternate crossways on this U-bolts as you're tightening them up to bring the torque up the same levels.
Q. Go ahead.
A. And then after we had done that --- or after he did that, then we would probably put the end pads back in place.
Q. What are they?
A. There's rubber end pads on each end of that spring. One goes on top of the spring, one goes underneath it, and I put the bottom saddle back up on there and you put the bolts up on that and retighten all those bolts.
Q. That's underneath the spring?

A. That's underneath.
Q. Is there some type of bolt that holds the center bolt in place, some type of fastener?
A. Just a nut.
Q. So the center bolt goes in from the top?
A. No, it goes from the bottom up.
Q. Okay.
A. And they were generally a half inch so ---.
Q. Did you get that from Triangle also?
A. Yes.
Q. So when you did this job you replaced the U-bolts, the fasteners, the center bolt and the fastener for the center bolt with new ones?
A. Yes.
Q. You didn't reuse the old ones?
A. No.
Q. And that includes the center bolt?
A. Center bolt, yes.

Q. And the U-bolts did they come from the bottom or from the top?
A. They go from the top down.
Q. So they ---.
A. Over top of the springs.
Q. So the fasteners are at the bottom?
A. The nuts and --- yes, they're on the bottom.
Q. Okay. So tell me what was done once you had it assembled and still up on jacks? You got the parts in place then what happened after Mr. Baldwin would have used the air wrench to tighten the bolts, U-bolt, fasteners.
A. And after the end pads and everything were all put back in place and tightened up then I would come out and use the ratchet with the pipe on it. And then we would have continued to tighten the U-bolts.
Q. That's what they called cheater pipe?
A. Yeah. They call it that.

Q. And the two of you together would have done that?
A. Yes.
Q. How long was the cheater pipe?
A. Five to six feet.
Q. And what type of a ratchet and wrench did you use to put the cheater pipe over?
A. I believe it would have been Craftsman or Snap-On.
Q. Let me hear it again.
A. Craftsman or Snap-On.
Q. What size?
A. Three quarter drive.
Q. And what size wrench?
A. It would have just been a three-quarter drive ratchet.
Q. The ratchet?
A. Yeah, it's all one piece.
Q. And then tell me what you had done to continue to tighten, the details of it?
A. All right. He would have held the ratchet into place underneath the truck, and I would have pulled on the

pipe to finish it torquing the U-bolts down.
Q. Is the truck far enough up that you were doing this standing up under the truck?
A. While you're outside I mean you're not under the truck to do that. You got a six foot pipe. You're standing up beside the truck.
Q. So tell me now again. You've got the ratchet in place. Jim's holding it, you put the cheater pipe on and then what do you do? What did you do?
A. Just go on the bar, just tighten it up.
Q. And do you do that with each bolt?
A. Yes.
Q. And is there any sequence in which you do it?
A. We alternate from one side to the other.
Q. So does that mean you --- just four bolts; right?

A. Correct.
Q. What you're turning is actually a nut?
A. Yes.
Q. So do you tighten a nut as far as it'll go, and then go to the next one?
A. Yes.
Q. And then when you've done all four what do you do?
A. Go back and check them again.
Q. And do you do that with the ratchet and the cheater pipe?
A. Probably two times.
Q. What's the purpose of that activity?
A. To bring the torque level up higher than what it was with the air gun.
Q. So how do you know whenever the torque is what you wanted it to be?
A. Our guns produce about 1,000 pounds of torque.
Q. That's the air wrench you

mean?
A. That's the air wrench.
Q. Okay.
A. So we had to go, you know, another 250, 300 pounds of torque and, you know.
Q. Where did you get the spec that you were using for how much torque you were going to put on the U-bolt?
A. Out at the Triangle book.
Q. And do you recall what the spec was for this particular application?
A. I don't have that in front of me that ---.
Q. But you mentioned 250 to 300 additional, is that an estimate?
A. 1300 to 1443.
Q. Can I have a look at that? So you're referencing a Flagg suspension parts booklet of some type?
A. That's their actual U-bolt threaded rod booklet that I spoke of before.

Q. And that's page 30 is where you got that from the chart on page 30?
A. Yes.
Q. Did the U-bolts come with any type of a coating on them?
A. Consolidated usually always puts an oil type coating on to keep them from rusting.
Q. When you say Consolidated, do you mean the Consolidated bolts you would get from Triangle?
A. Right.
Q. So on the Guelich Company job on April 25th, 2000, your mechanic, Jim Baldwin, would have used the air wrench to put approximately 1,000 pounds of torque onto the U-bolt fasteners; is that correct?
A. That's right.
Q. And then he would have held the ratchet while you used an extender pipe?
A. Yes.
Q. It was five to six feet long

and the two of you then would have used your strength to tighten each bolt probably twice attempting to get 250 to 300 pounds of additional torque ---
A. Yes.
Q. --- onto the fastener; is that right? You said yes?
A. Yes.
Q. And then what would you do?
A. Then he would put the wheels back on the truck, roll the wheels up and let the truck run off of the jack stands, and it's finished.
Q. So at that point would you call Guelich Company and tell them their truck was finished?
A. Yes.
Q. Would you have done that yourself?
A. Yes.
Q. Do you recall doing it?
A. No.
Q. So is it correct then you would call whoever it is at Guelich

Company that you had the number for and tell them the truck is finished, come and get it?
A. Yes.
Q. Would you tell them anything else?
A. No.
Q. Do you recall making that call?
A. No.
Q. What happens next then? You've called them, told them the truck is finished, to come and pick it up and what happens next?
A. Well, I would have went over the work order and ---.
Q. I didn't understand what you said.
A. I would have went over the work order.
Q. What does that mean?
A. The mechanic filled out the work order as far as parts and stuff that they used.
Q. Yes.

A. And then I would take the work order back and enter that as parts and things in the computer and the labor and everything, get the bill ready for them to just sign when they came to pick it up.
Q. What's the next thing that happens then?
A. They come over to get the truck.
Q. Do you remember who came to pick it up?
A. Dave Weaver, the driver of the truck is the one who picked the truck up.
Q. Do you have memory of that?
A. No, not really.
Q. So you looked at the sheet that was signed when the truck was picked up and Dave Weaver's name was on there?
A. Yes.
Q. Is that how you know he picked it up?
A. Yes.

Q. Okay. Did you know Dave Weaver himself?
A. No.
Q. And do you have any recollection of the Guelich employee, Dave Weaver, coming to your shop and picking the truck up?
A. I can remember someone picking the truck up. I mean I could not identify them, no.
Q. So you have actual memory of the truck being picked up as opposed to assuming it was? Let me ask it a different way. Today do you remember this truck being picked up by an employee at Guelich Company?
A. Yes.
Q. Okay. What happened when the Guelich employee came to pick the truck up?
A. He would sign the work order.
Q. Anything else happened?
A. Normally, and I cannot say yes or no that I did or didn't, normally on heavy trucks like that normally I

would give them a verbal --- tell them verbally that make sure you get those U-bolts retightened. After 1,000 miles they would bring the truck back here, and it's retightened. I can't recall, though, that I actually said that to him. That was a general policy that I have.
Q. So is it correct that you have no recollection of telling the person who picked up the Guelich truck following the April 25th, 2000 work that your company did anything about retightening U-bolts or bringing the truck back to retighten the U-bolts?
A. No.
ATTORNEY GREEN:
Verbally or in writing?
ATTORNEY KIGER:
Verbally.
A. Not verbally.
BY ATTORNEY KIGER:
Q. So let me ask the question again. Do you have any recollection

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that whenever the person came to pick the truck up following the repair on the Guelich truck on April 25th, 2000 that you actually told them to make sure they retighten U-bolts after 1,000 miles or bring the truck back for them to be retightened?
A. No.
Q. Okay. Did you do anything else to inform that person to retighten U-bolts after 1,000 miles?
A. No.
Q. You said you had some type of a policy to tell them about retightening U-bolts?
A. Generally, yes.
Q. And was that policy in effect before April 25th, 2000?
A. Yes.
Q. And on April 25th, 2000 ---
A. Yes.
Q. --- did you have anything, any type of a paper made up to give them?
A. Other than what's on the work order, no.

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Q. What's on the work order?
A. Work order states that it's important to retighten the U-bolts after 1,000 miles.
Q. And why is that important?
A. Because there can be some settling of the stack when the springs are initially put on, and you know, after it's run for that length of time, the U-bolts should be retorqued to make sure they're properly ---.
Q. Well, you had said earlier that you would have compressed the springs to make sure that you had a tight fit with the U-bolts; isn't that correct?
A. Yes.
Q. So even though you compressed the springs, you felt that they should be retightened after 1,000 miles?
A. There was a difference between compressing the spring and put it together with the center bolt and

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installing it on the truck and having the spring compressed.
Q. Was the Guelich truck that you worked on April 25th, 2000 loaded or unloaded when it was parked?
A. It was unloaded.
Q. So at the time that the work was done by your company on the camelback suspension on the Guelich truck in April of 2000, it was unloaded?
A. Correct.
Q. Where did you get the information that you should make sure U-bolts are retightened after 1,000 miles?
A. I don't recall exactly who gave me that information. General industry policy to do that, and I may have spoken to an individual from another spring shop that gave me that information.
Q. Who would that have been?
A. I don't recall exactly where I got the information from. It's sort

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of a general policy. I think you can find a lot of companies similar to mine that also have the same type of warnings printed on their invoices.
Q. So whenever you set your company up in 1988 and had your invoices printed up did that language start to appear on the invoices in the beginning?
A. Yes. Yes, it did.
Q. And did you use someone else's --- some other spring shop's invoices as the basis for yours?
A. No.
Q. You made up the entire form yourself?
A. The form was purchased through New England Business Services. That extra printing was added to the invoices.
Q. By you?
A. By me.
Q. So that 1,000 retightening was added by you?
A. Yes.

Q. Now, the driver from Guelich comes in to pick up the truck, signs the work order. Is he given a copy of the work order?
A. Yes.
Q. And given a copy of an invoice?
A. Given a copy of the invoice with the parts and the price on them. Also given a copy of that work order stapled together.
Q. And how long would that job have taken?
A. Probably three to four hours.
Q. And then the person that came to pick up the truck was driven off in the truck?
A. Correct.
Q. Now during the time that your company had the truck, did your company do anything else with reference to the suspension system repair that you had done?
A. No.
Q. So is it correct then that at

no time did your company use a torque wrench on the bolts to see what the actual torque was that you were applying?
A. That's correct.
Q. And after you were done using the ratchet and the cheater pipe to tighten it with both of you pulling on it, did you put a torque wrench on the bolts, on the fasteners to see what the torque was?
A. No. What's called an extension pipe is the cheater.
Q. Okay. Extension pipe. But you never put a torque wrench on it any time?
A. No.
Q. Did you have a torque wrench in the shop?
A. Not that big.
Q. So is it correct then if you previously did any type of similar work you would have not had a torque wrench for that work either?
A. That's correct.

Q. Did you get consideration to getting a torque wrench to do this job?
A. No.
Q. Did you have torque wrenches but just not one that was big enough?
A. I had other torque wrenches, smaller torque wrenches, yes.
Q. They weren't large enough to use on this job?
A. No.
ATTORNEY KIGER:
What do you want to call these, Joe, Northeast exhibits?
ATTORNEY GREEN:
Whatever, Kyler or Northeast, whatever.
ATTORNEY KIGER:
Yes, Northeast Exhibit One and Two.
(Northeast Exhibits One and Two marked for identification)
BY ATTORNEY KIGER:

Q. Mr. Kyler, I'm going to show you what's been marked Northeast Deposition Exhibit One and ask if you'll tell me what that is.
ATTORNEY REMICK:
Sir, I think that may be part of Duwayne Guelich Three.
ATTORNEY KIGER:
Yes.
ATTORNEY REMICK:
Just for future reference.
ATTORNEY KIGER:
Okay.
BY ATTORNEY KIGER:
Q. What is Northeast Deposition Exhibit One?
A. That's our actual invoice.
Q. What's the date of that invoice?
A. 4/25 of 2000.
Q. Can I see? And that's the invoice for the job on April 25th, 2000; right?

A. Yes.
ATTORNEY REMICK:
It's not in here.
ATTORNEY KIGER:
I didn't think it was.
I couldn't find it in there.
We'll go off the record in a little bit.
BY ATTORNEY KIGER:
Q. All right. This invoice indicates a 4 DN9, 1-1/4-12 Mack (1-13/16x2-3); what is that?
A. Those are the U-bolts nuts.
Q. Now and then there's two UT-7619MR 1-1/4 Mack semi-round U-bolt; is that correct?
A. Yes.
Q. And what is that?
A. Those are the actual U-bolts.
ATTORNEY REMICK:
Jerry, I'm sorry. They are both contained within Duwayne Guelich Four.
ATTORNEY KIGER:
Let the record show

that the two exhibits of Northeast Deposition Exhibit One and Two are contained within Duwayne Guelich Deposition Exhibit Four.
BY ATTORNEY KIGER:
Q. Now, in fact, Mack parts were not installed on this suspension.
A. The reason they say Mack is because the computer program that I used, my system, these were actually taken --- those were taken from Triangle spreadsheets and put into my computer along with the pricing so that was the way --- those were also listed in Triangle's books.
Q. So Triangle's books list them as Mack U-bolts?
A. That's what they --- yes.
Q. Now, a customer looking at this invoice would see that, and it would be a reasonable assumption that they were actually genuine Mack replacement parts? Do you agree with that?

A. It's possible I suppose.
Q. Nowhere on there do you say that they are aftermarket replacement parts; is that correct?
ATTORNEY GREEN:
Well, I object to that characterization and phraseology in terms of aftermarket being some type of possible inferior product or whatever. I just want to object to the form of that.
BY ATTORNEY KIGER:
Q. What do you call these actual U-bolts and fasteners that you used in the Guelich job?
A. What do I call them?
Q. I mean are they original equipment parts, are they genuine replacement parts from manufacturer?
A. Yeah. They'd be OEM approved parts, you know, and for all I know, not on these U-bolts, but Triangle Spring actually has made springs for Hendrickson probably Mack.

Q. So what I'm trying to get is that Mr. Green made an objection, I'm trying to get to we have some implication at my use of the word aftermarket wasn't appropriate so what do you call them. I mean there's genuine Mack products and then there are products for fitting on the Mack truck that are made by someone other than Mack. Is that right?
A. Yes.
Q. What do you call those parts?
A. Probably aftermarket replacement parts, but ---.
Q. All right. So is there anything on this invoice ---.
ATTORNEY GREEN:
Go ahead. You were finishing your answer.
BY ATTORNEY KIGER:
Q. I'm sorry, go ahead.
ATTORNEY GREEN:
You said but and then ---.

A. You know, if we're going to put aftermarket replacement parts on everything that we have there, you know, it makes it a little difficult to derive for somebody looking --- one of my employees or something that's, you know, looking up parts or something like that, you know. We had to have something to go by there and help them realize what parts they were looking up on the computer.
BY ATTORNEY KIGER:
Q. Okay. So what you actually installed on the Guelich vehicle in April of 2000 were U-bolts and fasteners obtained from Triangle Auto Spring which you understood to be manufactured by Consolidated Metal Products; is that correct?
A. Yes.
Q. Okay. And nowhere on the invoice to Guelich Company that's marked Northeast Deposition Exhibit One does it indicate that the parts are anything other than Mack parts;

is that correct?
A. That's correct.
Q. And which of the camelback — or which side of the suspension was the repair done on?
A. That was on the passenger side rear.
Q. That would be the right rear?
A. The right rear.
Q. Do you know whether or not the U-bolts and fasteners that you obtained from Triangle were approved in some way by Mack truck company?
A. No.
ATTORNEY GREEN:
No, you don't know or no, they don't approve?
A. No, I don't know with respect to nobody ever told me that. It's my understanding Consolidated Metal makes U-bolts for OEM equipment for International. I can't give you an exact list but I understand they supplied U-bolts to the manufacturers of vehicles.

BY ATTORNEY KIGER:
Q. Was there a difference in price between using genuine Mack parts and using the parts you obtained from Triangle Spring?
A. Yes.
Q. Which were more expensive?
A. Generally the Mack ones were but not always.
Q. Did you do anything to check on those costs for this particular job in April of 2000 was different?
A. No.
SHORT BREAK TAKEN
BY ATTORNEY KIGER:
Q. So whenever you did the job on the Guelich truck in April of 2000, is it correct that you knew that was a truck that hauled ammonium nitrate and fuel?
A. Yes. Uh-huh (yes).
Q. So based on your prior testimony, it's correct that your company did not use any heat or any type of a torch on the U-bolts?

A. No, no.
Q. While you were torquing and tightening, while you were tightening the U-bolts fasteners did you do anything to hammer the U-bolts to the fasteners? Hit them with a hammer and then ---.
A. No. I don't recall that, but probably not.
Q. Before you delivered a truck back to Guelich Company after the job was completed, did you take the truck out for a road test?
A. No. I mean there are instances when we would have road tested vehicles but not normally with spring work.
Q. So with reference to the subject job in April of 2000 on Guelich truck number 309, is it correct that neither you nor any employee of yours took the truck for a road test after you completed the work?
A. That's correct.

Q. And I asked you this before. Do you remember how many leaves there were on this particular spring?
A. No.
Q. Do you recall that only one leaf was replaced?
A. Yes.
Q. Is the number one leaf, which would be the bottom leaf, the longest or the shortest leaf in the spring?
A. It's not the longest but it's not the shortest. Now you're thinking why. The second ply in the spring is the longest.
Q. Number one isn't the longest, number two is the longest?
A. Number one and number three are generally the same length because they have a hole in them for the pads fit in. The second leaf it actually has a T shape on the back of it, and it sticks out back through the insulator. So it's actually the longest one.
Q. So if you're counting from the

bottom, number one is not the longest, number two is the longest from the bottom?
A. Correct.
Q. And is it correct that neither you nor Mr. Baldwin had any training by Mack?
A. That's correct.
Q. And neither you or Mr. Baldwin had any training by Triangle Spring?
A. That's correct.
Q. And neither you or Mr. Baldwin had any training by Consolidated Metal Products?
A. That's correct.
Q. And neither you or Mr. Baldwin had any training by any outside company at all?
A. That's correct.
Q. Did you do anything after the truck was picked up by Guelich Company on April 25th, 2000? To contact Guelich Company and remind them that they should have the U-bolts retightened?

A. No.
Q. You ever advise customers of the camelback suspension where one leaf is being replaced that they should replace all the leaves at one time?
A. If the conditions are right that's what should be done, yes.
Q. Well, in this particular instance would you advise Guelich to replace all the leaves?
A. Normally our procedure is tear a spring apart and then look at the condition of the spring, and if the spring is deteriorated to the point where it warrants replacement of the entire spring, then I would suggest that to. If the spring looks like it's physically in good condition, then you can repair that spring.
Q. Is that why you just replaced the one leaf in this case?
A. Yes.
Q. Okay. What color were the U-bolts when they came in?

A. Bluish. Black, blue.
Q. Were the U-bolts black, galvanized or some other color?
A. They would be more of a blackish.
Q. Blackish metal color?
A. Yeah, blackish blue, bluish black.
Q. Before you tightened the U-bolts, were the nuts or the threads on the U-bolts lubricated in any way?
A. Threads on those are oiled when we get them, so we don't oil them any further, no.
Q. So is it correct then that before you installed the U-bolts, you did not lubricate them with a mixture of synthetic white lead and SAE 30 engine oil and a portion of one pound of lead to one-eighth pint of oil?
A. No.
Q. That is correct that you did not do that?
A. We did not do that.
Q. Is it correct that before you

installed the U-bolts you did not as an alternative use something called Never Seez compound?
A. No.
Q. It was correct that you did not use that?
A. No.
Q. When you say no that's a yes.
A. We did not use Never Seez.
Q. Do you know what Never Seez is?
A. I know what Never Seez is.
Q. Had you ever heard before you did the Guelich job in April of 2000 that U-bolt should be lubricated?
A. I've heard conflicting reports on whether U-bolt nuts should be lubricated or not. I heard reports of false torque readings from putting certain materials on U-bolts.
Q. Is a U-bolt and spring the same thing?
A. Not necessarily.
Q. Is a U-bolt a type of spring clip?

A. A U-bolt is a spring retainer, spring clip can be the rebound clip that's on the end of a spring.
Q. In this particular application on the Mack camelback suspension, is a U-bolt the type of spring clip in that suspension?
A. If they call it that, yes.
Q. After you finished tightening the U-bolts did you use a hammer to ring the bolts?
A. No. I did not anyway. I didn't.
Q. Did Jim Baldwin use it?
A. I don't know.
Q. Well, were you present when the bolts were tightened? You said you were.
A. I was there when the bolts were tightened. I don' t know after I left to go back to the office if he was done with it or not.
Q. What's the top plate?
A. Top plate is the saddle or whatever the U-bolts go over top of.

Q. Was the existing top plate reinstalled?
A. Yes.
Q. So a new top plate was not installed; is that correct?
A. No.
Q. Was a new top plate installed?
A. No.
Q. Do you recall where the break was in the broken spring that was removed?
A. No.
Q. When you applied full torque to the nuts on the U-bolts, was the weight of the truck still sitting on the suspension or was it supported by jacks?
A. The frame would be supported by jacks.
Q. Did you tighten the nuts gradually in a criss-cross pattern?
A. Yes. Yes, I did.
Q. On the work order of --- was the subject truck Guelich Mack number 309 ever back in your shop after the

suspension?
A. I don't recall. I don't think so, but I don't recall.
Q. Can you tell me what the bend radii was on the subject U-bolts?
A. No. We didn't bend those U-bolts. I mean I know they were semi-round bend as opposed to square bent, but I don't know the exact dimension.
Q. So they were semi-round, not square?
A. That's correct.
ATTORNEY KIGER:
Now can we marked Northeast Deposition Exhibit Three.
(Northeast Deposition Exhibit Three marked for identification)
BY ATTORNEY KIGER:
Q. Mr. Kyler, I marked Northeast Deposition Exhibit Three a copy of the Flagg suspension parts. I believe it's a catalog that you

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previously had; is that correct?
A. Right. Uh-huh (yes).
Q. And is it correct that you had that in your shop at the time that the job was done on April 25th, 2000 on the Guelich truck?
A. It probably wasn't a copy of it. I don't have those dates in here when this one was published. But if it would have been a previous catalog it would have contained similar information.
Q. And what page did you say you got the torque specifications off of?
A. Thirty (30) something.
Q. So page 30 of Northeast Deposition Exhibit Three is where the torque specification was to be previously testified to?
A. Yes.
Q. Would you turn to page 12 of Northeast Deposition Exhibit Three? And at the bottom there's a listing of simple steps to reduce premature spring and related parts failure.

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Would you read that, please, to yourself?
WITNESS COMPLIES
BY ATTORNEY KIGER:
Q. You got this Flagg suspension parts catalog from Triangle; is that right?
A. That's correct.
Q. Okay. What are the suggested simple steps to reduce premature spring and related parts failure that are in the Flagg catalog that you had prior to doing the work on the Guelich vehicle in April of 2000?
A. You want me to read these?
Q. Yes.
A. It says to use U-bolts made with TRI-8 threaded rods from guaranteed grade A strength material, never re-use U-bolts because they have stretch and torque as they are designed to do. They will not hold the proper torque if they are reused. Use the proper torque for installing TRI-8 U-bolts. Many manufacturers

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provide torque specifications. Use a torque wrench. Tight bolts give characteristic ring instead of a dull thud when they're rapped with a brass hammer. Re-torque U-bolts after the suspension has been under load in the first day of operation. Repeat this after 500 miles.
Q. Did you re-torque the U-bolts after the Guelich truck suspension had been under load in the first day of operation?
A. Let me repeat that this manual may have been a newer manual. I don't know if the one that we had half the time contained all this information. This was the latest version of catalog I had. In reference to your question, no, I did not re-torque the U-bolts after they were under loaded the first day of operation.
Q. And did you repeat re-torquing the U-bolts after 500 miles?
A. The vehicle's not in our

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possession, so no we did not.
Q. Is it correct that you did not re-torque the U-bolts after the suspension has been under load and the first day of operation or after 500 miles; is that correct?
A. That's correct.
Q. Were you aware that Flagg stated in its catalog that the U-bolts should be re-torqued after the suspension has been under load in the first day of operation prior to the time that you did the job for Guelich in April of 2000?
A. I don't believe so, no.
Q. Were you aware prior to doing the job for Guelich in April of 2000 on the Mack truck that you were supposed to re-torque the U-bolts also after 500 miles?
A. No, I wasn't aware of that suggestion either.
ATTORNEY KIGER:
We'll mark this as whatever the next exhibit is.

This would be four pages.
(Northeast Deposition
Exhibit Four marked for
identification)
BY ATTORNEY KIGER:
Q. I'm going to show you what's been marked Northeast Deposition Exhibit Four which consists of four pages or actually consists of a letter from you to your attorney, Mr. Green, along with three pages of records. Can you look at that and tell me what that is?
WITNESS REVIEWS SAME
A. These are the actual invoices from Triangle showing the parts, dates and parts that we purchased for this job.
BY ATTORNEY KIGER:
Q. So is it correct that Exhibit Four which is four pages after the letter, the three pages show the invoices for your company purchasing the parts that were put on the Guelich truck number 309 on April

25th, 2000 purchasing those parts from Triangle?
A. Yes. Reference to your other question, too, that leaf was sent via UPS. It said so on the last slip, the very last one.
(Northeast Deposition
Exhibit Five marked for
identification)
BY ATTORNEY KIGER:
Q. Mr. Kyler, I'm going to show you what's been marked Northeast Deposition Exhibit Five which is on its cover says tips on suspension service, Triangle Auto Spring, DuBois, PA, Columbia, Tennessee, Montana, California, Flagg Suspension Parts. Would you look at that, please?
WITNESS REVIEWS SAME
BY ATTORNEY KIGER:
Q. As of April 25th, 2000 when you did the suspension work on the Guelich Mack truck number 309, did you have Exhibit Five, tips on

suspension service booklet?
A. No, I did not.
Q. Up until the time you did the work, up until including the day you did the work on the Guelich truck on April 25th, 2000, had you ever seen Exhibit Five which is the Triangle tips on suspension service?
A. No, I hadn't.
Q. Since April 25th, 2000, when you did the work and delivered the truck back to Guelich and prior to this lawsuit being filed, had you ever seen the Exhibit Five, Triangle tips on suspension service?
A. No, I did not.
Q. Okay. Did the Exhibit Five Triangle tips on suspension service come packaged with the U-bolts you received from Triangle and installed on the subject truck for Guelich Company Mack truck Guelich number 309 on April 25th, 2000?
A. No.
Q. Now would you look at page six

of the Exhibit Five?
WITNESS COMPLIES
BY ATTORNEY KIGER:
Q. Can you read keep U-bolt nuts tight on page five, six and seven?
A. Tighten and keep those U-bolt nuts really tight as the key note of good preventative maintenance are the leaf springs. Operators of large fleets of trucks and buses have found that center breakage of springs is greatly reduced by retightening U-bolts, nuts after the first day's run when a spring has been repaired or replaced. There are a number of surfaces between the leaf which bed down a little during the first day's operation. Retightening takes up the resulting slack, and the spring then remains tight for a longer period. Just as it is a good practice to retighten cylinder head nuts after the engine has been run a few hundred miles. When installing U-bolts it is a good practice to use torque

wrenches to determine when U-bolts nuts have been adequately tightened. Do not rely on impact wrenches to provide the needed torque to properly tighten the U-bolt. Impact wrenches can over or under torque the U-bolt thus resulting in a failure to the U-bolt by over-torquing or the spring by under-torquing. The torque wrenches like micrometer calipers are only as good as the mechanic who uses them. Instances have occurred where due to insufficient length of threads, badly cut threads, torque wrenches have merely measured the pull around of the nut of the U-bolt rather than the pull together of the spring and the axle pad. Not only should threads be a correct fit but both threads and contacting service of the nut should be clean and free turning. When in doubt as to whether the U-bolt nuts are really clamping parts together tightly, a sharp rap with a hammer

will sound the answer just as a railroad car wheel inspector rap car wheels before each long trip. Further retightening of new or repaired springs is suggested at the end of first 500 miles. After 1,000 miles and on appropriate intervals determined by individual preventive maintenance plans. Failure to retighten U-bolts may lead to serious damage to the suspension system or serious injury or death to the vehicle operator.

Q. As you testified earlier, you did not have Exhibit Five, the tips on suspension service when you installed these U-bolts on the Guelich truck in April of 2000 nor was it supplied to you with the U-bolts when you purchased them from Triangle?

A. That's correct.

ATTORNEY KIGER:

Northeast Exhibit Six.

(Northeast Deposition

Exhibit Six marked for identification)

BY ATTORNEY KIGER:

Q. I'm going to show you what's been marked Northeast Deposition Exhibit Six which is I represent to you is a maintenance and lubrication manual provided in discovery in this case by Mack for the subject Mack truck involved in the suspension repair that you did in April of 2005. I ask you to --- is it correct that at the time that you did the work on the Guelich truck in April 25th, 2000, you did not have a copy in your shop work to review of Exhibit Six?

A. That's correct.

(Northeast Deposition Exhibit Seven marked for identification)

BY ATTORNEY KIGER:

Q. I'm going to show you what was marked as Northeast Deposition Exhibit Seven which appears to have been received from Consolidated Metal

Products. It's titled Mack trucks Baltimore 1987 super spectacular and then the larger print says Mack trucks U-bolt product information. I ask if you could look at that, please.

WITNESS COMPLIES

BY ATTORNEY KIGER:

Q. Prior to the repair that your company did on the Guelich Mack truck number 309 on April 25th, 2000, had you ever seen Exhibit Seven before?

A. No.

Q. At the time that you received the U-bolts from Triangle, was Exhibit Seven in some form included with the U-bolts upon your receiving them?

A. No, they weren't.

Q. With reference to Exhibit Seven, is there a date on that?

A. Looks like 1987.

Q. On page two of Exhibit Seven it consists of two pages; right?

A. Correct.

Q. Is there any instructions there on U-bolt installation and torquing or tightening?
A. Yes.
Q. What was the condition of the saddle that you put back into place when you re-assembled the spring on the subject truck in April of 2000?
A. It was not damaged in any way.
Q. Were the alignment holes worn?
A. No.
Q. Would you read what the instructions are on Exhibit Seven about Mack truck, U-bolts product information with reference to torquing or tightening the U-bolts?
A. Both legs of U-bolts should be drawn up alternately and evenly to recommend the torque values. Consult your vehicle manual for required torque. Check for proper clamping torque, rap the U-bolt with a brass hammer after torquing. The U-bolt should ring. If it gives a dull thud it is not clamping the system. When

you have assured proper clamping torque with this procedure, take the hammer and rap the top of the U-bolt at the bend area. This will settle out the U-bolt and eliminate slop in the spring retention system. Now recheck the torque. Lastly a job is not complete without re-torquing the U-bolt under load. A simple road test five to ten miles will flex the spring and take care of most of the settling that could loosen the U-bolt. You would be able to re-torque the U-bolt again and gain turns on the nut.
Q. What do you understand it to mean to gain turns on the nut?
A. Because after the truck is loaded, the spring is going to settle more into place, back into place after it's been rebushed or if it's new, and that settling after that occurs, you will be able to tighten U-bolt more again.
ATTORNEY HOFRICHTER:

For everyone else, the next two exhibits that I was going to use are part of this. I've got a big staple in it. I didn't have a chance to make any copies. That's were they are if you want to find them?
(Northeast Deposition Exhibits Eight and Nine marked for identification)
BY ATTORNEY KIGER:
Q. I'm going to show you what's been marked Northeast Deposition Exhibit Eight. It's titled CMP Consolidated facts news and features for suspension specialists, tips to keep your rod and bolt work in shape. If you would look at that, it's two pages.
WITNESS COMPLIES
BY ATTORNEY KIGER:
Q. With reference to Exhibit Eight had you ever seen those two pages?

A. No. No, I haven't.
Q. So before you did the work on the Guelich truck on April 25th, 2000, is it correct that you had never seen Exhibit Eight which consists of two pages from Consolidated Metal Products?
A. That's correct.
Q. Okay. Is it correct that whenever the U-bolts were delivered to you from Triangle that Exhibit Eight was not contained in those U-bolts?
A. That's correct. It was not.
Q. It wasn't included with the U-bolts.
A. It was not included with the U-bolts, that's correct.
Q. Okay. And with reference to the second page of Exhibit Eight, would you read into the record where it says ---.
A. See bolt installation?
Q. Yes.
A. Be sure the U-bolts are

properly aligned with the top plate and the saddle alignment holes. The bolt is squared up. Check what torque is recommended for the installation. Snug the washers and nuts up, apply torque uniformly and incrementally to each leg of the U-bolt. For example, if the recommended torque is 400 pounds apply 100 pounds to one leg then do the other until it torques spec is met. Application of full torque to one leg and then to the other will change the physical shape of the U-bolt. Chances are once the vehicle is back on the road, the bolt will slide out of position causing damage to and ultimately failure of the suspension. Wrap the top of the U-bolt at the bend area to settle out any play. Double check the torque was applied with the torque wrench. If by accident you're way over-spec, disassemble, throw away the U-bolt, nut and washer and bend another rod.

Why? For two reasons. First, if you wrap the over-torqued U-bolt on the vehicle, it would eventually fail, use too much torque. And second, as was said in the beginning, never reuse torqued U-bolts, nuts or washers. They're stretched and don't have the strength to sustain a second torque. Drive the vehicle for a few miles to settle the suspension. Re-torque the U-bolts while they are under load. Recheck the torque level against the recommended spec of the torque wrench. Tell your customers to bring the vehicle back after the first day's operation or at least within 500 miles so that you can adjust for any settling that may have occurred.

Q. I'm going to show you what's been marked Northeast Deposition Exhibit Nine which is two pages and described as CMP the why behind the need to re-torque and re-torque again. I would ask if you would look at it.

WITNESS COMPLIES

BY ATTORNEY KIGER:

Q. Did Exhibit Nine come with the U-bolts when they were delivered to you by ---

A. No.

Q. --- Triangle?

A. No.

Q. Prior to today, had you ever seen Exhibit Nine?

A. No.

Q. Prior to doing the job on the Guelich truck on April 25th, 2000, did you ever see Exhibit Nine?

A. No.

Q. I think I might have asked you this, but I'll ask it again. Reference to the tips on suspension service which is Exhibit Five, did you ever receive this or see it after the work was done on the Guelich truck?

A. No, I did not.

Q. So up until the present you had not seen this?

A. I had not seen it, no.

ATTORNEY GREEN:

Well, it was supplied to him in discovery through me which would have ---.

ATTORNEY KIGER:

Yes. I let me revise that question.

BY ATTORNEY KIGER:

Q. Before this lawsuit was filed, you had never seen tips on suspension service which was Northeast Exhibit Five?

A. No, I had not.

Q. And before today you had never seen Exhibit Seven which is Mack truck U-bolt information; is that correct?

A. No, that's correct. I hadn't.

Q. And before this lawsuit was filed you had never seen Northeast Exhibit Eight; is that correct?

A. That's correct. I had never.

Q. And you had never seen

Northeast Exhibit Nine; is that correct?
A. That's correct.
ATTORNEY KIGER:
That's all the questions I have at this time.
EXAMINATION
BY ATTORNEY MOSES:
Q. Mr. Kyler, Judy Moses. I represent Consolidated. You testified at the beginning of your deposition that you were a truck driver and you repaired and maintained your own trucks?
A. That's correct, yes.
Q. Which I assume include preventative maintenance?
A. Yes, that's correct.
Q. And I would assume that in order to do preventative maintenance for it, you had the maintenance manual for each truck that you owned, and you consulted a maintenance manual for each truck that you owned?
A. I did not have a maintenance

manual for every truck that I owned, but I did have maintenance manuals for probably one or two of the trucks that I owned, yes.
Q. Okay. And the maintenance manuals that you did consult, for which trucks? Who were the manufacturers?
A. Ford.
Q. Now you owned a — you had a Mack truck.
A. I had a Mack truck, yes.
Q. And I think you said it was a '61?
A. B '61 model, that's correct.
Q. All right. Now, did you glean your information about installing suspensions in a maintenance manual?
A. I don't believe I did. I may have read the maintenance manuals that came with the Ford as opposed to doing certain things. I don't recall that I actually looked at the springs.
Q. Okay.

A. I don't.
Q. Okay. Would you agree with me that the Ford maintenance manual would also required you to use the torque wrench when re-installing leaf springs in a rear suspension?
A. Yes.
Q. And would you agree with me that although you don't believe that this exhibit whatever it is, it's Flagg Suspension Parts catalog, was it marked?
ATTORNEY KIGER:
Marked as Exhibit Three.
BY ATTORNEY MOSES:
Q. Marked as Exhibit Three. I think you said that you're not sure whether Northeast Exhibit Three, this Flagg catalog is exactly the same catalog that you had in your shop?
A. And at the time that we worked on the subject vehicle, it probably was not because they update their catalogs.

Q. Okay. But you're not saying that page 12 wasn't in the catalog that was in your shop?
A. I cannot verify that. I don't --- if I would have gotten a new copy, I would thrown the old one away.
BRIEF INTERRUPTION
BY ATTORNEY MOSES:
Q. If you what, I'm sorry?
A. If I had received a newer updated copy of the book, there wouldn't be no reason to have kept the old copies of the books.
Q. Okay. Now do you have the old copy in your shop of this Flagg catalog? Well, you don't have a shop anymore.
A. I don't have it ---.
Q. Did you retain a copy of the catalog or the original catalog with your records that you have sorted in your house?
A. Like I said, if there were new catalogs that came into existence,

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the old catalogs were out of date, there was no reason to keep all the old catalogs.
Q. Okay. Well, what are you saying, that you threw away the last catalog that you got from Triangle?
A. If there was a previous catalog, which I'm assuming there was, the old ones would have been disposed of.
Q. Okay. Well, what I'm asking, though, is do you have a catalog from Triangle that is similar to the one that was marked Exhibit Three?
A. Yes.
Q. Okay. And it's in your home?
A. Yes.
Q. Okay.
ATTORNEY MOSES:
Joe, would you produce that, please?
ATTORNEY GREEN:
Sure. The original, sure. That's what this is; right?

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A. Yeah, it's a copy of the catalog.
ATTORNEY MOSES:
I want the catalog that he has in his house. I want that catalog. He's not sure that this catalog is the same as that catalog.
ATTORNEY KIGER:
I think this is the one that Joe copied.
A. I gave him that, this copy. What I'm saying is if there was an older version of the catalog this may have come out two years after the accident.
ATTORNEY MOSES:
You're saying that you did not have this catalog in 2000?
ATTORNEY GREEN:
It's 2001 copyright.
ATTORNEY MOSES:
It says 2001 copyright.
ATTORNEY GREEN:

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My question will be, and maybe Brad will have to tell us, what was the immediately proceeding format.
BY ATTORNEY MOSES:
Q. Okay. You don't have the one before this?
A. There's no reason to keep whole copies. I mean it's basically the book that gives me 2001 U-bolts rod to buy.
Q. Okay.
A. There's nothing in there that I would have been worthy to keep.
Q. All right. Mr. Kiger asked you to read portions of page 12, and one of these steps that Triangle suggested or recommended was use a torque wrench, tight bolts give a characteristic ring instead of a dull thud when rapped with a brass hammer. You didn't need Triangle to tell you to use the torque wrench, did you?
A. No.
Q. And you didn't need Triangle

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to tell you to have U-bolts re-torqued for installation; correct?
A. No. That's things that I knew.
Q. These are things you already know. And you on your invoice you said that you had printed important retightening bolts after 1,000 miles.
A. Yes.
Q. And the 1,000 miles recommendation, where did you get that?
A. I don't recall exactly where I got that from. Like I said, these are recommendations. We don't know where the trucks working or --- you can put 1,000 miles on it in three days.
Q. Right.
A. So that's what I did.
Q. Okay. But you don't know whether you were relying upon a particular manufacturer ---
A. No.
Q. --- when coming up with the

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1,000 miles?
A. No. It was basically put on there so that the customers would realize they had to do that.
Q. All right. And the other information contained on page 12, this was information you already know; is that correct, in buying Triangle products over the years?
A. Yes.
Q. Okay. I mean you're not suggesting that you didn't know any of the information that was supplied to you today? The information that Mr. Kiger asked you to read, you're not suggesting that you didn't have that knowledge?
A. No.
ATTORNEY KIGER:
Excuse me. That's a pretty broad question. You mean everything I asked him about through the whole deposition?
ATTORNEY MOSES:

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No.
BY ATTORNEY MOSES:
Q. The information that Mr. Kiger asked you to read, the documents that you marked as exhibits.
A. All of them?
Q. Yes, all of them. And what he asked you to read, you're not suggesting that you didn't already have that information in your head before you installed these leaf springs in April of 2000?
ATTORNEY KIGER:
Let me object to the question in this sense. I really don't want to ---.
ATTORNEY MOSES:
I'll rephrase it.
ATTORNEY KIGER:
There might have been a dozen ---.
ATTORNEY MOSES:
I'll rephrase it.
BY ATTORNEY MOSES:
Q. You read the Exhibit Three,

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the Flagg Suspension parts catalog and Mr. Kiger asked you to read page 12. That's what I was asking you right now. You already knew what Mr. Kiger asked you to read. You already knew that information —
ATTORNEY KIGER:
I'm going to object.
BY ATTORNEY MOSES:
Q. — before you —.
ATTORNEY MOSES:
Let me finish my question.
BY ATTORNEY MOSES:
Q. Before you installed the leaf spring on the Guelich truck in April of 2000; is that correct?
ATTORNEY KIGER:
Okay. I'm going to object to that question because he has already testified that he did not know some of the information. It's too broad.
BY ATTORNEY MOSES:

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Q. You can answer the question, sir.
ATTORNEY KIGER:
My objection is noted.
BY ATTORNEY MOSES:
Q. Go ahead. You can answer the question.
A. Yes, I was aware of the steps.
Q. Okay. You were aware of the simple steps to reduce premature spring related parts failure, you were aware of that information?
A. Maybe not in complete context but in general, yes. In general, yes.
Q. Well, what do you mean not in complete context?
A. Well, you know, there are some steps in there that I may not have been totally aware of, but you know, in the context of most everything that was in there, yes.
Q. Well, were you aware that you needed use a torque wrench to torque U-bolts?

A. That it was recommended, yes.
Q. Yes. And you were aware of the proper sequencing of torquing the U-bolts?
A. Yes.
Q. And you were aware that Mack had a maintenance and lubrication manual ---
A. Yes.
Q. --- for camelback suspension; correct?
A. Yes.
Q. And you were aware that the camelback suspension was a unique suspension system?
A. Yes.
Q. And you knew to consult a Mack manual or maintenance manual with regard to the particulars of how to install or re-install springs, leaf springs; correct?
A. I could have. We didn't.
Q. Well, I'm saying you were aware that there was such a thing as a maintenance manual?

A. Yes.
Q. And you chose not to consult it; is that right?
A. Yes.
Q. And did you have any maintenance manuals in your shop ---
A. Yes.
Q. --- for any trucks?
A. Yes.
Q. Okay. And which ones --- and I'm talking about in April of 2000. Which manuals did you have in your shop at that time?
A. Specifically I can't tell you every manual that was there. There were --- I had purchased maybe two dozen manuals for older vehicles that were there.
Q. Okay.
A. We had manuals for light trucks, medium duty trucks. Most of them were probably Ford. There were probably --- I know some of the older maintenance manuals that were in there they were probably Mack

sections that were in there. A lot of those may come up --- you know, I didn't look through every book that I bought. I bought like 25 books.
Q. So you did have manuals?
A. But there were some manuals. I don't know what all information was contained in these manuals.
Q. All right. Now, did you ever consult a Mack salesman for any information?
A. No.
Q. Did a Mack salesman ever come into your shop?
A. Possibly, maybe. I don't remember.
Q. Did you deal with a particular Mack salesman?
A. I did have Mack salesman from Milesburg that came and stopped in. Generally we didn't purchase springs and suspension parts from him. There may have been oil filters or other things from other things for other applications that we worked on.

Q. All right. Now, do you own a computer?
A. Yes.
Q. And did you ever go on Mack's web site and try to get information from Mack with regard to servicing trucks?
A. No.
Q. Did you do it for any --- did you go on any web site and try to get information?
A. Well, I've gotten information for different things, nothing pertaining to Mack.
Q. Okay. For what other things did you get information?
A. We may have looked up parts for different vehicles, you know, things that may be work related to suspension problems and maybe power steering problem or hydraulic problem or something like that.
Q. Okay. Now did you ever request or order service bulletins from Mack?

A. No.
Q. Did you ever have your mechanics order service bulletins?
A. No.
Q. And do you know whether the installer of these leaf springs had ever consulted a Mack manual before, a Mack maintenance manual?
A. No, I don't.
Q. Okay. Had you ever used a brass hammer to inspect and evaluate leaf springs and U-bolts?
A. Yes, I have.
Q. And under what circumstances had you done that? You had done in the past?
A. I have done it occasionally, yeah. Usually on, you know, if somebody brought something in that maybe had a center section broken or something and just to check to see if the U-bolts were actually lose on the truck.
Q. So you knew to use a brass hammer to check whether the U-bolts

were tight?
A. I knew that you could do that, yes.
Q. Okay. And did your installer ever use a brass hammer?
A. I don't know that for sure.
Q. And since this lawsuit, Mr. Kyler, have you consulted the Mack maintenance manual?
A. No.
Q. You sold the shop in '99?
A. No, I sold it January of this year.
Q. Oh, January of this year. Okay. Have you spoken with anybody after this lawsuit was filed connected with, other than your lawyer, connected with your work on the installation of these springs or this line? Strike that. That's bad. Have you spoken with anybody about Northeast Spring's involvement in the installation —
A. No.
Q. — other than your lawyer?

A. No.
Q. You had said earlier that you ordered number five, the number five ply from Triangle.
A. Correct.
Q. Did someone from Guelich call you and tell you that they needed number five ply?
A. I don't recall if they told me which leaf was broke when they called me or we found that out after they brought the truck.
Q. Okay. So they could have brought the truck in, and then you kept the truck and then called Triangle and —?
A. There's a possibility since it was UPS'ed to us and they had brought the truck in, and we determined that was what was broken. But I can't recall for sure.
Q. Did you ever deal with anybody regularly at the shop at Guelich? Did you ever —?
A. No.

Q. Do you know what I mean?
A. No.
Q. No? Did you know any of those mechanics at Guelich
A. The only one I knew that used to call once in a while was a guy named Randy over there. I don't know his last name.
Q. Could that be Randy Neff (phonetic)?
A. It could have been.
Q. Okay. When did you typically talk to him?
A. If he needed anything, you know, a lot of times he was the person to contact.
Q. Okay. Now did Northeast Spring do all of Guelich's rear suspension work?
A. No.
Q. Do you know who else did?
A. Probably themselves. Maybe somebody else. I don't know.
Q. Did anybody in their shop ever call you up for advice —

A. Yes.
Q. --- about the installation of leaf springs?
A. Maybe not on leaf springs. They did call one time for advice on something, but I don't recall what it was.
Q. Do you think it was Randy?
A. I don't --- no, I don't think it was Randy. I recall a time when we used to get calls from people all the time, so I don't recall every person that called. But I believe they did call one time and asked us questions about something.
Q. Now, do you recall installing leaf springs for Guelich before April of 2000?
A. I would assume that we did. We did work for them and maybe not on camelback trucks but ---.
Q. And on other trucks?
A. --- they have a number of vehicles on, and they were a customer of ours so ---.

Q. Okay.
A. It wasn't the first truck that we did, no.
Q. Okay. How many records do you retain of work that you did on Guelich's trucks? Do you have all of your records?
A. I probably do.
Q. Okay. Do you know how far they go back?
A. Probably 13 years.
Q. Thirteen (13) years. Okay. Because we only got just a sampling of records. Now I think you had testified earlier, Mr. Kyler, that it was your practice tell the driver of the truck who was picking the truck up to remind them that the U-bolts shouldn't be re-torqued after 1,000 miles.
A. It was the driver that picked it up it was general procedure in mind to usually remind whoever picked it up that they should retighten their U-bolts.

Q. Okay. And you don't recall whether you did that in this instance?
A. I don't recall that for sure, no.
Q. Do you know whether Randy Neff was sophisticated enough to know that U-bolts should be re-torqued?
A. I have no idea.
Q. I just have one more question. This was marked at Mr. Guelich's deposition, Exhibit Four, and this is other work that Northeast did on this particular truck, on the involved truck and it's an invoice dated 8/17/99. I just wanted to know if you could explain that to me, what work was done?
A. And we rebushed the back suspension on that with rubber end pads on each end of those springs that I had spoken about before. We replaced those and then this truck had a rubber center bushings in it so we replaced the rubber center turning

bushings. At that time it looks like we put a torque arm on the vehicle also.
ATTORNEY MOSES:
One second, Mr. Kyler.
ATTORNEY KIGER:
I can't tell if she's saying Mr. Kyler or Mr. Kiger.
OFF RECORD DISCUSSION
ATTORNEY MOSES:
That's all.
EXAMINATION
BY ATTORNEY REMICK:
Q. Mr. Kyler, my name's Brad Remick. I represent Triangle in this case. I just have a few follow-up questions for you. The catalog or the parts catalog that has been marked as Exhibit Three came from whatever you had in your possession; right?
A. Yes. That's correct.
Q. And I think your attorney mentioned that this catalog is dated sometime in '01, 2001.

A. Yes.
Q. As a result of receiving this catalog, did you change any of the materials or any of the written documents or any of the instructions with the written documents that you would give out to your customers?
A. No.
Q. Okay. Did you, as a result of having this catalog, did you tell them anything different?
A. No.
Q. You said that Triangle was your main supplier; is that right?
A. That's correct.
Q. And I'm talking about U-bolt suspension parts and that sort of thing.
A. Yes.
Q. Where else did you get stuff?
A. There were a few things I purchased from Gaumer's Chassis Engineering in Chambersburg.
Q. How do you spell that?
A. G-A-U-M-E-R-S. We had

purchased some parts from Service Spring Company in Indianapolis, Indiana. Those were probably the two main other suppliers, and there's a number of other suppliers out there.
Q. Can you repeat where Gaumers was?
A. They're in Chambersburg.
Q. And had you been getting materials from those companies, you know, since you opened your business in '88?
A. Yes, I had until we pretty much made Triangle our primary supplier.
ATTORNEY REMICK:
And we thank you for that. Thanks. That's all I have.
ATTORNEY GREEN:
Any questions?
ATTORNEY KIGER:
Yes.
RE-EXAMINATION
BY ATTORNEY KIGER:

Q. Mr. Kyler, you were asked some questions about this August 17th, 1999 invoice for work on the Guelich 1991 Mack truck number 309, the truck involved in the accident.
A. Yes.
Q. On there you listed 24 U-bolt washers.
A. Those are 7/8th's U-bolt washers.
Q. How were they used and why?
A. The 7/8th's bolts on the end pads, there's four bolts on each cap on the end pads. So if you put a washer underneath and on top of each one that's that.
Q. That's where the 24 went?
A. Right.
Q. At the time you delivered the truck back to Guelich on April 25th, 2000, --- strike that.
ATTORNEY REMICK:
I'm finished. That's all.
ATTORNEY GREEN:

Barry, we're finished here.
* * * * * * * *
DEPOSITION CONCLUDED AT 1:05 P.M.
* * * * * * * *

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PA

CIVIL DIVISION

* * * * * * * * *

BRENDA ORSICH, *
Administratrix of *
the Estate of DAVID A.*
WEAVER, Deceased, *Case No.
and JENNIFER WEAVER, a*03-1251 CD
minor, by her Parent *
and natural Guardian, *
BRENDA ORSICH, *
Plaintiffs *
vs. *
BARRY KYLER, t/d/b/a *
NORTHEAST SPRING & *
EQUIPMENT CO., * DEPOSITION OF
NORTHEAST SPRING & * JOSEPH
EQUIPMENT CO., and * SADOWSKI, SR.
MACK TRUCKS, INC., * May 31, 2007
Defendants *
vs. *

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TRIANGLE AUTO SPRING COMPANY, *
Defendant *
VS. *
CONSOLIDATED METAL PRODUCTS, *
Defendant *

DEPOSITION OF
JOSEPH SADOWSKI, SR.
MAY 31, 2007

DEPOSITION
OF

JOSEPH SADOWSKI, SR., taken on behalf of the Defendant herein, pursuant to the Rules of Civil Procedure, taken before me, the undersigned, Jacqueline L. Hazlett, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at the offices of Sargent's Court Reporting Service, 106 North Second Street, Clearfield, Pennsylvania, on Thursday, May 31, 2007 beginning at 10:37 a.m.

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NONE OFFERED

OBJECTIONS

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PROCEEDINGS

JOSEPH SADOWSKI SR., HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

EXAMINATION

BY ATTORNEY MOSES:

Q. Hi, Mr. Sadowski. My name is Judy Moses. We met a little bit ago. You're subpoenaed to give your deposition today, and it's connected with some knowledge you may have about Guelich Explosives since you're a former employee, and secondarily related to the lawsuit filed by David Weaver's Estate. If you don't understand my question, would you stop me and tell me you don't understand the question?

A. I will.

Q. And if you don't hear all the words of the question, would you stop me and tell me to repeat it?

A. Okay.

Q. And if you answer the question, can we agree you've understood the question and you've heard it?
A. Yes.
Q. All right. Sir, would you state your full name for the record?
A. Joseph E. Sadowski, Sr.
Q. Mr. Sadowski, have you ever given a deposition before?
A. No, I haven't.
Q. As you can see the court reporter's taking your testimony down and if you give a yes or no answer, please say yes or no versus shaking your head or going like this, because she can't take it down; all right? And we would ask you to give verbal answers and not speculate about answers as well; okay?
A. Okay.
Q. Do you work today? Do you have a job?
A. A part-time job.
Q. Okay. Where do you work, Joe?

A. I just do some remodeling and stuff like that?
Q. And what is your --- may I call you Joe?
A. Yes.
Q. Thank you. What is your address, Joe?
A. P.O. Box 77, 308 Hoovertown Road, H-O-O-V-E-R-T-O-W-N, Road, Pennville, PA 15849.
Q. And are you married or single, Joe?
A. Married.
Q. And do you have any children in the area?
A. Two.
Q. Are they two adult children?
A. They are adults, yes.
Q. All right. Now, where were you employed --- I understand you are retired from Guelich Explosives.
A. Yes. That is correct.
Q. Okay. When did you retire?
A. I believe it was April the 9th of 1999.

Q. And what was your job title at Guelich Explosives?
A. I was general superintendent.
Q. I'm sorry?
A. general superintendent.
Q. And that was your job title when you retired in '99?
A. Yes, it was.
Q. And what were your job duties as a general superintendent?
A. I was in charge of the shop and of all the men, dispatching them to the jobs.
Q. When did you start at Guelich?
A. When did I start there?
Q. Yes.
A. Ma'am, I think it was August of 1976. That's not definite, but very close.
Q. That's okay. That's okay. You can approximate. That's not a problem. And when you started there in '76 or thereabouts, what did you do? What were you hired to do?

When I first started there I was just a helper on a blasting crew.
Q. Now, can you tell me anything about Guelich Explosives? Where is it located?
A. R.D. 3, Clearfield.
Q. Has it always been there?
A. Yes.
Q. The office has always been located there?
A. Yes.
Q. And what kind of business is Guelich Explosives, what do they do?
A. They're in the blasting business, quarries, road jobs and open pit mining.
Q. And when you started in '76, you said you started as a helper?
A. Yes.
Q. And what did you do as a helper?
A. We loaded trucks. We went to the jobs and laid out the explosives and did the blasting.
Q. And where would the jobs be

located?
A. All over the area. All over this area within, I would say, probably a 50-mile area.
Q. A 50-mile area of Clearfield?
A. Yeah. Yeah.
Q. And these job sites, can you describe them for me? Were they strip mine areas?
A. Yeah, strip mines. And as far as road jobs, I did very little on that, but I have been in the quarries, the limestone quarries.
Q. And the limestone quarries, is that the primary site where the explosives ---?
A. Yeah, where the holes are drilled, where the limestone is shot before it gets crushed.
Q. And to get to these limestone quarries it's all off road?
A. Yes. Once you get off the main highways, yes. And they are fairly well maintained.
Q. Now, at some point while you

were employed at Guelich did you become a driver?
A. Yes.
Q. Were you a driver first when you were a helper?
A. Yes. Yes.
Q. So you started as a driver?
A. Yes.
Q. Do you have your CDL license?
A. Yes, I do, ma'am.
Q. When did you get that?
A. Whenever the law came into effect that you had to have them. I do not know when that was.
Q. Do you know whether that was in the '80s, '70s, '80s or '90s?
A. It was probably in the '80s.
Q. Now, did you have to take any test to get your CDL license?
A. Yes, I did, ma'am.
Q. Did you have to take any tests while working at Guelich Explosives?
A. What kind of test are you referring to?
Q. An over-the-road tests or any

road tests?
A. Yes, I did. I had to take a driver's test. Yes. And who that was issued by, I do not know.
Q. Now, you started as a helper and you also drove trucks.
A. Yes.
Q. And at some point what was your next job title at Guelich?
A. Then I became like foreman, general superintendent.
Q. When did you become foreman?
A. Probably about, I would say, 1978 or '79.
Q. And what were your job duties as a foreman?
A. To dispatch the men to the jobs.
Q. How many people were employed by Guelich in the late '90s if you recall?
A. I would say in the Clearfield division, I would say, probably about 25.
Q. And what does the Clearfield

division consist of?
A. This is where the main office is and the main shop.
Q. And how about in 2001 when David Weaver, at the time of David Weaver's accident in the summer of 2001, the same, 25 employees ---?
A. I do not know, ma'am. That was over two and a half years after I retired.
Q. You retired in '99?
A. That's right.
Q. But in '99 there were about 25 employees?
A. Twenty-five (25) or 30, yes.
Q. And out of those 25 or 30, how many were drivers?
A. I would say at least 20 of them. I'm not sure, though. That's just a guess.
Q. And where are the other offices of Guelich located?
A. Somerset, Pennsylvania, which it is Friedens is the address.
Q. And do you know how many

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employees work at that office?
A. No, I don't know how many employees work there.
Q. In 1999?
A. I do not know that.
Q. And is there another office?
A. Bloomsburg.
Q. Bloomsburg?
A. Yes.
Q. And where is that located?
A. East of here, probably about 130 mile.
Q. And you don't know how many employees worked there in the '90s, the late '90s?
A. No, I don't.
Q. Now, in the Clearfield office in the late '90s you said there were what, at least 20 drivers?
A. Probably so.
Q. Did Guelich buy a certain type of truck? What kind of trucks did the drivers drive?
A. Van trucks.
Q. I'm sorry?

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A. Van trucks with boxes on the back that we hauled explosives in.
Q. Was there any particular manufacturer?
A. If I'm not mistaken, ma'am, they were probably all GMCs, if I'm not mistaken. There might have been an International, too.
Q. Did you know David Weaver?
A. Yes, I did, ma'am.
Q. And do you know when he was hired, first hired at Guelich?
A. No, I do not know the exact date he was ---.
Q. Do you know approximately when he was hired?
ATTORNEY MOSES:
Jerry, do you know?
ATTORNEY KIGER:
No. I have no idea.
Late 1980s.
It would have been like in August or something.
ATTORNEY KIGER:
Late 1980s.

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A. Ma'am, you also asked me about trucks and I told you about van trucks, but then we also had other trucks that hauled nitrate.
BY ATTORNEY MOSES:
Q. Yes. So the van trucks were used for what?
A. For hauling explosives.
Q. Okay. And you said those were GMC?
A. Probably, just about all GMCs, maybe some Internationals.
Q. And how many of the truck drivers just hauled explosives in the late '90s?
A. Well, all of them were qualified to haul them. Yeah.
Q. But did certain drivers just haul explosives and some haul ammonium nitrate?
A. Yes. Usually, that's the way it went. Everybody had their specific job. Yes.
Q. All right.
A. But they were capable of doing

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either one, a lot of them, not all of them.
Q. So van trucks were used to haul explosives, and then there was trucks that were used to haul ammonium nitrate?
A. Yeah, we called them bulk trucks, B-U-L-K.
Q. And was there a particular manufacturer that Guelich used?
A. Ma'am, we had Internationals, one Mack, and --- I'm sorry, two Macks we had and there could have been a Ford also. I can't remember exactly.
Q. All right. So there were approximately, what, four or five trucks that were used to distribute the ---?
A. Yes, approximately, yes.
Q. Yes. One more rule which I didn't tell you. Can you let me finish my question, ---
A. Okay.
Q. --- and then I'll let you

answer the question. She can't take down both of us ---
A. Okay.
Q. --- if we're talking at the same time. So let me just repeat that, Joe. So there were approximately four or five trucks that were used specifically to haul ammonium nitrate, at least in the late '90s before you retired?
A. That is correct.
Q. And you think two of those trucks were Mack trucks?
A. Yes.
Q. Joe, can you give me a summary of your educational background?
A. High school.
Q. And did you go to technical school or training or trade school?
A. No, I didn't.
Q. And any certifications? Did you obtain any type of certifications for like mechanical training, operating machinery?
A. No. I have no certifications.

Q. You did obtain a CDL license?
A. Yes, I did.
Q. And that was, you think, in the '80s?
A. I think it was late '80s, yes.
Q. Late '80s. Were you in the military?
A. No, ma'am.
Q. Have you had any experience in body shop work and maintaining or repairing machinery or vehicles?
A. Yes.
Q. And what did that training consist of, Joe?
A. I'm sorry, you said training in doing it?
Q. Yes.
A. No, I haven't had no training.
Q. Okay. No formal training?
A. No. No.
Q. Have you had on-the-job training?
A. Yes, ma'am.
Q. And what is that on-the-job --- can you go through that with me,

the on-the-job training for maintenance and servicing the vehicles and machinery?
A. Well, ma'am, probably just about all my life I've been in the construction industry with heavy equipment and heavy trucks and it was all hands on experience learning from people that did, you know, what to do and how to do and that's basically it.
Q. Now, what was your first job that involved maintaining heavy equipment or heavy trucks?
A. Probably back in the late '60s for Pipeline Construction Company.
Q. Pipeline Construction?
A. Yes. And excavating and grading.
Q. Is that the name of the company, Pipeline Construction?
A. No. The company is no longer in business. The name of the company was Haupt, H-A-U-P-T, Pipeline.
Q. Okay.

A. And then a company by the name of Joyce, J-O-Y-C-E, Western Corporation.
Q. Okay. Is that company still in business?
A. Pardon?
Q. Is that company still in business?
A. No, they're not in business either.
Q. And when did you work for Joyce Western?
A. Probably right before I came --- I finished up with them right before I came to work for D.C. Guelich Explosives.
Q. All right. Let's talk about Haupt first.
A. Yes.
Q. That was in the late '60s. How long did you work there?
A. Probably about four or five years.
Q. Okay. And what were your job duties there?

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A. Ran equipment and repaired equipment.
Q. And what kind of equipment did you run?
A. Drove tractor-trailer, low boys and ran dozers, side booms.
Q. Okay. And you did the maintenance ---
A. Yes.
Q. --- and repair on that equipment?
A. Yes, helped with maintenance and repair, yes.
Q. And when you said helped with, you were in a garage?
A. Garage and out in the field.
Q. And at Joyce Western, how many years did you work there before you came to Guelich?
A. I think for about ten years, ma'am, approximately.
Q. And what did you do for Joyce?
A. Approximately the same thing I did for Haupt Pipeline, just about the same thing.

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Q. And did Joyce Western have a garage?
A. Yes, they had a garage, but we worked all over the Eastern United States.
Q. And what type of maintenance work did you do on equipment?
A. The same thing I did for Haupt Pipeline Construction.
Q. The same kind of equipment?
A. Yeah, same kind of equipment.
Q. Bulldozers?
A. Yes.
Q. Low boys?
A. Yes.
Q. And what kind of trucks? Did you drive a truck for Joyce?
A. Yes. I drove tractor-trailer, low boys, hauling equipment, hauling pipe.
Q. Now, were you responsible for your truck maintenance, just you, when you worked at Joyce?
A. Yes.
Q. Were you responsible for doing

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the P.M. on it?
A. Yes.
Q. And did you also do the major repairs on the tractor-trailer?
A. No, not real major repairs on them, no.
Q. Primarily the preventative maintenance?
A. Yes.
Q. Where else did you work, Joe?
A. A small stint for about a year with a company by the name of Brookville Wood Products.
Q. Okay.
A. And there I drove a log truck.
ATTORNEY KIGER:
Was this before? That was before the other job; is that right?
ATTORNEY REGENSTEIN:
I don't think he said.
BY ATTORNEY MOSES:
Q. When did you work for Brookville?
A. After Joyce.

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Q. After Joyce and before Guelich?
A. And before Guelich. That was probably about a year's worth of working there.
Q. A year's worth? And you said you drove a log truck?
A. Yes.
Q. And then you started with Guelich you said in the mid-'70s?
A. Yes. I think '70-something or '76, something like that.
Q. So I think at Guelich we were up to the stage where you were a foreman. That's a promotion; correct?
A. Yes.
Q. When you were promoted to foreman. And what time frame was this?
A. That was probably --- if I started there in 1976 or '77 that was probably a couple of years later.
Q. In the late '70s?
A. Yes, I would say.

Q. And what were your duties as a foreman, Joe?
A. To dispatch the men to the jobs.
Q. Did you have any responsibilities in maintenance as a foreman, maintaining equipment?
A. Yes. I had mechanics in the shop, and I relayed to him what needed done, and he did it.
Q. Now, in the late '70s, what kind of maintenance shop did Guelich have? How many people did it employ?
A. Total people?
Q. Yes.
A. I don't know in the late '70s I could have been 12, 10 or 12.
Q. Okay. And before you retired or at the time you retired in 1999 Guelich had a shop on site?
A. Yes. It was the very same shop, yes.
Q. And who ran that shop in the late '90s?
A. Who ran the shop?

Q. Yes.
A. I did.
Q. So you were the shop foreman?
A. Yeah, more or less, yes.
Q. Okay. Was that your job title?
A. No. My job title was general superintendent, foreman, but I was in charge of the garage of the shop.
Q. And when did you formally become in charge of the garage?
A. Well, that was probably about the same time I became general superintendent.
Q. And when was that? I'm sorry, Joe.
A. Late '70s, early '80s, whatever.
Q. Did anyone else share that title with you, shop foreman?
A. Probably the man over me was the owner of the company, Dwayne Guelich.
Q. Now, in the late '90s, I think you said there were about 20 or 25

trucks owned by Guelich?
A. Yes, probably so.
Q. And in the late '90s five of those were used for ammonium nitrate and the balance were used for explosives to haul explosives?
A. I would say approximately, ma'am, yes.
Q. Now, how many people worked in the shop in the late '90s?
A. It was mostly one mechanic.
Q. There was one mechanic?
A. Yes.
Q. Okay. So had that number decreased over the years?
A. Well, sometimes we had just one. Sometimes we had two, not always.
Q. Maybe I misunderstood you. I thought you said at some point there were 12 people employed in the maintenance shop.
A. No, not in the maintenance shop. No, no. No, ma'am.
Q. Well, then I misinterpreted

you.
A. No. I'm sorry.
Q. Did you use the number 12 for --- well, okay. So at any given time --- strike that.
In the '70s through the late '90s, how many people were typically employed in the maintenance shop, in the garage?
A. In the garage there was always one mechanic there.
Q. And who was the mechanic in the late '90s before you retired? I saw the name Randy Knepp in a deposition.
A. That is correct. That is correct.
Q. Randy Knepp, and that's K-N-E-P-P?
A. Yes.
Q. I think. All right. Do you know whether Randy is still employed with Guelich?
A. I think he still is. I'm not sure, ma'am.

Q. Do you know when he was first hired?
A. No, I don't. No, I don't.
Q. Has he worked there at least 10 or 15 years?
A. I would say at least that long. I would say ten for sure. That was before I retired. Yeah, that's when I retired, yeah.
Q. Do you recall the names of any other mechanics over the years?
A. Jim Mitchell.
Q. Jim?
A. Mitchell, M-I-T-C-H-E-L-L.
Q. Okay. And was he the mechanic before Randy?
A. Yes.
Q. And he's no longer employed at Guelich?
A. No, ma'am.
Q. Now, what were Randy Knepp's responsibilities?
A. That if something was broke or needed fixed on a truck, it was his job to repair it.

Q. And who made that determination whether something was broke or needed to be fixed on a truck?
A. When I was told by Riley, there was something wrong or if something needed fixed, I relayed that to the mechanic.
Q. Okay. Now, was there a work order that was prepared or was it a verbal --- did you relay this verbally that so and so said something's wrong with the truck and ---?
A. Verbally.
Q. And then Randy ---?
A. And then there was a work order usually wrote --- work order wrote up on what was done.
Q. Did Guelich use any outside shops for its maintenance?
A. Yes, they did.
Q. Who did they use?
A. For some of the work, Heller Spring, Clearfield Equipment. I

don't know, there might be more. I just can't remember right at the moment.
Q. Do you know why an outside shop was used?
A. Maybe we were busy or whatever. There's stuff that we couldn't do at the moment.
Q. Do you know what Randy Knepp's background was? Did he have any certifications or receive any training as a mechanic?
A. I do not know. I do not remember, ma'am.
Q. Now, did Guelich in the late '90s have a preventative maintenance program?
A. Yes, we did.
Q. And what did that consist of?
A. It consisted of the equipment being brought in. I don't recall the number of miles that it was right now, and they were serviced and checked over and a maintenance report made out.

Q. Did the driver bring the truck in at certain intervals?
A. Yes, every so many miles, yes.
Q. So the driver brought the truck into the shop every so many miles?
A. Yes.
Q. And whose responsibility was it to know --- to track down those miles and when the driver would bring the truck in, if you know?
A. Well, it was between the mechanic and myself.
Q. I mean, was there a written schedule indicating that, you know, that Dave Weaver should bring his truck in at a certain time or the other drivers should bring their trucks in at certain times?
A. No, they kept track of it, because they made out a report every day with the mileage on the report that they had checked over their trucks, a preventative maintenance thing that everything was okay on

their truck.
Q. And when you say they, you're talking about each individual truck driver?
A. Each individual truck driver, yes.
Q. And did that report you're talking about have a certain name?
A. Mechanical defect report.
Q. And how long had those mechanical defect reports been used?
A. It was used ever since I started there, ma'am.
Q. So that report was in place?
A. Yes, and saved while I was there.
Q. And it was saved? Okay. Do you recall the names of any other truck drivers in the late '90s, Joe?
A. Mike Donahue.
Q. And did Mike haul explosives or ammonium nitrate?
A. He hauled ammonium nitrate.
Q. How was a driver selected for hauling ammonium nitrate versus

explosives?
A. Ma'am, there was some of the drivers that did both. They were capable of doing both, yes. You had to have a CDL to drive a tandem truck.
OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q. So Mike Donahue, did he drive both a truck that carried explosives and ammonium or just ammonium?
A. He could drive both.
Q. He could drive both, because he ---?
A. The majority of time he drove ammonium nitrate trucks.
Q. And he had a CDL license?
A. Yes, he did.
Q. Do you know whether he stills works at Guelich?
A. As far as I know, he still does.
Q. And we know David Weaver drove a truck carrying ammonium nitrate.
A. Yes.

Q. And he could drive both?
A. Yes, he could, ma'am.
Q. Because he had a CDL license?
A. Yes.
Q. And do you know whether David Weaver did drive both trucks?
A. I would say at times. Mostly ammonium nitrate, but sometimes he would drive one of the other trucks also.
Q. It's established that he drove a Mack truck.
A. Yes.
Q. Do you recall that?
A. Yes.
Q. David would never haul explosives in the Mack truck; is that right?
A. No. You couldn't haul explosives. They are used --- if I can explain this to you?
Q. Sure.
A. They're used for hauling ammonium nitrate and fuel oil.
Q. And how often were the Mack

trucks used, every day, five days a week, six days a week? What was the schedule?
A. Sometimes five days a week, six days a week, maybe sometimes two or three days or one day, depending on how busy we were.
Q. Now, if David wasn't hauling ammonium nitrate, he would be hauling fuel oil or what?
A. No. Ma'am, no. The fuel oil is a separate compartment that mixes with the ammonium nitrate that you put down the blast holes. That's why there's fuel oil on the truck. There's a separate tank in front of the ammonium nitrate tank, and when you auger it off it mixes with the fuel oil and it goes into the bore holes. That's why there's fuel oil hauled.
Q. Okay. Now, was the haul the same weight every time, like 30,000 pounds or something like that, or what?

A. Not every time. Sometimes 30,000, sometimes 25,000 or 20,000. It depended. It depended on the size of the job.
Q. Okay. Now, do you recall the name of any other drivers with CDL licenses when you ---?
A. Ma'am, at that time I don't remember who the rest of the drivers were honestly.
Q. Okay.
A. I do not remember.
Q. Now, do you know where David Weaver typically hauled or drove?
A. It could have been anyplace, ma'am. Anyplace in the area. Wherever our jobs were in the area, just all over.
Q. So he typically drove this 50-mile area?
A. Yes, sometimes, maybe further, maybe a little bit further. It just depended where the jobs are, you know.
Q. Now, how often did he

typically have to deliver ammonium nitrate to quarries?
A. Whenever needed, ma'am. As far as how often, it's like every day or every other day or once a week. I don't know. It was just whenever he needed to go there.
Q. Now, can you give me the names of some of these limestone quarries in the area?
A. New Enterprise Stone and Lime, Hawbaker's.
Q. What was it, Hawbaker?
A. Hawbaker, Glenn O. Hawbaker, State College.
Q. How do you spell that?
A. H-A-W-B-A-K-E-R, I think.
Q. All right. Any others that you recall?
A. They're from State College. New Enterprise is from Roaring Springs.
OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q. Are those the only ones that

you can recall? Any others?
A. There probably is more, ma'am, but it just won't come to me right now. If Hawbaker and New Enterprise isn't doing it, it's not getting done. You know that.
Q. Now, do you know whether the truck drivers received any training as to how they would inspect their trucks to see if there was a problem?
A. I would think when they looked at their trucks if they thought there was a problem or something needed done they usually asked the mechanic, or a lot of times they asked me to take a look at things.
Q. Okay. Were the drivers required to look at their trucks every day?
A. Yes, every morning. They call it a pre-trip inspection.
Q. And were they trained on how to conduct a pre-trip inspection?
A. Yes, they were.
Q. And who trained the truck

drivers?
A. Well, between myself and the mechanic or mechanics.
Q. Now, did they receive any formal training like classroom training on how to do it, how to go about the pre-trip inspection?
A. Not that I recall of. Not classroom training, no.
Q. Okay. Well then, can you describe the training they received?
A. The kind of training that they received they had to check their brakes. They had to check their lights. They had to check all the --- like the bolts and make sure there's no loose nuts or bolts or lug nuts on the tires.
Q. Okay. Anything else?
A. General appearance of the truck, and they also had to check tires.
Q. Now, when they checked the tires, how were they checking the tires?

A. Well, check to make sure there was no cuts that the tire was good, the tread was good and the air wasn't low.
Q. Okay. So they did an eyeball check?
A. Yes.
Q. All right. Anything else, Joe?
A. Not that I can think of at the moment.
Q. Now, where did they do this pre-trip inspection?
A. Right at the shop before they left.
Q. Now, how did that work? There were approximately, and correct me if I'm wrong, were there at least on any given day 20 trucks going out?
A. No, not every day there wasn't 20 trucks. There could have been two or three one day, ten the next day, 15, five or six, depending on the work load.
Q. Okay. And if a trucker wasn't

driving, what was he doing? What would he be doing?
A. We had a manufacturing plant where we manufactured what they call wet hole material. Some of them worked there when they weren't out. And we also had trucks come in to unload that brought our explosives in, you know, our blasting caps and stuff, and they had to unload those. They had a variety of jobs.
Q. Well, can you give me an example of how did the trucker know what he was supposed to do in a given week or on a day? Did he receive a schedule from you?
A. Yes. I did the scheduling, ma'am. I sent him where he had to go.
Q. So like, for example, would David Weaver know where he was to go, what he was to do every day of the week, every day of the work week? I'm just trying to get an idea of how it worked.

A. Mostly in the morning when they started, that's when they knew. Sometimes they would know the day before, but it didn't always work that way. It was mostly in the morning. I did the scheduling. When they came in I had the work laid out for them, where to go and what to do. Sometimes they went out to a job, they were there two or three hours, came back in, had to reload and go back out again.
Q. Now, if you gave David Weaver an assignment that he was to drive that morning, how would he go about inspecting his truck?
A. Well, it's up to him to inspect the truck and mark the sheets if anything was wrong or if it needed fixed or if it was okay, then he was able to go.
Q. You went over a list of typically what truck drivers inspected before they went out on the road. Did the truck drive literally

pull his truck into the shop to inspect it?
A. No, if it was a nice day they did it outside. They did it outside a day like today or whatever. They didn't need to. Sometimes if they thought something was wrong, they would pull it in and maybe the mechanic would look at it and see, or fix it or whatever the case might have been.
Q. Am I correct in stating that they mainly did an eyeball inspection of the truck before they went out?
A. Yes. Yes. Mainly an eyeball check, yeah, of your tires and ---.
Q. And the lights?
A. And the lights, yes.
Q. And the general appearance of the truck?
A. And the general appearance of the truck and check for loose lug nuts, because if a lug nut is loose the wheel will turn. You can tell. Basically, that's it. You did not

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put a wrench on every nut and bolt on the truck, because you'd be there forever. You can't do that. Nobody does.
Q. Right. Okay. So the lug nuts, how would they check the lug nuts to see whether they were loose?
A. You can tell that by looking at them, ma'am.
Q. I don't know. How do you tell that?
A. Well, you just look at it and you can tell if a nut is loose or not or a bolt is loose. You can tell because if something is loose it will move back and forth or you can see where the wheel had spun. It's not like a car tire. They are totally different.
Q. Okay. So other than checking the lug nuts, no other nuts were checked?
A. No, they checked their U-bolts and everything on the truck. They check the springs to make sure

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there's no broken leaves, and things like that.
Q. Now, did you ever inspect the truck drivers doing a pre-trip inspection?
A. Yes, I have.
Q. And you said that they don't bring the truck into the shop, they do it outside.
A. Yeah, they can do it on daylight today or a nice day, you can do it outside. It doesn't have to be brought in the shop to do that.
Q. And how long --- typically, how long does it take to do a pre-trip inspection?
A. It usually takes a half an hour.
Q. A half an hour?
A. Yeah.
Q. What time would the truck drivers typically show up at the shop?
A. I think our starting time was mostly eight o'clock in the morning,

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and depending on the workload, it could have been seven o'clock in the morning, but I think our starting time was mostly eight o'clock.
Q. Okay. And so you personally observed every truck driver doing the pre-trip inspection for at least a half an hour?
A. Are you talking every truck every day?
Q. Yes.
A. Did I watch them?
Q. Yes.
A. No, ma'am, I did not. No, no.
Q. Okay. Well, I'm just trying to get an idea.
A. No, no. I, at one time or another, especially with a new employee that just started driving, yes, I observed that, but not every day. No, ma'am, I did not.
Q. Did you ever watch David Weaver doing the pre-trip inspection?
A. My memory really doesn't recollect that, but I probably did at

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one time or another.
Q. But you don't recall?
A. I don't recall, no.
Q. Do you know whether the truck drivers used any tools to do a pre-trip inspection?
A. Not unless it was an air gauge to check tires with or something like that, ma'am, or there were things not related to the running of the truck, like the bulk unit with chains and stuff, and they had tools to fix that. But as far as a pre-trip inspection, like if something needed tightened, yes, they would tighten it or get the mechanic, because they were well versed in what to do.
Q. But they didn't typically use a tool to check the truck?
A. No, you don't have to use any tools.
Q. Now, how, if you know, how did truck drivers go about checking leaf springs?
A. Well, you can visually check

leaf springs to see if it's cracked or not. You don't usually have any tools to check that. You can use your eyes.
Q. And I mean, do you have to stoop down, do you have to get underneath the truck? How does that work?
A. Mostly you can see the springs from between the dual tires.
Q. You can see the springs between what?
A. Between the two back axles, and they're behind the tires, and you can look back there and visually see if anything's broke.
Q. And is that what the truck drivers were looking for to see if something was broke?
A. Yes, they could tell if a U-bolt was loose. They could tell if a spring was broke.
Q. Okay. Now, how can a truck driver tell if a U-bolt is loose?
A. Well, you can see if it's

loose and you can see if it's moving or if it's been moving.
Q. What indicators are there? What do truck drivers see if a U-bolt is loose?
A. If the U-bolt is loose, it will move back and forth or up and down or both.
Q. Well, when the truck is stationary, are you saying the truck driver is feeling the U-bolts?
A. You can feel it with your hand. You can visually see it if its loose because it makes marks on the spring.
Q. Were there any tools used by the truck drivers to check leaf springs?
A. No, ma'am.
Q. Now, were you ever present when a truck driver found a broken spring?
A. Probably at one time or another, yes, ma'am.
Q. Do you know whether the truck

drivers were ever shown how to inspect leaf springs and U-bolts?
A. Yes, they knew that.
Q. How do you know they knew it?
A. We showed them how, ma'am.
Q. Okay. That's what I'm trying to get at.
A. We showed them how to do it, what to look for.
Q. Are you saying that you showed each and every truck driver how to inspect leaf springs?
A. Yes. I would say at one time or another, yes.
Q. Do you recall ever showing David Weaver how to inspect leaf springs?
A. I would probably say yes, ma'am.
Q. Okay. You do not remember it ---?
A. I do not remember it.
Q. And can you tell me, did you personally show David Weaver?
A. I do not remember if it was

personally me or not.
Q. Were there certain things that you conveyed to the truck drivers to tell them what to look for when they were inspecting leaf springs or U-bolts?
A. No, they knew what to look for, ma'am. After once --- after they were taught how to do it and shown how to do it, they knew how to do it.
Q. Well, that's what I'm getting at. You said that they were taught how to do it. Who taught them how to do it and how were they taught?
A. Well, either myself or probably the mechanic, they would ask him more than they would ask me because he was in the shop. He was in charge of the shop, in charge of repairs, and if they thought something was wrong they would ask him. And then he would tell me, we need to take this truck out of service because it has a broken leaf

spring or something and it would be taken out of service and repaired.
Q. Can you give an example of a truck driver that found a broken leaf spring?
A. It probably could have been any of the one's that I've mentioned, ma'am.
Q. All right. Can you recall what you specifically told a certain truck driver as to how to inspect a leaf spring or a U-bolts?
A. Just what I told you, ma'am.
Q. Just what you just told me.
A. Just what I just told you, yes.
Q. You do an eyeball of the leaf springs?
A. I have myself, yes.
Q. No. But I'm asking you what did you tell the truck drivers?
A. Yes. You would look for broken --- you would look for broken leaves in the spring, or you can tell where a U-bolt's been working, if

it's loose, and it needed to be repaired, and it was always repaired.
Q. All right. Now, if the truck driver had a broken leaf spring, are there any like signs when you're driving? Can you detect that?
A. When you're driving, I would say no. I drove a lot of truck, and you could break a leaf in the spring and you could drive from here to Chicago and back and not know it, because it's just one leaf. As long as it's not the main leaf, you're okay. It needs repaired, but if you do not know it, and you don't see it or you're just driving non-stop, you can drive with one of your leafs as long as it's not the main leaf broke, and you will not know it. It does not affect the performance of the truck.
Q. And now, you said you won't know it unless it's the main leaf?
A. Yeah, the main leaf, at the main top leaf and all the rest of

them, there's a bolt that goes down through that holds the rest of the leaves on, and sometimes the center bolt breaks also, and then the spring just kind of shifts all over place and falls apart.
Q. But the main leaf is --- are you talking about --- is it number one?
A. Yes, number one. It's a big long one, yes. And then the next one is shorter and shorter and shorter and shorter.
Q. Have you ever driven a truck with loose leaf springs?
A. Probably in my lifetime, yes.
Q. Okay. Have you ever been able to detect loose leaf springs when driving a truck?
A. I can't, ma'am.
Q. You can't?
A. No, I can't.
Q. Now, were the truck drivers taught to look for loose leaf springs?

A. Yes, they were.
Q. How did they go about doing that?
A. How to check the loose leaf spring?
Q. Yes, how to check for loose leaf springs?
A. Visually, you can check. Visually, because they will shift and they will move.
Q. Okay. And so, when you're looking at leaf springs and one or some are loose, what are you looking at? How do you know that?
A. Well, pretend you have a deck of cards; okay. You move the cards, it's basically the same thing.
Q. Now, do you know whether the truck drivers used any tools to detect whether there were loose leaf springs?
A. No. You already asked me that.
Q. Well, I asked you about broken leaf springs. Can you think of

anything else the truck drivers would do on a pre-trip inspection?
A. Like I told you, loose nuts, bolts, springs, U-bolts, lug nuts, tires, lights.
Q. Now, the truck that David Weaver, that Mack truck that he drove, was that truck specifically assigned to him?
A. Yes and no. Yes, it was more or less like that's David's truck, but if David was on vacation and somebody had to drive it, it was driven.
Q. Okay.
A. Or whatever ---.
Q. Now, I think I asked you when David started, and I think you said in the late '80s or ---.
A. It was '78; wasn't it? '80, I think you said in the '80s.
Q. Yes. I think Jerry said in the mid-'80s. I remember you said late '80s. I don't know.
A. No. I think it was 1980,

because my son started one day and he started the next. I do remember that.
Q. Okay. So your son was a truck driver at Guelich?
A. My son used to be.
Q. How long did your son work there?
A. I believe he worked there for 13 years.
Q. Okay. What's your son's name?
A. Same as mine except Junior.
Q. Except Junior. When did he leave?
A. He left to go to Wal-Mart transportation. Well, if he started in 1980, then '93, I think '93 he went to work for Wal-Mart transportation.
Q. Did he also drive a truck? I'm sorry. Did he haul ammonium nitrate?
A. Yes, he did.
Q. All right. This certificate of road test was marked at Mr.

Guelich's deposition. It was marked as exhibit one. Can you take a look at this, Joe, and tell me whether you were the examiner of that road test?
WITNESS REVIEWS DOCUMENT
ATTORNEY ORAVETZ:
Are you going to mark this or are you just going to say Guelich One?
ATTORNEY REGENSTEIN:
I'm just going to ---.
A. It looks like my writing, my signature. And yes, I would say authentic.
BY ATTORNEY WILSON:
Q. All right. So David took the road test April 11, 1984. Is that correct, according to that ---?
A. Yes, that is probably true.
Q. So up until 1984 --- does this mean David didn't drive a truck for Guelich?
A. Probably not, ma'am, probably not. No, when he first started out, he started out, he and my son worked

at the what I explained to you before, the plant, the manufacturing plant we have.
Q. Okay. Now, there's a section on this road test that addresses pre-trip inspection and emergency equipment as part one. Can you see that on the form?
A. Is there another page?
Q. Yes. You can look through --- feel free to look through. I believe that's the only section that deals with pre-trip inspection, but look through it, Joe. Take your time.
A. It looks right.
Q. Have you had a chance to look at it?
A. It looks right to me, ma'am.
Q. So that part one, is that the only area of --- or this is the only section that deals with pre-trip inspection and emergency equipment; right?
A. Yes.
Q. I mean, you may not recall,

just tell me ---.
A. No, I don't.
Q. So this is back in 1984 when you gave this road test, this section that says pre-trip inspection and emergency equipment, do you recall what the driver had to do in connection with that pre-trip inspection?
A. What he had to do?
Q. Yes.
A. Check the brakes, the parking brakes, the lights, you know, the steering for looseness, and same thing as a tandem truck that he was driving or anything else.
Q. Okay. Well, back in 1984 when he took the test, the pre-trip inspection consisted of checking fuel and oil and excess oil on the engine, walking around the unit, tires, lights, trailer hook-up, brakes and light lines, doors and inspecting for body damage, brake action, horns, windshield wipers, instruments for

normal reading, windshield, windows, mirrors, lights and reflectors. And there's no checkmark or section here that deals with leaf springs or U-bolts or anything like that; is that right, at least, back in 1984?
A. Not in part one.
Q. Is that right, Joe?
A. Yes.
Q. Yes, there's no ---.
A. In part one, yes.
Q. So when David Weaver took the road test back in 1984, he did not perform a pre-trip inspection dealing with the suspension, the front axle and the rear axle?
A. No. This is the form that we had back then for a pre-trip inspection. That's all I remember, ma'am.
Q. And that's all that was done at that time?
A. Yes.
Q. Now, did Guelich at any time have a safety committee?

A. Yes.
Q. Or did they conduct safety training?
A. Yes. We had safety training that we did, an eight-hour safety class once a year. It'd pertain to all kind of safety, job safety, truck safety.
Q. Was there a particular person that conducted the meeting?
A. Yes, it was a company --- we had our own safety director, but it was a company that conducted the eight-hour safety training seminar every year. Diversified --- I don't know. They're up in Grampian, Pennsylvania. Diversified Services it might be. I'm not sure.
Q. So was the same company used every year?
A. Yes. Now, that's probably the last five or six years that I was there, before I retired, they used these people.
Q. The Diversified?

A. Yes.
Q. So like '94 or '99, something like that?
A. I would say, yeah. Yeah, it could be, yes.
Q. Did Guelich have an in-house training shop? Was there a service director --- I'm sorry, I mean, a safety training person?
A. Yes, they had a safety training person, yes. They had a man in charge of safety.
Q. And who was that?
A. The name was Breck Neeper.
Q. And do you know when Breck was hired? I don't think he works there any longer.
A. No, he doesn't.
Q. What was his job title, if you remember?
A. At one time he started out as a laborer. He was a bulk truck driver like David was, and a blaster and then he became safety director.
Q. Do you remember when he became

safety director?
A. No, I don't, ma'am.
Q. Do you know what he did as the safety director, what his job duties were?
A. Anything to do with safety, naturally.
Q. Okay. Do you know if he held meetings, monthly, weekly, yearly with the truck drivers?
A. He didn't exactly hold meetings. He didn't exactly hold meetings not that I recall.
Q. Do you know whether he did any training at all?
A. Any training?
Q. Yes.
A. I think he might have did some, ma'am, but I don't recall. You're getting back too many years for me.
Q. Okay. But he was there when you were retired; right?
A. Yes, he was.
Q. At some point.

A. I think until about a year or two ago.
Q. But you don't recall if he conducted any training when you were there before you retired?
A. No, I don't recall that he did any.
Q. Now, do you recall what type of training Diversified did?
A. Mostly safety training.
Q. Can you give me some subjects that they talked about?
A. Ma'am, it was mostly on the explosives end of it, on the job safety.
Q. So hazards associated with hauling explosives and dealing with explosives?
A. Hauling explosives and working with explosives.
Q. Do you know whether Diversified ever covered subjects such as pre-trip inspection and checking your truck?
A. No, ma'am, I don't think they

get into that.
Q. Now, I think --- we took Mr. Guelich's deposition, and I think he said that David was assigned a truck in '92. Do you recall whether that was the case or not?
A. No, I don't, ma'am. No, I can't remember exactly.
Q. Do you know whether Mr. Weaver ever drove a truck before working at Guelich's?
A. I don't think so. He was fresh out of high school when he came there.
Q. Do you know Mr. Weaver? I mean, did you know him personally before he was hired?
A. Personally, before he was hired?
Q. Yeah, before he was hired.
A. No, I didn't. I didn't know him before. I knew his dad. I did not know him.
Q. And were you friends with his dad?

A. Yes, I was.
Q. What was his dad's name?
A. Sam Weaver.
Q. Now, I think I asked you this generally at the beginning of the deposition, but did drivers ever do any maintenance work on their trucks?
A. Just small stuff, ma'am, like lights and small things like that. They never did any heavy maintenance of any kind, just all light maintenance, like lights and things like that.
Q. Were drivers ever required to read the driver's manual or the maintenance manual?
A. They had a --- if I'm not mistaken, I'm almost positive of this. Everybody had a copy of the U.S. DOT manual. Now, if you're going to ask me if everybody read it or not, I don't know.
Q. Okay. So other than the DOT manual, did they read like, for example, a Mack manual, a Mack

owner's manual or maintenance manual?
A. Ma'am, if you would get a Mack owner's manual or maintenance manual, it really doesn't help you that much with anything on the truck. It tells you stuff like you don't have to change the oil --- you change the oil in your car every 3,000 miles, they say don't change the Mack for 25,000, just change the filters. It tells you things like that, and just general knowledge of the truck. It is nothing about --- well, it will have some safety and maintenance tips on there, do not drive this truck with loose lug nuts. Do not do this, just the dos and the don'ts, you know, but it's no great item. It's just something that comes in the glove compartment.
Q. Now, you mentioned some outside shops that Guelich used to do maintenance and repair on the trucks earlier in the deposition. Did Guelich's shop, specifically Randy

Knepp, did he ever replace leaf springs on trucks?
A. Yes, he did.
Q. Did he do that regularly?
A. Whenever it needed done, ma'am. How often that was, I can't answer that.
Q. So that wasn't something that was assigned to an outside shop, that was something Randy could do?
A. Yes. He could --- yes, he could change leaf springs, yes. He could change springs completely, yes, or change a leaf, or whatever, or rebuild a spring.
Q. Do you recall whether Randy ever changed leaf springs at the shop?
A. Do I recall whether he ever did it at the shop?
Q. Yes.
A. Yes, he has.
Q. Now, do you recall whether he found a loose spring or a broken spring or the truck driver did?

A. I would say he found and the driver both. He may have been doing a periodic maintenance on it, oil change, grease job, whatever and found a broken spring.
Q. Have you ever changed leaf springs?
A. Yes, ma'am.
Q. Did you ever observe Randy doing it?
A. Yes.
Q. Did you ever observe --- well, I assume you watched him tighten U-bolts?
A. I would say over the years, yes, I probably have.
Q. Now, what kind of tools did the shop have, the tooling shop have, the Guelich shop have in using that the mechanic used to tighten U-bolts?
A. Wrenches and air wrenches and sockets.
Q. Wrenches, air wrenches and sockets.
A. Yes.

Q. Where did Guelich purchase its leaf springs and U-bolts from when you were a foreman?
A. We purchased some from, if I can recall, Heller Spring, and I think they purchased them, I think, from Triangle Spring and a place over by Phillipsburg. The name is in this thing here, and I can't remember what that is. I have to look and see. Northeast Spring?
Q. Oh, Northeast Spring.
A. Yeah, Northeast Spring. Is that the one down by Phillipsburg?
Q. Yes.
A. Yes. We got some from them. And they may have changed some at their shop for us. I don't know.
Q. But you do know that Randy changed springs at the shop as well?
A. Yes.
Q. Can you recall how Randy went about tightening U-bolts at the shop? Is there a certain procedure?
A. You can use a wrench. You can

use an air wrench. Then sometimes you use a wrench with a cheater pipe on it to get the extra umph there.
Q. What is that called, a cheater?
A. Cheater pipe.
Q. Why is it called a cheater pipe?
A. Because you make a wrench longer to get more torque on it, but most of the time they used sockets and air wrenches.
Q. How did Randy know how much to tighten U-bolts? Does he have to have any information?
A. There is a torque that you're supposed to use. You use a torque wrench, but don't quote me on this, but it's something like so many foot pounds or whatever. When you pull the wrench when it clicks, that's tight enough. The wrench makes a clicking noise. You set the handle and they are long wrenches. Whether Randy used a torque wrench or not, I

don't know. I can not say that he used a torque wrench.
Q. Have you ever seen a torque wrench in the shop?
A. Yes, there's a torque wrench there.
Q. But you don't think Randy used a torque wrench ---?
ATTORNEY KIGER:
I object to that question. He didn't say he didn't think Randy used it. So I object to that question for the record, please.
BY ATTORNEY MOSES:
Q. Did you ever see Randy use a torque wrench?
A. I've seen him use torque wrenches, but I can't say that I've been there if he used one on the U-bolts or not. I do not know. I do not know.
Q. And you didn't use a torque wrench when you tightened U-bolts?
A. No, ma'am, I didn't. No.

Q. And you didn't require Randy to use a torque wrench?
A. I did not, no. Not that I can recall. And also, excuse me. But one thing, I never changed any springs on any trucks for D.C. Guelich. I did not change any springs there. Other places I had, but not for D.C. Guelich.
Q. So in your other jobs you changed springs?
A. Other jobs I did, but not for D.C. Guelich.
Q. Okay. When you became foreman, shop foreman at Guelich, you didn't have any rules and regulations for Randy Knepp to follow; is that right? You didn't develop and rules and regulations for him to follow with regard to changing leaf springs or tightening U-bolts?
A. No, nothing written.
Q. And you didn't require him to use a torque wrench to tighten U-bolts?

A. No, I didn't. Not that I can recall.
Q. Did you say Randy still works there, Joe?
A. I think he still does.
Q. Now, you mentioned some of these outside shops that you believe may have replaced leaf springs for Guelich on Guelich trucks, is that right?
A. Yes. I think Northeast did. I'm not sure. We bought springs off of them. They may have. I'm not sure. They may have replaced some for us at their shop, as well as Heller or Triangle, or whatever it was. I know they have done some for us years ago.
Q. Did you ever review the Mack maintenance manual related to changing leaf springs or changing U-bolts?
A. No, ma'am.
Q. So do you know what Mack recommends in regard to how U-bolts

should be torqued or tightened?
A. Ma'am, if I did read it or if it was in their manual, I do not remember. I do not remember.
Q. Now, do you know whether there were any charts or manuals in the shop that Randy read before he did maintenance work on the trucks?
A. There probably was. There probably was manuals there for something that he didn't know. I'm not sure. I don't remember, no.
Q. Now, do you know whether after a leaf spring is installed or re-installed whether the U-bolts are checked again after a leaf spring is reinstalled?
A. I would say if it's a whole spring that is put in, that if you buy a whole entire spring and put it in, whether they check the U-bolts or not I do not know. They may have. They may have not.
Q. And you're talking about they meaning Guelich shop?

A. I'm taking --- you purchase this spring from whoever, and it is one piece, and it is ready to go in. And as far as I know, whether the mechanic after the spring was in, checked the U-bolts for anything. I do not know whether they did or not, because I was never there with ever phrase of the operation was done.
Q. Do you know whether the U-bolts were tightened if an outside shop installed a leaf spring?
A. No, I don't.
Q. Do you know whether Randy ever tightened U-bolts after leaf springs were installed?
A. That's something I don't know whether he did or not.
Q. Were there any written guidelines that the shop mechanic was given at Guelich?
A. I would say not. Not that I recall, no written guidelines.
Q. Did you communicate with Randy Knepp throughout the day when you

worked at Guelich or was he basically he did his job and you did your job duties?
A. No, I communicated with him.
Q. Did you ever supervise him?
A. Yes, I was the supervisor.
Q. Did you ever supervise his work?
A. Yes. I've watched him work, do things. He wasn't the kind of man that you had to stand looking over his shoulder making sure he did it right. He was a very good mechanic, as the other mechanic, Jim Mitchell, that worked there is the same way.
Q. I may have asked you this, and I apologize, but do you know what Randy's background was before he came to Guelich?
A. No, I don't remember. I don't remember what he did.
Q. Had he been a mechanic before he came to Guelich, do you recall?
A. I don't recall, ma'am. I don't recall.

Q. Now, what years did Jim Mitchell work at Guelich?
A. You're getting back too far here. He worked there it might be the very late '70s and probably all the '80s. I'm not sure. He worked there, I think, for 10 or 12 years.
Q. Okay. And you think Randy worked there the entire '90s?
A. Yes. And Randy and Jim also worked together there at one time at the end of Jim's tenure of working there for a few years, because Jim was the dayshift mechanic for awhile and Randy was the nightshift mechanic and then when Jim retired, Randy moved over to dayshift. So they both had worked together at different times.
Q. What were the shop hours?
A. Usually from 7:00 in the morning until 4:00 or 5:00 in the afternoon, unless somebody had to stay late and do something that needed done.

Q. Let me show you what's been marked at Dwayne Guelich's deposition as Exhibit Two. Have you ever seen these records? Maybe not those specifically, but that type of a record before?
A. Yes. That's a pre-trip inspection report.
Q. Okay.
A. That's pre-trip. That's pre-trip. Yes, they're all pre-trip, and if I'm not mistaken 309 is the truck in question.
Q. Right, exactly. Now, were these forms used when you worked there, Joe?
A. Yes, they were. They were also saved and --- yes.
Q. So are you saying that this Exhibit Two was used for a pre-trip inspection?
A. Uh-huh (yes).
Q. Because it says every 2,000, every 12,000, every 24,000, and it goes to section one here ---.

A. I'm sorry. I'm sorry. I said pre-trip. This isn't a pre-trip. This isn't a pre-trip inspection. This is every 2,000 miles when the truck came into the shop when it was checked out first for this.
Q. Who typically would complete that form?
A. Who would complete this form? The mechanics in the shop.
Q. The shop mechanic?
A. The shop mechanic, yes.
Q. Now, the first sheet here is dated 4/23/01. Are there any other records that Guelich kept that would show whether each and every item on this 2,000-mile checklist was done or is this the only record that Guelich would have indicating ---
A. For the 2,000 mile inspection?
Q. --- for the 2,000 mile inspection?
A. This, and I believe there should be --- if something was wrong here, it was checked if it was wrong

and there should have been a sheet made out that it was fixed.
Q. Now, if, for example, a spring is adjusted or lubricated there wouldn't be another record indicating that that was done; is that right?
A. You don't adjust or lubricate springs.
Q. Well, a different item that would need adjusted or lubricated.
A. If they have bushings on the end, the only thing to get lubricated on the springs, the pins. The spring does not get lubricated or oiled or anything.
Q. How about on a U-bolt? Is lubricant used on the U-bolts?
A. No, not unless you're taking the nut off and then you can spray it with WD-40 or something to ease it if it's not coming off, but you don't use any kind of lubricant on it, no.
Q. On a U-bolt?
A. No.
Q. Do you know anything about

David Weaver's accident?
A. No, I don't know. No.
Q. Have you spoken to anyone from Guelich about David Weaver's accident?
A. Not really, just basically why it would happen, and the answer I got was, well, it was years ago that I guess was under investigation. I do not know what happened.
Q. Have you ever seen a form that looks like Dwayne Guelich Exhibit Five?
A. Yes.
Q. And when did you first see that form?
A. These are the pre-trip. Yes, these are the pre-trip inspection ones. Yes. This is what the driver, when he checks the truck over in the morning, he marks all of these.
Q. Now, this form is called a vehicle mechanical defect report.
A. Yes.
Q. This particular form, you see

here on the side?
A. Yes. They use a form --- it's like a pre-trip inspection is what it is, yeah.
Q. Okay.
A. That's what I called it. It's a mechanical defect report, yes.
Q. Now, was this form used when you were shop foreman?
A. Yes, ma'am.
Q. Now, when does the driver complete the mechanical defect report typically?
A. Typically, in the morning when he checks the truck over. He also carries a copy of that with him and carries a copy of it with him, and if something throughout the day would be wrong, if they would find something that was going wrong or wrong with the truck, they would mark that sheet and put it up on the bulletin board and I would see it in the morning.
Q. Now, this form indicates engine trip out or in. Do you notice

it says out and in? Trip out, in.
A. Out means you're going out in the morning. In means you're coming in at night.
Q. When is the item out checked and why is that checked?
A. Out, that means you're going in the morning, so you're going out. And you check all this.
Q. And when is in checked, if ever?
A. Well, that means when they came in, if they found anything wrong with it they would check the in. Say the starter went out, so then they'd mark an X there, or if it was wandering or something needed adjustment in the brakes or whatever the deal might have been.
Q. Now, was the truck driver trained on how to complete this form?
A. Yes, that's part of the pre-trip inspection. Yes, that's pre-trip inspection.
Q. Yes, but did you ever

personally train David Weaver on how to complete this form?
A. I do not remember, ma'am. I do not remember if I had or not.
Q. Now, under the section tires there's an item repair and then a check mark out, what does repair mean?
A. Well, I would say that the repair means a tire was flat and needed repaired or whatever. That's what I get out of it.
Q. Okay. So if David Weaver checked repair out, to you that means that that tire --- that one of the tires on his truck needed repaired on that day?
A. No. That wouldn't mean that to me.
Q. Well, what does it mean to you?
A. That would mean to me that it's okay.
Q. That repair means okay?
A. Yes. It would be okay when he

came in if he had marked on it repair. That means that the tire was low or something.
ATTORNEY MOSES:
I don't have anything right now, Mr. Sadowski, but the other attorneys may have some questions.
EXAMINATION
BY ATTORNEY GREEN:
Q. Mr. Sadowski, my name is Joe Green and I represent Northeast. I guess, first of all, I should say do you want to take a break?
A. No, go ahead. I want to get out of here.
Q. I understand. I don't blame you.
A. I'm going to have a parking ticket anyway.
Q. I have a few questions here, and I'll probably bounce around a little bit, not to be confusing, but Ms. Moses asked a series of very complete questions, so I just want to

fill in some blanks.
One of the items that you had mentioned relative to pre-trip inspections was to check tires, and I wasn't sure that I heard you correctly. You said tire cuts, did I ---?
A. Cuts. Yeah, cuts, abrasions or bumps on the tires or something of that effect, yeah.
Q. And a truck such as this Guelich bulk ammonium nitrate truck, what would be typical reasons in your experience say, for example, a tire to have a cut or abrasion in it?
A. Well, how would you say if the tire was good, you mean, or not or needed repaired. Sometimes like --- of course, like if you going to a strip job and the quarries and the sharp rocks, a lot of time they can cut a tire on the side wall far enough that the cords show, you know, or something like that. Then on the outside of the tire you have the

rough part, the solid rubber piece. You know that can be cut and it doesn't hurt anything, but if it's on the side wall of the tire or on the face of the tire, then something needs done.
Q. When a truck such as the one involved in this matter is used in a quarry environment or a strip mine environment, is that off road?
A. Yes, that's off road, yes.
Q. In your experience could you describe for me what typically the surface you would be working on would be in a strip mine if you're delivering ammonium nitrate?
A. Well, sir, it would be someplace that was a mountain once that they took a bull dozer and they made a road, and this road has rock on it, mud, whatever and you drive through it. Your quarries are the same way. Sometimes the quarries have decent roads. Sometimes they don't.

Q. In terms of the explosive process here, it's my understanding that the strip mine application, and I'm just trying to learn this, so I'm not trying to be confusing or tricky, but the explosive that's being delivered really is two separate components which when mixed becomes an explosive mixture?
A. Yes. Ammonium nitrate and fuel oil. Ammonium nitrate is a fertilizer and fuel oil. Once they mix, of course, your hole is bored or whatever and your, what they call a cap, an explosive cap and primer, which is dynamite, goes down in the hole and then your ammonium nitrate fertilizer which comes out of a bulk truck and is mixed when it's augured out, and you put so much of it in the hole, put it back in, hook it up and away you go.
Q. You had mentioned that there was a van type truck and you used the term explosive.

A. That's with the caps and the primer. It's what they call terminology, an explosion, but it was wet hole material, a slurry, and type stuff like that get carried in your tube stuff, your packing stuff.
Q. I'm just trying to picture in mind what's happening here at the time that someone just performing this job in terms of delivering. A van truck would carry --- an explosive bulk truck would be carrying blasting caps and various other sort of self-contained explosive items; correct?
A. Yeah.
Q. And the bulk truck would be carrying also, in some general sense, explosives, too, but it's the components which when mixed together become ---?
A. They are separate when they are transported.
Q. Just so I understand what's going on, in a strip mine or in a

quarry, a strip mine in particular, there are explosives being placed in a hole that the driller has drilled; is that correct?
A. Uh-huh (yes).
Q. So the hole that has been drilled is the explosive's containment?
A. The hole that is drilled is what?
Q. It is the explosive's containment before it's ignited; correct?
A. Yes, it's a hole in the ground that's going to contain the explosive, yes.
Q. And is my understanding correct, and I'm just going to ask you generally from your experience, what's being blasted or exploded here is the overburden of the hole?
A. That's correct, yes.
Q. Typically in this area, would the overburden be sandstone, shale?
A. It could be shale, sandstone.

Q. Soil?
A. Usually if it's soil, it doesn't need blasted. It has to be some type of rock, solid rock.
Q. So whenever a strip mine and blasting application is being taken, generally you're dealing with some type of solid form of rock?
A. Uh-huh (yes).
Q. You have to say yes or no.
A. Yes, it's solid, yeah.
Q. And do I understand correctly that, generally, in the surface mining business that this explosive --- this explosive truck in this case would basically follow or comes to the scene and fill the holes that the driller or drilling company drilled; correct?
A. Yes.
Q. Now, would that typically be --- I would imagine that they're blasting just once a day, get everything ready to go and they blast it at the end of the day or first

thing in the morning, do you know?
A. Well, it wouldn't be exactly at the end of the day. It would be when the holes are drilled they'd call. When the shot is ready, you would go and you would put your chargers in the hole, put your ammonium nitrate, stem the hole, wire the shot, shoot the shot. It could be one o'clock, two o'clock, three o'clock.
Q. But it's coordinated in some safe manner?
A. Yeah.
Q. And it's true, is it not, that in order to break up and prepare the overburden for removal, that the driller might be drilling 200 holes that have to filled or 50, a hundred or several hundred holes that need to be filled depending on the size of the job?
A. Typically around here it's in the 40s. It used to be in the 40 to 50-hole pattern.

Q. Very good. And whenever the holes in the explosive pattern are prepared, the truck would then be driving in this area, which would not be a road, but in an area that is going to be eventually blasted in order to allow the deposit and mixture of the ammonium nitrate and the fuel oil down into the explosive container, which in this case is a drilled hole in rock; correct?
A. Yes.
Q. And now, just so I understand what the driver would do, is there then an explosive expert, other than the driver who puts in the igniters and that type of thing, or would Mr. Weaver have also done that part of the job?
A. The blaster would put the chargers in the hole. He would measure the hole. Dave would run the truck with the lever, ammonium nitrate goes up an auger, out an auger, down a pipe and into a hole.

Q. And what is the conduit or device that brings the ammonium nitrate to the holes? Is it some heavy duty hose, or is it like a funnel or something?
A. It's a hose. It's hooked on the end of a nozzle.
Q. I see.
A. And points down to the hole.
Q. Now, ammonium nitrate is dry, but it's like a pebble or particular type thing that can flow; correct?
A. Yes. It's called a trill, a little wee round thing. It looks like the same stuff you can buy to put on your garden.
Q. And when the truck is being used in the open pit mining operation to go deliver the ammonium nitrate to the pattern of holes, is it moving from hole to hole?
A. It does not move from hole to hole. Sir, if you have, say, 25 holes. Five, ten, 15, 20, 25, there is a row between the hole --- between

holes --- there's rows, they are something like 10 by 12 spacings. You can back a bulk truck down like a row and you can get from probably one settings, because the auger turns around you can probably get eight or ten or 12 holes, and then you move ahead and you get the rest of them. Then you back down the next row and get them and out. You have labor there backfilling the holes and then the bulk truck moves out of the way. The van truck moves out of the way that brought the explosives, and it's wired up and it is shot.
Q. I'm just trying to get a picture of how a typical day here unfolds.
A. But he does not --- the bulk truck does not drive from hole to hole.
Q. I would imagine it would place itself as far as the hose --- I think it's four or five holes, you move, but you're not moving each time you

move?
A. You're not moving. Not for each hole, no.
Q. And if a typical blasting pattern involves, say, 40 holes, is that usually in one full Guelich truck load, or is that many order trucks loaded? I'm trying to get an idea.
A. Sir, it depends how deep the holes are. How much it requires. They could be 25 feet deep. They could be 40. They could be a hundred feet deep, you know, and then there may be an additional truck needed after one, we call it the bulk off.
Q. That's pretty much a function of what the coal operator or whatever quantity he needs will determine how many truck loads?
A. Pardon?
Q. The quantity the coal operator needs will be told to Guelich and they'll send the required number of trucks?

A. That's correct, yes.
Q. Once the ammonium nitrate and fuel oil is delivered and placed in the holes, is the Guelich driver pretty much done then and he returns, or does he have an kind of follow-up activity after the blast?
A. After the blast if he has product on enough and he's needed at another job then he goes there, or if there's something assigned for him, he may have to come back to the shop, refuel and reload to maybe go out to another one.
Q. Now, all your years as a maintenance person for Guelich or as a superintendent I should say for Guelich, have you ever heard of a bulk truck whether in a quarry application or an open pit application getting hung up?
A. You mean stuck?
Q. Stuck in some manner.
A. Stuck in some manner in the mud or something?

Q. No. Hung up on something. In other words, part of the undercarriage contacting rock or somehow getting caught on or stuck on some type of solid object.
A. You're talking the chassis is stuck on something?
Q. Yes.
A. No.
Q. Never is ---?
A. I've never --- I don't know of any that ever got stuck on any rocks or anything. I've had them sink in the mud before and things like that, but ---.
Q. Let me ask you different --- in a slightly different manner. In the strip mine application or quarry application, have you ever or had you ever, as employee of Guelich, encounter situations where one of the trucks suffered undercarriage or suspension damage?
A. Not that I'm aware of, sir.
Q. No. I don't want to belabor

the point here. So you worked for Guelich for how long?
A. Twenty-five (25) years.
Q. And I'll move on to the next point here, but is my understanding that your answer is, in 25 years in this position, you've never encountered or heard of a bulk delivery truck delivering product to a stone quarry or an open pit mine sustaining undercarriage or suspension damage?
A. Not that I can recall of, sir, no.
Q. Okay.
A. Not that I can recall.
Q. Sir, the mechanics in the shop --- we had talked about Mr. Knepp. Is there a certification for the types of mechanics that Guelich would employ? I'm not talking necessarily about a governmental certification, any type of certification like an industrial certification?
A. Not that I'm aware of.

Q. And by the way, who was your successor in your position?
A. Bill Stephens.
Q. And you might have covered this before, is he still with Guelich?
A. I believe so.
Q. In terms of the general inspection protocol, in particular pre-trip inspections, was there ever any process at the shop whereby you would, in order to perform the inspection would clean the undercarriage? Did mud and road dirt and other type of debris become accumulated under a truck, such as this, and if so, was it necessary to hose down and clean those components before one could even perform a visual inspection?
A. Were they cleaned to perform an inspection?
Q. Yes.
A. They were cleaned, but I would not necessarily say to perform an

inspection, but on the other hand, if a driver sometimes would think that something was wrong and you can't see through the mud, it would be power washed. Either he would do that --- most of the time the driver would do that, yes.
Q. You had provided some explanation as to the need for nut tightening, especially with respect to U-bolts, and you had mentioned that visual evidence or there may be some audible evidence if something was rattling, or maybe you could hear something, but am I correct that the criteria that you would have had in the shop to determine whether a U-bolt nut needed to be tightened or re-tightened would be whether or not you saw some visible evidence of looseness. That'd be the only criteria?
A. Yes, that's a visual, yes.
Q. By the way, you had mentioned, sir, there are a number of different

Guelich shops. There's a location in Somerset and ---.
A. Bloomsburg, yes.
Q. Does each one have a mechanical shop?
A. Yes.
Q. Are there different satellite locations approximately the same size, or do you have a main home office that's much bigger than the smaller satellites?
A. Let me think now. The one in Somerset might be a little bit smaller. Yeah, it's probably a little smaller. The one in Bloomsburg may be the same size, maybe it's a little smaller, and who performs their work I do not know.
Q. In connection with --- given Guelich Explosive's location, is the truck terminal or storage facility and the shop all in one area or one particular location? In other words, the shop's not a mile away from the yard?

A. No. Everything is one complex, yes.
Q. So when trucks come and go in a given day and people report to work or whatever, you're all in the same sort of ---?
A. Yeah, you walk out the door and there is the yard.
Q. With respect to required state inspections, state inspections --- the Commonwealth, yeah.
A. Were the trucks required to be state inspected?
Q. Yes.
A. Yes.
Q. I understand that was someone's records, but I just wanted to get a couple of follow-ups, and I think the documents we have might even answer some of these question. Let me just kind of revisit the same subject. A truck such as a bulk delivery, a bulk of ammonium nitrate delivery truck, this type of commercial truck, would that be in

every six months inspections as opposed to your passenger motor vehicle obtained every year?
A. Sir, I'm not sure. I'm not sure if it's every six months on them or if it's a year. I did not hold a Pennsylvania inspection license. Mr. Knepp did, the mechanic, and Mr. Mitchell, and I think there was another gentleman up there that did the inspecting.
Q. And like I said, we have some of the records here. I'm just trying to refresh --- revisit this in my own mind, but Guelich company itself had its own employees who had inspection licenses?
A. That's correct.
Q. So at Guelich or any other commercial operator of vehicles, is authorized to inspect his own vehicles?
A. Yes. If you have a Pennsylvania state inspection station license, yes.

Q. In fact, Guelich did do that, would inspect its own vehicles?
A. Pardon?
Q. Guelich would inspect its own vehicles?
A. Yes.
Q. Did they ever outsource inspections?
A. Might have at times. I think they might have at times, maybe if a mechanic wasn't there or whatever, I'm not sure.
Q. I'm sure this is available, but I know you weren't a licensed inspector, but is there a Commonwealth notebook or inspection manual for commercial vehicles?
A. I'm sure there is, sir. I'm sure there is.
Q. I'm just curious as to whether ---.
A. I'm sure there is.
Q. The fact that I'm being a little silent here means I'm going over my notes, which also indicates

that I'm getting towards the end here, so give me a second, and I'll ---.
The once per year safety training, that was by a company that you thought you recalled was Diversified Services, Grampian, PA?
A. Yes. Don't quote me on it. It's Diversified Services. It's Diversified something. I've been gone from there for eight years.
Q. So you don't know whether they're still in business or not?
A. I think they still might do their inspection. I'm not sure.
Q. You mentioned that Guelich would have had what you described as a torque wrench in the shop. Do you recall what make, model, what type of torque wrench ---?
A. No, I don't. No, I don't.
Q. But is my understanding correct, that if U-bolts were being tightened or re-tightened on, say, a Mack truck or any bulk truck of this

sort that the normal procedure at Guelich would have been to use an air wrench and then a ratchet wrench with an extended handle?
A. Yes. A long bar on it to give you a lot of leverage or put a pipe on it too to give you more leverage. You only can get things so tight, and basically that's it.
Q. Now, Mr. Sadowski, I realize that you were gone by the time this event transpired, the accident, and the work by Northeast, but I just want to ask you a question in regard to your recollection of the general practices. If a vendor such as Northeast had installed U-bolts and had advised, as part of its work order, were you tightening the U-bolts within a 1,000 miles, if that were the case, normally, would you ever had had any type of practice or procedure at Guelich to engage in a re-tightening of, say U-bolt nuts without seeing some visible evidence

of looseness, just as a matter of maintenance protocol?
A. Would it have been done if --- You're asking me that if they didn't say re-tighten them in 1,000 miles, would it have been done anyway?
Q. No, I'm saying if the vendor, the supplier of the U-bolts or the installer of these U-bolts, said re-tighten after 1,000 miles, would that normally have been done?
A. Carried out?
Q. Yes.
A. Yeah.
Q. Would there be a record of that?
A. I don't know whether there'd be a record of it or not. Something maybe as simple as that. No, I don't think so.
Q. Would that have been done, in theory, I realize you weren't there at the time, but would a re-tightening have been done even if there wasn't some visual evidence of

some kind or feel evidence of some kind of looseness?
A. I do not know whether the mechanic would have did it or not, sir. I do not know.
Q. If a re-tightening was done as a matter of course, it would have been done by the mechanic?
A. Yes, and there is probably things that a mechanic does in a day, and I've been around this all my life, that it isn't something that you do and you write down on a piece of paper, I did this, I did that. That kind of is known as like petty stuff that --- it's something you do. If you're a mechanic, you're knowledgeable about equipment. You know this and you don't make out a special form or a slip or do something like that.
Q. But would you agree with me, though, that a re-tightening of U-bolt nuts on a bulk truck would be something a bit more extensive and

complicated than ---?
A. No. I'm not saying that that is the petty part, but a mechanic can do stuff. He can do something like that and there's no form to fill out or put no checkmarks here. Maybe he can change the tires on the tandem, you know, maybe changing the tire. And while he was under there, he could check the U-bolts and tighten them up and put new tires back on or repaired one or something, and just write down that he did it or something like that. But no, it's not a petty thing. I'm not saying that.
Q. And I didn't mean to say that, but ---.
A. But it's something that's not documented.
Q. I didn't mean to minimize it. I just meant petty sounded like a short-term type quick ---.
A. No. I didn't mean it that way, no.

ATTORNEY GREEN:
Sorry. That's all I have right now. There may be some from the other attorneys.
EXAMINATION
BY ATTORNEY ORAVETZ:
Q. I'm Justin Oravetz. I met you earlier. I represent Triangle Auto.
A. Who are you with?
Q. Triangle Auto.
A. Triangle, okay.
Q. I'll try to be short. I just want to clarify a few things. I don't know anything about car maintenance, so truck maintenance is a whole other level. I hope you can help me out a little bit here. But you were, in --- I think you said 1978 or 1979 you became a foreman?
A. Yeah, foreman, general superintendent.
Q. And that's when you were in charge of the shop, the maintenance shop?
A. Yes.

Q. Now, from that time until when you retired in 1999, did you perform any maintenance on the trucks?
A. Actually, did I do any? Yes, I probably did some, probably. Probably nothing heavy, simple things, you know. Or let's put it this way, if the mechanic needed a hand and I was there, I helped. I'm not the knowledgeable mechanic. I'm just a helper.
Q. What type of maintenance jobs did you do on the trucks? I know you said minimal, so like I said, I don't even know what minimal is.
A. I might have changed a tire or light, or maybe --- who knows, at one time or another I might have tightened U-bolts or something.
Q. Do you ever recall tightening a U-bolt?
A. Pardon?
Q. Do you ever recall tightening a U-bolt?
A. No, I don't know.

Q. Do you recall ever, I guess, replacing or changing a leaf spring?
A. I probably have helped a mechanic. Maybe he's putting a whole new spring in that I went over to Triangle and got or --- you know, and he's putting it in, and you need a hand getting the spring in. I may have helped him do that because there was nobody else there and he needed a hand, so I gave a hand, but as far as physically changing one myself, no.
Q. Is that a complex process to change a leaf spring?
A. Not a complex process, very heavy, it's a burden. It's heavy to put into place.
Q. And does it take one person or two?
A. If you're going to leaf spring in a tandem truck, you better have help.
Q. About how long does it take to replace a spring?
A. I don't know, take one out,

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put one in, I don't know, three hours, maybe four.
Q. And does that include the tightening of U-bolts or checking the U-bolts when you're changing a leaf spring?
A. It probably would, but generally if you buy a whole complete spring, a whole complete spring comes from the factory, the manufacturer who got five weeks, ten weeks, whatever and you just set it in. Yeah, you set it in, then your U-bolts go around it and then your nuts go on, but once you get the spring in then the U-bolts go over top it and they go to a saddle which has holes in it and you put the nuts on then. Then you tighten them up.
Q. So you really wouldn't have to check the bolts for tightening, because you're physically ---?
A. Well, the only thing that was holding the spring together is the center bolt down the middle, and then

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your U-bolts once you put it on the truck, it's what holds it to the axle. The spring holds it to the axle with the U-bolts, and your bushing's on both ends to the body of the truck.
Q. I know you mentioned that sometimes that center axle breaks in the trucks. You mentioned that earlier. Was that something that the drivers checked for on the daily pre-trip inspections?
A. You're talking about the center bolt?
Q. Yes.
A. The center bolt holds the spring together. When the center bolt breaks the spring leaves will shift or start shifting and you get this shuffle thing like with cards. You see them moving and you can tell that even though the U-bolts are there holding it, you can tell when that happens.
Q. And if you were driving a

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vehicle at that time when a spring broke, you would be able to feel that or no?
A. I wouldn't be able to.
Q. No?
A. No.
Q. Was it your job to take new drivers out to be certified or take them --- I guess it's Exhibit Guelich One, certification of road test?
A. Yes. I'd take them out, and I think the safety director took some out, too. I took some out and he took some out. I don't think I didn't certify them all. I'm almost positive of that.
Q. Well, on the form that we were looking at, Guelich One, I believe Counsel mentioned that this form was filled out in 1984 for the pre-trip inspection, it didn't have any indication of a U-bolt check on that or checking the leaf spring?
A. No. I looked at it. I don't think it has anything on here.

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Q. Did that form change over the years to be more similar to what is depicted on Guelich Exhibit Five, do you recall or know that?
ATTORNEY KIGER:
For the record, I'm going to enter an objection. It's already been established it's two different forms for two different purposes. The one's a driving test and the other is an actual vehicle mechanical defect report.
ATTORNEY ORAVETZ:
I understand. I just wanted to know if ---.
ATTORNEY KIGER:
The driving test is for a different kind of vehicle than the bulk truck. It's for a van truck.
A. Yes, this is for a van truck. This wasn't even for a bulk unit. This was just for ---.
BY ATTORNEY ORAVETZ:

Q. Did your pre-trip inspection for the van truck, did you teach them how to check the U-bolts or check the leaf springs?
A. Probably so, sir.
Q. I guess a better question is, why don't you explain to me, how you would go about teaching a driver the pre-trip inspection. How to perform a pre-trip?
A. If I'm not mistaken they were required to read the DOT manual, the Bible that I was talking about. They're required to read that and that's where they're supposed to gain their knowledge, and then from guys like me, the mechanics, maybe other drivers, look for this, look for that, you know, look --- Springs are visual. You look at the tires. Make sure all the lights work, the brake lights and the turn signals. Make sure all your safety equipment is there. We were checked by U.S. DOT.
Q. Okay. I guess where I'm going

at is if the DOT manual says check the tire for cracks, and me being the common laymen and looks at a check tire I wouldn't be able to find a crack even if there was, so is this something that you would physically take the guys out and say this is what you check for, a crack?
A. Yes. Look at this tire. Here's a junk tire here and there's a cut in the side wall and this tire is no good. It has to come off. It's off and that's why it's off. So the tire is not safe.
Q. Now, is that ongoing training or do you just teach them once what to do for the pre-trip inspection and they ---?
A. Yes. There's no ongoing training there.
Q. So how would Guelich know if the drivers were unsure how to check for a specific part on the pre-trip inspection?
A. How would Guelich know that?

Q. Yes.
A. That they wouldn't --- that the driver?
Q. Yes.
A. I don't know how to answer that. Once a man's trained what to do --- not unless somebody like me who's in charge of him as superintendent, that I seen something I said, for instance, you know, that don't look right to me or something like that. I'm not saying it happened. I'm saying it would be someone like me.
Q. That kind of makes sense. What I'm trying to get at is how the drivers know that everything checks out in the pre-trip inspection.
A. Well, basically when the driver --- once you're taught how check the truck over and you check it over once, twice, every day, you know exactly what to look for.
Q. And you said the teaching comes from the DOT manual?

A. Yes, the DOT manual.
ATTORNEY KIGER:
For the record, he said that they show them how to do it, so it wasn't just the manual.
BY ATTORNEY ORAVETZ:
Q. I'm almost done. I forget what we called this, but it's Exhibit Guelich Two.
ATTORNEY MOSES:
They weren't renamed, they were just referred to.
BY ATTORNEY ORAVETZ:
Q. Guelich Two, this is the vehicle check for every 2,000 miles or every 12,000 miles.
A. Yes.
Q. I have some highlighted things on there, and if you can see I think it's the rear springs. It's under the check of every 2,000 miles.
A. Yes.
Q. Does that include checking the U-bolts, would you know?

A. Well, according to this, it says every 12,000 miles tighten U-bolts.
Q. Okay.
A. I don't believe it says anything about U-bolts in here. I don't see nothing.
Q. That's why I highlighted, because one says bolts, does that include the U-bolts, would you know?
A. That says belts.
Q. That says belts.
A. B-E-L-T-S. I'm pretty sure. Take a look.
Q. Yes. You are correct. And then this steering, U-joint and bolts, that's not ---?
A. No. Steering and U-joints --- U-joints are on the drive shaft, steering is in the front of the truck.
Q. Okay. That's what I thought, just wanted to clarify that. Did you do any inspection of U-bolts at Guelich that you can remember?

A. Have I did any? I probably have, sir, but I don't recall.
Q. Do you know the circumstances why you would have inspected a U-bolt or checked under a truck?
A. No. No, not unless --- maybe I was looking at it and thought it was loose or something, but did the mechanic check this, you know, but it could be. I could have.
Q. What would be the difference between the meaning tightening the U-bolt or to replace the whole U-bolt?
A. Well, you wouldn't replace a U-bolt, not unless it was broken or it was loose or it couldn't be tight.
Q. What are some of the circumstances why a U-bolt could be broken?
A. I don't know, sir. You can along the highways and byways and find this stuff laying all over the side of the road. Why it's there, I don't know. Brake parts and steering

parts and U-bolts, a piece of U-bolt, leaf spring. Why they break, I don't know.
Q. What about --- like, you said can't tighten it, why would if you would have to replace it you can't tighten it, what are some ---?
A. Sometimes if a U-bolt got loose and you tried to tighten the nut, they have nuts on them, and they're a fine thread, and they will not tighten, then you have to replace the U-bolt.
ATTORNEY ORAVETZ:
Mr. Sadowski, that's all I have.
EXAMINATION
BY ATTORNEY KIGER:
Q. Mr. Sadowski, my name is Jerry Kiger. I represent David Weaver Estate and I have one or two questions.
A. Go ahead, because I have to go to the bathroom.
SHORT BREAK TAKEN

BY ATTORNEY KIGER:
Q. Joe, I'm going to show you what's been marked Dwayne Guelich deposition Exhibit Two, which you were showed before, and the first page there's some highlighted things on it. And under the 2,000 mile check it says rear springs. Now, would rear springs be the type of spring that we've been talking about here today?
A. Very well, yes.
Q. And if you looked at and checked the rear springs on a Mack bulk truck such as the one Guelich Company had, you would see the U-bolt, too; is that right?
A. Yes, you can see the U-bolt. Yes.
Q. So when you check the spring you'd be checking the U-bolt, too?
A. Yes, because it was holding the spring in place under the axle.
Q. The U-bolt is part of the spring?

A. That's correct.
Q. So whenever this form indicates every 2,000 miles to check rear springs, that would be rear springs and U-bolt?
A. That's correct.
Q. And then I have this other exhibit you were shown, which is Dwayne Guelich Exhibit Five, which is a vehicle mechanical defect report filled out by, in this instance, David Weaver. Under the procedure of the Guelich Company up until the time that you left, was the procedure that if you checked the vehicle and it was okay, you would put a checkmark in the out column?
A. That's correct.
ATTORNEY KIGER:
That's all the questions I have at this time.
Your date of birth?
A. 3/14/37.
RE-EXAMINATION
BY ATTORNEY MOSES:

Q. Joe, I just have a couple follow-up. You mentioned earlier that you used a cheater pipe when tightening U-bolts. And can you tell me, what did the cheater pipe connect to?
A. You have a socket on a bolt, okay, and you have what they call a breaker bar on it. It is a solid bar. It is a solid bar that goes into the socket and then you put a piece of pipe over this that is longer that makes a long handle and then you get a lot of torque when you tighten.
Q. Now, this cheater bar, where is that purchased? Where do you get a cheater bar?
A. Ma'am, it's just a piece of pipe. It's just a piece of pipe.
Q. And the cheater bar --- and cheater bars were used in the shop, right, in Guelich's shop?
A. Yes. They're used all over the country.

Q. And how long was the cheater bar that was used in the shop?
A. It could be three to four feet long.
Q. And what's the diameter?
A. I'd say it could be anywhere from an inch and a half to two inches.
Q. And before you left, before you retired from Guelich, how many cheater bars were in that shop?
A. Oh, God, I don't know, ma'am. There could have been two or three. There could have been a half a dozen or a dozen.
Q. And have you seen Randy Knepp using a cheater bar?
A. I would say, yes, I have over the years. Yes.
Q. And you've seen him use a cheater bar to tighten U-bolts?
A. Yes.
Q. Now, you mentioned earlier in the deposition that typically drivers don't stop their truck if they find

that a leaf spring is broken, unless it's a main spring, that they continue driving their truck?
A. Ask me that again, ma'am.
Q. I think you said earlier in the deposition that drivers can continue driving a truck if a leaf spring is broken --- let me rephrase. The drivers typically continue driving a truck if a leaf spring is broken, and the only time they don't drive a truck is if the main leaf spring is broken?
A. Yes. Now, they do not intentionally drive a truck with a broken spring. One of the leaves can break when you're going down the road or coming out of a job.
Q. Right.
A. Other than your main leaf, it can break and you do not know it until you do your inspection on it, and then you see your spring is there and there's a crack in it. You can notice that, because the broken piece

will start to move.
Q. Right.
A. Yes, but not intentionally drive it with a broken spring.
Q. Now, were Guelich drivers ever told never drive a truck with a broken leaf spring?
A. As far as I know, yes.
Q. And who told them that? Who conveyed this?
A. I would say that I probably did. I would say the mechanic probably did.
Q. Do you recall independently ever telling your drivers?
A. No. As far as --- I probably have, but I don't remember who I told it to or when I told it.
Q. Now, if a driver discovered a broken leaf spring and he's at a jobsite, was he ever told not to drive the truck back to the shop?
A. I don't remember that, ma'am. I don't remember of anybody calling in that had a broken leaf. I don't

remember.
Q. Now, if a number like --- for example, let's say number five ply is the broken spring and not number one, would the driver attempt to come back to the shop if it's in the middle of the stack, if a broken ply is like number five in the middle?
A. Would a driver attempt to drive back in?
Q. Right.
A. I don't know whether he would or not, ma'am. I don't know.
Q. Well, if a leaf spring is broken, what are the consequences of that if one leaf spring is broken?
A. One leaf in the spring is broke, if it's broke so far, the consequences?
Q. Yes.
A. I can't say. I can say you can probably drive it from here to your home in Pittsburgh and never know it, ma'am.
Q. What about loose springs?

A. A loose ---?
Q. What about when springs are loose? Were drivers at Guelich ever told never drive your truck if your springs are loose?
A. Yes, they were told not to drive, yes.
Q. And why were they told not to drive when the springs are loose?
A. Well, it's dangerous.
Q. What makes it dangerous?
A. Well, if the spring is loose, if the U-bolt is loose, well, the axle will shift and if the axle shifts it could break the U-bolts. It breaks them completely off.
Q. Now, when leaf springs are loose, is there any indication in the saddle that they're loose? Can you tell if the springs are loose by looking at the saddle?
A. Yes, you can only see the outside of the saddle is all you can see. Yes, you can see if it was loose. You can see when it works

because they're on top of the axle, and it would move back and forth and you can see that the U-bolts were working. You can see the spring is moving, the axle is moving.
Q. So, if there's wear on the saddle, does that mean the leaf spring has been loose for a while?
A. I would think so.
Q. And if the leaf springs have been loose for awhile, would that affect driver performance, the performance in the handling of the truck?
A. It could, to some effect, give you a little bit of a movement.
Q. And what would the driver feel when he's driving the truck if there are loose leaf springs?
A. That depends on how loose the spring is, ma'am. If it's real loose, it's real bad. I mean, it would move a lot, but if it's just, say, loose and not very much, it would move a little bit and you

probably wouldn't notice the difference at all.
Q. So you wouldn't notice any problem with driving the truck?
A. No. If it was just loose a little bit and you didn't know it, that something happened, you might not know the difference. It depends on the driver. I don't know.
Q. Well, let's use an experienced driver as an example and say that the springs are very loose. How would that scenario affect the performance of the truck and the handling of the truck?
A. Well, you would be able to feel it when you're driving the truck. You'd be able to feel it when you're leaving or when you're stopping, when you're pulling out or you're stopping.
Q. What would happen?
A. Well, you would feel like a little jerk. You could also see in your mirror, if you looked at your

tires you could also see that.
Q. In the pulling, when you brake the truck, what would ---?
A. Well, if you would brake the axle would move a little bit.
Q. Now, you don't remember whether you personally trained David Weaver to do a pre-trip inspection; is that right?
A. The only thing I see is this paper here and that was on a van truck and as far as a bulk truck I do not know. I do not know.
Q. And I think we discussed that. The pre-trip inspection, as part of the road test, was done on a van truck, and that did not include the inspection of the rear axle or leaf springs or anything to that effect; is that right?
A. That's correct.
Q. And you do not know whether Randy Knepp ever showed David Weaver how to perform a pre-trip inspection?
A. I would say either him or Jim

Mitchell, the other mechanic, but I am not sure. I'm not sure. I do not remember.
Q. Is a cheater pipe the same as a breaker bar?
A. No. A breaker bar --- let me show you. Suppose this is a socket, okay. It goes over a nut. And the breaker bar is the square thing that holds it. It goes in there and it's a straight piece of steel coming out here. It's a breaker bar. It's yay big around, and then this pipe goes over it to give you more leverage to tighten it. Common of the industry throughout whatever you're doing on heavy equipment or whatever.
RE-EXAMINATION
BY ATTORNEY GREEN:
Q. Just one final page. Page two of Dwayne Guelich Exhibit Five, this is the one that shows the checklist here for every 12,000 miles, and that does include the tightening of U-bolts. Do you see that?

A. Yes, that tighten U-bolts and I would say the way that this line goes down through there from here to here, that this was all checked.
Q. Understood.
A. See, this was not checked. An engine tune-up you don't do.
Q. I understand. My question to you, and maybe you were asked this and I missed it. Who would fill this out? Would that be the mechanic?
A. The mechanic, whoever the mechanic was.
Q. Right. And that would have been, obviously, truck number 309. Trucks were given numbers
A. Yes. That's the truck in question.
Q. And that would be on February 22nd, 2001.
A. 2001, yes.
Q. With the mileage being on that day, presumably, 129,104.
A. Uh-huh (yes). Yes.
Q. You have to say yes or no.

A. Yes.
ATTORNEY GREEN:
That's all I have.
Thank you.
RE-EXAMINATION
BY ATTORNEY KIGER:
Q. Joe, your interpretation of the form that you were just shown which was a 12,000 mile check at 129,104 is that the checkmarks that show a check at the beginning and then a line through means everything there was checked?
A. No. I think the way they did this was they checked all this. This means it was all checked. The air cleaner wasn't checked and the fire extinguisher. The tire depth maybe wasn't checked. I don't remember what the interpretation of this is. I think it means --- it could mean everything from top to bottom. I'm pretty sure that's what it meant.
Q. So on the 12,000 mile check on February 22, 2001 there's a line

through tighten U-bolts.
A. Yes. That means that was done.
ATTORNEY KIGER:
That's all the questions I have.
ATTORNEY MOSES:
We're done. Thank you, Joe.

* * * * * * * *

DEPOSITION CONCLUDED AT 1:13 P.M.

* * * * * * * *

Exhibit F

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PA

CIVIL DIVISION

* * * * * * * * *

BRENDA ORSICH, *
Administratrix of *Case No.
the Estate of *03-1251 CD
DAVID A. WEAVER, *
Deceased, and *
JENNIFER WEAVER, *
a minor, by her *
Parent and natural*
guardian, BRENDA *DEPOSITION OF
ORSICH, *DUWAYNE GUELICH
Plaintiffs *DECEMBER 21, 2005
vs. *
BARRY KYLER, *
t/d/b/a NORTHEAST *
SPRING & EQUIPMENT*
CO.; NORTHEAST *
SPRING & EQUIPMENT*
CO.; and MACK *

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Page 2

TRUCKS, INC. *
vs. *
TRIANGLE AUTO *
SPRING COMPANY *
vs. *
CONSOLIDATED METAL *
PRODUCTS, *
Defendants *
* * * * * * * *

DEPOSITION OF
DUWAYNE GUELICH
DECEMBER 21, 2005

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DEPOSITION
OF
DUWAYNE GUELICH, taken on behalf of the Defendant herein, Consolidated Metal Products, pursuant to the Rules of Civil Procedure, taken before me, the undersigned, Aimee L. Adams, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at Sargent's Court Reporting Service, 106 North Second Street, Clearfield, Pennsylvania, on Wednesday, December 21, 2005, at 11:11 a.m.

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PROCEEDINGS

DUWAYNE GUELICH, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

EXAMINATION

BY ATTORNEY MOSES:

Q.Mr. Guelich, my name is Judy Moses. I represent a Defendant in the lawsuit filed by Brenda Orsich, administratrix of the estate of David Weaver. My client is Consolidated Metal Products in that lawsuit. You've been subpoenaed to bring records and to attend this deposition, and you received a copy of --- or you received a Notice of Deposition; is that correct, of a corporate designee of Guelich Explosive Company?

A.Yes.

Q.Okay. And did you review the deposition with your attorney?

ATTORNEY SUGHRUE:

Excuse me one moment.

OFF RECORD DISCUSSION

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ATTORNEY MOSES:

Go ahead.

ATTORNEY GREEN:

Joe Green on behalf of Barry Kyler and Northeast Equipment.

ATTORNEY REMICK:

Brad Remick on behalf of Triangle.

ATTORNEY KIGER:

Jerry Kiger for the Plaintiffs.

ATTORNEY BARR:

And Jerry Barr for Mack Trucks, Inc.

ATTORNEY SUGHRUE:

And John Sughrue representing the witness and D.C. Guelich Explosive Company, Incorporated.

BY ATTORNEY MOSES:

Q.Did you review the deposition notice, Mr. Guelich?

A.Yes, we did.

Q.And are you able to testify about the matters listed in A through E of that deposition notice?

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A.Yes, to the best of my ability.

Q.Okay. All right. Can you tell me a little bit --- can you give me some background information about Guelich Explosives Company, Mr. Guelich?

A.The company was incorporated in 1971. We are an explosives distributor, and we do down the hole drilling and blasting for road jobs, for coal strippings, stone quarries, site preparation jobs, just about every place where there's a need for explosives.

Q.And what is the territory of your business, generally?

A.We have offices and branches in Somerset, Clearfield, Bloomsburg and York, PA. So we basically cover practically the whole State of Pennsylvania.

Q.Are you an officer in the company?

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A.I'm the president.

Q.And can you give me the names of the other officers?

A.Robert W. Adams, he is the vice-president.

Q.All right.

A.And that's it.

Q.How many trucks did your company own in August --- approximately, in August of '01?

A.Probably a total, and this is just strictly guessing, probably about 30 or 40.

Q.And were they tractor-trailer trucks?

A.A combination of everything from straight trucks to tractor-trailer trucks to tandems, pickups.

Q.And how many employees did you have back in '01, in 2001?

A.Again, I'm just guessing right now. Probably about 70 to 80, somewhere in there. And this is counting our drilling division, too.

Q.All right. I understand. And

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of those 70 or 80, how many of those employees were truck drivers?
A. I would probably say about 70 percent.
Q. And did the truck drivers work out of all the various offices?
A. Yes.
Q. Now, what does Guelich transport in its trucks?
A. We transport high explosives, detonators, ammonium nitrate, anything used in our blasting operation.
Q. And was that the case in 2001?
A. Yes.
Q. Now, what is the capacity of the trucks that transport the ammonium nitrate?
A. That depends on the size of the truck. We have trucks that transport ammonium nitrate, 15-ton units up to 30,000 --- or 30-ton units.
Q. All right. Now, does Guelich Explosives maintain its own trucks and service its own trucks?
A. Yes, with the exception of some

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of the outlying branches where there's not enough people there, that we farm that work out to garages and that type of thing.
Q. All right. Does each office have a garage on its property?
A. No.
Q. Does the Clearfield branch of Guelich Explosives have a garage on its property?
A. Yes.
Q. Now, David Weaver, where did he work out of?
A. He worked out of the Clearfield branch.
Q. And did he reside in Clearfield?
A. Yes.
Q. And can you tell me when David Weaver was employed by Guelich Explosives?
A. He goes clear back, probably --- I don't know his exact date of employment, but in reviewing some records and that, he was employed in the '90s. Probably in the '80s,

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actually. He started when he was a fairly young boy. When he first come to Clearfield, he started working for us.
Q. And what was his first job with Guelich Explosives?
A. He would have been a laborer.
Q. And what would he do as a laborer, generally?
A. He would accompany the blasters out on jobs and help load holes, things like that.
Q. And what other titles did he have, did he hold with the company, job titles?
A. As he progressed down the road, then he became a --- the normal progression is going from a laborer to a truck driver.
Q. Do you know when he obtained his CDL license?
A. Somewhere in the '90s. I don't have the exact date.
Q. Do you know where he got the training?

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A. He got the training --- basically, there's no required actual training, but he does get training from our people, you know, going along and watching our other people doing it. And he also got training from our shop foreman at the time. He goes out with a checklist, he makes sure that he knows what to check on the trucks and things like that. And then also to obtain a CDL license, there's certain requirements that the State of Pennsylvania requires to get the CDL. And they actually watch them and monitor them at the time of their license, when they get their license, to see that they have the proper training before they can get their license.
Q. How many years had he driven for Guelich prior to his accident in August of 2001?
A. He probably started driving somewhere in the '90s. The truck he was driving was a '92.

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Q. **Okay.**
A. He was the first driver on that truck.
Q. **All right.**
A. He drove that truck since it was new.
Q. **Who was the shop foreman for Guelich?**
A. Bill Stevens.
Q. **And how long had he been the shop foreman?**
A. I'd say '99, somewhere around that area.
Q. **And prior to Bill, who was the shop foreman?**
A. Joe Sudowski (phonetic).
Q. **All right. And when had he been employed with Guelich?**
A. Joe Sudowski probably started with me probably around '75.

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Q. **And did he begin as a shop foreman?**
A. Not in the beginning. We didn't have a shop when I first started my business.
Q. **Okay.**
A. He probably started --- he probably started out as a laborer, the same as everybody else, and progressed up and got his license and then he was a truck driver. And he brought experience with us when he came because he was an old gas line man and he could run all kinds of equipment.
Q. **Okay. Now, was David Weaver given a road test by Guelich Explosives?**
A. Yes.
Q. **And do you still have that record of the road test that was given to him?**
A. Yes. It's somewhere in this file somewhere.
Q. **Did you bring a copy of that with you?**

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ATTORNEY SUGHRUE:
Yes. I think he provided a copy for everybody, didn't you?
A. Yes.
ATTORNEY SUGHRUE:
Yes. If you go to the bottom of the file, start from the bottom, below the long paper, you'll find a section that starts with the --- it's the section that begins with the registration for the truck. At the very bottom, Ms. Moses, at the bottom. It's all the same order.
ATTORNEY MOSES:
Okay. Well, mine doesn't --- isn't in that order.
ATTORNEY SUGHRUE:
Oh, I'm sorry. Okay. Is that the one I gave you for ---?
ATTORNEY MOSES:
Yes.
ATTORNEY SUGHRUE:

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Okay. Let me do this for you. Here, let's ---.
ATTORNEY MOSES:
I don't think I see it in my packet here.
ATTORNEY SUGHRUE:
May I?
ATTORNEY MOSES:
Sure.
ATTORNEY SUGHRUE:
I think I set it down. In number two, if you look at that section, the record is on the bottom.
ATTORNEY MOSES:
Okay.
ATTORNEY SUGHRUE:
If you will go through that packet, you'll come up with various things that have to do with Mr. Weaver. And you'll see the Certification of Road Test in that.
ATTORNEY MOSES:
Okay.

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OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q. Let me show you this, Mr. Guelich, and ask you, is that what you're referring to? Is that the road test that David Weaver took?
A. Yes.
ATTORNEY MOSES:
Let's mark this Exhibit One.
ATTORNEY REMICK:
Judith, could we make that Duwayne Guelich One?
ATTORNEY MOSES:
Yes, that's fine.
(Duwayne Guelich Exhibit One marked for identification.)
BY ATTORNEY MOSES:
Q. Can you tell from reviewing this document, Mr. Guelich, who administered this test to Mr. Weaver?
A. Joe Sudowski.
Q. And it appears that this test was administered on April 11th of 1984?

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A. That's right.
Q. Now, did Mr. Weaver receive any specific training by Guelich, by anyone at Guelich?
A. We're not required to give any specific training. But what we had been --- like we've given road tests. If you look at the next document on there.
Q. What document, I'm sorry?
A. Record of Road Test.
Q. Yes. Okay.
A. And it goes on, it shows the pre-trip inspection and things like that that was required.
Q. All right. Now, the pre-trip inspection is generally about checking fuel and water, steering, brake action, windshield wipers, et cetera. Is that the maximum amount that the driver was required to check or look for?
A. When they're actually a driver, they check their whole truck over.
Q. Okay. Well, I think that's what I'm trying to get at. Who taught them

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how to check their whole truck and how to go about checking it?
A. It would have been Mr. Sudowski at the time.
Q. Do you know how he went about telling them how to check the truck, the driver?
A. No, I don't.
Q. Okay. And do you know whether he used any materials or documents in teaching them how to check the truck?
A. No, I don't.
Q. Now, the Certification of Road Test and the Record of Road Test, has Guelich used a different form since 1984 or is this the current document that Guelich uses?
A. Any time a driver takes a truck out, we have a different form, a pre-trip inspection and that that they have to complete.
Q. Okay. It's different from ---
A. This, yes.
Q. --- this form?
A. Yes.

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Q. Now, had Mr. Weaver ever been involved in an accident driving a truck for Guelich?
A. Not that I can recall.
Q. Had he ever driven as a --- had he ever driven as a truck driver for any other company prior to being employed with Guelich?
A. I don't believe so.
Q. Do you know where --- is Joe Sudowski --- does he still live in the area?
A. He lives in Pennville, PA.
Q. I'm sorry?
A. Pennville, PA.
Q. Okay. Do you happen to know his address?
A. No, I don't.
Q. Could you provide it for us if we asked, ---
A. Sure.
Q. --- or provide it to Mr. --- to John?
A. Yes.
Q. Do you know his phone number as

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well?
A.No.
Q.When is the last time you spoke with Mr. Sudowski?
A.At our company Christmas party on December the 10th. He's retired. We invite all of our ex-employees to our parties.
Q.How about Bill Stevens? Was Bill Stevens responsible for training truck drivers that worked for Guelich with regard to how to check a truck over?
A.Yes.
Q.And what documents or information did he use, if he did at all?
A.It would be the same document that the pre-trip driver would go out with. He would go over it with them to make sure that they're performing that right.
Q.All right. And is the document similar to the Record of Road Test, which was marked as Exhibit One?

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A.Similar, but somewhat different.
Q.In what way is it different?
A.If you give me a minute, I'll show it to you.
Q.Okay.
ATTORNEY KIGER:
I got to find that.
ATTORNEY MOSES:
Okay.
A.Here's the pre-trip inspection.
BY ATTORNEY MOSES:
Q.All right.
A.All of our drivers are required to fill it out before they leave.
Q.All right. Okay. The document that you've just handed me is titled Vehicle Mechanical Defect Report; is that right?
A.That's right.
Q.Okay. And we'll mark this one. I am going to ask you some questions about this document. When was this form first used by Guelich?
A.You mean the first time we used it?

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Q.Yes.
A.I don't have that knowledge right now.
Q.Was it recently?
A.It goes way back to the first --- this is a Department of Transportation, Bureau of Hazardous Materials required document.
Q.All right. Now, did --- here, I'll just give you that. Did David Weaver --- was that document used in conjunction with the Record of Road Test when David Weaver was hired as a truck driver for Guelich?
A.When he was hired as a truck driver?
Q.Yes.
A.No.
Q.Okay. Was he ever required by anyone to see whether he understood how to fill one of these out, and was he ever required to go over with the shop foreman each and every one of these checklists or checks to ensure that he understood how to do them?

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A.I can't answer that, but I'm sure that Mr. Sudowski, when he first started driving, went over this with him. This is the same thing basically when you go to get your CDL license, it was the same thing that the examiner would check and see if you're aware or know how to do these things.
Q.Okay. And now you indicated that David Weaver was assigned a truck when he began as a truck driver, when he began driving?
A.Not when he first began driving.
Q.Okay.
A.We require --- the way that works is we require all of our laborers to get their CDL license because there is times when we're out on a shot --- they go out as a laborer, they'll actually be with the blaster, who is the truck driver that goes out. But there might be times when, once they get a shot started, a blaster is not allowed to leave. He has to stay there. But there could be times when

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the laborer has to take a truck and go back and pick up something and then come back. So we required all of our laborers back at that time to get their CDL license.

Q.Okay.

A.So to answer your question then, was he assigned a specific truck at the time when he first got his CDL license, the answer would be no.

Q.Okay. Now, at some point in time, he was assigned a truck?

A.Right. When he moved from the position of laborer to a truck driver, then he was assigned a certain unit to drive.

Q.Okay. And are you aware of the unit number that he was assigned to drive?

A.309 is the only one I can think of right at the moment.

Q.And can you tell me, what kind of vehicle was 309?

A.It was a tandem Mack.

Q.All right. And is that vehicle

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described in the Notice of Deposition directed to you, the 1991 Mack ---

A.Yes.

Q.--- Model RD690S?

A.That's right.

Q.And the VIN number is IMP264COMMOO9212?

A.Yes.

ATTORNEY KIGER:

If he knows the VIN number by heart.

A.We have too many trucks to know that.

BY ATTORNEY MOSES:

Q.Well, did you make an investigation whether the information contained in the depo notice is the involved truck that David Weaver was driving on the date of his accident?

A.Yes.

Q.All right. Now, the '91 Mack truck, where did Guelich purchase that truck?

A.Shaw Mack in DuBois.

Q.And was that purchased new?

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A.Yes, it was. And we have a copy of the bill of sale.

Q.All right. And is that in this packet?

A.It's somewhere in this packet.

Q.Were there any miles on the truck?

A.When we bought it new?

Q.Yes.

A.I don't think. I mean, I can't recall whether --- you know, sometimes there's two or three miles or 30 miles on it when they're brought into the garage, but ---.

Q.All right. Typically, how many miles would --- strike that. Did David Weaver have an assigned territory to drive for Guelich?

A.No. But he actually --- wherever Guelich went in the --- out of the Clearfield office.

Q.Okay. I mean, is there a certain territory?

A.No, we don't have an assigned

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territory. Wherever our work happens to be at the time.

Q.All right. And on the average, how many miles did he put on that truck, if you know?

A.I think on the average of about 8,000 miles.

Q.And no one else drove that truck other than Mr. Weaver?

A.I can't answer that. To the best of my knowledge it was --- you know, I'm not saying that somebody else might not have driven that truck when he was on vacation or something like that.

Q.All right. Do you have a list of the truck drivers' names in August of 2001?

A.With me, no.

Q.I mean, you have them at the company, that worked out of the Clearfield office?

A.Yes.

Q.Is that right, you do?

A.That's right.

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Q. All right. Where would David Weaver go to pick up the truck?
A. He would come to the Clearfield office.
Q. And how far away did he live from your office, if you know?
A. I think he only lived about five miles. I'm just guessing.
Q. All right. Had David Weaver ever received any traffic citations while employed at Guelich?
A. Not that I can recall. In fact, we have a record somewhere in this file where we're required as to check with the State of Pennsylvania, the driver's driving record.
Q. Okay.
A. And we have those with us here today, too.
Q. All right. How many days a week did David Weaver work?
A. At least five.
Q. And sometimes he worked more than five?
A. Sometimes he worked Saturday.

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Q. And what were his hours?
A. Generally, his hours would normally start around eight o'clock. And the type of work we did, he worked until the job was finished.
Q. What would the latest time be that he would have worked?
A. Roughly guessing, depending whether it was summertime or wintertime --- we're not allowed to blast in our business after dark. So in the summertime, they could work longer hours than they would in the wintertime because of the daylight factor.
Q. All right. Do you have a record of where David drove and his hours in the month of August 2001? Would you have a record at your company?
A. I think we got --- in this one packet that I showed you here there's a route sheet. As far as other records, we weren't required to keep them for any length of time, so all I would really have would be where he went that one particular day.

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Q. You don't have the records of where he was the day before?
A. No.
Q. Do you have a record of how many hours he worked the week of his accident?
A. No, I don't have that.
Q. All right. Now, I think you brought with you the maintenance records on this particular vehicle?
A. Yes.
Q. We had some records I think that were subpoenaed by Joe Green, I believe. And I'm not sure if they're the same records. You may have produced the same records. The ones that I had in my file began July 15th of '92, and the most recent date was April 23rd of '01.
ATTORNEY SUGHRUE:
Those documents are in the packet that we gave you.
ATTORNEY MOSES:
Okay. Are they in his packet? I just want him to look

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to see if those are the dates that he provided. Those are the --- which for some reason, mine are ---.
ATTORNEY SUGHRUE:
Let's see. Right after the long sheet, which is the State inspection records, attached to the State inspection records.
ATTORNEY MOSES:
My stuff is out of order. The last thing I have is the State inspection records. Okay.
ATTORNEY BARR:
They're attached to the State inspection.
ATTORNEY MOSES:
Oh, they are? No, I think ---.
ATTORNEY SUGHRUE:
That's it right there, on top there. You're mixing your old and your new. If you don't keep our packet separate, we'll

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have a hard time helping you.
But we did provide --- if I may,
you should find the vehicle
maintenance records for truck
309 from April 23rd, '01 back to
---.
ATTORNEY MOSES:
7/15/92.
ATTORNEY SUGHRUE:
That's right, ma'am.
ATTORNEY MOSES:
All right. Can you mark
these Two?
ATTORNEY KIGER:
What is Exhibit One then?
ATTORNEY BARR:
One is his Certification
of Road Test. It's five pages.
And Exhibit Two is going to be
the back of that, here.
(Duwayne Guelich Exhibit
Two marked for
identification.)
BY ATTORNEY MOSES:
Q.I'm showing you what's been

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marked as Exhibit Two, Mr. Guelich.
Who made the markings on all of this,
on all of those pages, beginning
7/15/92 through April 23rd of '01, if
you know?
A.I don't know exactly, because
there's no signature on here, but
probably the shop mechanic at the time
when he performed service.
Q.Okay, sir. And do you have the
same shop mechanic that was working for
you in '92?
A.Yes.
Q.Okay. If you'll notice, the
first bill was documented as July 15th,
'92.
A.The first or the last one?
Q.Well, the oldest, the oldest
document is July 15th. It's at the
bottom, your order is different than
mine.
A.That's April 15th, '92. That's
July 15th.
Q.Yes, July 15th, '92 is the
oldest document that was provided. And

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the most recent document, entitled
vehicle maintenance, is April 23rd,
'01?
A.Right.
Q.And who was your shop
maintenance --- your shop mechanic?
A.Randy Knepp would have been ---.
ATTORNEY SUGHRUE:
K-N-E-P-P.
BY ATTORNEY MOSES:
Q.And Randy was hired when?
A.I don't have his hire date, but
he's been with me a long time.
Q.He worked for you in '92?
A.Yes.
Q.Okay. Is Randy the only shop
mechanic?
A.No. Okay. Now we have ---
Randy is still a mechanic for me, but
now he has moved up. He's a mechanic
in our drill shop, where he works on
our drills and that. But we have
another shop mechanic now.
Q.When did he move to the drill
shop?

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A.Right about this date right
here. Somewhere right after 4/23/01. I
think he moved up there in August.
Q.Okay. And who is the shop
mechanic now?
A.Right now it would be Dwayne
Dobb (phonetic).
Q.And was he the shop mechanic in
August of '01, after this?
A. No, Randy Knepp still would
have been at that time.
Q.Okay. Now, are there any other
records, other than these vehicle
maintenance records marked as Exhibit
Two, which would document what the shop
mechanic did on unit number 309 between
July 15th of '92 through April 23rd of
'01?
A.This is copies here of shop
repair orders.
Q.Why don't we hold onto that, and
then I'll mark my copy.
ATTORNEY SUGHRUE:
That would be marked item
number four in the packet. It's

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a little blue sheet.
ATTORNEY MOSES:
All right. Let's mark
these Three.
(Duwayne Guelich Exhibit
Three marked for
identification.)
ATTORNEY MOSES:
If you'll show him that
document so I can look at the
document, John?
BY ATTORNEY MOSES:
Q.Now, you're looking at a copy of Exhibit Three, Mr. Guelich. What is that document --- what are those documents?
A.That's one of our shop repair
orders.
Q.And I can read Randy Knepp's signature on the April 23rd, '01 document. How about on the February 22nd, '01 document, can you tell who prepared that document?
A.No. It wasn't signed. I can't
tell you --- it still looks like

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Randy's writing.
Q.Now, it's my understanding that Northeast Springs did work on this truck, on the '91 Mack?
A.Yes, they did.
Q.And those invoices aren't contained in this packet marked Exhibit Three; is that right? Or did I miss them?
A.No. This was our shop repair
order out of Clearfield.
Q.Okay.
A.Any time we'd bring a truck into
our own garage, our mechanic does a
shop repair order.
Q.All right.
A.And some of these indicate State
inspections. If he pulled the truck
in, he done a State inspection. If he
did a service, he marks that on it.
Q.Okay. All right.
A.Anything as far as what was sent
out, there would be other records, not
--- because this is only what came
through our shop.

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Q.And this represents the total of work done, the total work done on that Mack truck between July 15th of '92 through April 23rd, '01, by the Guelich shop?
A.To the best of my knowledge,
that would be the work that was done in
the Clearfield office. I don't know
what all might have been done at other
places.
Q.All right. So work could have been done on the '91 Mack truck at another office for Guelich?
A.At another branch office?
Q.Yes.
A.No.
Q.Well, that's what I'm trying to get at. This packet of information that you supplied, marked Exhibit Three, does this represent the total work done on the truck, service work done on the truck by Guelich?
A.By Guelich, correct.
Q.Just by Guelich?
A.Yes.

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Q.Okay. And no other branches or garages of Guelich's would have worked on that truck?
A.Not with my knowledge.
Q.Has that ever happened?
A.Well, you know, if we happened
to have a truck down working in another
branch for a period of time or a couple
days, something like that, if something
happens, there's a possibility that
something could get fixed there.
Q.All right. And did you bring records with you that reflect work done, maintenance work done on the '91 Mack truck by someone --- or by an entity other than Guelich?
A.Yes.
Q.All right. And where are they in this packet of information?
ATTORNEY SUGHRUE:
If I may, that would be
the one marked with the blue
ticket, number three.
ATTORNEY BARR:
What's that look like?

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ATTORNEY SUGHRUE:
It's got the invoice from Shaw Mack on the truck when it was purchased, and we wrote on the front of it.
ATTORNEY MOSES:
Okay. It's marked item three?
ATTORNEY SUGHRUE:
Yes. Right. It's got a blue ticket on it marked three. We may not have marked all you gentlemen's copies, but ---.
ATTORNEY MOSES:
Would you mark this?
(Duwayne Guelich Exhibit Four marked for identification.)
BY ATTORNEY MOSES:
Q.Now, you don't have any independent knowledge of what work was done on one of your trucks; is that right? We'd have to ask Randy Knepp?
A.Yes.
Q.All right. You're looking at

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the documents which were marked as Exhibit Four. I've got the marked document, right, that's in front of you?
A.Yes.
Q.Okay. Why don't we go through this document more specifically, Mr. Guelich? What is the first page of this document?
A.This is a copy of the invoice when we purchased the truck new.
Q.All right. And the second page?
A.This is a copy of an invoice of some work that was done by Shaw Mack.
Q.And can you tell what was done by reviewing this document?
A.It looks like they replaced a temperature gauge.
Q.All right. And the third page?
A.Another invoice from Shaw Mack for work that was done there. And it looks like they put a temperature gauge.
Q.All right. The third page, what is the date of that invoice?

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A.8/6/01.
Q.All right. Now, this invoice references a U-bolt kit. Do you see that, ---
A.Yes, I do.
Q.--- the last entry? What do you know about that?
A.I'm not familiar with this particular work that was done at that time.
Q.Is this the first time you became aware that U-bolt work could have been done on that truck in August of '01?
A.This is the first time that, you know, that I'm aware of any other U-bolt work that was done prior to the work that was done by Northeast Spring.
Q.Okay.
ATTORNEY KIGER:
I'm going to enter an objection as to foundation on that last question since there's no indication that this was U-bolt work that was done on a

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rear spring assembly.
BY ATTORNEY MOSES:
Q.Do you have any other documents from --- what's the name of this company? What did you say, Shaw Mack?
A.This is Shaw Mack.
Q.Do you have any other documents which would clarify whether Shaw Mack did U-bolt work on that truck driven by David Weaver?
A.No, this is all I would have.
Q.All right. Now, is there anything --- how did you determine that the work --- that these invoices marked Exhibit Four and these documents marked Exhibit Four relate to unit 309, the truck that David Weaver drove? How do we know that from looking at these documents?
A.There's a marking on the bottom over here that --- we had more than one Mack at the time. And this, there's a notation on there, bulk truck 317 and bulk truck 309, temperature gauge within 309.

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Q.**Where are you looking? I'm sorry.**
A.At the bottom.
Q.**What page? The third page?**
A.This is the third page.
Q.**Okay. All right. BT317 and BT309. I'm sorry, I was looking for the document. What did you just say?**
A.I said it looks like there's an indication on the bottom here that bulk truck 317 and bulk truck 309 had work done pertaining to this invoice. I can't specify to you whether this work was done on 309 or 317, except that it does indicate that the temperature gauge was done on bulk truck 309.
Q.**Okay. All right. Going through these documents, the fourth page, the invoice dated June 14th, '01, does this work relate to 309, or can you tell?**
A.I'd say it's related to 309 because it's indicated so on it.
Q.**Okay. All right. And I can't read the date of the next document. Is that May?**

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A.I think it's 5/29.
Q.**Is that '01?**
A.I can't be sure.
Q.**Okay. All right.**
ATTORNEY REMICK:
Which document?
ATTORNEY BARR:
Page five.
ATTORNEY MOSES:
It appears the date is May 29th. I can't read the year.
ATTORNEY KIGER:
Well, yes, it says May 29th. Is that the one you're referring to?
ATTORNEY MOSES:
Yes. I can't read the year. He indicated May 29th.
ATTORNEY KIGER:
Right here? Are you talking about this document? Is this what you're talking about?
ATTORNEY MOSES:
No. The fifth page.

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One, two, three, four --- the fifth page.
ATTORNEY REMICK:
That's my fifth page.
A.Yeah, that was a purchase order that their ---.
ATTORNEY BARR:
That's not what she's talking about here.
A.She's talking about this, but I think this purchase order relates to this one.
ATTORNEY BARR:
See, we don't have that.
ATTORNEY MOSES:
You don't have a copy of that purchase ---.
ATTORNEY KIGER:
Can I just see?
ATTORNEY MOSES:
Sure.
ATTORNEY KIGER:
Not in that order. I don't know if it's anywhere else in mine.

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A.It's cut off there. You see that first few numbers 33221? This is 33221 ---.
ATTORNEY REMICK:
Well, the purchase order seems to match up with the parts ordered in that.
A.The gauge and the knob.
ATTORNEY REMICK:
Yes.
ATTORNEY MOSES:
All right. So the 6 ---.
ATTORNEY REMICK:
Even though we don't have the other copy.
OFF RECORD DISCUSSION
ATTORNEY MOSES:
Do you want a copy of it now, this page?
ATTORNEY KIGER:
I would.
OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q.**Mr. Guelich, if you look through Exhibit Four, I went through all those**

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documents. It looks like --- let me count them. The eighth document from the bottom relates to a Northeast Spring invoice. And they may be copied differently than mine.
ATTORNEY SUGHRUE:
No. This is a check.
BY ATTORNEY MOSES:
Q. Okay. And that check relates to work done by Northeast Spring; is that right?
A. That's right.
Q. All the rest of the documents in Exhibit Four are Shaw Mack invoices or with reference to their work; is that right?
A. Yes.
Q. I just wanted you to clarify that for me. Is that right?
A. Yes, that's right.
Q. All right. Let's go to the invoice --- the Northeast Spring invoice dated 8/23/99. And I think you're looking at it right now; is that right?

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A. 8/23/99.
Q. All right. Now, can you tell from looking at this invoice dated 8/23/99, what truck does it relate to? Do you know if it's unit 309 maintenance work?
A. Just by looking at the invoice, I can't tell you that.
Q. How did you accumulate these documents and how do you know what documents relate to which trucks?
A. There's a purchase order, purchase order number 31263.
ATTORNEY SUGHRUE:
And that's the last document on the grouping.
ATTORNEY MOSES:
Okay. All right.
BY ATTORNEY MOSES:
Q. So 31263, I see that. It references truck 309.
A. Right.
Q. And there's a number on that document, number 7163. Is that significant?

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A. I think that might be the work order number of Northeast Springs.
Q. That relates to work order 7163?
A. Right.
Q. Which can you read what was done on the --- can you read what Northeast did?
A. Rebush Mack, replace side torque, torque rod on --- it's hard to read.
Q. On rear?
A. On rear rear-end.
Q. Do you know what that means? Can you tell us what type of work was done on the truck, unit 309?
A. I can't tell you exactly what that was, but there's bushings and torque rods on it, and it looks like they rebushed the torque rods.
Q. Now, the invoice dated 8/23/99, do you have a purchase order for that invoice?
A. That is one right here. 8/23/99, that is the purchase order for that.

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Q. Which one?
A. Purchase order 8/23/99 ---.
Q. Okay. All right. So the invoice --- the Northeast Spring invoice dated 8/23/99 relates to purchase order 31263; is that right?
A. That's right.
Q. And can you tell us from looking at that Northeast Spring invoice what work was done on unit 309 on August 23rd, '99 or thereabouts?
A. It looks to me like they replaced the U-bolts and --- it's hard for me to tell exactly what everything was, U-bolts, nuts, washers. They replaced the trunion bushing.
OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q. Can you tell what U-bolts were replaced by looking at this invoice?
A. No, I can't.
Q. But Randy would be able to?
A. Randy Knepp would be able to.
Q. Okay. And he's the only other person that would be able to interpret

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these maintenance records?
A.Our shop foreman may be able to.
ATTORNEY KIGER:
Northeast Equipment would
be able to.
A.Yeah, Northeast Equipment.
ATTORNEY MOSES:
I mean that works ---.
ATTORNEY KIGER:
That's an invoice.
There's actually a work order
that goes with that, describing
the work as rebush Mack side
torque rod on rear rear-ends.
It says right there.
ATTORNEY BARR:
It has a different date,
though.
ATTORNEY KIGER:
Yes. But it's the same
purchase order.
A.But they reference that work
order, 7163, on the invoice.
ATTORNEY KIGER:
Yes, the invoice is dated

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after the work order, but it's
the work --- the purchase order
matches the invoice, but the
actual work order from Northeast
Spring, number 7163, says what
was done.
ATTORNEY MOSES:
Well, I think we want a
witness from Guelich to say
that.
BY ATTORNEY MOSES:
Q.**Go ahead.**
ATTORNEY KIGER:
The documents show it.
A.The paperwork speaks for itself.
ATTORNEY MOSES:
Well, Jerry, I mean, you
know, I'm just trying to get
through these documents. Okay?
I mean, ---.
ATTORNEY KIGER:
Well, no. You're asking
him whether somebody at his
company would know what the
stuff that's on a Northeast

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Equipment Company invoice is.
That was the question that I
interrupted.
ATTORNEY MOSES:
I said would someone else
at his company, other than
Randy, be able to interpret the
invoice and what work was being
--- what work was done on the
truck. That's what I asked him.
And he said the shop foreman
could do that as well.
BY ATTORNEY MOSES:
Q.**And the shop foreman is? Who is that again?**
A.Bill Stevens.
Q.**Okay. Now, if you'll notice, on the invoice, the work order 7163, or Northeast Springs invoice number 7163, do you see in the middle of that document it says important, retighten U-bolts after 1,000 miles?**
A.Yes, I do.
Q.**Is there any document evidencing whether the U-bolts were retightened**

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after 1,000 miles?
A.After 1,000 miles, no.
Q.**Do you know whether U-bolts were retightened by anyone on that unit 309?**
A.There was a subsequent State
inspection that I know that the U-bolts
and that are checked on.
Q.**Pardon me?**
A.Subsequent State inspections, on
the State inspection records. This one
right here. It's one of the required
things on that.
Q.**Okay. But my question, Mr. Guelich, was do you have a document evidencing that the U-bolts were tightened, retightened?**
A.Do we make up a document saying
we tightened the U-bolts in it?
Q.**Yes.**
A.No, we don't.
ATTORNEY SUGHRUE:
For the record, I'd
object to a lack of foundation
on that question. This
important, retighten U-bolts

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after 1,000 miles is a pre-
printed item and there's no
indication that the U-bolts ---
that U-bolts on the rear-end
were replaced with that
particular work. I don't --- as
the witness stated, he can't say
what work was done pursuant to
that work order.
ATTORNEY MOSES:
All right.
ATTORNEY KIGER:
There are also
maintenance records that have on
there the checks for tighten
U-bolts and check U-bolts and
springs.
ATTORNEY MOSES:
Okay. Thank you for
that, Jerry.
ATTORNEY KIGER:
You're not going to thank
John?
ATTORNEY MOSES:
Huh?

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ATTORNEY KIGER:
You're not thanking John?
ATTORNEY MOSES:
Well, Jerry, I mean, my
question was clear.
ATTORNEY KIGER:
Well, I don't find them
to be too clear. They're pretty
general whenever you have
records in front of you that
shows it's been checked and you
ask the man if he has any other
records when you're looking at
them.
ATTORNEY GREEN:
At this point I'm going
to have to object. You're
cueing the witness. You're
trying to send a signal or an
answer to this witness here.
That's not an objection. That's
not any valid response to this
discussion at all other than
trying to cue this witness. And
I object to you doing that, and

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I'd ask that you stop it.
ATTORNEY MOSES:
Thank you.
ATTORNEY KIGER:
Are you talking to me ---
ATTORNEY GREEN:
Yes.
ATTORNEY KIGER:
--- or to her? Well, I
disagree with your
characterization of what you've
heard.
ATTORNEY GREEN:
Excuse me. Jerry, I'm
talking directly to you.
ATTORNEY KIGER:
And I'm talking to you
directly, Joe. If she has
records in front of her, she
can't be asking him does he have
any records. He just gave them
to her.
ATTORNEY GREEN:
She asked a very simple,
direct, straightforward

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question.
ATTORNEY KIGER:
We have a disagreement
about that then.
ATTORNEY MOSES:
Well, you're answering
questions, Jerry. You've been
doing it, so ---.
ATTORNEY KIGER:
No, I'm not doing that.
ATTORNEY MOSES:
Yes, you have.
ATTORNEY KIGER:
You have records that
were produced and you're asking
him if he has records. They're
in front of you.
ATTORNEY MOSES:
This witness --- I showed
him an invoice, and this witness
has said that U-bolt work was
done on the truck. I mean ---
and based upon that answer, I
asked him the follow-up
question.

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ATTORNEY KIGER:
You asked him whether
they have any records showing
that U-bolts were tightened on
the truck when you have records
sitting in front of you that say
that they do.
ATTORNEY MOSES:
Okay. And you're the
next witness. You've been sworn
in here.
ATTORNEY KIGER:
I can make whatever
objections I want, and I've made
my objection.
ATTORNEY MOSES:
I can ask any ---.
ATTORNEY KIGER:
Why don't you ask the
next question?
ATTORNEY MOSES:
I can ask any question I
want to.
ATTORNEY KIGER:
Then ask the next one.

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ATTORNEY MOSES:
Just quit butting in.
ATTORNEY KIGER:
I'll object if I think
it's appropriate.
ATTORNEY MOSES:
Well, no, you're not
objecting.
ATTORNEY KIGER:
Yes, I am objecting.
ATTORNEY MOSES:
No, you're not. You're
testifying. You're not
objecting, you're testifying.
ATTORNEY KIGER:
I don't think so.
ATTORNEY MOSES:
Well, I think you know
you are.
BY ATTORNEY MOSES:
Q.I'm sorry about that, Mr.
Guelich. Mr. Guelich, would you ---?
ATTORNEY SUGHRUE:
Would you repeat the last
question that was asked Mr.

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Guelich and his answer, please?
OFF RECORD DISCUSSION
ATTORNEY SUGHRUE:
For the record, you
understand and Mr. Guelich
understands that he's testifying
from his documents.
ATTORNEY MOSES:
Absolutely.
ATTORNEY SUGHRUE:
And you're discussing
these documents and what they
reflect, not what he knows
personally.
ATTORNEY MOSES:
Well, and I asked him, is
there someone at Guelich, other
than the mechanic, that can talk
about these documents, and then
he added the shop foreman.
Absolutely.
ATTORNEY SUGHRUE:
Bill Stevens.
ATTORNEY MOSES:
Yes. I think you've made

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it clear.
ATTORNEY SUGHRUE:
Okay. Go ahead and ask
your next question.
BY ATTORNEY MOSES:
Q.The document dated --- the
Northeast Spring invoice dated April
25th of 2000, do you have that in front
of you, Mr. Guelich?
A.Yes, I do.
Q.All right. Now, can you tell me
what you believe this document is?
Just identify the document.
A.It's an invoice from Northeast
Spring and Equipment Company.
Q.All right. And can you tell
from looking at this invoice what work
was done on the truck, generally?
A.Generally, it looks like they
replaced some U-bolts.
Q.Can you tell where they were
replaced?
A.No.
Q.Do you have any background at
all in maintaining trucks?

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A. Do I have any background?
Q. Yes, doing maintenance work on trucks or cars or anything.
A. Yes, I do. I have 30 --- 18 years in the Pennsylvania National Guard as a warrant officer in charge of maintenance.
Q. Can you be more specific? What did your job duties entail? Maintaining what?
A. Maintaining all types of heavy equipment.
Q. All right. And how many years did you do that?
A. Eighteen (18) years.
Q. Are you comfortable reviewing these invoices?
A. Except I'm not comfortable when they use a lot of abbreviations here that I don't understand.
Q. I just wanted to make sure. What makes you uncomfortable? Okay. So what abbreviations ---?
A. Looking at abbreviations that I don't understand.

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Q. Okay. All right. And looking at that invoice dated April 25th, 2000, what abbreviation ---?
A. PNF --- W/PNF, I don't know what that means.
Q. Where are you looking? Point it out to me.
ATTORNEY REMICK:
Under description.
A. Right there, W/PNF. I don't know what that means.
BY ATTORNEY MOSES:
Q. All right. Now, do you know whether Mr. Weaver ever had any complaints about this truck and the handling of the truck?
A. No, I don't know. I would assume that he's never had any complaints because I don't recall any.
Q. Now, would a driver make complaints to you about a truck not handling well or properly?
A. No. They would probably go to

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the shop foreman.
Q. And that's Bill Stevens?
A. Yes.
Q. All right. Now, Mr. Guelich, do you know whether you have any written documentation that the U-bolts on unit 309 were tightened after 1,000 miles?
A. After 1,000 miles?
Q. Yes.
ATTORNEY SUGHRUE:
I would object to the form of the question. Can you say at what point in time? And I know you're maybe not as familiar with these documents as I am, but without trying to set your agenda, you will note that the invoice that you referred to, dated April 25th, '00, has attached to it the Northeast Spring work order, 7482?
ATTORNEY MOSES:
Right.
ATTORNEY SUGHRUE:
They all tie in, along

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with the purchase order 32101.
ATTORNEY MOSES:
Right. Okay.
ATTORNEY SUGHRUE:
And are we correct in --- or am I correct in interpreting your question that you're talking --- when you asked your question of the retightened U-bolts after 1,000 miles, you're talking about after the work that was conducted ---
ATTORNEY MOSES:
In April of 2000.
ATTORNEY SUGHRUE:
--- April of 2000?
ATTORNEY MOSES:
Yes, specifically.
ATTORNEY SUGHRUE:
Pursuant to work order 7482 ---?
ATTORNEY MOSES:
Yes. Thank you for clarifying that for me. Yes, in April of 2000.

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A. They would have been retightened after 1,000 miles. But I don't have any documentation of it except in our State inspection records and that and some of our service records. That's one of the items that is performed then. For me to say did somebody actually go out when the speedometer hit 1,000 miles and retightened it right then, I don't have any record of that.

BY ATTORNEY MOSES:

Q. All right.

A. But they were --- subsequently passed several State inspections, where one of the requirements in that is tighten U-bolt springs and things like that.

Q. All right. Well, one of the reasons I'm asking you is that I'm looking at your vehicle --- I'm looking at Exhibit Two. The title of the document is not copied on mine. I think it's the vehicle maintenance records.

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ATTORNEY SUGHRUE:

We'll have it. Okay. I'm showing to the client at your request, Ms. Moses, a D.C. Guelich Explosive Company series of documents titled vehicle maintenance, and they're marked Exhibit Two.

ATTORNEY MOSES:

That's right, they were marked Exhibit Two. Thanks.

BY ATTORNEY MOSES:

Q. Why don't you go to the document dated March 18th, 2000? And I just wanted some explanation. That document indicates that every 2,000 miles certain things are done; is that right?

A. That's right.

Q. Certain things are checked and lubricated?

A. Yes, that's right.

Q. The next document that we received from you is dated October 31st, 2000. And the vehicle --- there's more than 2,000 miles on it

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between that time frame. Are there documents kept in between this? Do you have documents every 2,000 miles, indicating what is done every 2,000 miles on this vehicle?

A. We should have, but I don't know. I can't answer that.

Q. But if you see what I'm saying, the documents that were provided, which indicate every 2,000 miles, the next check-up exceeds 2,000 miles. Do you know what I mean? And I'm just trying to find out if you have other documents beside these vehicle maintenance records in the possession of Guelich.

ATTORNEY SUGHRUE:

And may I --- as Counsel, I would advise you that the search has been made, and we do not have any records other than --- for that type of service, other than the ones that have been presented to you.

ATTORNEY MOSES:

All right.

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ATTORNEY SUGHRUE:

And I recognize the discrepancy between the mileage recorded when the work was done and that preprinted form.

ATTORNEY MOSES:

Okay. All right. That's all I want to know.

BY ATTORNEY MOSES:

Q. Now, the work that was done in April by Northeast Spring, the mileage on that truck was 116,192 at the time the work was done in April; is that right?

A. That's what it indicates here.

Q. Okay. All right. And the vehicle maintenance --- the first vehicle maintenance record of Guelich's after that service work done by Northeast is dated October 31st, 2000; is that right?

A. That is correct.

Q. And if you'll notice, the only document which reflects that U-bolts are tightened is the 12,000 mile check.

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And that is not checked off on that October 31st document; is that right? Only the 2,000 mile check is checked, so there's no indication that the U-bolts were tightened after the Northeast Spring work done in April 2000; is that right?
A. That's right.
Q. And if you'll notice that the mileage on the October 31st, 2000 invoice is 124,288; is that right, on your vehicle maintenance document?
A. Okay.
Q. Okay. Now, you provided documents that --- the first page of the document is vehicle maintenance --- or vehicle --- I'm sorry, Vehicle Mechanical Defect Report, and there's a tab number one. And we'll mark this as an exhibit because I want you to identify those documents, Mr. Guelich, for me.
ATTORNEY MOSES:
And I think we're on Number Five.

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(Duwayne Guelich Exhibit Five marked for identification.)
OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q. Now, you have in front of you a document entitled Vehicle Mechanical Defect Report, which has been marked as Exhibit Five; ---
A. That's right.
Q. --- is that right? What is that document, Mr. Guelich?
A. That is a document that is required by PennDOT, Bureau of Hazardous Materials, whenever a driver that's carrying hazardous materials has to do a pre-trip inspection on his truck.
Q. All right.
A. And that's what it is. The driver physically goes out and he does this work. If he finds a defect, he checks the defect off, and he might put it down under the remarks section. Then that truck does not go out. Then it

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comes in and their defect sheet will go to the mechanic, and the mechanic will make the repairs before the truck goes out.
Q. All right. And the driver is required to complete this report every day that he drives the truck?
A. Every morning when he takes the truck out he's required to complete this report.
Q. And the document --- you called it a pre-trip inspection record.
A. Well, they fill this out. Before they go out --- before --- it's pre-trip, before they go out with their truck, they fill out this Vehicle Mechanical Defect Report.
Q. Okay. Now, in the subpoena and in the designee deposition notice, I asked that you provide pre-trip inspection records related to the truck David Weaver drove on August 30th, 2000 for time frame August 1st, 2000 through August 30th of 2001. I don't think those records were provided, were they?

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A. They were not provided because we do not keep them after 30 days.
Q. Okay. All right. Did you provide those records to anyone else, those pre-trip inspection ---?
A. This record here --- the reason we have this particular record here is that at the time of the accident, the investigating officer, Mr. Brooks, asked us for a copy of his truck papers. And that's the reason we had these.
Q. Okay. But my question was, did anyone else ask you for pre-trip inspection records before August 30th of 2001, which David Weaver may have completed, like an insurance company, an officer?
A. You mean before this date?
Q. Yes, before that day, ---
A. No.
Q. --- previous records.
A. I don't recall that.
Q. Okay. All right. I'm just trying to get an idea of whether

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they're --- someone else has a copy of these records. You didn't provide them to anybody else?
A.No, I provided Mr. Sughrue a copy.
Q.But you only provided him a copy of the August 30th, 2001 pre-inspection record?
A.Yes.
Q.No others completed by David Weaver?
A.No others.
Q.Okay.
ATTORNEY SUGHRUE:
And for your information, this particular form is not maintained by truck. It's maintained by date, with all the other pre-trip inspections of all the other equipment. And it's maintained in the shop and just routinely disposed of in the course of time. And Mr. Stevens would be the individual who maintains those and then

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disposes of them. And we have made a search and confirmed that --- your subpoena is as you indicate. And we've made the search and determined that all of our pre-trip things are disposed of, anywhere from usually 90 to 120 days after they're used because the equipment's moved on, for all practical purposes.
ATTORNEY MOSES:
All right.
ATTORNEY SUGHRUE:
And I'm pretty informed with respect to this, and I'm not aware of any other copies that were given to anybody after that. The copies just don't exist and they're gone.
ATTORNEY MOSES:
All right. Okay.
BY ATTORNEY MOSES:
Q.Let's look at this exhibit, Mr. Guclich. Now, do you know specifically

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how Mr. Weaver went about checking each item on this document marked Exhibit Five?
A.No, I don't know how he did it.
Q.Do you know one way or the other whether he, indeed, did check every item listed on this document marked Exhibit Five?
A.The only way I can tell is that he signed it that he did.
Q.Okay. Do you know how a truck driver is trained to check U-bolts at Guclich Explosives?
A.I don't know of any particular way that they're trained other than they are taught to check them for looseness. That's one of the things that's required when they take their CDL test, is to be able to prove that they're capable of doing those things.
Q.Do you know how a driver would go about checking a U-bolt for looseness? Do you personally know how to do that?
A.I would know how, yes.

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Q.How do you do it?
A.I would get on a creeper, I'd go underneath and I'd put a wrench on and check them.
Q.Okay. And what do you do with a wrench when you're on a creeper and you're ---?
A.Well, you put it on a U-bolt nut and tighten it.
Q.Well, how do you determine whether the U-bolts are loose? What do you look for? How do you test for that?
A.Well, sometimes if you're trained in that at all, you can look if a U-bolt is loose. A lot of times you'll see like rust around certain places on it where the nut tightens up, and that's one of the things you can look for.
Q.Okay. Well, would Mr. Weaver have gone under the truck to check the U-bolts on the day before he went on this trip on August 30th, 2001?
A.Would he have done it? I don't

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I know.
Q.Well, if he had done it, where would he have done this?
A.He would have done it at the shop in Clearfield.
Q.And as a matter of course, do your truck drivers get under the truck to inspect U-bolts?
A.Yes.
Q.Have you ever seen them doing it before they go off on a trip?
A.Yes. But then you got to understand, I'm not there all the time. I'm in the office. I mean, the shop foreman would have to be the one that can answer that question.
Q.All right. What kind of --- what type of wrench is used to tighten U-bolts?
A.Socket and ratchet.
Q.How big is it?
A.Generally, it's a three-quarter to an inch ratchet.
Q.And where is this tool kept?
A.At the shop.

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Q.And would a truck driver know how to tighten a U-bolt?
A.They should have demonstrated their ability to do that whenever they took their CDL test and whenever their --- my man, I think at the time it was Joe Sudowski.
Q.So you're saying at the time that David Weaver began driving for you, and that was back in '84, when he took that road test, he was required to demonstrate to Joe Sudowski how to tighten a U-bolt?
A.Was he required by me or Joe Sudowski ---?
Q.Well, by Guelich?
A.Yes, he would have been required.
Q.I think you went over that inspection report. I don't think there was any checkmark or area in that driver road test that would indicate that the driver did, indeed, go over that or was trained to do it or was observed by Joe Sudowski, that his

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competency was observed?
A.All I can say to that point right there is, you know, David Weaver signed the forms that he did.
Q.Okay. Have you ever had any problems with your drivers not properly doing pre-inspection?
A.No.
Q.Have you lost any U-bolts on any other trucks owned by Guelich?
A.Have we lost any U-bolts?
Q.Have they ever been fractured or ---?
A.Not that I can recall. Whenever we change springs, anything like that, we generally always replace the U-bolts.
Q.Based upon your mechanical experience, is there a certain time frame that springs need to be changed on a truck?
A.No.
Q.What's the determining factor for needing that changed?
A.Most of the time, the springs

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will get a little bit of sag to them, they get a little bit weak or maybe you might find a broken spring leaf or something like that, then we change them.
Q.Now, speaking of broken spring leafs, you know that invoice, Northeast Spring's invoice dated April --- I think ---.
ATTORNEY MOSES:
What exhibit was it?
ATTORNEY SUGHRUE:
Four.
ATTORNEY MOSES:
Yes, Four. April 25th.
ATTORNEY KIGER:
I'm not sure if you ever actually marked that one.
ATTORNEY MOSES:
Yes. It's marked as Exhibit Four. Yes, the invoice dated --- Northeast invoice dated April 25th of 2000.
BY ATTORNEY MOSES:
Q.Can you tell from looking at the

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purchase order 7482 was ---?
A. That's not the purchase order.
Q. Oh, okay. Well, the work order number, I guess. Is that right?
A. 7482.
Q. Yes, the work order number. Can you tell whether just one spring was replaced from looking at that?
A. It looks like just one spring was replaced, number five ply in right rear.
Q. Okay. And do you know how many plies this type of spring has?
A. No, I don't.
Q. Do you know whether number five would be categorized as in the middle, at the end? Do you know how they're numbered?
A. Well, if there was ten plies, it would be in the middle. If there's only five plies, it might be at the top.
Q. Okay. All right.
A. But I don't know how many plies, so I can't answer that question.

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Q. Okay.
ATTORNEY MOSES:
Mark this one Six. I think we're on Six; right?
ATTORNEY REMICK:
What's the next one going to be, Judy?
ATTORNEY MOSES:
Six.
ATTORNEY REMICK:
What is it, though?
ATTORNEY MOSES:
It's the route sheet that was attached to that pre-trip inspection.
(Duwayne Guelich Exhibit Six marked for identification.)
ATTORNEY SUGHRUE:
That's Number Six?
ATTORNEY MOSES:
Yes.
ATTORNEY SUGHRUE:
I forget the date. Okay.
A. Okay. This is a DOT-required route sheet.
BY ATTORNEY MOSES:
Q. Let me just ask the question so the record reflects it. You're looking at a copy of what's been marked as Exhibit Six. Can you tell me what that is, Mr. Guelich?
A. This is a DOT-required route sheet. The DOT wants to know what roads the driver is going to be on at any particular time.
Q. All right.
A. And this is filled out --- this is our route sheet, and it's filled out by Bill Stevens, our shop foreman, who gives it to the operator, and he looks at it and signs it. And it gives the destination of where he's heading for.
Q. You said it's filled out by whom? I'm sorry.
A. The shop foreman fills this out when he assigns the work for the man in the morning. He fills this out and gives it to him. They take it. Like in this particular case, David Weaver

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signed it that he understands this.
Q. All right. So the handwriting is Bill Stevens' and this is David Weaver's signature?
A. That's right.
Q. All right. Can you tell me what was the destination on August 30th of '01?
A. Brandy Camp, PA.
Q. And Mr. Weaver was leaving from Clearfield, your office in Clearfield?
A. Yes.
Q. And can you describe --- or can you tell me what the route was?
A. He was to take --- this is legislative, 2024 west to 2023, to 153, to 879, to I80, to 153 again, to 219 north, to 2003 east and left into the job site.
Q. Okay. Now, this 0153 north, left to job, what is left to job? Am I reading that right?
A. He was on --- he was traveling east on 2003. When he come to the entrance road to the job, and this

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particular place here it was a coal strippings, ---
Q.Okay.
A.--- he makes a left into the job site.
Q.All right. Now, do you recall what road Mr. Weaver was traveling on at the time of his accident?
A.2023.
Q.And do you know how many miles he had traveled approximately from leaving Guelich?
A.Half a mile, approximately.
Q.Do you know anything about the accident?
A.Do I know anything about the accident? Yes, I do.
Q.Can you tell me what you came to learn, be it speaking to investigators or police officers?
A.Well, after being --- after getting over the shock of the accident, because David Weaver and his father was a very close friend of mine, and after getting over the initial shock of it

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and talking to the officers and that, they said at the time that they thought the U-bolts broke, which caused the truck to --- because it's a camelback in suspension, when the U-bolts broke, it left the body drop down onto the tires, and it was just like applying the brakes on it, and it threw the truck to the right and down over the embankment.
Q.All right. What was David Weaver carrying in the unit 309 on the date of his accident?
A.I have to back up one sheet.
Q.You'll need to look at the bill of lading to answer the question?
A.Yes.
ATTORNEY MOSES:
Okay. Let me mark that exhibit --- have that marked Exhibit Seven.
(Duwayne Guelich Exhibit Seven marked for identification.)
BY ATTORNEY MOSES:

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Q.All right. What is Exhibit Seven, Mr. Guelich?
A.Exhibit Seven is --- again, it's a DOT-required bill of lading for transportation.
Q.All right. And what was he carrying?
A.He was carrying 30,000 pounds of ammonium nitrate and 2,400 pounds of fuel oil.
Q.All right. Do you recall what time the accident occurred, approximately?
A.I think it was somewhere around eight o'clock in the morning.
Q.Do you know what time Mr. Weaver left Guelich to make this delivery?
A.Probably took him about ten minutes maybe to get to that point.
Q.Okay. All right. Do you know what the weather was like that day?
A.I don't recall, but I think it was sunny. I don't recall any rain or anything like that.
Q.Okay. Are drivers trained to

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look for warning flags that resemble loose --- that resemble a problem with the truck, specifically loose leaf springs? Are they trained ---?
A.Well, only whenever they do their walk-around checks and that. They look for broken spring leafs and things like that.
Q.All right. And how do they have to go about doing that? Do they have to get under the truck to be able to examine the leaf springs?
A.Sometimes they might have to be.
Q.Pardon me?
A.Sometimes. But to examine the leaf springs, see if there's broken leafs and that, they don't have to, no.
Q.Well, how do they go about doing that?
A.Visual.
Q.Can you describe for me how they would go about doing that? What do they have to do?
A.They would walk around the truck and if they see a broken leaf on their

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spring, they would report it then.
Q.Are they able to visualize all of the springs?
A.Pretty much so, yes.
Q.What about loose springs? How do they go about examining loose springs?
A.They would have to look if they see any signs where something would be working or ---.
Q.I'm sorry, something would be working?
A.Well, or maybe two things were maybe rubbing a little bit and creating some kind of marks where they could identify a loose spring.
Q.And how would they go about making that determination? Would they have to get under the truck to do that?
A.They very could possibly do that.
Q.That's the only way you could make that determination; right?
A.That's right.
Q.What about the handling of the truck? If a truck has a loose spring or springs, how does it handle?
A.It would have to be very bad to be able to --- you know, they'd have to handle something that's really erratic. I can't see --- my experience in driving a truck, you can have a broken leaf and it doesn't affect the handling of the truck.
Q.Okay. You have no warning whatsoever if you have loose springs?
A.No.
Q.How about an untightened U-bolt, what does a truck driver experience when they're driving a truck that has a U-bolt that isn't tightened?
A.You wouldn't --- I don't think you would experience anything.
Q.Have you ever driven a truck that had a loose U-bolt?
A.Not that I can recall.
Q.How about loose springs?
A.Not that I can recall either.
Q.Did Guelich conduct any safety meetings after David Weaver's accident?

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A.After the accident?
Q.Yes.
A.I don't recall that.
Q.Okay. Did you or the shop foreman or anyone at Guelich meet with the truck drivers after David Weaver's accident to discuss safety matters related to U-bolts or springs?
A.I don't recall any particular instance, but we do that all the time.
Q.Now, what do you do all the time?
A.Discuss safety items. A lot of times we get the drivers together. We have --- every year we got to get so much MSHA training to go over it with the drivers at that point in time. And that generally occurs like in January. We'll go down and we'll cover all those kind of things, safety, first-aid, everything that we can cover at that point in time.
Q.Are these meetings that you're talking about, is it a safety meeting?
A.It's safety meetings. We have a

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classroom in our office.
Q.And where is the classroom located, in Clearfield?
A.In Clearfield, in our office.
Q.Do the drivers that work out of your other offices have to attend?
A.Yes.
Q.Is it a one-day meeting?
A.No, it's two days.
Q.And these meetings occur in January every year?
A.Generally in January because that's our slower time.
Q.And who chooses the topics of the meetings?
A.Breck Neeper, our safety director.
OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q.And he's the safety director you said?
A.Yes.
Q.And how long has he been employed with Guelich?
A.Over 20 years.

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Q.And what are his job duties?
A.His job duties, he's in charge of keeping us informed of all the rules and regulations, all types of safety items and in charge of training.
Q.Now, are materials used, documents used, videos used at these safety meetings?
A.Yes.
Q.And does Guelich hold on to these materials?
A.It depends where Breck got them from at the particular time. He may have got them from our supplier, so we might have some.
Q.Do you know whether the subject of the examination of leaf springs and U-bolts has ever been a topic at one of these safety meetings or any of the safety meetings?
A.I don't know for sure.
Q.Is there a way that you can check that out and investigate that?
A.That would have to be answered by Breck Neeper.

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Q.And would Mr. Neeper also be able to tell us whether videos --- strike that.
Did you ever attend a safety meeting where that subject was discussed?
A.I attend them all, so I'm sure I did.
Q.Okay. Do you ---?
A.But I don't recall what particular time.
Q.Do you know one way or the other whether it was the subject of a safety meeting?
A.No, I'm not sure.
Q.Okay. Was this subject, checking U-bolts and checking loose leaf springs, ever discussed with your truck drivers at any time after David Weaver's accident?
A.I'm sure it was, but I can't recall that.
Q.And why are you sure that it was?
A.It's just one of the things we would have done.

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Q.Okay. Do you know whether the drivers were given literature or written documentation in connection with that subject?
A.I don't believe so.
Q.Did you come to learn at any time after David Weaver's accident that your truck drivers didn't know how to inspect leaf springs or weren't inspecting them?
A.Did I --- repeat the question, please.
Q.Did you ever come to learn after David Weaver's accident that your truck drivers or some of them didn't know how to examine leaf springs?
A.No, I didn't come to learn that, no.
Q.Okay. Did you ever discuss this with --- strike that.
After David Weaver's accident, did you have any conversations with your shop foreman or mechanic about whether your drivers knew how to

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inspect for loose springs or broken springs or loose U-bolts or broken U-bolts?
A.I don't recall.
Q.Well, was it an area of concern for you after David Weaver's accident?
A.Sure.
Q.Okay. Did you require or your company require that drivers be retested on the examination of leaf springs and U-bolts?
A.No.
Q.Well, did you come to learn from the investigating police officer that the U-bolt wasn't tightened on the truck that David Weaver was driving on the date of his accident?
A.No, I didn't learn that from that accident. I was just told that the U-bolts broke.
Q.Do you know the causes --- as a mechanic or a maintenance person with experience of heavy equipment, do you know all the reasons why a U-bolt can break?

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A.No.
Q.Did you ever learn that in your service?
A.No.
Q.Have you since learned that, what could cause a U-bolt to break?
A.No. I still don't know why some U-bolts break and some other ones don't.
Q.Do you know why leaf springs become loosened?
A.Yes.
Q.What causes a leaf spring to become loosened?
A.They become loosened over a period of time just from heavy use.
Q.Do you know one way or the other whether leaf springs can become loosened because the U-bolt isn't tightened properly?
A.Well, if the U-bolt is not tightened, the springs automatically would be loose.
Q.Do you know what happened to the truck, unit 309, after David Weaver's

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accident?
A.Yes. It was taken by Eagle Recovery to their Milesburg yard.
Q.All right. And do you know what became of the truck, where it is today?
A.I don't know where it's at today. I thought it might be down at W.W. Williams in Kylertown.
ATTORNEY SUGHRUE:
W.W. Engine.
A.Oh, W.W. Engine, yeah. It used to be W.W. Williams. But in Kylertown, it's a salvage yard. He evidently bought it salvage.
BY ATTORNEY MOSES:
Q.Okay. Do you know whether this --- what was it, W.W. Williams you said?
A.W.W. Engine. I'm sorry.
Q.Do you know whether this company was told not to disperse of the parts or not to sell any of the parts of that truck?
A.I don't recall if we were told that or not.

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Q.Have you ever seen the missing spring --- strike that. Have you ever seen springs that were discharged or these missing springs from unit 309 after David Weaver's accident?
A.No. You mean the missing --- after the accident?
Q.Yes.
A.I saw the U-bolts at one time.
Q.Okay. Did you come to learn that there were approximately, and don't quote me on that, eight missing springs or I guess plies, is that what they're called?
ATTORNEY KIGER:
What do you mean by missing? Now missing you mean or ---?
ATTORNEY MOSES:
Yes. Well, I think there were only three on the --- the eight leaf springs were never recovered, I don't believe.
A.I don't know that.

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ATTORNEY KIGER:
I just meant you weren't asking him whether before the accident there were only three instead of eight?
ATTORNEY MOSES:
Well, no, no.
BY ATTORNEY MOSES:
Q.Did you understand my question? I mean, after the accident there were --- it was determined there were eight springs that were missing. And I was wondering ---.
A.I didn't know that.
Q.Oh, okay. All right. I was wondering if you had ever spoken to the police officers and whether you knew one way or the other whether the police had recovered some of the springs or any of the springs.
A.The only thing I know that was recovered was the U-bolts.
Q.Do you recall what David Weaver's wages were back in August of 2001?

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A I'm not sure right now.
Q Did he receive any benefits from Guelich?
ATTORNEY SUGHRUE:
I object to the form of the question. Could you explain what you mean by benefits?
ATTORNEY MOSES:
Well, did he get benefits, medical benefits?
ATTORNEY SUGHRUE:
Well, working or after he died or ---?
ATTORNEY MOSES:
No, no, no. I mean in connection with these wages.
A You mean before the accident?
BY ATTORNEY MOSES:
Q Yes, before the accident.
A Oh, sure, he would have gotten benefits. He'd have hospitalization, he would have had vacations, holidays.
Q Okay. I'm just trying to get an idea of what his benefits were. Anything other than that?

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A We provided uniform service. That's basically it.
Q Okay. Are your truck drivers required to take a physical?
A Yes. And they take drug and alcohol tests, too.
Q How often are physicals done?
A I think it's every two years.
Q Okay.
A And they take a required physical when they start employment.
Q Do you know when the last physical --- when was the last physical David Weaver had before his accident?
A No, I don't know.
Q Is there documentation of when that physical was?
A There would be in his employment file, I'm sure.
Q Okay.
ATTORNEY SUGHRUE:
For the record, his personnel --- that was not provided today because it wasn't within the scope of the

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subpoena. However, it was within the scope of Mr. Green's prior subpoena and the personnel file, which I believe contains physicals, are in that personnel file.
ATTORNEY MOSES:
I think I saw one, a copy of one physical. Okay. Is that the --- do you recall?
ATTORNEY SUGHRUE:
Well, I don't know what you saw, but I would think that there would be several because I observed several in the personnel file, but I didn't copy them. But I'd be glad to check it myself ---.
ATTORNEY MOSES:
All right.
ATTORNEY SUGHRUE:
I'd be happy to accommodate you if you check what you have and if you have some desire for something

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additional.
ATTORNEY MOSES:
Yes. I know, John, I would be --- I will be requesting the safety meeting documentation which Guelich utilizes, videos and anything related to inspection of a truck, things of that nature which I can put in writing. If you want me to subpoena it, I will, but however you want me to do it.
ATTORNEY SUGHRUE:
Yes, I think you'd have to subpoena it, and then we would comply.
ATTORNEY MOSES:
Okay.
ATTORNEY SUGHRUE:
After all, we're not a party to this, and we're not going to get involved ---.
ATTORNEY MOSES:
No, that's fine. Can you

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mark this? I think we're on
Eight.
(Duwayne Guelich Exhibit
Eight marked for
identification.)
A.Are you moving on from this one?
BY ATTORNEY MOSES:
Q.Yes. I just want to get through some of the documents you brought just so you can identify them for me, Mr. Guelich. I'm showing you what's been marked as Exhibit Eight. What are those documents?
A.This is a copy of the
Pennsylvania State inspection records
when the mechanic does the inspections
on the trucks.
Q.And I notice that on that document there is highlighting on each page.
A.The highlighting refers to truck
309.
Q.And what is the time frame of those records?
A.This goes all the way back when

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we had the truck new until the time of
the accident.
Q.All right.
A.There was two inspections
required per year.
Q.And where were those inspections conducted?
A.At our shop.
Q.And when was the last inspection before David Weaver's accident? Was that April 23rd, '01?
A.Yes.
Q.Okay.
A.See, I got it right up here.
Q.Oh, okay. And who did that inspection, Mr. Guelich?
A.Randy Knepp.
Q.Did he do all the inspections?
A.I think he did them all.
Q.And you said how often --- how often did they have to be done?
A.This is a semi-annual
requirement.
Q.And who did the one on October 31st, 2000?

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A.Randy Knepp.
Q.Okay. I'm showing you this two-paged document. I haven't marked it. I just want you to tell me what it is, those two pages.
A.This is a check requisitioned by
Sorema North America, issuing us a
check for $36,885, along with a copy of
the check.
Q.And what does it relate to?
A.It relates to the damage to the
truck.
Q.All right.
ATTORNEY SUGHRUE:
Sorema is S-O-R-E-M-A.
ATTORNEY MOSES:
We'll mark this.
(Duwayne Guelich Exhibit
Nine marked for
identification.)
ATTORNEY KIGER:
What is that document?
ATTORNEY MOSES:
It's this handwritten
document. I think it's the only

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handwritten one.
BY ATTORNEY MOSES:
Q.Can you tell me what Exhibit Nine is?
ATTORNEY SUGHRUE:
That was in the packet at
the bottom, Jerry.
ATTORNEY KIGER:
Thank you.
A.This is a note from Jack
Anderson, my general manager.
BY ATTORNEY MOSESS:
Q.I'm sorry, I didn't hear you, sir.
A.You asked me to identify this.
Q.Yes. I just didn't hear you.
A.This is a note from Jack
Anderson, who is my general manager, to
Duane Allen, who worked for the
insurance company. He must have been
--- I think he was an adjuster at the
time.
Q.Okay.
A.He evidently requested
information that Jack Anderson sent

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him.
Q.Information about what?
A.It looks like he's requesting information from the last rebuild, for the rears --- the front and rear tandems.
Q.On unit 309?
A.On unit 309. And a --- just a question, like asking for the wheel base, the size of the unit, a 15-ton unit, 300-gallon diesel fuel tank. And I already said that this was a note --- this is Jack Anderson give this to Duane Allen.
Q.Okay. Had the truck ever been rebuilt?
A.No.
Q.Okay. All right.
ATTORNEY BARR:
I'd just ask who Duane Allen worked for?
A.Sorema.
ATTORNEY BARR:
Sorema.
BY ATTORNEY MOSES:

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Q.I have 15 pages here, and I just wanted you to look through them and tell me whether this is David Weaver's driver record. There may be more pages here. I just want to mark it in one exhibit.
A.As I said earlier, we're required to investigate our drivers' records every so often. And these are all reviews and paperwork from the State where we requested the records of David Weaver. Basically, we was checking for if he had any violations or --- and I seen where he only had one violation, and that was a stop sign.
Q.I'm just trying to get it marked as an exhibit. Is that the driver record?
A.Yes.
Q.Okay. Here's seven more pages. And these also are a part of David Weaver's driver record. I just want you to identify that so we can mark it as an exhibit.
ATTORNEY KIGER:

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That's 17 pages?
ATTORNEY MOSES:
It would be, I think, 22.
Wait, those are seven pages.
A.Yes. This is from all the same records.
ATTORNEY MOSES:
I don't think that they're in order, Jerry.
They're 22 pages. And we'll mark these as Exhibit Ten.
ATTORNEY REMICK:
Judy, can you just flip through the last couple pages for me so I can see where the break is? Does it include these?
ATTORNEY SUGHRUE:
Yes. It includes those internal documents, violations, ---.
ATTORNEY REMICK:
It looks like I have some more driver records after that.
ATTORNEY MOSES:

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Oh, okay. All right.
ATTORNEY KIGER:
I don't think they're in the same order that she has.
ATTORNEY MOSES:
Well, mine are all messed up, too. Okay. Here's two more pages, so ---.
BY ATTORNEY MOSES:
Q.That's part of the driving record? Why don't we just get you to look at all the ---.
A.Yes, they are the same.
ATTORNEY REMICK:
But there's actually more behind them.
ATTORNEY KIGER:
There are.
ATTORNEY MOSES:
That's 24.
BY ATTORNEY MOSES:
Q.And these other records are not the driver record; right?
A.I'd have to see them.
Q.Yes. Why don't you look at

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those? We have 24 pages so far of the driver record. I didn't think those were his driver record.
A.This is the copy that ---.
Q.Well, I don't want you to identify it. I just want you to look through them and see if any of those pages are the driver's record. And I'll put them with this exhibit, Mr. Guelich.
ATTORNEY SUGHRUE:
You're not asking his training ---?
ATTORNEY MOSES:
No. Just what would be part of his driver record.
ATTORNEY SUGHRUE:
Driver licensing record with the State with respect to violations, that's all those documents are.
ATTORNEY MOSES:
Right.
ATTORNEY SUGHRUE:
There's an internal

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document where he certifies no violation and a State confirmation.
ATTORNEY MOSES:
So these are separate; right?
ATTORNEY SUGHRUE:
Right.
ATTORNEY MOSES:
And then I'll ask him about these. I just wanted them to be identified. Okay. We'll mark these as Ten. I think they're 24 pages.
(Duwayne Guelich Exhibit Ten marked for identification.)
OFF RECORD DISCUSSION
ATTORNEY MOSES:
Would you mark this 11?
ATTORNEY REMICK:
Eleven (11) is?
ATTORNEY MOSES:
This thing titled Institute of Makers of

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Explosives.
BY ATTORNEY MOSES:
Q.Before it's marked, is this a two-page report, Mr. Guelich, or is that separate?
A.No, this --- do you want me to identify these or do you want them back?
Q.Well, I just want to know, are these ---?
A.No, they're separate.
Q.Okay. All right. And now I'll ask you.
ATTORNEY MOSES:
Okay. This is 11.
ATTORNEY REMICK:
Eleven (11) is the vehicle accident report?
ATTORNEY MOSES:
Yes, 11 is the vehicle accident report. And 12 will be the explosive report.
(Duwayne Guelich Exhibits 11 and 12 marked for identification.)

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BY ATTORNEY MOSES:
Q.Okay, Mr. Guelich. What is Exhibit 11?
A.Exhibit 11 is a vehicle accident report that we sent to the Institute of Makers of Explosives, which is an organization we belong to. And we are required, belonging to this, to let them know of any incident like this so they can get it on file.
Q.All right. Did this company do an independent investigation of David Weaver's accident?
A.No.
Q.Did OSHA investigate David Weaver's accident?
A.I don't believe OSHA did. DEP did. And I think that's the next document you have.
Q.Okay. I'm going to put this up. I'm going to change this. Okay. I'm showing you Exhibit 12. What is that, sir?
A.This is an explosive report by the Bureau of Environmental Resources

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on the accident.
Q.Who completed that report; do you know?
A.Donald Hubel. He would have been --- he would have worked for DEP out of our Hawk Run office.
Q.Did Mr. Hubel come to your place and speak with you about the accident?
A.I think he did, it indicates here that we met at the scene, so ---
Q.Okay.
A.--- I think he came to the accident scene.
Q.Okay. And do you remember speaking with him?
A.No, I don't.
Q.Do you know one way or the other if you did or you just don't remember?
A.I don't remember if I did.
Q.All right. Can you tell me from looking at this report who was at the scene of the accident?
A.Breck Neeper would have been. Jack Anderson would have been. Breck Neeper is our safety director. Jack

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Anderson would have been. He's our general manager. Of course, naturally, I was there. There's two other names here. I don't know who they were.
Q.Can you read the names?
A.Mr. Witherow and Mr. Halstrom.
Q.You don't know who they were employed by?
A.No.
Q.Okay.
A.We did have a mechanic, a drill mechanic, by the name of Brian Witherow, but I don't know that was him or not, because he works at a different shop.
Q.Okay.
ATTORNEY SUGHRUE:
For your information, Mr. Witherow, and Mr. Brian Witherow no doubt, were from Clearfield County, and Mr. Halstrom is, I forget his first name, but they are responders to spills out of the Clearfield County Emergency Management Office.

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BY ATTORNEY MOSES:
Q.How were you notified of David Weaver's accident?
A.Well, down the street there's a gas station. I was there getting gas and somebody said there was a bad accident up the road. And I just --- up towards the shop. And I just took off and it was probably about three miles and I come upon it.
Q.And what did you witness when you got to the scene of the accident? What road were you on?
A.I was on that --- we call it the Glen Richey Highway. I was on the Glen Richey Highway. I think the route number now is 2003. I think that was the route. When I come up on it, there was, you know, crowds and crowds of people.
Q.Okay. And where did you see the vehicle?
A.The vehicle was down over an embankment. And at that point in time, they were stopping people from going

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down there. I couldn't even go down there myself.
Q.And the vehicle was on what roadway, if you know?
A.They call it Log Cabin Highway, Log Cabin Road.
Q.And what did you observe? What did the vehicle --- how was the vehicle resting on that road?
A.It was laying down. I think it was laying --- if I recall, it was like laying on its side.
Q.On what side? Was it the driver's side or the passenger's side?
A.I believe it was laying on the passenger side, but I'm not a hundred percent sure now.
Q.Okay. Who was there on Log Cabin Road at the time? Was there anyone there?
A.There was Lawrence Township Police. There was a lot of people. My specific thing then was his father come upon the scene. And his father and I were good friends.

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Q. David Weaver's father?
A. Yes.
Q. What is his name?
A. Samuel Weaver.
Q. Where does he live?
A. He's deceased now.
Q. When did he die?
A. He died two years ago.
Q. How old was he?
A. He was my age, 68.
Q. Okay.
A. Him and I were good friends. I took it as my responsibility to keep him away from the accident. I didn't want him down there because everybody told me it was terrible.
Q. Okay.
A. That was what I did.
Q. Did he make it down to Log Cabin Road or you kept him away?
A. No. I kept him away. That was at the request of everybody there.
Q. So he was not able to observe --- from where you were standing and Mr. Weaver was standing, he wasn't able

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to observe his son in the truck?
A. No.
Q. Okay. Were there any other family members that came upon the scene of the accident?
A. I don't believe so.
Q. Now, David Weaver was divorced?
A. Yes.
Q. And he had a daughter?
A. Yes.
Q. Okay. Had you ever met his daughter?
A. Related to me.
Q. In what way?
A. David Weaver's mother --- now, wait a minute. Get this straight. David Weaver's first wife, Brenda, was the daughter of a cousin of mine.
Q. How old was David --- what's her name, his ---?
A. The daughter?
Q. Yes, the daughter.
A. Jennifer.
Q. Jennifer. And how old was she in August of 2001?

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A. I don't know. I'm just guessing. Maybe about eight. I really don't know for sure.
Q. You don't know, okay. When was the last time you --- when had you last seen her?
A. I haven't seen her for --- I think probably about a year ago in a parade. I think she was like a member of the band.
Q. All right. She lived with the ex-wife?
A. She lives in Curwensville with the ex-wife.
Q. Okay. All right. Had you spoken with any police officer --- strike that.
Do you know, after having any conversations with any investigating officers, as to whether David Weaver was ever conscious following the accident?
A. I can't recall ever having a conversation like that with any police officers.

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Q. Okay.
A. All I know is they said it was bad.
Q. Okay. You've copied the police report for us. And on the last few pages of the police report, if you'll look at the attachments, the vehicle accident reports and accident report narrative and this document, the driver's vehicle inspection report, did you attach these documents or were these part of the police report, those documents I just read off?
A. This first document you have here, this one of the vehicle, accident report, that's the same document that I already showed you, that went to the IME.
Q. Right. But was that attached to a copy of your police report, or did you just attach it?
A. I think we just attached that.
Q. Okay. I'm just trying to get an idea of were these three pages attached to the police report or did you attach

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them?
ATTORNEY SUGHRUE:
Those documents all
attached together are believed
to be responsive to that
particular part of your
subpoena.
A.Yeah, I think we attached these.
BY ATTORNEY MOSES:
Q.Okay. Fine. Do you know the
name of the tow truck driver ---
A.No, I don't.
Q.--- from Eagle?
A.No.
Q.Had you ever spoken with anybody
from Eagle in connection with this
truck and the towing of the truck?
A.I think the only thing I might
have said at the time, and I'm not real
sure, is I think they asked me where we
wanted it to go. And I said, take it
to your salvage yard.
Q.All right. This report titled
Accident Report Narrative Taken From
The Police Report, who prepared that

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report?
A.We probably copied this from one
of the reports and sent it along ---
attached it and sent it along with this
to the IME. This is not --- I don't
think this is our wording. I don't
recall. I think this accident --- I
think this is a narrative that came
from one of the police statements.
Q.Okay. But I mean, who actually
typed this report up? Was it somebody
from Guelich?
A.I think it was a copy of
something.
Q.Okay.
ATTORNEY SUGHRUE:
I know, if you care to
know, my understanding is this
report to the Institute of
Explosives was forwarded with
this document attached, and that
this attached document was
prepared by Jack Anderson and
Breck Neeper as part of their
report to the Institute.

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ATTORNEY MOSES:
Well, how about if we
---?
ATTORNEY SUGHRUE:
And the source was simply
--- the source with respect to
the accident was copied --- as
it notes, was copied from the
police report for the benefit of
the Institute. And you'll see
the same note at the bottom,
indicating where the truck was
taken. So I know that was
prepared by D.C. Guelich's
people, and I believe the
supervisor was Jack Anderson.
ATTORNEY REMICK:
But we don't know who
typed it; right?
ATTORNEY SUGHRUE:
Right, we don't know who
typed it. I'm just giving you a
background.
ATTORNEY MOSES:
Okay. Why don't we mark

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this 13 just so we have ---
okay.
(Duwayne Guelich Exhibit
13 marked for
identification.)
BY ATTORNEY MOSES:
Q.So the document that you just
testified about, titled Accident Report
Narrative Taken From The Police Report
dated October 2nd, 2001, we'll mark
that Exhibit 13. And you said you
believe that was prepared by Jack
Anderson?
A.Yes.
Q.Can you tell me what this
document entitled Employee
Certification is?
A.This is an Employee
Certification where David has got
certified that he's qualified under the
hazardous materials training and
testing, that he was qualified to haul
hazardous materials.
Q.And these other two pages are
connected with his training in

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hazardous materials?
A.That is correct.
Q.And I think they all have the same date, January 10th, 2000?
A.Yes. That's probably right about the time that I was speaking earlier, some of the training we did in January. It was probably part of the training at that particular time.
Q.So this is a three-page document; right? These three pages go together?
A.Yes.
ATTORNEY MOSES:
We'll mark this 14.
(Duwayne Guelich Exhibit 14 marked for identification.)
OFF RECORD DISCUSSION
BY ATTORNEY MOSES:
Q.I'm showing you what will be marked Exhibit 15. It's titled Brake Inspector Qualifications. What is that document?
A.This is a certificate basically

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that's saying that David has signed it, saying that he has passed his CDL, Commercial Driver's License Air Brake Knowledge and Skills Test.
ATTORNEY SUGHRUE:
That's Number 15.
ATTORNEY KIGER:
That's Exhibit 15?
ATTORNEY REMICK:
Yes.
(Duwayne Guelich Exhibit 15 marked for identification.)
BY ATTORNEY MOSES:
Q.Where was this brake inspector training gotten or received by David Weaver?
A.I'm not sure.
Q.He didn't receive the training at Guelich; is that right?
A.I'm not sure.
Q.You can't tell from that record, Exhibit 15?
A.No, I can't tell from this for sure. It does say that D.C. Guelich,

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their shop right there.
Q.And I think the last record I'm going to have marked as 16 is titled EAP Training Certification. What is that document, sir, Exhibit 16?
(Duwayne Guelich Exhibit 16 marked for identification.)
A.This is a training certification on --- basically where they're going over and taught about drugs and what it means to drive and things like that. And it consisted of --- can see what it says, consisted of a 60-minute video.
BY ATTORNEY MOSES:
Q.Okay.
A.And David was an attendee of that class, and it was given by Breck Neeper, our safety director.
Q.All right. Thank you. Going back to Exhibit 15, David Weaver didn't check the brake-related maintenance and/or inspection training on that Exhibit 15, did he? I think that this form asks to give the name of the

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course, the name of the school, the subject, the date, and that form isn't filled out --- or this Exhibit 15 isn't filled out by him.
A.I notice he didn't check that off. I don't know why he didn't do that.
Q.Okay. Well, I mean, do we know one way or the other whether David Weaver did undergo or attend a course related to brake-related maintenance and inspection?
A.I would have to say he did because he signed it. That's all I can say.
ATTORNEY MOSES:
Just mark this. This is the last thing.
(Duwayne Guelich Exhibit 17 marked for identification.)
BY ATTORNEY MOSES:
Q.And what is 17, Mr. Guelich?
A.Seventeen (17) is a copy of the truck --- the then current registration

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on the truck.
Q.Okay. Thank you.
ATTORNEY MOSES:
And I'm just marking the
depo notice as 18.
(Duwayne Guelich Exhibit
18 marked for
identification.)
ATTORNEY MOSES:
That's all I have, sir.
OFF RECORD DISCUSSION
SHORT BREAK TAKEN
EXAMINATION
BY ATTORNEY GREEN:
Q.Mr. Guelich, I'm Joe Green. I represent Mr. Kyler and his company, Northeast Spring & Equipment. I won't be nearly as long as Ms. Moses. And I might be jumping around a little bit here from one subject to another just to fill in a couple of gaps. But let me just go ahead and get started with just sort of a general description of the job sites that David Weaver or a person in his position would visit. I

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know that there's not a big market in terms of customers for explosives. It's kind of a specialized industry. And you had mentioned that I think Mr. Weaver was going to surface or strip mining that day?
A.He would --- yes, that particular day he was going to a surface coal mining operation.
Q.And what company was that?
A.Energy Resources, Incorporated.
Q.Do they have just one site in Clearfield County?
A.No, they have more than one.
Q.Is that a regular customer?
A.Yes.
Q.I assume that a lot of your customers are what I'd call regular customers?
A.Repeat customers, yes.
Q.But say for the year, year and a half prior to the accident, was Energy Resources a customer of your company in terms of the need for explosives?
A.Yes.

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Q.In that context, a company such as Energy Resources, would you be delivering to a company of that sort like once a week, once a month? Can you give me some general frequency as to what ---?
A.It depends on the size of the company. But that particular company there, we might have been going to two or three of their jobs maybe three or four times a week. And it might be --- one day it might be this job here and maybe on another site and another place the next day. It just moves around.
Q.Did they have two or three job sites in Clearfield County?
A.Yes.
Q.Did Energy Resources have any job sites out of county that you serviced?
A.I think they might have had one over around --- Brandy Camp might have been --- I don't want to say Centre County. It would be Clearfield County

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---. I think they're pretty much all in Clearfield County.
Q.With respect to surface mining, that would be traditionally I guess what we refer to as a strip mine, that would involve the use of explosives?
A.Yes.
Q.And could you tell me or explain to me what the truck driver's job is in that context? Does he just deliver, for example, the bulk explosive material, and then some other specialist handles the setting it up and using it? How does it --- how does he ---?
A.Okay. That's Dave's job. If you want to keep it in relationship to David Weaver, ---
Q.Yes.
A.--- he was driving a bulk truck.
Q.Right.
A.The bulk truck was carrying ammonium nitrate and fuel oil. He would go to the job site. And generally, at the same time, one of our

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other trucks would be going to the job site, carrying the high explosives and the detonators. When they'd get to the job site, there would be X amount of holes that had to be loaded. They would be loaded with a detonator and a stick of dynamite. You would take the cap, put in a stick of dynamite, lower it down the hole. Then depending whether there was water in the hole or whether the hole was a dry hole, then Mr. Weaver would bring his truck in to haul the bulk material. And the truck was set up with a boom on the top that would swing around and there would be a hose on it. And from the back of the truck there's meters, and they would load those holes bulk out of the back of the truck.

Q.You're talking about a hole that's drilled into the ground by ---?

A.It might be anywhere from 30 to 40 or 50 feet deep. Generally, six and a quarter, six and a half inches in diameter.

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Q.And would that load, for example, that Mr. Weaver had, 30,000 pounds of ammonium nitrate, would that all be used typically that day on that job?

A.Probably not particularly that day. They might come back with material still on their truck.

Q.Would a person who was overseeing a job, such as the job that Mr. Weaver had that day, would he be at the job site all day, or is this a 15-minute delivery or a half-an-hour delivery? What's the nature of the time frame that he spends there?

A.I'd say on the average maybe four hours to get a shot loaded and detonated.

Q.Because there would be multiple holes that have to be filled with the ammonium nitrate; correct?

A.Right.

Q.Now, the site of these holes that are being loaded with the explosives would be the actual portion

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of the job site that the coal is being extracted from?

A.Yes. This would be loosening up the overburden on the top of the coal.

Q.So you would be blasting the whatever, the soils or the stone formations that is over the seam of coal; correct?

A.Right.

Q.And what's the general terrain? Could you describe, just from your knowledge, what the terrain is that you'd be working in? I assume that the topsoil has been removed by bulldozers or something?

A.That's right.

Q.And there'd be heavy equipment by the operator of the strip mine in that area?

A.Yes.

Q.And then there would be these drilling machines, I suppose?

A.That's right.

Q.And does the truck actually go to the hole itself, the job site?

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A.Yes.

Q.Are these --- I don't know whether to use the term four-wheel drive, but is it rugged terrain that these trucks are especially designed to handle whenever you're off road?

A.No special design.

Q.But the truck --- the delivery truck, I'll call it, Mr. Sherman (sic), more than that, but a tri-axle, such as a Mack, is off the highway; correct?

A.Yes.

Q.It's at a strip mine site that's being prepared for demolition and blasting?

A.Yes.

Q.The area where blasting has occurred, would that be --- is it possible for you to give me like a typical size of that area? Is it four or five acres' worth of holes or ---? I'm not sure whether I'm even in the right ball park here with descriptive language, but what's the area that a delivery driver would be servicing?

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A.If you're asking what the size of the area is of a particular shot that we'd be going to detonate, that really a lot of times depends on what the operator of the job is after. But you know, roughly, you could say maybe a 50 to 60 hole pattern. And the spacing might be 15 feet. So you take 50 times 15 and that would give you the length, times maybe four or five rows.

Q.In order to remove the overburden, is it usually just one shot that gets you down to the coal or is there a level of blasting that occurs and the broken-up rock is removed, and then the truck has to go in on the site again?

A.It depends on each job. There could be more than one seam of coal. Generally, once you get down to the first seam of coal, then they'll remove that. And then if they can't get --- even with their equipment, they can't get down to the next seam, then they'll bring a drill in and they'll drill and

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shoot down to the second seam.

Q.Is it possible for the undercarriage of a tri-axle truck to come in contact with the surface of rock, the various terrain features that you would encounter at a strip mine?

A.It's possible.

Q.You mentioned that you have other types of customers, for example, at highway jobs or quarries; is that correct?

A.That's right.

Q.Would Mr. Weaver have serviced a mixture of strip mines, highways or quarries, or was he just a strip mine delivery man?

A.Mixture.

Q.Could you give me just a general idea as to the nature of your business in terms of the percentage of customers? Is it like one-third, one-third, one-third or is the bulk of your business strip mining?

A.It changes year to year.

Q.Yes.

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A.Probably right now, this year we're in right now, there's probably 60 percent strip mine.

Q.How about back in ---?

A.Previous years, back in '01, I don't have that in front of me to tell you, but we were probably maybe 40 percent strip mine --- maybe 60 percent strip mines, maybe 30 percent quarries, stone quarries, and maybe the rest is site preparation jobs and road jobs and things like that.

Q.In the strip mines that you serviced back in 2001, what was the typical overburden material? Was it like a sandstone, shale, what?

A.Both. Anything that their piece of equipment can't dig. It depends on the operator, on what size equipment they have. If they have a B11, we don't have to shoot as much for it. If they have B9s, then you have to shoot more for them.

Q.And you're talking about different types of Caterpillar

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bulldozers?

A.Right.

Q.The B11 is the large one?

A.Right.

Q.In terms of quarry work, can you just name a couple of the quarries that Mr. Weaver would have serviced?

A.New Enterprise Stone & Lime Company, Hawbaker, Mellott.

Q.New Enterprise, that would be limestone?

A.Yes.

Q.And Hawbaker, that's limestone in Centre County?

A.Limestone also.

Q.Is Mellott also limestone?

A.Mellott is limestone also.

Q.Most of your quarry work in this general area would be limestone?

A.Would be limestone.

Q.How about just finally highway jobs, Interstate 80 type of --- or I'm sorry, maybe like Interstate 99 would be a highway job?

A.Well, we did that work --- if

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you travel through State College, we did a high percentage of that work.
Q.That's all limestone there, heavy cuts there; is that correct?
A.Yes.
Q.That now would be --- I guess it is called or will be called Interstate 99?
A.Yes.
Q.And that work was being done back in 2001?
A.I think some of it was being done back then.
Q.Whenever you have to outsource some type of repair, go to a vendor or contractor such as Northeast for any type of repair, is that something within the authority of the driver himself to arrange, or does he have to go to the shop foreman? What's your procedure on that?
A.He has to go to the shop foreman. And that depends on what gets done there as to how busy the mechanic might be. The mechanic might be really

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busy, so we might outsource the work. Or it might be a scope of work that our mechanic doesn't want to do himself, and we'll outsource it.
Q.Mr. Guelich, do you recall whether you ever received any type of, oh, recalls or advisories or notifications relative to U-bolts of the type that you would use with this particular kind of tri-axle truck?
A.I don't recall ever receiving them.
Q.Am I using the term tri-axle accurately?
A.No. That was a tandem truck. It wasn't a tri-axle.
Q.Okay. Just to cover the bases, let me ask that same question then relative to a tandem.
A.The only difference between a tandem and a tri-axle is a tandem's got the bogies in the back. And if it's a tri-axle, they stick that extra tag axle on the front of it. But a tandem can also end up being a tri-axle if

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they put the extra axle on the front.
Q.In connection with your company procedures, I see you have a job title of safety director. You mentioned a fellow who was your safety director. What generally are his duties?
A.His duties are to keep us informed of any changes in regulations. He is keeping us up-to-date on safety and compliance.
Q.Are there any particular type of specific safety manuals --- I'm not talking so much about compliance, but safety guidelines or manuals or books that you give to your truck drivers for procedures in strip mines and quarries, on the open highway and so forth?
A.I don't recall any right now, but Breck Neeper, the safety director, might.
Q.In terms of ---.
A.To back up, all our drivers do get that handbook, the DOT handbook.
Q.Of your --- all the vehicles that you have or operate, do you have

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tow trucks or wreckers --- I'll call it a wrecker, but a tow truck, retrieval vehicles?
A.No.
Q.If you ever have had occasion to have one of your vehicles retrieved for a breakdown or something like that, you'd independently contract?
A.Yes.
Q.With regard to your procedures generally, in terms of U-bolt tightening, is that a specialized job at all or can the driver do that or the shop foreman or a particular grade of mechanic? In other words, is that assigned to a specialized person, anyone familiar with the ---?
A.It's not a specialized job. I mean, it's just a matter of getting underneath there on a creeper, if you don't mind getting muddy and getting something heavy enough to get on the U-bolts and tighten them up.
Q.Sir, just to change gears here a little bit. I warned you I was going

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to jump around here in the interest of time. But I have been provided in this case with some investigation material. And I'm not sure whether you brought it with you today, but I think you've probably seen it. There was a man by the name of William Wetzel, who has a consulting service in Ridgway, Pennsylvania, and he performed a site visit and investigation for your company very soon after the accident occurred. Do you know that?

A. Yes.

Q. Did you know Mr. Wetzel? Have you done business with him before this?

A. No, I did not know him. My attorney, Mr. Sughrue, hired him for me.

Q. Okay. Yes. His report is to Mr. Sughrue. And I see that he was on the --- at the accident scene as early as September 1st, 2001, and that he was over at Eagle Tire on September 5th, 2001. So I take it he would have been contacted fairly soon after you found

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out about this accident?

A. Yes, I'd say.

Q. Was there a particular reason why you hired Mr. Wetzel to conduct an investigation?

A. Mr. Sughrue recommended we do it so we'd get the complete picture.

Q. I'm not questioning you, a serious accident and so forth, but --- or I'm not questioning that you did that. I was just curious as to how you contacted him. And that was a referral from your attorney; is that right?

A. Uh-huh (yes).

Q. You have to say yes or no for the record.

A. Yes.

Q. One of the fellows who is mentioned in here who I think helped Mr. Wetzel was a gentleman by the name of Cessna, C-E-S-S-N-A?

A. Yes.

Q. And did you know him or did he come along with Mr. Wetzel's company?

A. He came along with Mr. Wetzel's

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company.

Q. After Mr. Wetzel conducted his investigation, was there any type of personal follow-up? Did you have any type of meetings with him or discussions with him, or was his product simply his report?

A. I don't recall any personal meeting with him after that. I just --- all I can recall is he reported that.

Q. His report was dated October 24th, 2001, and it was directed to John Sughrue. I'm just showing the cover of this to you. Did you get a copy of that report and review it?

A. I believe we did.

Q. Okay. Other than the report though, you're not aware of any supplemental report, supplemental meetings or anything that you recall that involved discussion of his findings?

A. I don't recall anything, no.

Q. Do you know this Mr. Cessna?

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A. Yes, I do.

Q. And is he still around this area? Do you know where he lives?

A. I don't know where he lives. But he's still around. I see him quite often.

Q. So you know him to see him?

A. Yes.

Q. Did you know him before this accident?

A. Yes, I did.

Q. And tell me a little bit about you or your company's background then with Mr. Cessna, because he helped in this investigation.

A. I knew Mr. Cessna because he was one of the men --- he was a prior State Trooper. He was the State Trooper that came around and checked our shop because he was a State inspection trooper at the time. And he'd come around and he'd check the inspection records and things like that.

Q. If you recall, did you recommend that Mr. Wetzel consult with Mr. Cessna

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in this case or bringing him on board
in terms of the investigation?
A.No, I didn't recommend --- I
don't recall recommending him bringing
him on.
Q.I noticed that one communication
that the company had sent to Eagle Tire
& Towing had more or less said Mr.
Cessna will be the man who will pick up
the U-bolts that you had possession of.
Do you recall that?
A.I don't recall that, no,
but ---.
Q.Are you aware of any specific
reports or notes or conclusions that
Mr. Cessna might have arrived at, other
than perhaps as described in Mr.
Wetzel's report?
A.I'm not aware of anything else.
Q.Did you ever talk with Mr.
Cessna about the facts of this accident
or his findings or his investigation?
A.I may have, but I can't recall.
Q.The bulk deliveries that you
make in terms of explosives, is that

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always ammonium nitrate and fuel oil or
are there other chemicals that
sometimes you deliver that have an
explosive character?
A.On that particular truck, that
was it.
Q.So that particular truck would
have only carried ammonium nitrate and
fuel oil?
A.Right.
Q.Is the ammonium nitrate ---
that's granular --- not quite powder,
but it's a granular substance?
A.It looks like a BB, a little
white BB.
Q.And that would be carried sort
of in the V-shaped --- I'll call it the
hopper section in the rear?
A.Right.
Q.Or the tank?
A.That's right.
Q.And is the fuel oil also
transported in the same truck in a tank
of some sort?
A.Transported on the same truck,

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in a separate tank.
Q.Okay. And then eventually,
whenever the explosive combination is
put together, the fuel oil and the
ammonium nitrate is mixed together?
A.Yes.
Q.Is that mixed together as it's
put in the hole?
A.Yes.
Q.And then the ignition is the
actual detonator you talked about?
A.Right. That's right.
Q.The other vehicle that would
carry the detonators and so forth, is
that like another unit that would
always go with a person like Mr.
Weaver? In other words, he would carry
the bulk materials and there would be a
separate truck that would be with him
at each delivery?
A.Yes.
Q.Was there a particular, I'll
call him a partner or other individual
who might have usually worked with Dave
Weaver on his deliveries or could that

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be, you know, ---?
A.No. Mr. Weaver would go
wherever Bill Stevens would dispatch
him.
Q.So his partner, so to speak,
could be someone different?
A.Could be somebody different
every time.
Q.On the date of this accident, if
you know, was the other truck traveling
with Mr. Weaver right behind him or
would he have just met him or been out
in front of him? I'm just wondering if
they would have traveled together to
the job site?
A.I'm not a hundred percent sure,
but the normal procedure is that most
of the time the truck with the
detonators on it would be ahead. He
would be ahead. He would get to the
job first and get things prepared, and
then the bulk truck would come along
later.
Q.Bill Stevens, he's the present
job foreman?

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A.Yes, he is.
Q.And he's the successor to Joe Sudowski, who's the fellow who lives in Pennville; is that correct?
A.That's right.
Q.I saw the name Edward Blake as a safety director. Does he still work for you or is he still your safety director?
A.He was not safety director at that point in time.
Q.Okay.
A.He had been a safety director quite a few years ago.
Q.Between the date of the work that was performed by Northeast, which would have been in April of 2000, and the date of the accident, which was the end of August 2001, there's a gap in terms of time of roughly about 16 months. And during that 16-month period, about 15,400 miles were put on the truck. And I would translate that into about 950 miles a month for a truck such as the one Mr. Weaver was

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operating. Would that be typical usage?
A.Would you mind repeating that question, the time period?
Q.Sixteen (16) month time period, and in that 16 months, not quite 16,000 miles were put on the truck. According to the records, it was about 15,400 or something. So I'm just going to guesstimate 950 miles a month. And that was typical of that --- or I was curious as to whether that would be a typical mileage or usage.
A.I think that would be typical. We don't put a lot of miles on our trucks. This Mack was a diesel. I think it only had, at the end, like 130,000-some miles. And that's not a lot of miles for a Mack truck.
Q.You spent a number of years as a warrant officer in the Guard and --- was it a transportation unit?
A.Yes. Starting off as a transportation unit, and then went into engineers.

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Q.But was that with trucks as opposed to other types of vehicles?
A.Yes.
Q.Was that mainly five-ton trucks?
A.No, all size trucks.
Q.Was that the local Guard unit?
A.I was working out of the local Guard unit, but --- actually, I worked out of Punxsutawney, Johnstown, then I spent time in Aberdeen Proving Grounds.
Q.We had discussed the subject of retightening, retightening U-bolts. What's the importance of that, if you know, retightening U-bolts at a proper interval?
A.Just to make sure that they were tightened up the way they should be.
Q.And what's the significance of them being properly tightened or property retightened?
A.Well, the significance is you don't want them to be loose.
Q.If U-bolts are loose, that would allow excessive strain on the structure; would it not?

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A.Probably.
ATTORNEY GREEN:
I think some of the other attorneys might have a few questions, but thank you very much. That's all I have.
ATTORNEY REMICK:
Anybody else?
EXAMINATION
BY ATTORNEY REMICK:
Q.My name is Brad Remick. We met earlier. The documents that you produced today, does that give us all of the maintenance records for the particular truck that your company has in its possession?
A.Yes.
Q.All right. How is ammonium nitrate loaded into this type of truck?
A.The truck would pull under a bin, like an overhead bin, and with a gate on it, and there's --- at the top of the truck there's lids. They open the lid up and fill it out of the bin.
Q.Who's responsible for loading

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the truck before it goes out to make a delivery?
A.The driver.
Q.So on the morning of the incident, Mr. Weaver would have been the one to load this particular truck?
A.That is correct.
Q.And how is the fuel oil loaded on the trucks?
A.We have a fuel island. And we have off-road fueling, we have on-road fueling and we have gasoline. And they pull into the fuel island to fill their tank.
Q.And again, is that the driver who fills the tank?
A.Yes, it is.
Q.Is it the driver that calculates or puts in the weights of the load?
A.It can be. But it can also be Bill Stevens, the shop foreman. He'll take --- depends on the size of the shot that they have. He'll calculate how much material they're going to need.

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Q.Are there any inspections done on your vehicles with regard to corrosion?
A.Yes. I mean, there is --- you know, the pre-trip inspection, the driver should pick up if there's any serious corrosion anywhere. State inspections, they should pick it up.
Q.I mean, it's my understanding that ammonium nitrate is fairly corrosive to certain metals?
A.Uh-huh (yes). It is.
Q.Are any of --- are there any steps taken to help corrosion-proof any of the components on the trucks?
A.No, other than whenever we buy a truck, we'll make sure that they have the good epoxy paints on the tanks and things like that.
Q.Have there been other trucks, or any trucks, that have corrosion issues in the body or the suspension or anything like that that you're aware of?
A.Over a period of time, yes.

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Q.Do you know whether there are any corrosion issues with this particular truck?
A.There wasn't that I know of.
Q.How about other equipment in your inventory, like drills and that sort of thing also have corrosion issues?
A.Everything, when it starts getting a period of time and then it starts getting corrosion of some kind.
Q.Other than the epoxy paint that you'll have, I guess, the dealers or manufacturers apply, are there any other protective measures taken by your company to prevent corrosion?
A.Only whenever we see a lot of rust forming and things like that, we'll sandblast and repaint and do things like that.
Q.How about before that corrosion starts, any coatings applied to any of the components on your vehicles by your company?
A.No.

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Q.Do you know why the truck Mr. Weaver was operating on the day of his accident had the U-bolts replaced back --- when was it, in '00?
A.Well, I would say that the reason --- I'd have to answer that yes because they found a broken spring ply.
Q.Okay. And I think you told us that if you replaced any of the spring plies, you would then replace the bolts at that time?
A.Yes.
Q.Do you know how the broken spring ply was detected?
A.No, I don't know.
Q.Do you know who found it?
A.It could have been David Weaver might have found it on his pre-trip inspection, or one of the mechanics might have found it when they was checking the truck out. I don't know.
Q.Do you know who was in charge of making the purchases of the particular parts that were used in your shop?
A.Generally, it was Bill Stevens.

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Sometimes it might be the mechanic.
Q. And am I correct that because
Mr. Weaver was the gentleman who
operated the truck, would he be the one
who would go pick it up from Northeast
Spring, for example?
A. Since it was his truck, I could
see that he would have been the driver
that was sent over there to pick it up.
Q. And if you look at Exhibit Four,
and we have the invoices from Northeast
Spring. And we have --- I guess it's
the second page from the end of my
packet, which is number 7163. Do you
have that? It's the one dated 8/17/99.
A. Okay.
Q. I think that's the one. And is
that Mr. Weaver's signature that
appears at the bottom?
A. Yes, it is.
Q. And then moving forward in time,
we also have 7482, which has
description of work is replaced number
five ply in R.R.?
A. Yes.

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Q. Is that, likewise, Mr. Weaver's
signature?
A. Yes, it is.
Q. And he would have been the one
to pick up the truck then?
A. Yes.
Q. Do you know what the total
weight of the truck was, including the
load Mr. Weaver was carrying on the day
of the accident?
A. No, I can't answer that right
now.
Q. We could find out first the
vehicle weight and then add the load to
that?
A. Uh-huh (yes).
Q. You said uh-huh.
A. Yes.
Q. Okay.
ATTORNEY REMICK:
I think that's all I
have. Thank you.
EXAMINATION
BY ATTORNEY BARR:
Q. I just have a couple of

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questions just to clarify. I believe
Exhibit Four has some invoices in the
beginning from Shaw Mack. Are you
familiar with that? Do you have those
there?
A. What page are you looking at?
Q. Just again, the first one is
Shaw Mack Sales and Service. That's
the invoice where you purchased ---?
A. That's the invoice of purchase.
Q. And then the pages after that,
there are some invoices. And who are
those invoices from?
A. They are from Shaw Mack.
Q. What's the name at the top here?
A. W.W. Engine.
Q. Now, how are they related to
Shaw Mack?
A. Well, the same person who owns
W.W. Engine owns Shaw Mack.
Q. Are they ---?
A. That would be John Niebauer.
Q. Are they at the same place
physically?
A. No. Shaw Mack is in DuBois.

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W.W. Engine is out closer to Kylertown.
Q. So why would an invoice have
W.W. Engine at the top and then have
Shaw Mack in the middle and then it
would be purchased through your
company, if you know?
A. I don't know. There again,
because we bought the truck from Shaw
Mack, I would have to assume that maybe
on this particular occasion the
temperature gauge wasn't working, so
maybe they stopped and got it fixed at
W.W. Engine, and they turned around and
remitted it to Shaw Mack Sales.
Q. So the truck would have been
taken to W.W. Engine?
A. It looks like that's probably
what happened in this case.
Q. How about the following pages,
could that be true for ---?
A. I don't really know how the
procedure was on that at the time.
They're all ---.
Q. So you don't know if the truck
was ever taken back to Shaw Mack or was

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it taken to W.W. Engine? You don't know where the truck went to when it was serviced?
A. I can't tell from this, no. The only thing I can tell is that my purchase orders say Shaw Mack.
Q. But you don't have any personal knowledge of whether the truck was taken to W.W. Engine or to Shaw Mack?
A. I don't have any personal 100 percent knowledge, but I would say they were probably taken to Shaw Mack up in DuBois because it was a lot closer and that's where we bought them at.
Q. The safety inspections that are done or the safety director --- strike that.
Does the safety director ever get into the mechanical part of the safety of the truck? In other words, would your safety director ever instruct people as to the tightening of the U-bolts?
A. I don't know for sure how to answer that question. He may have, but

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--- he might.
Q. Or would that instruction come from the maintenance department?
A. Probably more so it would come from the maintenance department, which would be done by Bill Stevens.
Q. I'm sorry. How long was Bill Stevens there?
A. He's a long-time employee. He's probably been there, working for the company, probably since about 1980, at least.
Q. And how long was he in charge of maintenance? Or is he still in charge of maintenance?
A. He took over after Mr. Sudowski left. It was somewhere around '01.
Q. So you don't recall --- or do you recall whether Mr. Sudowski or Mr. Stevens was the maintenance person from '00 to --- from April of '00 to August of '01?
A. I think right at that point in time there it was Bill Stevens.
Q. Were there any formal training

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guides given to your drivers in regards to the inspection of the truck?
A. Well, they're given a manual whenever they first go for their CDL and that by the State and that --- the guidelines on things to prepare themselves for when they go for their CDL license.
Q. If a maintenance manual would come, such as from Mack Trucks, would they be instructed to review that manual?
A. The maintenance manual like that would go to Bill Stevens, the shop foreman.
Q. But not to the drivers themselves?
A. No.
Q. Who would schedule the various inspections of the truck? In other words, I think your inspection schedules show that some things are done every 2,000 miles, some things are done every 12,000 miles. Whose responsibility was it for making sure

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that those inspections were performed?
A. The shop foreman.
Q. And that's Mr. Stevens?
A. Yes.
ATTORNEY BARR:
All right. That's all I have.
ATTORNEY KIGER:
I don't have any questions at this time.
ATTORNEY MOSES:
I just have just a couple follow-ups.
RE-EXAMINATION
BY ATTORNEY MOSES:
Q. This April 25th invoice from Northeast Spring, which was signed by David Weaver, David Weaver's signature merely evidences his authorization for that repair; is that right?
A. The authorization for the repair is in the work order, within that purchase order.
Q. Okay. But what I'm asking you is, is his signature here authorizes

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the repair of the vehicle; does it not?
Doesn't that written statement ---?
A.That's what it says. It normally just --- when they pick it up, this is when they get this.
Q.That's when who gets it?
A.That's when David would have got this, when he went over to pick the truck up.
Q.Okay. After the repair?
A.After the repair.
Q.Okay. All right. How often are the trucks washed?
A.That's a tough question. I don't know. They get washed, but how often? As time presents it.
Q.And given the areas where the truck goes, like these quarries and strip mines, I would assume debris collects on the bottom of the truck?
A.Sure.
Q.But you don't know one way or the other how often the truck is washed?
A.No.

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Q.And who would do that task? Who would wash the trucks?
A.The driver would wash it or any --- any time when there's extra people floating around the garage, you try and get them washed.
Q.Okay. One more thing. These came with the packet of information that Joe Green had subpoenaed from Guelich. And I didn't see --- I don't know if those were in the documents you produced or not.
A.I think this is, more or less, stats of the truck when it was moved, you know, different things that was on the truck, what they call like a line set ticket.
Q.That's not a repair invoice or that doesn't ---?
A.No. No, this is not a repair invoice.
Q.That is just a complete description of the truck?
A.It's a description of the truck that --- in other words, it's a build

Page 184

ticket of the truck, you know, the transmission and under the transmission and all that kind of thing.
Q.Does it have the weight of the truck on it?
A.The weight?
Q.Yes.
A.No.
Q.All right.
ATTORNEY MOSES:
Why don't we just mark that?
BY ATTORNEY MOSES:
Q.It involves unit 309; right?
ATTORNEY KIGER:
That's 18, 19?
ATTORNEY MOSES:
Let me see, Jerry.
COURT REPORTER:
Nineteen (19).
(Duwayne Guelich Exhibit 19 marked for identification.)
A.I would say that's 309 because this was printed in 02/06/91.

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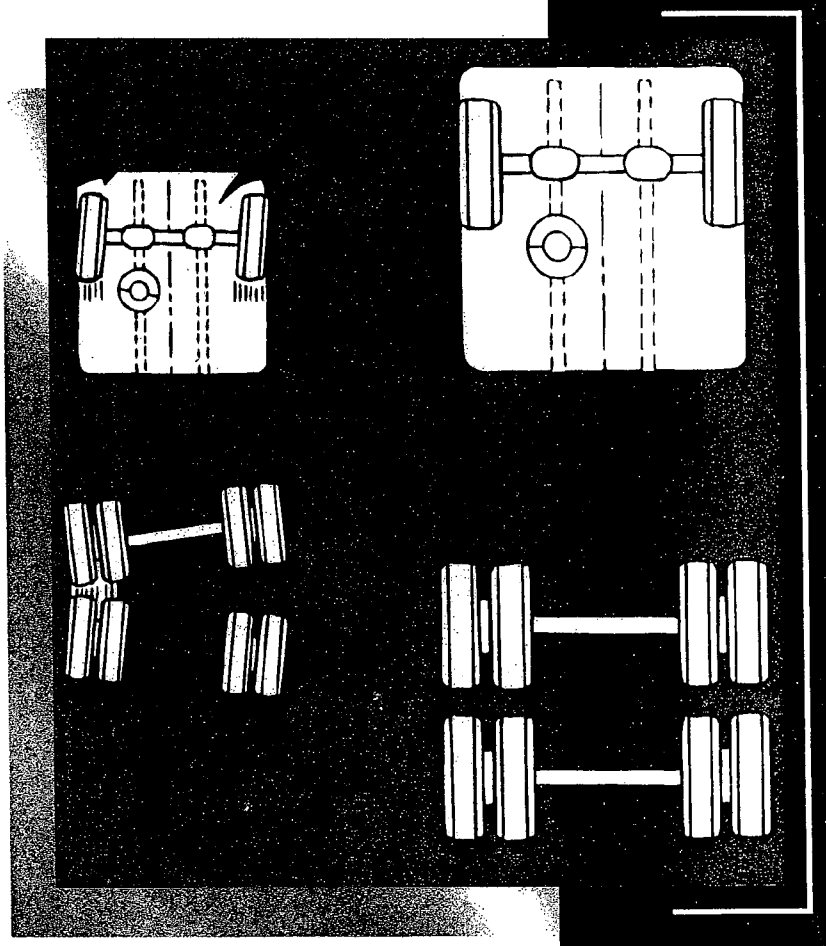
ATTORNEY SUGHRUE:
That's why that was provided to Joe Green, because it is a computer runoff that is given to the company when they buy the --- to give all the specs on the truck so you know what the parts of the truck are.
That probably came from Mack.
A.It's a line set ticket, line schedule, the build ticket.
BY ATTORNEY MOSES:
Q.Do you still have the maintenance manual for this truck?
A.I don't know. I'd have to check with Bill Stevens, the shop foreman.
Q.Okay.
ATTORNEY SUGHRUE:
We looked and preliminarily, we couldn't locate it.
OFF RECORD DISCUSSION
ATTORNEY KIGER:
Thank you. So is he going to read and sign?

ATTORNEY SUGHRUE:
Do you want an opportunity to read your deposition and sign it and make any corrections? That means you can't change it or clarify it, it only means you can correct an obvious error. Or do you want to trust this lady to get the transcript accurately?
A She looks trustworthy.
ATTORNEY SUGHRUE:
We'll waive signature.

* * * * * * * *

DEPOSITION CONCLUDED AT 2:32 P.M.

* * * * * * * *



FRAME, AXLE AND SUSPENSION SERVICE AND TOTAL VEHICLE ALIGNMENT

OCTOBER 2004
(REVISED)
14-103

Control — Cycle the shock absorber in and out. The shock absorber should require approximately four to five times more force to extend than compress. If the shock absorber moves easily in both directions, the unit is defective, and must be replaced. Note, however, that the shock can have an air bubble which will be pumped out within one to three strokes. An air bubble can be experienced in new shock absorbers in stock, or in units on vehicles which have not been driven for a day or two.

Binding — Compress the unit fully, and back off 1/4 inch (6 mm). Rotate the shock. It must rotate freely without resistance. Extend the unit to within 1/4 inch (6 mm) of full extension. Rotate the unit. Severe resistance to rotation is cause for replacement.

Leakage — In the fully extended position, collection of dirt and/or oil near the top of the reserve tube is an indication of a leaking seal and imminent shock absorber failure. Note that dirt and/or oil toward the bottom of the reserve tube can come from sources other than the shock absorber itself. A leaking shock absorber may still have proper control, but must be replaced.

Mounting — The rubber grommets on the stem or in loop-mounted shock absorbers can crack and deteriorate. Apparent surface cracks are not damaging, and may only be cracks in surface paint. Severe splits or pieces of rubber missing are an indication of a failing mounting rubber, and are cause for replacement. Also inspect the mounting brackets for damage, missing hardware and secureness.

Spring Clips (U-Bolts)

Tightening of the front and rear axle spring clip nuts at proper intervals on new vehicles and on vehicles with replaced springs is important to prevent spring shifting, breaking of leaves and center bolt shearing. Loose spring clips will also cause axle misalignment which could adversely affect tire wear.

ON NEW VEHICLES

On new vehicles, spring clip (U-bolt) torque, both front and rear axles, must be checked as follows:

- **Spring and walking beam suspensions** — during the first 3,000 miles/5000 km or 3–4 months (whichever occurs first) of service. After the initial break-in period, spring clip torque must be checked at every C and D inspection interval.
- **All MACK air suspensions** — at the end of the first 1,000 miles/1610 km of service and at each A, B, C and D inspection interval thereafter.

AFTER SERVICE REPLACEMENT

After any service that involves the removal and reinstallation of a spring on either the front or rear axle, spring clip torque must be checked as follows:

- **Spring and walking beam suspensions** — after a minimum of one day and a maximum of one week, or 3,000 miles/5000 km of service. Thereafter, at each C and D inspection interval.
- **All MACK air suspensions** — after a minimum of one day and a maximum of one week, or 1,000 miles/1610 km of service. Thereafter, at each A, B, C and D inspection interval.

⚠ CAUTION

Loose spring clips can result in broken spring leaves, followed by severe axle misalignment which would affect vehicle control.

All vehicles with MACK suspensions must have the spring clips retorqued at Schedule C and D maintenance inspections. Center bolt nuts must be retorqued to 20–30 lb-ft (27–40 N•m).

To correct spring shifting on chassis with S34, S38, S58 and S65 series axles, special hardened flat washers must be installed under the spring clip nuts. The washers increase the clamping force of the spring clip. On chassis not originally equipped with these washers, the seating area of the nut on the underside of the trunnion must be examined for galling. If evidence of galling is found, it is recommended that the trunnion be replaced. If the damage is not excessive, the area may be remachined to provide a flat surface for the washer to seat against.

After installing the special washers under the spring clip nuts on chassis with SS34, SS38, SS58 and SS65 series axles, torque spring clips to specifications. Retorque spring clip nuts after the first day of operation, followed by a torque check at the end of 3,000 miles or 90 days, whichever comes first.

SERVICE HINT

If a torque wrench of the capacity shown in the accompanying chart is not available, use B.K. Sweeney Manufacturing Co., Torque Multiplier Model 392.

SPRING CLIP TORQUE CHECK AND SPRING CLIP INSTALLATION

When tightening the spring clip nuts on highway vehicles on either the front or rear springs, follow the recommended tightening sequence after lubricating the spring clip threads with the recommended lubricant. The lubricant ensures adequate clamping of the spring pack with the nuts tightened to the specified torque. A mixture of synthetic white lead and SAE 30 engine oil in a proportion of one pound (0.45 kg) of lead to one-eighth pint (0.06 liter) of oil is the recommended lubricant. As an alternate, NEVER-SEIZE® compound may be used. Lubricant must also be applied to washers used on the spring clips to remove frictional drag on the nuts, if applicable. Torque requirements are the same for either type of lubricant used. Follow the procedures outlined for tightening the spring clip nuts.

To correctly tighten spring clip nuts, first tighten all the nuts until they are snug.

Next, tighten the nuts using the sequence shown in the following drawing until approximately one-third of the recommended torque is achieved.

Repeat tightening the nuts, using the same sequence, gradually increasing the torque through a second, third and fourth stage, until the recommended final torque is attained.

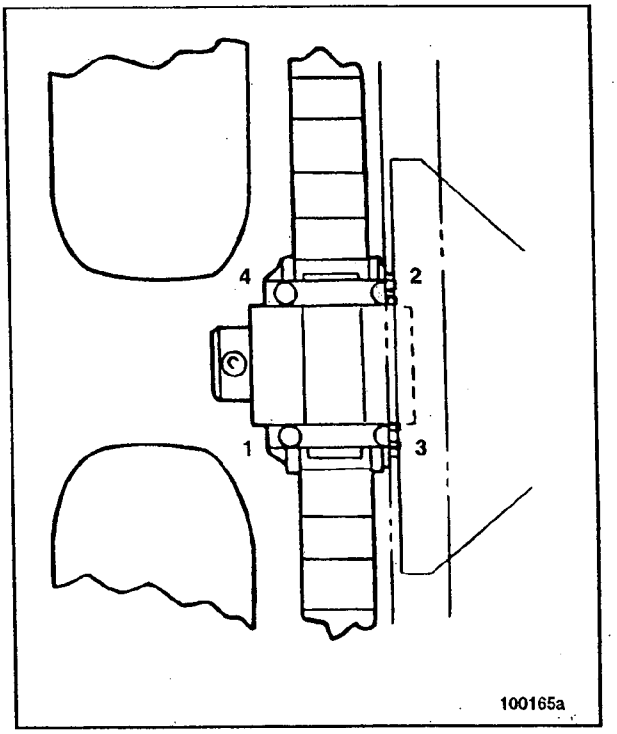


Figure 19 — Tightening Sequence of Spring Clip Nuts

Example

Correct tightening of the rear spring clips is particularly important. The following increments are recommended for 1.25 inch (31.8 mm) spring clips:

1st Stage	400 lb-ft (542 N•m)
2nd Stage	800 lb-ft (1085 N•m)
3rd Stage	1200 lb-ft (1627 N•m)
4th Stage	1500 lb-ft (2034 N•m)

The three main leaf springs released after December, 1979 for the 34,000 pound (15 400 kg) and 38,000 pound (17 200 kg) axles use a cast steel spacer, replacing the formerly used fabricated spring clip retaining plate. This change requires spring clips that have a radius at the top in place of the flat-style spring clips. A hardened flat washer is also used in conjunction with the spring clip nuts.

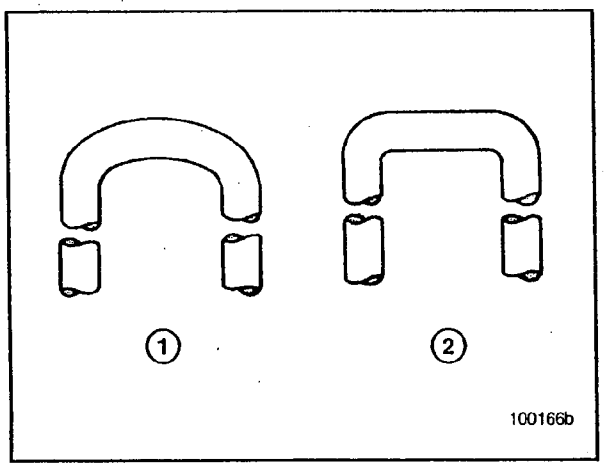


Figure 20 — Spring Clip Design

1. Current Design	2. Noncurrent Design

The current springs and related parts are not interchangeable with replaced parts. To upgrade older vehicles to this new arrangement, it is necessary to install **new** springs, trunnion, spring clips, spacers, and in the case of the former SWS56 series axles, new bracket caps. Be sure to use the proper replacement parts when working on these axles.

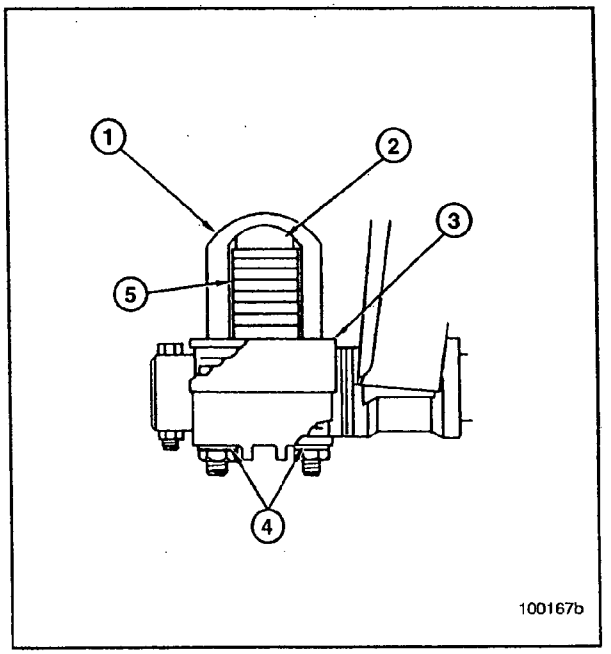


Figure 21 — Current Spring Arrangement

1. Current Spring Clip	4. Hardened Washers
2. Cast Spring Spacer	5. Three Main Leaf Springs
3. Redesigned Upper Trunnion	

SPRING CLIP DIAMETER AND NUT TORQUE

Spring Clip Diameter		Spring Clip Nut Torque	
Inches	**MM**	**Lb-Ft**	**N•m**
0.625 (5/8)	15.9	200–225	271–305
0.750 (3/4)	19.0	320–340	434–461
0.875 (7/8)	22.2	500–550	678–746
1.000 (1)	25.4	800–880	1085–1193
1.125 (1-1/8)	28.6	1050–1150	1424–1559
1.250 (1-1/4)	31.8	1400–1500	1898–2034

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

MOTION TO EXTEND TIME TO FILE RESPONSE AND BRIEF IN OPPOSITION TO ADDITIONAL DEFENDANT CONSOLIDATED METAL PRODUCTS' MOTION FOR SUMMARY JUDGMENT

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

1404 Grant Building
Pittsburgh, PA 15219
(412) 765-1811

Our File No.: 82178

FILED NO CC
11:00 AM
JAN 07 2008
(6K)

William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Amy B. Kubisiak, Esquire, do hereby certify that a true and correct copy of the within Plaintiffs' Motion to Extend Time to File a Response and Brief in Opposition to Additional Defendant Consolidated Metal Products' Motion for Summary Judgment was served to the following via fax on January 3, 2008:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103

Gerald M. Barr, Esquire
Barr & McGogney
4905 Tilghman Street
Suite 250
Allentown, PA 18104

Judith A. Moses, Esquire
Cipriani & Werner
Suite 700
650 Washington Road
Pittsburgh, PA 15228

AMY B. KUBISIAK, ESQUIRE
1420 Grant Building
Pittsburgh, PA 15219
(412) 765-1818
ATTORNEYS FOR PLAINTIFFS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

No. 03-1251 CD

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

MOTION TO EXTEND TIME TO FILE RESPONSE AND BRIEF IN OPPOSITION TO ADDITIONAL DEFENDANT CONSOLIDATED METAL PRODUCT'S MOTION FOR SUMMARY JUDGMENT

Plaintiffs, by their attorneys, Jerome W. Kiger, Esquire and Amy B. Kubisiak, Esquire, file the following Motion to Extend Time:

1. Additional Defendant Consolidated Metal Products has filed a Motion for Summary Judgment and Brief is Support of same. Plaintiffs' counsel received the Motion and Brief on December 10, 2007.

2. On December 11, 2007, a Scheduling Order was issued by the Honorable Paul E. Cherry scheduling argument on this Motion on January 11, 2008 at 2:30 p.m.

3. Plaintiff did not receive a copy of this Scheduling Order.

4. On December 27, 2007, Plaintiffs' counsel received Additional Defendant Consolidated Metal Products Motion for Continuance of Argument Date requesting that the January 11, 2008 argument be rescheduled to the week of February 18, 2008 or February 25, 2008.

5. Pursuant to Pa. R.C.P. 1035.3, Plaintiffs' Response and Brief is due within thirty (30) days after service of the Motion for Summary Judgment, or on or before January 9, 2008.

6. Plaintiffs request an extension of time to file their Response to Additional Defendant Consolidated Metal Products' Motion for Summary Judgment and their Brief in Opposition until a week before the newly scheduled argument in February 2008.

7. Plaintiffs' counsel requested in a voice mail message on January 3, 2008 that Counsel for Additional Defendant Consolidated Metal Products consent to this Motion. Counsel for Additional Defendant Consilidated Metal Products has not responded to this request.

WHEREFORE, in consideration of the foregoing, Plaintiffs request that the Court grant their Motion for Extension of Time to File a Response Additional Defendant Consolidated Metal Products' Motion for Summary Judgment and their Brief in Opposition until a week before the newly scheduled argument in February 2008.

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
1420 Grant Building
Pittsburgh, PA 15219
(412) 765-1818
Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

No. 03-1251 CD

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

ORDER OF COURT

This 7th day of January, 2008, it is ORDERED that the time for the filing of Plaintiff's Response to Additional Defendant Consolidated Metal Product's Motion for Summary Judgment and Brief in Opposition is extended until one week before the rescheduled argument date in February 2008.

Paul E Cherry

FILED 4cc
01:01:30 Atty Kubisiak
JAN 08 2008
(6K)
William A. Shaw
Prothonotary/Clerk of Courts

FILED

JAN 08 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/8/08

X You are responsible for serving all appropriate parties.

____ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions:

CA

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
(215) 575-2762

Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED
And	:	
CONSOLIDATED METAL PRODUCTS	:	

FILED
JAN 11 2008
0/4:00/w
William A. Shaw
Prothonotary/Clerk of Courts
5 Cent to Atty Remick

SCHEDULING ORDER

AND NOW, on this 11th day of January, 2008, it is hereby ORDERED and DECREED that argument on Additional Defendant Triangle Auto Spring Company's Motion for Summary Judgment is hereby scheduled for **FEBRUARY 19, 2008 at 1:30 P.M.** in Courtroom 2, Clearfield County Courthouse, Clearfield, PA. The above argument shall be heard concurrently with argument on Defendant Consolidated Metal Products' Motion for Summary Judgment previously scheduled for the above time and date.

BY THE COURT:

Paul E. Cherry
J.

DATE: 1-11-08

X You are responsible for serving all appropriate parties.

___ The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ___ Defendant(s) Attorney

___ Special Instructions:

FILED

JAN 11 2008

William A. Shaw

Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

NOTICE OF SERVICE OF PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS DIRECTED TO DEFENDANTS AND ADDITIONAL DEFENDANTS

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

1420 Grant Building
Pittsburgh, PA 15219
(412) 765-1818

Our File No.: 82178

FILED NO CC
m/11:28 BY
JAN 14 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

No. 03-1251 CD

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

NOTICE OF SERVICE OF PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS DIRECTED TO DEFENDANTS AND ADDITIONAL DEFENDANTS

To: Prothonotary

I hereby certify that on January 10, 2008 Plaintiff's First Set of Request for

Admissions were served on Defendants and Additional Defendants by Email and U.S. Mail, First Class, Postage Prepaid, to the following:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
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jgreen@lmgrlaw.com

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103
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Gerald M. Barr, Esquire
Barr & McGogney
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Judith A. Moses, Esquire
Cipriani & Werner
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jmoses@c-wlaw.com

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
ATTORNEYS FOR PLAINTIFFS
1420 GRANT BUILDING
PITTSBURGH, PA 15219
(412) 765-1818

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Notice of Service of Plaintiffs' First Set of Request for Admissions to Defendants and Additional Defendants has been served this 10th day of January, 2008, by Email and U.S. First Class Mail, postage prepaid, to all counsel of record as follows:

Joseph P. Green, Esquire
Lee, Martin, Green & Reiter, Inc.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179
jgreen@lmgrlaw.com

Bradley D. Remick, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103
BDRemick@MDWCG.com

Gerald M. Barr, Esquire
Barr & McGogney
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Suite 250
Allentown, PA 18104
jbarr@choiceonemail.com

Judith A. Moses, Esquire
Cipriani & Werner
650 Washington Road
Pittsburgh, PA 15228
jmoses@c-wlaw.com

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
ATTORNEYS FOR PLAINTIFFS
1420 GRANT BUILDING
PITTSBURGH, PA 15219
(412) 765-1818

13035-00102.051
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
BY: Bradley D. Remick, Esquire
IDENTIFICATION NO. 49449
1845 Walnut Street
Philadelphia, PA 19103
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Atty. for: Addt'l. Def., Triangle Auto Spring Co.

BRENDA ORSICH, Administratrix of the Estate of DAVID A. WEAVER, Deceased, and JENNIFER WEAVER, a minor by her parent and natural guardian, BRENDA ORSICH	:	COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
	:	NO. 03-1251-CD
v.	:	
BARRY KYLER, t/d/b/a NORTHEAST SPRING & EQUIPMENT CO.; NORTHEAST SPRING & EQUIPMENT CO. and MACK TRUCKS, INC.	:	
And	:	
TRIANGLE AUTO SPRING COMPANY	:	JURY TRIAL DEMANDED
And	:	
CONSOLIDATED METAL PRODUCTS	:	

SCHEDULING ORDER

AND NOW, on this 25th day of January, 2008, it is hereby ORDERED and DECREED that argument on Additional Defendant Triangle Auto Spring Company's Motion for Summary Judgment is hereby scheduled for **FEBRUARY 19, 2008 at 1:30 P.M.** in Courtroom 2, Clearfield County Courthouse, Clearfield, PA. The above argument shall be heard concurrently with argument on Defendant Consolidated Metal Products' Motion for Summary Judgment previously scheduled for the above time and date.

BY THE COURT:

Paul E. Cherry
J.

FILED 6cc
012:08BH Atty Remick
JAN 28 2008
GK
William A. Shaw
Prothonotary/Clerk of Courts

FILED

JAN 28 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/28/08

X You are responsible for serving all appropriate parties.

____ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions:

A REGIONAL DEFENSE LITIGATION LAW FIRM

MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN

A PROFESSIONAL CORPORATION www.marshalldennehey.com

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Akron

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Ft. Lauderdale
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1845 Walnut Street · Philadelphia, PA 19103-4797
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Direct Dial: 215-575-2871
Email: jworavetz@mdwcg.com

January 21, 2008

The Honorable Paul E. Cherry
CLEARFIED COUNTY COURTHOUSE
1 South 2nd Street
Clearfield, PA 16830

RE: Brenda Orsich, Adm. of Weaver v. Triangle Auto Spring Co., et al
CCP of Clearfield County, PA – Civil Action No. 03-1251-CD
Our File: 13035-00102

Dear Judge Cherry:

Kindly accept this informal correspondence as additional defendant Triangle Auto Spring Co.'s request to schedule argument on its Motion for Summary Judgment concurrently with Defendant Consolidated Metal Products' Motion for Summary Judgment which is presently scheduled for February 19, 2008 at 1:30 P.M.

As Triangle Auto's Motion was sent to all counsel on or about January 4, 2008, the requisite response period will have expired by the date of argument. Accordingly, I have enclosed a Scheduling Order for argument on additional defendant, Triangle Auto Spring Company's Motion for Summary Judgment.

Thank you for your courtesy and attention to this matter. If you have any questions or require further information, please do not hesitate to contact me.

Respectfully yours,

JUSTIN W. ORAVETZ

JWO/tg
Enclosures
cc: Jerome W. Kiger, Esquire
Joseph P. Green, Esquire
Gerald M. Barr, Esquire
Judith A. Moses, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants

vs.

TRIANGLE AUTO SPRING COMPANY;
And CONSOLIDATED METAL
PRODUCTS,

Additional Defendants,

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

PETITION FOR APPROVAL OF SETTLEMENT AND DISCONTINUANCE OF WRONGFUL DEATH AND SURVIVAL ACTIONS AND FOR ORDER OF DISTRIBUTION
(No Minor Children Involved)

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

1420 Grant Building
Pittsburgh, PA 15219
(412) 765-1818

Our File No.: 82178

FILED NO CC
014:00
FEB 14 2008
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased, No. 03-1251 CD
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

vs.

TRIANGLE AUTO SPRING COMPANY;
And CONSOLIDATED METAL
PRODUCTS,

Additional Defendants.

PETITION FOR APPROVAL OF SETTLEMENT AND DISCONTINUANCE OF WRONGFUL DEATH AND SURVIVAL ACTIONS AND FOR ORDER OF DISTRIBUTION (No Minor Children Involved)

Plaintiff, Brenda Orsich, Administratrix of the Estate of David A. Weaver, deceased, by her attorneys, Jerome W. Kiger, Esquire and Amy B. Kubisiak, Esquire, petitions the Court for an order approving settlement and discontinuance of wrongful death and survival actions and for an order of distribution, and in support thereof, avers:

1. Plaintiff-Petitioner, Brenda Orsich, is the decedent's ex-wife and the natural mother of his daughter, Jennifer L. Weaver, who reside together at 1 Southwest

4th Avenue, Clearfield, PA 16830, and was appointed Administratrix of the Estate of David A. Weaver, deceased, on November 27, 2001 at No. 2001-686-O.C. by the Register of Wills, Clearfield County, Pennsylvania. A true and correct copy of Certificate of Appointment of Administratrix is attached hereto and marked Exhibit "A".

2. Jennifer L. Weaver is an adult individual, date of birth May 8, 1989, who reached the age of majority on May 8, 2007 and is the daughter of David A. Weaver, deceased, and Plaintiff-Petitioner Brenda Orsich, who were divorced prior to the death of David A. Weaver. Jennifer L. Weaver resides with Plaintiff-Petitioner, Brenda Orsich at 1 Southwest 4th Avenue, Clearfield, PA 16830. An Affidavit of Majority signed by Jennifer L. Weaver is attached hereto and marked Exhibit "B".

3. The deceased, David A. Weaver, died as a result of injuries sustained in a vehicular accident that occurred on August 30, 2001 in the course of his employment with D.C. Guelich Explosive Co. in Lawrence Township, Clearfield County, PA.

4. The decedent was pronounced dead at the scene by the Clearfield County Deputy Coroner. There is no evidence that Plaintiffs' decedent sustained any conscious pain and suffering before his death.

5. The above-captioned action was initiated for the purpose of assserting wrongful death and survival actions under applicable Pennsylvania Law, based upon theories of negligence and products liability. Defendants have denied and vigorously contested liability.

6. (a) Defendants Kyler and Northeast Spring were insured by with Erie Insurance Company/Erie Insurance Exchange. Erie has offered the policy limits of $250,000 in settlement of the claims of the decedent's Estate.

(b) Additional Defendant Consolidated Metal Products has offered $15,000.00.

(c) Additional Defendant Triangle Auto Spring Company has offered $15,000.00.

(d) The total proposed settlement is $280,000.00.

7. The decedent, David A. Weaver, was not married at the time of the accident and his death and was survived by his daughter, Jennifer L. Weaver, an adult individual (Date of Birth: May 8, 1989), who is the only person entitled to recovery. At the time of Plaintiffs' decedent's death and continuing to the present, Jennifer L. Weaver resided with her natural mother Plaintiff-Petitioner Brenda Orsich. Prior to his death, the decedent maintained a significant father-daughter relationship with his daughter, shared legal custody of Jennifer L. Weaver with Brenda L. Orsich pursuant to a September 16, 1998 Court Order at No. 98-772-CD of Clearfield County and contributed to her support pursuant to a December 30, 1997 Court Order at No. 91-459-SD of Clearfield County. A copy of these Order of Courts are attached hereto as Exhibit "C" and "D" respectively.

8. Decedent's daughter, Jennifer A. Weaver, received workers compensation benefits in the amount of $48,762.69 from American Mining Company which insured decedent's employer Guelich Explosive Co D.C. American Mining Insurance Company has agreed to accept $24,000.00 in complete settlement of its worker's compensation subrogation claim.

9. Jennifer A. Weaver, the daughter of decedent, is the only person entitled to share in the proceeds of the proposed settlement.

10. Decedent's funeral and burial expenses have been paid and there are no debts or claims against the decedent's Estate.

11. Under applicable Pennsylvania law, wrongful death damages are distributed to the beneficiaries in the same proportion as in the case of intestacy without liability to creditors of the deceased person (42 Pa.C.S.A. Section 8301(b)).

12. The proposed settlement is $280,000.00.

13. Counsel's review of the facts of this case cause counsel to believe and recommend that the proposed settlement be accepted by Plaintiff-Petitioner and approved by the court as fair and desirable and to avoid the risks and expense inherent in litigation. Counsel's certificate is attached hereto and marked as Exhibit "E".

14. The settlement sum of $280,000 is to be allocated between the wrongful death and survival actions as follows:

a.	Wrongful Death:	$280,000.00
b.	Survival Action:	$ 0.00
	TOTAL SETTLEMENT SUM:	$280,000.00

15. The proposed distribution is:

a.	Jerome W. Kiger, Esquire - Attorneys fees (33-1/3%):	$ 93,333.33
b.	Jerome W. Kiger, Esquire costs/expenses advanced for court, case preparation costs and expenses including investigation, expert witness fees, depositions, etc.:	$ 28,583.96
c.	Direct payment from the attorneys escrow account of Jerome W. Kiger to American Mining Insurance Company for satisfaction	

	of worker's compensation subrogation claim:	$ 24,000.00
d.	Settlement sum payable to Jennifer L. Weaver	$134,082.71
	TOTAL SETTLEMENT SUM:	$280,000.00

16. For convenience and to expedite matters, Petitioner requests that the settlement checks in the total sum of $280,000.00 be made payable to Jerome W. Kiger, Esquire, as attorney for the Estate of David A. Weaver, and delivered to Jerome W. Kiger, Esquire for the purpose of distribution as set forth in this Petition and proposed Order.

WHEREFORE, in consideration of the foregoing, Plaintiff petitions this Court for an order approving the aforedescribed settlement and discontinuance and the allocation and distribution set forth in the petition and attached Proposed Order of Court.

Date: 2/14/08

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
ATTORNEYS FOR PLAINTIFF-PETITIONER BRENDA ORSICH AS ADMINISTRATRIX OF THE ESTATE OF DAVID A. WEAVER AND JENNIFER L. WEAVER

Date: 2-14-08

BRENDA ORSICH,
Administratrix of the Estate of
DAVID A. WEAVER

CONSENT:

Date: 2-14-08

JENNIFER L. WEAVER

SHORT CERTIFICATE

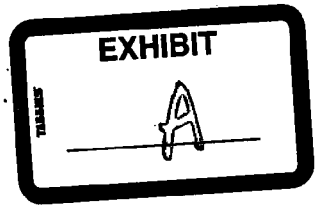
Certificate of Appointment of Administratrix

Commonwealth of Pennsylvania
County of Clearfield SS:

The undersigned, Register for the Probate of Wills and granting Letters of Administration in and for the County of Clearfield, in the Commonwealth of Pennsylvania;

DO HEREBY CERTIFY and made known, that on the **27th** day of **November**, in the year of our Lord, **Two Thousand One**, Letters of **Administration** on the Estate of **David A. Weaver**, deceased, were granted unto **Brenda L. Orsich**, **she**, having first given security well and truly to administer the same. I further certify that said letters are in full force and effect at the present time, and entitled to full faith and credit.

GIVEN under my hand and seal of office this **27th** day of **November** in the year of our Lord, **Two Thousand One**.



Karen L. Starck

Register of Wills

My Commission Expires
First Monday in January, 2004

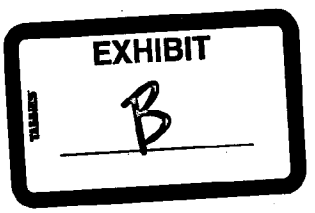
AFFIDAVIT OF MAJORITY

I, Jennifer L. Weaver, date of birth May 8, 1989, residing at 1 Southwest 4th Avenue, Clearfield, PA 16830, reached the age of majority on May 8, 2007.

This statement and verification is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn fabrication to authorities, which provides that if I made knowingly false averments I may be subject to criminal penalties.

2-14-08
DATE

Jennifer L Weaver
JENNIFER L. WEAVER



IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

I hereby certify this to be a true and attested copy of the original statement filed in this case.

SEP 16 1998

Attest

Prothonotary

DAVID A. WEAVER :

-vs- : No. 98-772-CD

BRENDA L. ORSICH :

O R D E R

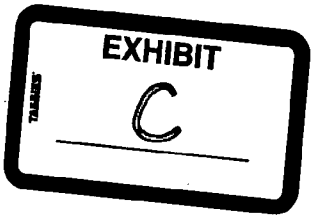
NOW, this 16th day of September, 1998, this being the date set for custody mediation and the parties having agreed, it is hereby ORDERED and DECREED as follows:

1. That the parties shall share legal custody of their minor child, Jennifer L. Weaver, D.O.B. 05-08-89;

2. That mother, Brenda L. Orsich, shall have primary physical custody of the said minor child subject to father's, David A. Weaver, periods of partial custody as follows:

A. During the school year on alternate weekends from Friday at 6:00 p.m. until Sunday at 7:00 p.m. and every Tuesday evening from 5:00 p.m. until 8:30 p.m.

B. During the summer school vacation father's alternate weekends shall commence on Friday at 6:00 p.m. and extend until Monday at 8:30 p.m. Father shall also have the child on Tuesday commencing at 6:00 p.m. and extending until Wednesday at 8:30 p.m., during those weeks when the prior week has not been father's weekend. During the summer,



father shall also have one weekday evening following his weekend of visitation which shall be from Tuesday at 6:00 p.m. until 8:30 p.m. unless otherwise agreed by the prior Sunday evening.

3. Each party shall have two (2) exclusive non-consecutive weeks during the summer school vacation and each parent shall give the other parent at least thirty (30) days notice of when they wish to exercise their weeks;

4. The parties shall share the Thanksgiving holiday as follows: Father's period of partial custody shall commence at 4:00 p.m. on Thanksgiving Day and shall continue until 6:00 p.m. the next day at which time normal weekend schedule will commence. The parties shall share Christmas with mother having the child from 6:00 p.m. on December 24th until 3:00 p.m. on Christmas Day and father having partial custody on Christmas Day beginning at 3:00 p.m. and ending on the next day until 6:00 p.m. at which time the normal weekend schedule, or recess schedule (as described below), will commence. The holiday of Easter will be alternated and all other holidays will be as the parties may agree.

A. The parties shall share each school recess, such as the ones that occur during the Christmas season and during the Spring. The manner of sharing shall be determined by the parties except that they shall endeavor to

equalize the time that each enjoys custody of Jennifer. The above shall apply only to the weekdays of any recess and shall not effect the holiday schedule or the weekend schedule otherwise described in this Order.

5. During father's periods of partial custody, he will make arrangements to see that the child attends all of her scheduled events or activities.

6. Neither parent shall consume any alcohol nor shall they allow alcohol to be consumed in the presence of Jennifer.

7. Neither party shall make any derogatory comments about the other in the presence of Jennifer.

8. Transportation shall be provided by the father either personally or through his parents, other family members or other persons approved by both parties. In the event that no one appears to provide transportation within twenty (20) minutes of the commencement of any scheduled partial custody period, without prior arrangement with mother, said period of partial custody is forfeited.

9. This Order authorizes both parents to have equal access to school and medical records.

BY THE COURT,

Judge /s/ Fredric J. Ammerman

I hereby certify this to be a true and attested copy of the original statement filed in this case.

SEP 16 1998

Attest: Prothonotary

Deputy

We, the undersigned, hereby consent to entry of the foregoing Order.

DAVID A. WEAVER

R. DENNING GEARHART, ESQUIRE

BRENDA L. ORSICH

BARBARA HUGNEY-SHOPE, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA L ORSICH
Plaintiff

VS NO. 91-459-SD

DAVID A WEAVER
Respondent

ORDER ENTERED AS RECOMMENDED

The Recommended Order of this 17th day of December, 1997, has been reviewed and is hereby approved by the Court.

BY THE COURT:

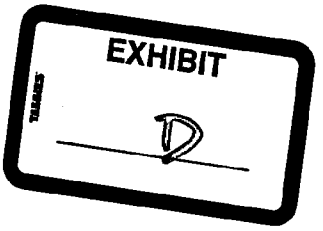
Filing Date: December 30, 1997 /s/Fredric J. Ammerman
FREDRIC J. AMMERMAN
Judge

NOTICE IS HEREBY GIVEN THAT YOU HAVE TEN (10) DAYS (12-30-97) FROM THE ABOVE DATE HEREOF TO FILE A WRITTEN DEMAND TO THE DOMESTIC RELATIONS SECTION FOR A HEARING DE NOVO BEFORE THE COURT.

YOU HAVE THE RIGHT TO A LAWYER, WHO MAY ATTEND THE HEARING AND REPRESENT YOU. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU MAY GET LEGAL HELP.

PENNSYLVANIA LAWYER REFERRAL SERVICE
100 SOUTH STREET, P. O. BOX 186
HARRISBURG, PA 17108
1-800-692-7375

IF NO DEMAND FOR A HEARING DE NOVO IS RECEIVED WITHIN THE TEN (10) DAY PERIOD, THE RECOMMENDED ORDER BECOMES FINAL.



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA L ORSICH
Plaintiff

VS NO. 91-459-SD

DAVID A WEAVER
Respondent

RECOMMENDED ORDER

NOW, this 17th day of December, 1997, following a Conference Hearing on a request for a Three (3) Year Case Review, it is the RECOMMENDED ORDER that the Respondent pay the sum of SIXTY DOLLARS ($60.00) DOLLARS per week for the support of his one (1) child, namely: Jennifer L. Weaver, DOB May 8, 1989, effective December 29, 1997; parties to share one-half (1/2) of all medical, dental, ocular, prescription and orthodontic expenses not covered by insurance; it is hereby ORDERED that an Income/Wage Attachment be issued forthwith pursuant to 23 Pa. C.S.A. Section 4348 (b), as Amended; and, pursuant to Title 23 such delinquent child support payments become a judgment by operation of law; Respondent is directed on every occasion that he is not employed to seek work from, at least, three (3) responsible employers each week and report the results thereof to the Domestic Relations Section on or before 4:00 P.M., Thursday the following week; pursuant to 23 Pa. C.S.A. 4308, Lottery Winnings are subject to attachment for delinquent child support; Title 23 Pa. C.S.A. 4353 and 4303 requires all parties to report any change in circumstances, including change of address, to the Domestic Relations Section, in writing, within seven (7) days and permits the Domestic Relations Section to report past-due support to any consumer credit agency; all other aspects of prior Order to remain as heretofore.

Heard and recommended by:

s/Dennis J. Socash
Conference Officer

Either party may demand a hearing de novo before the Court; such demand must be in writing and filed with the Domestic Relations Office within ten (10) days of the filing date of this Order.

COPY

CERTIFICATE OF COUNSEL

I, Jerome W. Kiger, Esquire, counsel for Plaintiff, do hereby certify that I have reviewed the facts of this case and that the proposed settlement is fair and reasonable and should be accepted by the Plaintiffs based upon all the facts of this case.

Date: 2/14/08

JEROME W. KIGER, ESQUIRE
1420 Grant Building
Pittsburgh, PA 15219
(412) 765-1818
ATTORNEYS FOR PLAINTIFF-
PETITIONER BRENDA ORSICH
AS ADMINISTRATRIX OF THE
ESTATE OF DAVID A. WEAVER
AND JENNIFER L. WEAVER

EXHIBIT
E

VERIFICATION

I, Brenda Orsich, Administratrix of the Estate of David A. Weaver, have read the foregoing Petition for Approval of Settlement and Discontinuance of Wrongful Death Survival Action and for Order of Distribution. The statements herein are true and correct to the best of my personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn fabrication to authorities, which provides that if I made knowingly false averments I may be subject to criminal penalties.

Date: 2-14-08

Brenda L Orsich

BRENDA ORSICH,
Administratrix of the Estate of
DAVID A. WEAVER

VERIFICATION

I, Jennifer L. Weaver, have read the foregoing Petition for Approval of Settlement and Discontinuance of Wrongful Death Survival Action and for Order of Distribution. The statements herein are true and correct to the best of my personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn fabrication to authorities, which provides that if I made knowingly false averments I may be subject to criminal penalties.

Date: 2-14-08

Jennifer L. Weaver
JENNIFER L. WEAVER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased, No. 03-1251 CD
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants.

vs.

TRIANGLE AUTO SPRING COMPANY;
and CONSOLIDATED METAL PRODUCTS,

Additional Defendants,

FILED 1cc
01 10:46a/KL Atty
FEB 15 2008 Kiger
William A. Shaw
Prothonotary/Clerk of Courts (GK)

ORDER OF COURT

AND NOW, this 15th day of February, 2008, upon consideration of Plaintiff's Petition for Approval of Settlement and Discontinuance of the above-captioned action for wrongful death and survival claims and for allocation and distribution of the proceeds of settlement, it is hereby ordered, adjudged and decreed that the proposed settlement for the sum of $280,000,000 and discontinuance of the above-captioned action are approved, the allocation of all the proceeds of settlement to the wrongful death action and none to the survival action is approved and ordered, and further, that the distribution is ordered as follows:

a.	Jerome W. Kiger, Esquire - Attorneys fees (33-1/3%):	$ 93,333.33
b.	Jerome W. Kiger, Esquire costs/expenses advanced for court costs, case preparation costs and expenses including investigation, expert witness fees, depositions, etc.:	$ 28,583.96
c.	Direct payment from the attorneys escrow account of Jerome W. Kiger to American Mining Insurance Company for satisfaction of worker's compensation subrogation claim:	$ 24,000.00
d.	Settlement sum payable to Jennifer L. Weaver	$134,082.71
	TOTAL SETTLEMENT SUM:	$280,000.00

Leave is hereby granted to Plaintiffs-Petitioners to execute an appropriate general release and to settle and discontinue the above-captioned action and to make distribution as set forth in this Order.

Defendants Kyler and Northeast Spring and Additional Defendants Consolidated Metal Products and Triangle Auto Spring Company and/or their insurance companies are ordered to make the settlement checks payable to Jerome W. Kiger, Esquire, as attorney for the Estate of David A. Weaver, and upon receipt of the Release executed by the Plaintiffs and a copy of the Praecipe for Settlement and Discontinuance filed with the Prothonotary of Clearfield County to deliver the settlement checks to Jerome W. Kiger, Esquire, 1420 Grant Building, Pittsburgh, PA 15219, for distribution in accordance with this Order.

Upon the payment of the sum of $280,000.00 as set forth in this petition, Defendants Barry Kyler individually and trading and doing business as Northeast Spring & Equipment Company and Erie Insurance Company/Erie Insurance Exchange, and Additional Defendants Triangle Auto Spring Company and Consolidated Metal Products and their insurance companies shall be released from all claims, demands or causes of action whatsoever based upon the accident described in the foregoing petition.

Consent:

BRENDA ORSICH, as Administratrix
of the Estate of David A. Weaver, deceased

JENNIFER L. WEAVER

FILED

FEB 15 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 2/15/08

X You are responsible for serving all appropriate parties.

___ The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ___ Defendant(s) Attorney

___ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRENDA L. ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER L. WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,
Plaintiffs,

vs.

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

CIVIL DIVISION

No. 03-1251 CD

Code: 004

Type of Pleading:

PRAECIPE TO SETTLE AND DISCONTINUE

Filed on Behalf of:
Plaintiffs

Counsel of Record for
this Party:

JEROME W. KIGER, ESQUIRE
PA. I.D. #15951

AMY B. KUBISIAK, ESQUIRE
PA I.D. #70441

1420 Grant Building
Pittsburgh, PA 15219
(412) 765-1818

Our File No.: 82178

FILED
m/10:40 BA No cc
FEB 15 2008 Cert. of Disc
William A. Shaw to Amy Kiger
Prothonotary/Clerk of Courts (GK)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRENDA ORSICH,
Administratrix of the Estate
of DAVID A. WEAVER, Deceased,
and JENNIFER WEAVER, a minor, by
her parent and natural guardian,
BRENDA ORSICH,

Plaintiffs,

v.

No. 03-1251 CD

BARRY KYLER, trading and doing
Business as NORTHEAST SPRING
& EQUIPMENT CO.; NORTHEAST
SPRING & EQUIPMENT CO.;
and MACK TRUCKS, INC.,

Defendants,

v.

TRIANGLE AUTO SPRING COMPANY,

Additional Defendant,

v.

CONSOLIDATED METAL PRODUCTS,

Additional Defendant.

PRAECIPE TO SETTLE AND DISCONTINUE

TO: PROTHONOTARY

Please Settle and Discontinue the above-captioned case.

JEROME W. KIGER, ESQUIRE
AMY B. KUBISIAK, ESQUIRE
1420 Grant Building
Pittsburgh, PA 15219
(412) 765-1818
Attorneys for Plaintiffs

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

David Weaver
Brenda L. Orsich

Vs. **No. 2003-01251-CD**

Northeast Spring & Equipment Co.
Barry Kyler
Mack Trucks, Inc.
Triangle Auto Spring
Consolidated Metal Products

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on February 15, 2008, marked:

Settled and Discontinued

Record costs in the sum of $85.00 have been paid by Jerome W. Kiger, Esq.
Record costs in the sum of $85.00 have been paid by Bradley Remick, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 15th day of February A.D. 2008.

William A. Shaw, Prothonotary