

United States District Court
District of South Carolina
Columbia Division
Case No.: 3:09-183-CMC

N.O. Turner, Jr.,)	
)	
Plaintiff,)	
)	
vs.)	Deposition
)	
CSX Transportation, Inc.,)	of
A Virginia Corporation,)	
)	THOMAS HEDRICK
Defendant.)	
)	

The deposition of Thomas Hedrick was taken before Kimberly T. Power, CCR, a notary public in and for the State of South Carolina, commencing at the hour of 9:06 a.m., Wednesday, June 24, 2009, at the law offices of Rogers, Townsend & Thomas, 220 Executive Center Drive, Columbia, South Carolina.

Reported by
Kimberly T. Power, CCR

ORIGINAL

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APPEARANCES

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ORIGINAL

(No exhibits.)

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1 A Two words, sir.

2 Q Okay. Go ahead.

3 A Lexington, South Carolina, 29072.

4 Q And how are you employed?

5 A I am a trainmaster with CSX Transportation.

6 Q And what are your duties?

7 A My primary responsibility is safety and the safe
8 and efficient operation of trains from one point
9 to another, safety of my train crews under my
10 charge.

11 Q And as a part of discharging those duties, do you
12 go out and visit or inspect industries that your
13 train crews service?

14 A Yes, sir, I do.

15 Q Had you visited the Kal-Kan plant prior to June 4,
16 2007?

17 A Yes, sir.

18 Q So were you aware of the fact that there was a
19 fence that ran out to the track?

20 A Yes.

21 Q Had you made any requests to have that fence
22 removed?

23 A No, sir.

24 Q Why not?

25 A I didn't view what I call the gate extension,

1 which is what it was, I did not view that as a
2 problem to -- to be removed.

3 Q You understood that it extended into an area that
4 your train crews generally walked over while they
5 were doing switching operations for that plant,
6 didn't you?

7 A Well, the way the plant is laid out, not every day
8 it had to be stepped over depending on how long
9 the cut of cars they were handling was. So it
10 wasn't traversed daily, if you will. It's -- it
11 depended how long -- how many cars they had a hold
12 of or where the locomotives were -- ended up
13 sitting once they coupled up.

14 Q Anything unusual about the switching movement that
15 Turner's crew was engaged in at the time of his
16 injury?

17 A Nothing unusual, no, sir.

18 Q Okay. So the fact that Turner had to walk over
19 that fence, that was not unusual with the
20 discharge of his duties?

21 A Like I said, it didn't have to be traversed daily.

22 Q Right.

23 A So today -- on that particular day, they probably
24 did have maybe three or four more cars than
25 normally they -- that would be the only thing that

Page 6

1 would be unusual about it. They had an excessive,
2 you know, number of cars. Nothing out of the
3 ordinary, if you will.

4 Q Did you consider that to be a close clearance
5 point?

6 A No, sir.

7 Q Tell me why.

8 A Well, a close clearance -- our definition of close
9 clearance can either be permanent or temporary of
10 which someone could be caught in between
11 equipment. This particular thing was only maybe
12 12 or 14 inches above the ground. So I did not
13 consider it to be close clearance.

14 Q Ou understood that it extended out -- did it
15 extend out to the -- to the end of the ties?

16 A Yes, sir, I believe so.

17 Q And -- andwhen there's a train on the rail, the
18 side of the cars extend out just about to the end
19 of the ties, don't they?

20 A The edge of the car, yes, sir.

21 Q And my point is there's not much room between the
22 outside of the car that's on that track and the
23 point of that fencing that was closest to the
24 train?

25 A No, sir.

1 Q And so it wasn't the distance between the train
2 and the obstruction -- based on the proximity
3 between the end of the obstruction and the train,
4 tell me again why you didn't consider that to be a
5 close clearance.

6 MR. MOON: I'm going to object to the form of
7 the question. You may answer. Our rules
8 only allow me to object to the form.

9 BY MR. APPLETON:

10 Q Can you answer that question?

11 A If -- the height of the gate extension, if someone
12 were to ride past it on the side of a car, it
13 would be below them. There would -- there's no --

14 Q I see.

15 A They would be up above it. Do you see what I'm
16 saying?

17 Q I do.

18 A Like I said, for our definition, they're either
19 permanent or temporary where someone could get
20 between, you know, the equipment and whatever
21 that -- you know, that obstruction may be.

22 Q Right.

23 A This would have been down way below where the
24 employee would be riding on the side of the car.

25 Q Okay. So it's a permanent obstruction. But since

Page 8

1 it was below, let's call it the riding level of
2 the car, you didn't consider it to be a close
3 clearance?

4 A No, sir.

5 MR. MOON: Object to the form. Go ahead.

6 THE WITNESS: No, sir, I do not.

7 BY MR. APPLETON:

8 Q If -- if the fencing would have been high enough
9 to -- to reach the side -- the side of a railroad
10 car, would it have then been a close clearance?

11 A Yes, sir. If it could have -- if it could have
12 touched one of my employees riding the side of the
13 car, then, yes, sir, I would have considered that
14 a close clearance.

15 Q Do you recall what type of ballast or surface
16 there was in that area?

17 A Just regular railroad ballasts. There was nothing
18 special about it.

19 Q You know the difference between yard ballast and
20 road ballast?

21 A Yard ballast, road ballast, walkway ballast. This
22 was regular road ballast.

23 Q Do you know who -- who put the road ballast down?

24 A No, sir, I do not.

25 Q Do you know if CSX maintained the section of

1 track -- well, let's -- the railroad has given me
2 this document which we marked as Exhibit 1
3 earlier. And I'm assuming you've seen it. Your
4 name is on the front.

5 A Yes, sir.

6 Q On page 7, there's a diagram of -- of Masterfoods.

7 A Yes, sir.

8 Q Do you know how much of the track that's reflected
9 on that diagram was maintained by CSX?

10 A Not for certain, I don't. Normally we go up to
11 the derail. But at this particular location, I --
12 I couldn't say for sure.

13 Q Who would know that?

14 A The roadmaster.

15 Q And who was the roadmaster on June 4, 2007, if you
16 know?

17 A I believe that would have been James Thomas. He's
18 no longer with us, though.

19 Q Do you know where he is?

20 A No, sir, I do not.

21 Q Do you know when he left?

22 A No, sir, I don't.

23 Q Do you know who took his place?

24 A Actually, I've had two since then. Chad Beverly
25 was there first and Donald Cottrill is now the

Page 10

1 current.

2 Q Do you know how to spell Cottrill?

3 A C-O-T-T-R-I-L-L.

4 Q And you guys still service Masterfoods?

5 A Yes, sir. Six days a week.

6 Q Who -- do you know what the source of the diagram
7 is that you were just looking at?

8 A No, sir, I don't. There's a lot of people
9 involved when we've got to do one of these.

10 Q Right.

11 A I'm not sure who did the diagram.

12 Q Do you know if it -- if it was created for this
13 incident report?

14 A Other than an assumption, no, sir.

15 Q All right. Well, let's -- let's talk about what's
16 been marked as Exhibit 1. Can you identify the
17 booklet for me?

18 A Yes, sir.

19 Q What is it?

20 A This is a -- it's a CSX Transportation. This is a
21 Florence division format. It's a report we put
22 together in the event of an FRA reportable injury.

23 Q And do you know what the purpose of the report is?

24 A Yes, sir. It's to meet federal guidelines that we
25 have to meet when we have an employee injured.

1 Q And obviously Turner's was an FRA reportable
2 incident?

3 A Yes, sir.

4 Q Do you know what made it FRA reportable?

5 A Mr. Turner's injury required him to miss work. He
6 was also immobilized in a splint, which those two
7 things made it reportable.

8 Q And your -- your name is on the front of Exhibit
9 1?

10 A Yes, sir.

11 Q Did you participate in the creation of this
12 document, Exhibit 1?

13 A No, sir.

14 Q Who did?

15 A Once again, I -- I can't say for certain. There
16 were several people that touched this. Typically
17 we have a team of people that respond, each of
18 them assigned -- assigned a particular portion of
19 this report to do.

20 Q Look -- look at page 4. And the reason I point
21 you to that is when I was taking Mr. Phelps'
22 deposition, if you look down there under the
23 forms.

24 A Okay.

25 Q He says that his participation was the creation of

Page 12

1 this PI 1 form? That was easily identified on
2 this page.

3 A Yes, sir.

4 Q Does this page help you tell me who else
5 participated in the creation of this document and
6 what they did?

7 A No, sir, not from -- not from this.

8 Q Okay. Any other aspect of this report help you
9 remember who did what?

10 A This download, the locomotive download.

11 Q What page is that?

12 A That is page 13.

13 Q Okay.

14 A The locomotive download would have been obtained
15 by road foreman, Glenn Tarte.

16 Q Do you know if Mr. Tarte did anything else in
17 connection with the investigation of this
18 incident?

19 A No, sir, I don't.

20 Q Okay.

21 A That's the only thing I see, sir.

22 Q Okay. Take a look at page 5. I think you've got
23 it. It has investigating team and then it has a
24 list of individuals under the CSX heading.

25 A Uh-huh.

1 Q Did you discuss this incident with any of the
2 gentlemen, I'm assuming they're gentlemen, listed
3 on this page?

4 A This was the investigating team that came down to
5 investigate the incident. So I'm certain at one
6 time or another, I had spoken to not only one, but
7 possibly all of them.

8 Q Do you remember in particular speaking to any of
9 them?

10 A No, sir, I don't.

11 Q All right. Well, let's talk about what you --
12 what you do remember. This -- this document
13 indicates that you were the first supervisor
14 notified of this incident?

15 A That's correct, sir.

16 Q Tell me how you were notified.

17 A Mr. Turner called me from his cell phone.

18 Q And where were you when he called you?

19 A I was in my office in Cayce.

20 Q And what did he tell you?

21 A He told me that he had tripped and fallen. I
22 asked him if he was okay. He said he didn't think
23 so, that he thought he needed to go to the doctor.
24 So I told him that I would be there in just a few
25 minutes. I immediately left the office, got in my

Page 14

1 truck, made the phone -- required phone call that
2 I needed to make to get -- get things rolling from
3 our end as far as investigation team and that
4 nature.

5 Q Who did you call?

6 A I believe at that time we were required to call
7 the DTO.

8 Q And who is that?

9 A That is the director of train operations. There's
10 not one specific person.

11 Q Do you remember who you called?

12 A No, sir, I don't.

13 Q Okay. All right. So you probably called the DTO.
14 Did you call anybody else?

15 A Well, after -- after the DTO was notified, then he
16 would make the phone calls to my division manager
17 or the assistant division manager, at which time
18 they would get whoever they needed or thought they
19 needed to be a part of the team, and then we would
20 dial into a conference bridge where we would
21 discuss what we knew so far of the incident. So
22 probably either -- I'm thinking it was Mr. Wolfe
23 that called me that day and --

24 Q Do you remember who the -- I see Mr. Wolfe was the
25 division manager based on this paper.

1 A That's right.

2 Q Do you remember who the assistant division manager
3 was?

4 A Yes, sir. That's Mr. Russ McDonald.

5 Q Okay. All right. So did you have a conference
6 call?

7 A I don't remember if we -- if we -- if we
8 conference called that day. I do remember
9 speaking to Mr. Wolfe about three different times.

10 Q Can you take me through those conversations, give
11 me an idea timewise as to when they occurred and
12 what you said and what he said in response?

13 A My first conversation was when I was in route to
14 the scene. I told him what Mr. Turner had told
15 me. He asked me once I arrived to call him back
16 and give him an update.

17 MR. MOON: Excuse me. When you're saying
18 "him," you --

19 THE WITNESS: Mr. Wolfe, to call him back
20 after I had a little more information and
21 give him an update.

22 MR. MOON: Okay.

23 BY MR. APPLETON:

24 Q When was the next call to him?

25 A The next call was in route to the medical center

Page 16

1 that Mr. Turner requested to go to.

2 Q Okay. And tell me about that conversation.

3 A Just it was a brief conversation. What I can
4 remember, it -- just telling him that we were in
5 route to the medical center and, I think, probably
6 where we were going. I don't remember.

7 Q Okay. Any other conversations with him?

8 A My last conversation would have been after
9 Mr. Turner and I left the medical center to let
10 Mr. Wolfe know what Mr. Turner's diagnosis was.

11 Q Did you at any time ask Mr. Turner to -- to mark
12 off on personal time or sick time in response to
13 this injury?

14 A No, sir, absolutely not.

15 Q Did Mr. Wolfe ask you to see Mr. Turner would not
16 make this a lost time injury?

17 A No, sir.

18 Q Okay. All right. You got the call. You
19 responded to the call. You told me about the
20 conversations with Mr. Wolfe. Did you have any
21 conversations with anybody else before you got to
22 the scene?

23 A I'm going to say yes, but I don't remember with
24 who.

25 Q Okay.

1 A Typically when something like this happens, you
2 got so many people responding. They call the
3 local officer, you know, give me directions, you
4 know, what do you got going on. Different
5 questions. I'm sure that I spoke to probably
6 everyone on here. But as far as particular
7 conversation, I don't recall.

8 Q That's fair. Okay. So you get to the scene. I'm
9 assuming that you went on the highway?

10 A Yes, sir. Yes, sir.

11 Q And did anybody else go with you?

12 A No, sir. I was alone.

13 Q Okay. So you got to Kal-Kan or Masterfood. Tell
14 me what happened once you got there.

15 A When I got there, Mr. Turner was sitting on the
16 ground on the ballast. Mr. McCutchen, his
17 engineer, had gotten him a plastic bag and
18 some ice off of the locomotive, made him an ice
19 pack. When I approached him, I noticed that he
20 had both of his pant legs pulled up above his
21 knee, and he was holding the ice pack on a knot
22 that he had on his -- I don't remember if it was
23 his right or his left, but on one of his shin
24 bones. I noticed he did have a couple of skin
25 marks on his knees.

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1 I asked him if he was okay and he said, "I think
2 I'm all right. I'm skint up a little bit." I
3 asked him if he needed to go to the doctor. He
4 said, "Let me get my senses about me a little bit
5 and, you know, and I'll decide."

6 So I -- we helped him up, took him over to my
7 truck, put him in the air conditioning and got him
8 out of the sun, out of the heat, at which time he
9 told me, he said, "I need to call my wife and I'll
10 let you know what I need to do." So I left him
11 alone in my truck so he could have a private
12 conversation with his wife. After the
13 conversation, he told me he needed to go to the
14 medical center, at which time I transported him
15 there myself in my vehicle.

16 Q I should have asked you this earlier. Do you have
17 any idea as to how long it took you to get to the
18 scene after you received the call?

19 A Maybe 15 minutes.

20 Q And it sounds like from your testimony that when
21 you got there initially, you were concerned with
22 Mr. Turner and all your attention was directed to
23 him?

24 A Yes, sir, that's correct.

25 Q And did you ever inspect the scene where he says

1 he fell?

2 A Not in your words, inspection. He pointed, "This
3 is where I fell. This is where I tripped over."
4 Like I said, or like you said, I was more
5 concerned with him at that time than the actual
6 scene.

7 Q Did you ever go back and do an inspection?

8 A No, sir, I didn't.

9 Q There's some photographs that are in Exhibit 1
10 that have some measurements on it. Let me see if
11 I can find them. You have them in front of you?

12 A I've got the photos here. Which one?

13 Q What page?

14 MR. MOON: Nine. Eight, nine.

15 BY MR. APPLETON:

16 Q Eight, nine. Eleven is the one I'm referring to.

17 A Okay.

18 Q You see those measurements on there?

19 A Yes, sir.

20 Q Did you take those measurements?

21 A No, sir, I did not.

22 Q Have any idea who did?

23 A No, sir, I don't.

24 Q Have any idea who took the photographs?

25 A No, sir, I don't.

Page 20

1 Q Have any idea when the photographs were taken?

2 A Not without an assumption.

3 Q Okay. Maybe so I can get a little better context
4 as to what we have in Exhibit 1, did you -- did
5 you put this document together?

6 A No, sir.

7 Q Somebody else did that?

8 A Yes, sir.

9 Q All right. Your -- your name is on Mr. Turner's
10 PI 1-A, the accident report?

11 A Yes, sir.

12 Q I don't know that I saw your name on anything
13 else. Do you remember participating in the
14 creation of any of the other documents that are in
15 here on Exhibit 1?

16 A No, sir, I don't.

17 Q All right. If you look at page 8, you see up here
18 at this photograph at the top, it's got close
19 clearance?

20 A Yes, sir.

21 Q Vertically. Do you know what that is referring
22 to?

23 A Yes, sir. It's referring to this, the gate, the 6
24 foot high.

25 Q Okay. The point of entry for the --

1 A Right.

2 Q Okay. And is this -- I couldn't tell if this was
3 something that's typed on the photograph or is
4 that -- if that's a sign post out there. Is it a
5 sign post?

6 A That's a sign.

7 Q Okay. If you go to page 9.

8 A Yes, sir.

9 Q It's a trainmaster for scale, clearances to the
10 inside. You see that above each of those
11 photographs?

12 A Yes, sir, I do.

13 Q Obviously you're not the trainmaster.

14 A No, sir.

15 Q You go any idea who is? Do you recognize those
16 legs?

17 A No, sir, I don't.

18 Q Okay.

19 MR. MOON: Off the record.

20 (Off the record.)

21 BY MR. APPLETON:

22 Q All right. So you -- you take Mr. Turner to the
23 medical center. How long do you think you guys
24 are there?

25 A At least an hour and a half, maybe -- maybe two

Page 22

1 hours.

2 Q And they gave him, I don't know, a leg
3 immobilizer, didn't they?

4 A Yes, sir.

5 Q And tell me what happened once he came back from,
6 I guess, the doctor examining him or treating him.
7 I understand you didn't go back with him. You
8 stayed out in the waiting room.

9 A That's correct.

10 Q So once he came back out into the waiting room,
11 tell me what happens next.

12 A He came out to the waiting room, handed me his
13 paperwork. Any time that we have an employee
14 involved with an FRA reportable injury such as
15 this one, we are federally mandated by federal law
16 for that employee to take a drug test. It's a
17 fairly mandated test. I asked Mr. Turner if he
18 would accompany me back to my office to fill out
19 his portion of the paperwork and perform that drug
20 test. He refused to go to the office with me. So
21 he filled out his paperwork there at the medical
22 center, and we never did -- or never were able to
23 perform the drug test.

24 Q They couldn't do that there at the medical center?

25 A We don't do that unless it is a fatality, and then

1 the deceased person is tested there. We have an
2 outside contractor that we use that comes to our
3 property to perform the test.

4 Q So -- so y'all test urine?

5 A Yes, sir.

6 Q No -- no blood?

7 A No blood. No blood.

8 Q Okay. He refused to go back to your office. Have
9 any other contact with him after that point in
10 time?

11 A No, sir.

12 Q Did he ever tell you what happened other than in
13 the initial phone conversation that you've already
14 told me about?

15 A Other than he was stepping over the gate
16 extension, caught his foot on it, and fell.

17 Q Who did -- do you remember when it was he told you
18 that?

19 A It was either when I initially got to him or after
20 I put him in my truck and we were on our way to
21 the doctor's office, one of the two.

22 Q Did you interview the crew members?

23 A No, sir, I did not. I was at the medical center
24 with Turner.

25 Q Do you know who did?

Page 24

1 A No, sir, I don't.

2 Q There's some statements that those guys wrote out
3 which are on pages 26 and 27.

4 A Okay.

5 Q Did -- did you participate in -- in obtaining that
6 statement from the crew members?

7 A No, sir.

8 Q All right. Turner's statement is on page 25.

9 A Okay.

10 Q Did you participate in obtaining that statement?

11 A No, sir.

12 Q Do you know -- do you know when he would have
13 given that statement?

14 A Oh, yes, I do, sir. This is one of the paper --
15 this is one of the things that he filled out for
16 me at the -- at the doctor's office.

17 Q Okay. Once he didn't want to go back to your
18 office, these -- that's one of the documents he
19 filled out?

20 A Yes, sir.

21 Q All right. And then is the other one the injury
22 report which is on pages 14 and 15?

23 A Yes, sir, that's -- that's correct.

24 Q Can you give me an idea as to which he did first,
25 the written statement or the accident report?

1 A I have no idea, sir.

2 Q Were they done at the same time?

3 A At the same time.

4 Q All right. Turner leaves you at the medical
5 center, goes home. What do you do next in
6 connection with this injury?

7 A As I stated previously, I called Mr. Wolfe, gave
8 him an update. I believe I went home. Everything
9 else had been taken care of as far as I can
10 remember.

11 Q Was -- was it the end of your shift or was that
12 just an off day for you?

13 A Not either. Trainmasters are kind of a unique --
14 it's a unique position. We're considered
15 independent managers. I don't have any set hours.
16 I don't have any set shifts that I have to be
17 anywhere.

18 Q Okay.

19 A I set my own schedule.

20 Q Other -- other than the reports to Mr. Wolfe by
21 telephone that you just told me about, did you
22 provide information concerning this incident to
23 anybody else?

24 A Not that I can remember.

25 Q Okay. Did you ever take any photographs of the

Page 26

1 scene or of Mr. Turner?

2 A No, sir.

3 Q Ever participate in any efforts to recreate his
4 injuries?

5 A No, sir.

6 Q Form any conclusions as to whether or not Mr.
7 Turner violated any operating or safety rules in
8 connection with his injuries?

9 A In my -- in my opinion with my -- my position as a
10 trainmaster, it's my job to test employees on
11 their knowledge of the rules and how they're
12 applying that rule when they're working. In this
13 instance right here, it is my opinion that
14 Mr. Turner violated one of our operating rules.

15 Q Tell me which one and why you think he violated
16 it.

17 A I don't remember the rule number, but it's a rule
18 that addresses slip, trips, and falls, that they
19 are to take precaution when walking, when
20 they're -- watching where they place their feet to
21 avoid any potential -- putting their feet in any
22 potential place that could cause them to slip or
23 trip over something such as in this instance.

24 Q And did -- did Mr. Turner tell you anything
25 specifically that made you think he violated that

1 rule?

2 A No, sir.

3 Q Just the fact that he fell is what leads you to
4 that conclusion?

5 A Well, not the fact that he fell, but this gate
6 extension was not something that was new. It had
7 been there for as long as I had the territory, I
8 know that, and who knows how long before that.
9 Mr. Turner had worked that job for a while before
10 I took the territory over. I don't know how long
11 he had worked the job, but he was aware that it
12 was there. So not just -- you know, not that he
13 fell. I mean, there's other -- that led me to
14 that, if you will, other...

15 Q Okay. And I -- I want to know why -- why you
16 think that specifically, not -- I'm not splitting
17 hairs with you, but it's important to me to know
18 why you think that. You think that, then, because
19 the obstruction was there and Turner knew about
20 it; is that fair?

21 MR. MOON: Object to the form. You may
22 answer.

23 THE WITNESS: Yes, sir. I mean, it -- it --
24 it could have been avoided.

25

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1 BY MR. APPLETON:

2 Q Okay.

3 A He didn't have to step over that.

4 Q Okay.

5 A He chose to step over it.

6 Q What do you mean, he didn't have to step over it?

7 A The scenario that comes quickest to my mind would
8 be to -- if he had to come to the head end, and
9 that's what he was -- he was doing, was coming to
10 the engines, would be to make a cut on the cars
11 that they had ahold of, pull those out, clear
12 that, and he could have walked around it.

13 Q The cars that were connected to the engine at the
14 time of this incident...

15 A Yes, sir.

16 Q -- do you know where those cars were destined for?

17 A No, sir, I don't.

18 Q Do you know if they were -- if they were pulling
19 them out of Kal-Kan and they were going to deliver
20 them somewhere else?

21 A I don't know where they were at in their move. We
22 do both. We put cars in and we bring cars out.
23 So I don't know which those were.

24 Q Okay. Anything else about the incident that makes
25 you think he violated an operating rule?

1 A No, sir.

2 Q Do you remember how far he was from the engineer
3 when he fell?

4 A Not exactly. No, sir.

5 Q And the reason I ask -- go ahead.

6 A I believe it was within a couple of car lengths.
7 That's going to be roughly 100, 150 feet.

8 Q Okay. Did any of his crew members violate any
9 operating or safety rules in connection with this
10 incident?

11 A Not that I'm aware of.

12 Q Do you know who maintains the track and roadbed
13 where this incident occurred?

14 A No, sir. It varies from industry to industry.
15 That would be a question that the roadmaster would
16 be more apt at answering than I would be.

17 Q And do you remember who the roadmaster was?

18 A The names that I gave you earlier.

19 Q Is it on that?

20 A James Thomas was the roadmaster. At the current
21 time, he's no longer with us.

22 Q Oh, that's the one you said you've been through
23 two since then?

24 A Yes, sir, that's right.

25 Q So Donald Cottrill would be the fellow in that

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1 position now?

2 A That's correct, sir.

3 Q You said Chad Beverly was the roadmaster before
4 Mr. Cottrill?

5 A That's correct, sir.

6 Q Do you know where he is now?

7 A Yes, sir. He's in Florence.

8 Q What's his job?

9 A He's a roadmaster.

10 Q Did you charge Turner with any rule violation?

11 A No, sir, I did not.

12 Q Do you have any plans to?

13 A No, sir, I do not.

14 Q Tell me why not.

15 A I was not -- I wasn't there. I did not see him.
16 As I said before, it was my opinion that he had
17 violated a rule. I did not see him violate a
18 rule. So, therefore, I can't charge him on my
19 speculation. As far as I know, he may have been
20 getting off moving equipment or, you know,
21 whatever the case may be.

22 Q Do you know if -- if the fencing extending out
23 into the railroad right-of-way constituted
24 violation of any type of rail -- railroad rules?

25 A Once again, those are railway rules, and I'm not

1 very familiar with a lot of them. So, no, sir, I
2 don't know.

3 Q Do you know how often that track was inspected?

4 A My safety committee inspects our industries every
5 quarter. Track inspectors and roadmasters, they
6 have their own schedule. I'm not sure what those
7 are.

8 Q Do you know when you say safety committee inspects
9 every quarter, so that's going to be April -- no,
10 that's going to be March, June, September, and
11 December?

12 A Yeah. That's correct, sir.

13 Q Do you keep records of those meetings?

14 A Yes. They fill out reports for each industry.

15 Q And what -- what is the purpose of those reports?

16 A It's a -- the safety committee is composed of --
17 or comprised of conductors and engineers. They're
18 members of safety committee. As I said, every
19 quarter, they go out and do industry inspections.
20 Those inspections are to ensure that there's no
21 unsafe conditions exist. A big thing, you know,
22 especially during the summer months, is high
23 weeds. If they encounter any of those, they --
24 they approach the industry and tell them they're
25 going to have to cut their grass or cut their

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1 weeds. If there's anything laying in the
2 walkways, any unsafe conditions that they may
3 find, they address it with the industry. We
4 generally give the industry 48 hours to comply
5 with correcting it. If not, we take them out of
6 service.

7 Q Had Kal-Kan or Masterfoods ever been taken out of
8 service?

9 A Yes, sir.

10 Q Tell me when and why.

11 A When, I can't tell you specifically. Why, because
12 they needed to cut their grass.

13 Q Anybody else been injured at Kal-Kan that you're
14 aware of?

15 A Not that I'm aware of, sir.

16 Q Are you aware of the -- these fencing extensions
17 being present anywhere else on your territory?

18 A No, sir.

19 Q Did they -- have they been present in the past at
20 locations other than Kal-Kan?

21 A Not that I'm aware of.

22 Q So you didn't participate in the creation of any
23 documents in connection with this injury other
24 than Turner's PI 1-A and then the written
25 statement that you obtained from him?

1 A That's correct, sir.

2 Q And you don't know where the other documents that
3 constitute Exhibit 1 came from specifically?

4 A Not specifically. It would have been someone
5 listed under that investigating team.

6 Q Is there any way we can look at this document or
7 set of documents and determine who collected this
8 information?

9 A Other than the locomotive download, I wouldn't
10 have any idea.

11 Q Is there some type of a -- of a procedure for
12 determining who's in charge of the injury
13 investigation?

14 A Typically, I would have been. But as I stated, I
15 was with Mr. Turner at the medical center. So one
16 of the other guys on this list here has taken
17 charge and assigned each individual to do a
18 portion of this report. Someone would have been
19 assigned to take the pictures, someone would have
20 been assigned to do the diagram, someone to do the
21 actual report.

22 Q But you don't know who that is and you don't
23 recall designating anybody in that position?

24 A No, sir, I do not.

25 Q And you never reviewed this document in connection

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1 with the investigation of -- I shouldn't say
2 document, this set of documents in connection with
3 the investigation of Turner's injuries?

4 A I was sent a copy of it once it was completed,
5 yes, sir, and I looked over it.

6 Q When were you sent a copy of it?

7 A It would have been during the same -- this same
8 week of this, June the 4th.

9 Q Did you recommend any additions or changes to the
10 documents that you received?

11 A Not that I remember.

12 Q Was it complete when you received it?

13 A As far as I can remember, it's just like we're
14 looking at it today.

15 Q Okay. You just received one copy of it?

16 A That's correct.

17 Q And once you received it and you reviewed it, what
18 did you do in connection with his injury at that
19 time?

20 A At that I -- I was finished.

21 Q Did you -- did you retain the form?

22 A I probably do have it somewhere, yes, sir. I'd
23 have to go back and look.

24 Q Were you sent any other documents in connection
25 with Turner's injuries other than what's included

1 in Exhibit 1?

2 A Not that I remember, sir.

3 MR. APPLETON: I don't have any more
4 questions for you. Thanks.

5 EXAMINATION

6 BY MR. MOON:

7 Q Let me ask you just a couple of things.

8 Mr. Hedrick, this thing we're calling Exhibit 1,
9 it's got this sticker on it so we refer to these
10 pages as Exhibit 1 and got the numbers down there
11 on it, this report is done because this was an FRA
12 reportable accident?

13 A Injury.

14 Q FRA reportable injury?

15 A Yes, sir.

16 Q Is that right?

17 A Yes, sir.

18 Q Okay. If somebody gets a -- gets a bee sting or
19 bug bite, there's no lost time, no one has to get
20 a splint, whatever the other FRA factors are, is a
21 report like this Exhibit 1 done?

22 A No, sir.

23 Q The conductor of a train crew, who is the foreman
24 of the train crew?

25 A The conductor is the foreman.

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1 Q And if he needs the train to make certain
2 movements or be in certain places, he can tell the
3 engineer to put the train there; is that right?

4 A Yes, sir, that's correct.

5 Q And if he thought the train was in a place where
6 he couldn't operate safely, he would move it to a
7 place where he could operate safely; is that
8 right?

9 A That's correct, sir.

10 MR. MOON: I don't have any other questions.
11 Thank you.

12 RE-EXAMINATION

13 BY MR. APPLETON:

14 Q Well, did you take any exception to where the
15 train was positioned at the time Turner was
16 injured?

17 A Not exception to where it was positioned because
18 in order to perform their duties, of course, they
19 have to go, you know, into the industry and back
20 out. Now, as I stated previously, the first
21 scenario that comes to my mind would be he should
22 have made a cut on the cars and pull in the
23 locomotives ahead of the gate and walked around it
24 versus choosing to step over it.

25 Q But that -- I mean, and you fairly have told me

1 about that. But other than that, do you take
2 exception to any other placement or movement of
3 the cars?

4 A No, sir, I don't.

5 Q Tell me about your railroad history. When did you
6 hire on with the railroad?

7 A I hired in January the 19th, 1998.

8 Q And trace for me your railroad employment, where
9 you've worked, how long you've been there, and
10 what your jobs have been.

11 A Sure. I hired in in Hazard -- I'm sorry,
12 Borovinia Hazard, Kentucky as a brakeman. I
13 worked as a brakeman for approximately four
14 months. I was able to move into a conductor
15 position. I worked as a conductor for about a
16 year. Took my engineer's certification and worked
17 as an engineer for about a year and a half on the
18 KY subdivision between Cincinnati and Corbin,
19 Kentucky. I was promoted to yard master in
20 Corbin, of which I worked about four years as a
21 yard master in a consolidated center.
22 Consolidated center is where you have X number of
23 yard masters controlling X number of yards. In
24 this particular location, we had six yards that we
25 were responsible for, two per desk. I did that

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1 for four years. Then I was promoted to terminal
2 train master in Nashville, Tennessee. I spent
3 three and a half years in the hump yard there in
4 Nashville. I've been in my current position as a
5 line road trainmaster for about three and a half
6 years.

7 Q What geographical area do you cover?

8 A That's what I was getting ready to say. My
9 territory is the Hamlet, Eastover, Orangeburg,
10 Creston, and Lane subdivisions. I've got roughly
11 about 300 miles of railroad.

12 Q Did you know Turner before this incident?

13 A Yes, sir. He's one of my employees.

14 Q Were you aware of any kind of physical problems he
15 was having before this incident occurred?

16 A Not that I remember, sir.

17 MR. APPLETON: Okay. I don't have any more
18 questions.

19 (Whereupon, there being no further
20 questions, the deposition was
21 concluded at 9:55 a.m.)

22 Signing not waived.

23 FURTHER WITNESS SAITH NOT.

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STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

CERTIFICATE

Be it known that Kimberly T. Power took the foregoing deposition and hereby attests:

that I was then and there a notary public in and for the State of South Carolina-at-large and that by virtue thereof I was duly authorized to administer an oath;

that the deponent/witness(es) was/were first duly sworn to testify the truth, the whole truth, and nothing but the truth, concerning the matter in the controversy aforesaid;

the foregoing transcript represents a true, accurate, and complete transcription of the testimony so given at the time and place aforesaid to the best of my skill and ability;

that I am neither a relative nor an employee of any of the parties hereto, nor of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

In witness thereof, I have hereunto set my hand and seal.


Kimberly T. Power

JUL 09 2009

Date

Notary public for South Carolina
My commission expires July 22, 2015.

◆ (Audio files are retained for six (6) months from the date of the deposition/proceeding or until transcript has been signed in cases where signature was not waived.)

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