IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD
Case No. IPR2024-01179
U.S. Patent No. 11,780,689

SOLARIS OILFIELD SITE SERVICES OPERATING, LLC; and
SOLARIS OILFIELD SITE SERVICES PERSONNEL, LLC,

Petitioners,

v.

MASABA, INC.,

Patent Owner.

****

DEPOSITION OF
MICHAEL STANTON
June 24, 2025

****

MICHAEL STANTON, produced as a witness at the instance of the Petitioners, was duly sworn and deposed in the above-styled and numbered cause on June 24, 2025, from 8:56 a.m. to 1:05 p.m. CST, stenographically reported, at the offices of Masteller Law Firm, PLLC, 124 South Main Street, Suite 210, Burleson, Texas, pursuant to 37 CFR 42.53(d)(1) and any provisions stated on the record.

Reported by: Rebecca A. Graziano, CSR, RMR, CRR
Texas CSR 9306
California CSR 14407

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PREVIOUSLY MARKED EXHIBITS

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STENOGRAPHER'S NOTE: All quotations from exhibits are reflected in the manner in which they were read into the record and do not necessarily denote an exact quote from the document.

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PROCEEDINGS

(On the record at 8:56 a.m. CST)

(Witness duly sworn.)

MIKE STANTON,

being first duly sworn, testified as follows: 08:56:45

EXAMINATION 08:56:45

BY ATTORNEY FLANNERY: 08:56:45

Q Good morning. 08:56:46

A Good morning. 08:56:47

Q Could you please state your full name for the record? 08:56:47 08:56:49

A Michael Stanton. 08:56:49

Q Okay. And, Mr. Stanton, where do you live? 08:56:51 08:56:52

A I live in Alvarado, Texas. 08:56:53

ATTORNEY FLANNERY: Okay. 08:56:57

ATTORNEY NYDEGGER: Liz, do you mind if we state appearances for the record with multiple counsel? 08:56:57 08:56:58 08:57:00

ATTORNEY FLANNERY: Probably a good idea. I'll start. 08:57:01 08:57:02

Liz Flannery from Baker Botts 08:57:03

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representing the petitioners, and with me is Wesley Edwards, also from Baker Botts. 08:57:05 08:57:06

ATTORNEY NYDEGGER: Okay. Chad Nydegger from Workman Nydegger representing the patent owner, Masaba. 08:57:09 08:57:10 08:57:11

ATTORNEY MASTELLER: Robert Masteller, representing the witness, Michael Stanton. 08:57:13 08:57:15 08:57:16

ATTORNEY FLANNERY: Thank you. 08:57:17

BY ATTORNEY FLANNERY: 08:57:20

Q Mr. Stanton, who is your current employer? 08:57:21

A Gates Corporation. 08:57:23

Q And what does Gates Corporation do? 08:57:25

A We manufacturer power transmission products and hydraulic products. 08:57:26 08:57:28

Q Okay. Mr. Stanton, have you been deposed before? 08:57:30 08:57:32

A I was deposed several years ago in a traffic accident, but it's five or six years ago. 08:57:33 08:57:37

Q Okay. 08:57:40

A Yeah. 08:57:40

Q Well, since it's been a while, I'll just 08:57:41

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go over just briefly a couple of reminders about things that we need to remember about -- 08:57:42 08:57:45

A Sure. 08:57:46

Q -- to make sure we have a good record. 08:57:46

A Sure. 08:57:48

Q First of all, we want to make sure we don't talk over each other. 08:57:48 08:57:50

A Okay. 08:57:51

Q And we also want to make sure we don't talk over these gentlemen if they have any objections. 08:57:51 08:57:53 08:57:55

A Okay. 08:57:56

Q And so what I'll ask is that after I finish my question, just give a little bit of a pause so that if anybody has objections that they need to state, that we don't aggravate the court reporter by speaking over one another. 08:57:56 08:57:58 08:58:00 08:58:02 08:58:06

A I understand. 08:58:07

Q Make sense? 08:58:07

A Yeah. 08:58:08

Q Okay. Need to make sure we get verbal answers during the day, so nods and "huh-huhs" or 08:58:09 08:58:10

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"uh-huhs" tend to not transcribe well, and so just make sure that we get -- 08:58:13 08:58:17

A Okay. 08:58:17

Q -- you know, clear verbal answers. 08:58:18

Is that okay? 08:58:19

A Yes, ma'am. 08:58:20

Q All right. If you need a break at any point in time, please let me know. I'll usually try to go every hour, hour and 15. But certainly if you need a break before that, we can take a break. Just let me know. 08:58:20 08:58:23 08:58:25 08:58:27 08:58:29

The only time that I'll ask you to -- that we finish the question-answer that we have. We don't take breaks in between a question and answer unless you have a question about privilege. 08:58:31 08:58:34 08:58:38 08:58:40

A I understand. 08:58:41

Q Okay. One thing that also is a rule governing in this proceeding is that you are not supposed to confer with your counsel during breaks about the substance of your testimony. 08:58:42 08:58:47 08:58:49 08:58:52

A Okay. 08:58:54

Q And so I will assume that you were not 08:58:54

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doing that. We'll reconfirm that at the end of the day. 08:58:57 08:58:59

A Absolutely. 08:58:59

Q Okay. Mr. Stanton, is there any reason -- either physical, mental, emotional conditions -- that you would not be able to give full, accurate testimony today? 08:59:00 08:59:04 08:59:06 08:59:09

A No. 08:59:09

Q Okay. Let's start with your educational background. What is the highest level of education you obtained after high school? 08:59:12 08:59:15 08:59:16

A Bachelor of arts in anthropology from Texas State University. 08:59:18 08:59:21

Q Okay. Beyond your bachelor's degree, did you take any classes post that degree? 08:59:22 08:59:27

A I took some counseling classes -- I don't remember the years -- but at Hill College. I worked in the -- counseling for a couple of years. 08:59:31 08:59:39 08:59:42

Q Okay. Counseling -- what work did that -- or what type of -- 08:59:48 08:59:49

A Chemical dependency counseling with youth, yeah, for a nonprofit. 08:59:50 08:59:54

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Q Wonderful. 08:59:55

Okay. And in the -- in connection 08:59:55

with either your bachelor's degree or those 08:59:59

counseling classes, did you take any technical or 09:00:02

engineering classes? 09:00:05

A No. 09:00:07

Q Any other technical or engineering 09:00:10

training that you took other than the -- 09:00:12

A Nothing other than on-the-job type 09:00:15

training that my employers maybe provided, reading 09:00:18

print, blueprints, things like that. 09:00:22

Q Okay. I understand that previously your 09:00:26

prior employment -- immediate prior employment was 09:00:29

at Anchor; is that correct? 09:00:31

A To now? 09:00:32

Q Yes. 09:00:32

A Yes. Yes. 09:00:33

Q Okay. And your role was the business 09:00:34

development manager there? 09:00:38

A Yes. 09:00:39

Q Okay. What were your responsibilities, 09:00:40

generally, in that role? 09:00:42

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A Finding new opportunities -- new business opportunities and developing those for the company. 09:00:43 09:00:46 09:00:50

Q Did you consider that a sales role or a technical role? 09:00:54 09:00:56

A More of a sales role, yeah. 09:00:57

Q Okay. At a high level -- I'm not looking for numbers -- how were you compensated at Anchor? Were you salaried? 09:01:00 09:01:04 09:01:07

A Yeah, I was salaried and I had an opportunity to earn bonuses, yeah. 09:01:08 09:01:10

Q Okay. Did you receive commissions for projects that you worked on? 09:01:13 09:01:14

A I -- that was my -- that was my -- my structure, yes. Yeah, that was my structure, yeah. 09:01:15 09:01:20 09:01:23

Q So was that in addition to the salary? 09:01:23

A Yes. 09:01:25

Q Okay. Were you -- was the structure that you had received commissions on every project that you worked for or only certain ones? 09:01:26 09:01:36 09:01:38

A It was based on -- if I remember 09:01:40

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correctly, it's been a few years -- but I believe it was based on profit margins. So if there was enough of a profit margin, then I would receive a bonus off of that. 09:01:42 09:01:44 09:01:46 09:01:49

Q A profit margin for a particular project? 09:01:50

A For a particular project. Yeah, per project. Yes, ma'am. 09:01:51 09:01:53

Q Okay. How long were you at Anchor? 09:01:54

A About two years. 09:02:03

Q Okay. Over that period of time, how many projects did you receive commission -- well, let me take a step back. 09:02:05 09:02:08 09:02:11

Over that period of time, how many discrete projects did you work on? 09:02:11 09:02:13

A Oh, I don't remember. I mean, I don't know. 09:02:16 09:02:20

Q Was it more than ten? 09:02:22

A Probably, yeah. 09:02:23

Q Okay. 09:02:25

A Yeah. 09:02:25

Q Was it more than 20? 09:02:25

A I don't know. I mean, that's not -- it's 09:02:26

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not something I thought about before we came in here, but it would be more than ten, yeah. 09:02:31 09:02:33

Q Okay. 09:02:35

A That would be a good answer. 09:02:35

Q And do you recall roughly how many of those projects you received commissions for versus not? 09:02:37 09:02:39 09:02:41

A Maybe one of that entire time, yeah. 09:02:41

Q That you did receive commissions for? 09:02:48

A Uh-huh. Uh-huh. 09:02:49

Q Okay. Before you worked at Anchor, I noticed you had a number of different roles. Were any of those roles technical in nature? 09:02:50 09:02:56 09:02:59

A No. I've always been in sales. Yeah. 09:03:01

Q Okay. And your current company, you said the Gates Corporation; right? 09:03:04 09:03:09

A Uh-huh. 09:03:10

Q And I'm sorry. Can you remind me what Gates Corporation does? 09:03:10 09:03:11

A We manufacture power transmission and hydraulic products. 09:03:12 09:03:14

Q And when did you start there? 09:03:18

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A March 2022, I believe. 09:03:19
Q Okay. Is your -- 09:03:26
A It was directly after Anchor. Yeah. 09:03:27
Q Okay. Is your role there full-time or part-time? 09:03:29
A Full-time. 09:03:32
Q Okay. And generally, what are your responsibilities there? 09:03:33
A To find new business and develop that business. So it's a business development manager position. 09:03:37
Q Also a sales role -- 09:03:44
A Sales role, yeah. 09:03:44
Q -- as opposed to a technical role? 09:03:46
A Yeah. 09:03:47
Q Make sure you wait until I finish my question. 09:03:47
A I'm sorry. 09:03:48
Q It's okay. I'll do the same thing I'm sure. It's -- I just want to make sure we -- 09:03:50
A I'll be mindful of that. I apologize. 09:03:52
Q It's quite all right. 09:03:53
09:03:54

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And generally -- again, I'm not looking for numbers -- at a high level, how are you compensated in that role? 09:03:57 09:03:58 09:04:00

A I have a base plus a bonus opportunity. 09:04:01

Q Okay. And do you receive commissions for the projects that you work on? 09:04:03 09:04:05

A I have quarterly bonuses based on -- based on goals -- set goals at the beginning of the year, a size. 09:04:05 09:04:09 09:04:11

Q Other than your employment at Gates, do you do any consulting work separate from that employment? 09:04:14 09:04:19 09:04:22

A No. 09:04:22

Q Mr. Stanton, do you have any expert -- any experience either using or designing oilfield equipment? 09:04:30 09:04:34 09:04:36

A I'm sorry. What was the question? Do I have any -- 09:04:37 09:04:40

Q Do you have any experience -- 09:04:41

A Experience. 09:04:42

Q -- either using or designing oilfield equipment? 09:04:43 09:04:45

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A No. No. I've always worked in a sales role. Yeah. 09:04:45 09:04:48

Q Okay. Same would be true for sand-handling equipment? 09:04:49 09:04:50

A Yes. 09:04:51

Q Okay. What about transportable conveyor systems? Do you have experience designing or using those? 09:04:52 09:04:55 09:04:57

A No. 09:04:57

Q Okay. Certainly you worked on a system involving transportable conveyor systems in the sales role with -- in connection with this case; correct? 09:05:04 09:05:07 09:05:09 09:05:09

A Yes. 09:05:13

Q Other than that project, how many other projects involving transportable conveyor systems have you worked on, at least in a sales role? 09:05:13 09:05:16 09:05:20

A None. 09:05:22

Q None. 09:05:23

And before the project for Solaris, had you worked on, in a sales role, any projects involving oilfield equipment or sand-handling 09:05:23 09:05:33 09:05:37

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equipment? 09:05:41

A I worked for a company Panda Technical 09:05:41

Services, and I don't remember the day -- roughly 09:05:45

2016 to 2018 -- where we did third-party 09:05:47

maintenance on frac pumps for the oilfield. That 09:05:51

was a sales role as well. 09:05:54

Q Okay. Anything else? 09:05:55

A No. 09:06:00

Q Do you consider yourself an expert in the 09:06:01

field of handling or conveying systems for things 09:06:02

like sand? 09:06:05

A No. 09:06:06

Q Okay. 09:06:06

(Exhibit 2006 tendered.) 09:06:06

BY ATTORNEY FLANNERY: 09:06:06

Q I'll hand you a copy of what has been 09:06:23

previously marked as Exhibit 2006. 09:06:25

A Thank you. 09:06:27

Q And do you recognize this as a copy of 09:06:28

your declaration in this matter? 09:06:36

A Yes. 09:06:37

Q And I guess I should ask: It looks like 09:06:48

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you have a second copy? 09:06:49
A I have -- I brought a copy. Yeah, we 09:06:50
brought a copy with us, yes. Yeah. 09:06:52
Q All good. 09:06:54
Is that a clean copy? Are there any 09:06:54
notations on it? 09:06:56
A No. There are no notations at all. Yeah. 09:06:57
I can set that aside if you like and work off this 09:06:59
one. 09:07:02
Q You are free to use either of those 09:07:02
copies. 09:07:04
A Okay. Sure. 09:07:04
Q They should be the same. 09:07:05
A Sure. 09:07:05
Q Mr. Stanton, when did you first learn of 09:07:08
this case? 09:07:09
A Learn of this case? 09:07:10
I think -- I don't know a date. One 09:07:12
of my -- Masaba's attorneys -- I can't remember 09:07:19
who it was -- reached out to me maybe -- maybe a 09:07:22
year -- over a year ago, I think. I can't 09:07:27
remember a date. 09:07:29

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Q Okay. 09:07:29
A Yeah. 09:07:29
Q So that would have been sometime in the 09:07:30
summer of 2024, you think? 09:07:31
A I don't remember. I don't remember an 09:07:33
exact time, but it's been over probably -- 09:07:36
probably over a year. I'm guessing, though. 09:07:38
Q So sometime in 2024? 09:07:40
A I believe -- I believe so. 09:07:42
Q Okay. 09:07:43
A I'm not sure, but I believe -- it's over a 09:07:43
year, I would think. Yeah. 09:07:46
Q And you said an attorney from Masaba 09:07:48
contacted you? 09:07:50
A Yes. 09:07:50
Q Okay. Did they contact you by phone? 09:07:50
A Yes. 09:07:53
Q Okay. And what did they discuss? 09:07:54
A There was a discussion -- I've got to 09:07:55
think back. 09:08:00
I believe -- I don't remember the 09:08:03
exact nature of the conversation other than there 09:08:10

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was -- there was -- I don't remember the specifics, but there was a case and they asked if I would be available to give a statement, I believe, but I don't remember the exact nature of the conversation. 09:08:12 09:08:14 09:08:16 09:08:18 09:08:20

Q Okay. 09:08:21

A Yeah. 09:08:21

Q And what did you tell them in response to that? 09:08:21 09:08:23

A "Sure. Yeah." 09:08:23

Q And then when did they contact you again about getting that statement? 09:08:24 09:08:28

A Sometime within the last year. Several months ago, I think. 09:08:29 09:08:37

And -- yeah. Several months ago. I don't remember a date. I apologize. But, yeah, sometime this year. 09:08:41 09:08:43 09:08:47

Q That's fine. 09:08:48

A Over the last 12 months. 09:08:48

Q Just looking for your best recollection. That's all. 09:08:49 09:08:51

A Okay. Sure. 09:08:51

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Q And do you understand that this case involves a patent that is owned by Masaba? 09:08:52 09:08:53

A That's my understanding, yes. 09:08:55

Q Okay. In preparing your statement, who did you work with in preparing that? 09:08:57 09:09:02

A My attorney, Rob Masteller. Yeah. 09:09:04

Q Okay. Anyone else? 09:09:07

A I answered some questions for attorneys for Masaba as well, yes. 09:09:08 09:09:12

Q Do you remember what questions you answered for the attorneys from Masaba? 09:09:13 09:09:15

A It was all related to my declaration, so questions that were answered -- or statements of this declaration. 09:09:17 09:09:21 09:09:22

Q Were there any questions that you recall that are not reflected in your declaration? 09:09:24 09:09:26

A I don't recall anything. 09:09:28

Q Okay. In preparing this document, your declaration, did you put sort of -- I say pen to paper. Did you type up the declaration or did somebody else type it for you and you reviewed? 09:09:29 09:09:33 09:09:38 09:09:41

A I don't believe I typed anything. I 09:09:43

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believe there was questions and I answered the questions, and then they were put together and then my attorney and I reviewed it. 09:09:44 09:09:46 09:09:47

Q Okay. In preparing your declaration, did you review any documents other than the documents that are attached to your declaration? 09:09:49 09:09:54 09:09:59

A No. 09:10:01

Q Okay. The documents that are attached to your declaration, who provided those to you? 09:10:03 09:10:05

A Are we talking about the appendices? The emails? 09:10:09 09:10:12

Q Correct. 09:10:13

A Yes. Those were sent by Masaba's attorneys. They gathered those and I reviewed them. 09:10:13 09:10:16 09:10:18

Q Did you request those documents? 09:10:19

A No. 09:10:20

Q Okay. In the course of preparing your work, did you request that Masaba provide you any documents other than the ones that are attached to your declaration? 09:10:25 09:10:26 09:10:28 09:10:30

A I don't believe so. 09:10:30

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Q Did you contact -- well, I guess I should ask this question: I'll represent to you that these documents that are attached are all emails during your time -- 09:10:33 09:10:37 09:10:41 09:10:43

A Yes. 09:10:44

Q -- while you were at Anchor. 09:10:44

Do you still have access to your email address at Anchor? 09:10:46 09:10:50

A No. 09:10:50

Q Did you -- in the course of preparing your declaration, did you ask Anchor for access to any of those emails? 09:10:50 09:10:53 09:10:55

A No. 09:10:57

Q Okay. In preparing your declaration, did you speak with anyone else to help refresh your recollection about the events? 09:10:57 09:11:02 09:11:05

A Not that I recall. 09:11:06

Q Okay. In giving your testimony in this case, are you giving opinions or statements on behalf of Anchor? 09:11:07 09:11:13 09:11:17

A No. This is just my recollection as far as what was asked of me and my recollection as to 09:11:18 09:11:22

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what happened and transpired as related to those emails. 09:11:25 09:11:29

Q Have you had conversations with anyone at Anchor about the declaration? 09:11:29 09:11:30

A Yes. 09:11:31

Q Okay. Who have you spoken with? 09:11:32

A Dan Trantham, who is the president, and Clay Trantham, who is, I think, CEO. 09:11:34 09:11:39

Q When did you last speak with one of them about your declaration? 09:11:43 09:11:45

A Several weeks ago. I don't know an exact date. 09:11:46 09:11:53

Q Did you speak with either of them -- well, and I'll help orient you. 09:11:53 09:11:58

Your declaration is dated April 27th, 2025. Did you speak with either Dan or Clay Trantham before that date? 09:12:02 09:12:04 09:12:07

A Yes. Yeah. 09:12:08

Q How many times? 09:12:09

A Probably a couple. Two, three. 09:12:10

Q And -- 09:12:15

A I'm sorry. I'll speak louder. 09:12:16

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Q Generally, what did you speak about? 09:12:18
A Just kind of what was asked of me from 09:12:19
Masaba, and really just kind of talking over that. 09:12:24
You know, it was about a year and a half was the 09:12:31
project, so just kind of talking over some things, 09:12:32
and lot of recollections of just a general what 09:12:35
happened over that year and a half. 09:12:37
Q Did either Dan or Clay Trantham, in those 09:12:38
conversations, tell you anything that you hadn't 09:12:42
previously remembered? 09:12:46
A No. 09:12:48
Q Okay. Do you know -- well, did you send a 09:12:53
draft of your declaration to Dan or Clay Trantham? 09:12:57
A No, I did not send them anything. 09:12:59
Q Okay. Do you know if they received it 09:13:02
otherwise? 09:13:03
A Possibly. I'm not sure. 09:13:04
Q Okay. Did you ask Anchor to provide an 09:13:09
attorney to represent you in this case? 09:13:12
A I did. 09:13:13
Q Okay. And what did they say? 09:13:14
A No. 09:13:15

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Q Do you know why? 09:13:17
A I don't. 09:13:19
Q Are you receiving any compensation for your time working on this matter? 09:13:20 09:13:25
A Absolutely not. 09:13:26
Q Okay. Do you have any agreements or other arrangements with Masaba about any compensation, either related to projects or future compensation about -- related to this case? 09:13:28 09:13:33 09:13:38 09:13:40
A No. 09:13:41
Q Okay. Do you know who is paying for your attorney, Mr. Masteller, in this case? 09:13:44 09:13:48
A Me. 09:13:50
Q What did you do to prepare for your deposition today? 09:13:50 09:13:56
A I just reviewed the declaration, reviewed the emails, and read over them several times to make sure I can give you truthful answers. But that's all I did. 09:13:58 09:14:01 09:14:04 09:14:07
Q Okay. Did you meet with your lawyer? 09:14:08
A I did. 09:14:10
Q Okay. When did you meet? 09:14:10

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A This morning before this meeting. 09:14:11
Q Okay. For approximately how long? 09:14:14
A Probably half an hour. 09:14:16
Q Was there anyone else present for that meeting? 09:14:18
09:14:20
A No. 09:14:20
Q Okay. Did you meet with anyone else to prepare for the deposition? 09:14:23
09:14:25
A No. 09:14:25
Q Again, your declaration was signed April 27th, 2025. Since then, have you met with or had any conversations with Masaba's counsel? 09:14:28
09:14:31
09:14:34
A No. 09:14:37
Q Okay. And just to close the loop, I think you said in preparation for your deposition, you reviewed your declaration and the documents attached. 09:14:41
09:14:45
09:14:47
09:14:49
A Uh-huh. 09:14:49
Q Is that correct? 09:14:50
A Yes. 09:14:50
Q Did you review any other documents to prepare for your deposition today? 09:14:51
09:14:52

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A No. 09:14:54
Q Okay. I'd like to go in your declaration, 09:14:54
Exhibit 2006, to the first page, Paragraph 2, 09:15:03
please. 09:15:06
A Okay. 09:15:07
Q And you state there: "In mid 2020, I had 09:15:07
discussions with Jeremy Weinstein at Solaris about 09:15:11
problems that needed solving for Solaris." 09:15:14
Do you see that? 09:15:16
A Yes. 09:15:16
Q Okay. So mid 2020, is this the first time 09:15:16
that Mr. Weinstein reached out to you regarding 09:15:21
the top fill systems? 09:15:25
A No. We had -- this is the first -- during 09:15:26
that time, to my recollection, that's the first 09:15:29
time we had discussions of the top fill system. 09:15:31
We were working on another project before that for 09:15:33
Solaris, and this came up during conversations. 09:15:35
Q Okay. What project was that? 09:15:38
A They wanted to weigh out the sand 09:15:39
underneath the silos that was being transported to 09:15:43
the gathering conveyor in the middle, and we were 09:15:46

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working on that project for them. 09:15:47

Q Did you end up delivering a solution for that project? 09:15:48 09:15:54

A We offered several, but they -- none of them were -- none of them were accepted or enacted for Solaris, yeah. 09:15:55 09:15:58 09:16:02

Q Okay. Were there others at Anchor who worked on those projects with Solaris or was it just you? 09:16:03 09:16:07 09:16:09

A My boss, Dan Trantham, who is the president of Anchor, was involved in the projects, yes. 09:16:09 09:16:12 09:16:14

Q And just to be clear, we're talking about the previous project, not the top fill; is that -- 09:16:15 09:16:16

A Both. Yes. 09:16:19

Q Oh, both. Okay. 09:16:20

Anyone else at Anchor who worked on either the prior project or the top fill project? 09:16:21 09:16:25

A Not that I recall. 09:16:28

Q Okay. I think you said the top fill system came up in conversations with Mr. Weinstein during that period? 09:16:29 09:16:37 09:16:39

A Yes. 09:16:40
Q And were those conversations with you 09:16:41
alone or with Mr. Trantham as well? 09:16:44
A I don't remember. I don't remember. 09:16:46
Q Okay. And what did Mr. Weinstein say 09:16:49
within those conversations -- those initial 09:16:51
conversations? 09:16:54
A I believe -- it's been a long time ago, 09:16:58
but I believe that they were having -- if I 09:17:00
remember correctly, they were unloading their 09:17:02
trucks pneumatically, which took a long time, and 09:17:04
they were looking for a way to load them quicker. 09:17:07
So that's kind of the beat of the 09:17:11
conversation, and then I started looking for 09:17:12
solutions to help them with that. 09:17:14
Q Were there specific solutions that 09:17:17
Mr. Weinstein mentioned that they had considered 09:17:19
or were already looking at? 09:17:22
A I don't recall -- I don't believe so. We 09:17:23
started from scratch. 09:17:26
Q In those conversations, did Mr. Weinstein 09:17:29
initially ask you to get involved in it, or was 09:17:35

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this something you volunteered to do? 09:17:38

A I'm not sure how we proceeded. 09:17:39

Boy, it's been a long time ago, but I 09:17:43

don't -- I don't remember how -- after the initial 09:17:45

conversation, how it proceeded. I don't remember. 09:17:48

Q Okay. And so what directions did Solaris 09:17:49

give you about what -- how they wanted to proceed? 09:17:54

Any particular features or anything they were 09:17:58

looking for at that point? 09:17:59

A I don't remember. 09:18:00

Q Okay. At that point, did you have any 09:18:05

ideas that had come to mind that either you 09:18:11

suggested or you were thinking about when you were 09:18:13

speaking with Mr. Weinstein at that point? 09:18:15

A No. To my recollection, after that I 09:18:17

had -- I think it maybe reflects in my statement 09:18:21

that I went to Masaba. 09:18:24

And Beltservice also was a previous 09:18:27

company of mine and tried to get input from them 09:18:29

as to what would be a good solution. 09:18:34

But Masaba was the main company that I 09:18:37

had gone to to bring the problem to -- not the 09:18:40

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problem, but to look for a solution, to ask them to come up with a solution for us. 09:18:43 09:18:45

Q By the way, do you need any water? 09:18:47

A No. I've got my water right here. 09:18:51

Q Okay. Great. 09:18:53

A It's a tall cup, so I put it on the floor so you could see me. 09:18:54 09:18:56

Q Understood. Just wanted to make sure you were hydrated. 09:18:57 09:19:00

A Sure. Thank you. 09:19:00

Q How did you first learn of Masaba? 09:19:01

A I had a previous coworker that worked there, Andrew Wells. So I reached out to him and began conversations with him. 09:19:02 09:19:06 09:19:12

Q And you said "a previous coworker." Where did you work with Mr. Wells? 09:19:13 09:19:15

A Martin Sprocket & Gear several years before that. 09:19:16 09:19:19

Q I'm sorry. Can you say that again? 09:19:19

A Martin, M-a-r-t-i-n, Sprocket & Gear. 09:19:21

Q Did you know he had gone to Masaba or did you discover that in the course of this? 09:19:30 09:19:33

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A No. I knew he was over there and I knew they made conveyors, so that was the first place I went. 09:19:34 09:19:37 09:19:39

Q Okay. How did you know that Masaba made conveyors? 09:19:39 09:19:41

A Just from my knowledge of the industry, I knew what they made as a product line. 09:19:41 09:19:43

Q Had you worked on any projects -- any prior projects with Masaba? 09:19:46 09:19:50

A No. 09:19:52

Q Okay. And were you the first person to reach out to Masaba regarding assistance with this project? 09:19:58 09:20:00 09:20:03

A To my knowledge, yes. 09:20:04

Q Okay. In other words, Mr. Trantham didn't reach out to them before? 09:20:05 09:20:07

A No. No. It would have been -- it was me. 09:20:08

Q Okay. 09:20:09

(Exhibit 1100 marked.) 09:20:26

BY ATTORNEY FLANNERY: 09:20:30

Q Mr. Stanton, I've handed you what's been marked as Exhibit 1100. 09:20:31 09:20:33

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A Okay. 09:20:34
Q And as all emails are when you print them, 09:20:35
they are in reverse chronological order. 09:20:41
A Yes. 09:20:42
Q So I'll ask you to go to the page that has 09:20:42
the number at the bottom 00003. 09:20:45
A Got it. 09:20:49
Q Okay. And you see the first email 09:20:50
chronologically in this chain -- 09:20:55
A Yeah. 09:20:56
Q -- it's from Michael Blume. 09:20:56
A Yes. 09:20:57
Q Okay. Who is Michael Blume? 09:20:58
A Michael Blume was a -- worked for 09:20:59
Beltservice, a company I had worked with before. 09:21:03
I don't know that he's an engineer, but he worked 09:21:09
in the engineering department for a division 09:21:11
called "Beltwall" of Beltservice. 09:21:14
Q Okay. And had you reached out to 09:21:19
Mr. Blume prior to his sending this email? 09:21:22
A I don't remember. I know I had reached 09:21:25
out to Andrew, and then also to Mike -- Mike in 09:21:27

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terms of a belt that might -- I don't remember the -- I don't remember the exact conversations or the sequence of it, but I reached out to Andrew and then I had also reached out to Mike as well about this solution. 09:21:31 09:21:35 09:21:38 09:21:40 09:21:42

Q The email that we're looking at here is dated July 9th, 2020. 09:21:45 09:21:47

A Okay. 09:21:48

Q Do you know if you reached out to Mr. Wells around that same time frame? 09:21:48 09:21:53

A It would have been prior to that. Yeah. 09:21:55

Q Okay. Would it have been months prior to that or -- 09:21:59 09:22:01

A I don't remember. 09:22:01

Q Okay. 09:22:02

A Yeah. 09:22:03

Q And I think you said Beltservice. Had you worked with that company before? 09:22:08 09:22:12

A Yes. 09:22:13

Q Okay. And you were employed by that company previously? 09:22:14 09:22:15

A Yes. 09:22:16

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Q Okay. Had you -- had you worked with that company in connection with any projects during a time when you weren't employed there? 09:22:16 09:22:19 09:22:22

A I think Anchor had purchased some -- they make -- they fabricate conveyor belting, so I think Anchor had a relationship with them when we purchased conveyor belting for other projects from Beltservice. 09:22:24 09:22:28 09:22:33 09:22:35 09:22:38

Q Okay. And so when you contacted Michael Blume, what did you tell him about this project? 09:22:39 09:22:47

A I don't remember the nature of the conversation. I'm sure I just gave him kind of the basics, as I stated before, that they were looking to unload -- looking for a system to unload frac sand quicker than they were able to do through the pneumatic conveying from trucks. 09:22:49 09:22:51 09:22:52 09:22:55 09:22:58 09:23:02

Q Okay. And so the next email, which is the next email up on the page, is an email from you to Mr. Fred Harvey at Masaba. 09:23:05 09:23:08 09:23:14

Do you see that? 09:23:16

A Yes. Yes. 09:23:16

Q Okay. And who is Mr. Harvey? 09:23:18

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A I don't know. I've never -- thinking back now, I think my only exposure to him was in this email. I don't remember having any conversations with him. My conversations initially were with Andrew Wells. 09:23:19 09:23:23 09:23:26 09:23:28 09:23:30

Q Okay. 09:23:31

A But looking back through this email, it looks like Mike had reached out to Fred and made an introduction, and then before we proceeded, we asked them to sign an NDA. 09:23:31 09:23:37 09:23:40 09:23:42

Q And so why did you ask them to sign an NDA? 09:23:46 09:23:47

A I mean, I -- as a salesperson, I saw the potential for this project, so it's information that we'd want them to keep close to their vest. That was pretty normal for us. 09:23:47 09:23:52 09:23:54 09:23:58

ATTORNEY MASTELLER: I'm going to object to the relevancy of the question. I thought we were here to focus on the declaration itself. I feel like we're getting a little outside of that right now. 09:23:59 09:23:59 09:24:01 09:24:04 09:24:07 09:24:08

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ATTORNEY FLANNERY: Well, I mean, it's an email that is attached to the declaration that he said he reviewed and refreshed his memory on. 09:24:08 09:24:09 09:24:10 09:24:13

ATTORNEY MASTELLER: This email is attached to the declaration, this particular one? 09:24:14 09:24:15 09:24:16

ATTORNEY FLANNERY: Oh, you know what? I'm sorry. This is an email that was produced by Masaba upon our request. Apologies for that. I got disoriented. 09:24:16 09:24:18 09:24:20 09:24:22

ATTORNEY MASTELLER: That's fine. That's fine. 09:24:25 09:24:25

I just -- for purposes of today, I felt like we were going to be within the declaration, in the four corners of the declaration. I understand some background inquiry, but right now, I feel like we're getting outside of the purpose of the deposition. 09:24:26 09:24:27 09:24:29 09:24:31 09:24:33 09:24:36 09:24:37

ATTORNEY FLANNERY: So this relates to the first contact. I mean, it was 09:24:38 09:24:39

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literally on the same day that he had his -- that we have the first email with Masaba. So I think it's related to that paragraph where he's talking about his first contact with Masaba. 09:24:41 09:24:43 09:24:44 09:24:46 09:24:48

ATTORNEY MASTELLER: Okay. 09:24:50

ATTORNEY FLANNERY: It's Paragraph 2 of his declaration -- 09:24:50 09:24:51

ATTORNEY MASTELLER: Okay. 09:24:52

ATTORNEY FLANNERY: -- so context for that. 09:24:52 09:24:52

ATTORNEY MASTELLER: Okay. Fair. 09:24:53

ATTORNEY FLANNERY: I don't expect to be going into -- I don't have the NDA, so I don't expect to be going into that, if that helps. 09:24:54 09:24:55 09:24:57 09:25:00

ATTORNEY MASTELLER: Okay. Yes. Well, I didn't know where we were going with this. So yeah. Thank you. 09:25:00 09:25:00 09:25:02

ATTORNEY FLANNERY: Sorry. I'm just looking to see where I left off. 09:25:05 09:25:05

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BY ATTORNEY FLANNERY: 09:25:10

Q Around this time, do you recall if Solaris 09:25:11

requested that you get an NDA executed? 09:25:18

A No. I don't believe so. I don't recall, 09:25:21

but I don't believe so. 09:25:25

Q Okay. Was requesting an NDA part of your 09:25:27

standard process at Anchor? 09:25:31

A Yes. We requested many NDAs, yes. 09:25:33

Q And just one email up, the July 11th, 09:25:37

2020, email, Masaba executed that NDA? 09:25:40

A I believe so, off the email, yes. 09:25:44

Q You don't recall anything to suggest that 09:25:46

they wouldn't have executed that? 09:25:48

A No. I don't recall anything. 09:25:49

Q Okay. Who was your main point of contact 09:25:51

at Masaba regarding this project? 09:25:56

A Andrew Wells. 09:25:58

Q Okay. Do you know if he was the project 09:25:59

lead? 09:26:01

A I don't know. I don't know what would be 09:26:01

considered that or not on their end, but Andrew 09:26:04

and I were in contact, yeah. 09:26:07

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Q What did you feel -- well, I guess let me ask: Other than Beltservices and Masaba, did you reach out to any other companies about helping with the solution to this project? 09:26:12 09:26:14 09:26:18 09:26:20

A We reached out to a company called Superior up in Minnesota. I think there's initial -- again, it's five years ago, so I'm trying to recall so I can give you a good truthful answer. But we reached out to them and I believe that was the only other company we reached out to. 09:26:21 09:26:32 09:26:38 09:26:40 09:26:42 09:26:44

Q Do you recall why you ended up using Masaba for the project instead of Superior? 09:26:49 09:26:53

A I think the -- I mean, the relation -- as I stated, I had reached out to Andrew initially, Andrew Wells, before even any of this happened. So I had a relationship there so I trusted him. Masaba has a very good reputation. 09:26:55 09:27:02 09:27:05 09:27:08 09:27:10

And thinking back now, I think we just probably felt more comfortable with them, that they were more capable of it. 09:27:12 09:27:16 09:27:18

Q Okay. Were there particular aspects that they were offering that made you think they were 09:27:19 09:27:21

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more capable? 09:27:23

A Probably looking at their manufacturing 09:27:25

capabilities and their engineering. We were 09:27:30

impressed with their engineering department and 09:27:33

their engineering folks. 09:27:34

Q Do you recall how that compared to 09:27:37

Superior? 09:27:38

A We never really had any further 09:27:39

conversations with Superior, so Masaba was the 09:27:41

only one we worked with, yeah. 09:27:43

I think there was an initial call -- 09:27:45

boy, it's been a long time ago. There's an 09:27:48

initial -- I reached out to Superior, but I don't 09:27:50

think anything went past that first call. And 09:27:52

then everything moved forward with Masaba, and 09:27:55

they latched on to this and really ran with it. 09:27:57

So that's why we went with Masaba. 09:28:01

Q Time frame-wise, do you recall if it was 09:28:03

around the same time you were talking with Masaba 09:28:05

or was it different timing? 09:28:07

A When? 09:28:09

Q When you were speaking with Superior, that 09:28:09

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one conversation. 09:28:11

A I don't -- I don't remember. 09:28:12

Q Okay. 09:28:12

A Yeah, I don't know. 09:28:13

Q It would have been at some point after -- 09:28:15

in mid 2020, when Mr. Weinstein brought the 09:28:18

problem to you? 09:28:21

A Yeah. 09:28:23

Q Okay. I want to unpack some of the things 09:28:23

you said about Masaba. 09:28:27

You said that they had a good 09:28:29

reputation with manufacturing as well as 09:28:30

engineering? 09:28:33

A Uh-huh. 09:28:34

Q Was that unique in terms of the types of 09:28:36

companies that you worked with, that combination? 09:28:40

A I'm not sure I understand the question. 09:28:42

Q Yeah. Well, I'll take Superior as an 09:28:46

example. 09:28:49

Do you know if Superior had 09:28:50

manufacturing as well as engineering design 09:28:53

capabilities? 09:28:54

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A Yes, I'm sure they do. I don't know them that well. I'm not super familiar with that company, but I'm sure they do. 09:28:55 09:28:57 09:28:58

Q Okay. 09:29:01

A Yeah. 09:29:01

Q But certainly Masaba had both the design and the manufacturing capabilities -- 09:29:01 09:29:04

A Yes. 09:29:05

Q -- in-house? 09:29:05

A Yes. 09:29:07

Q Were you aware of other companies that were capable of building -- capable of doing this kind of work that had both those capabilities? 09:29:07 09:29:10 09:29:12

A Those would probably be the two that I would think of when it came to something like this. 09:29:15 09:29:18 09:29:19

Q Okay. Did you feel that that combination of capabilities would have particular advantages in this project? 09:29:19 09:29:22 09:29:23

A I guess so, yeah. I think so. 09:29:24

Q Let me ask it a different way. 09:29:31

So were there companies that would 09:29:33

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have been capable of creating the design for this kind of system but perhaps not doing the manufacturing side? 09:29:35 09:29:38 09:29:40

ATTORNEY NYDEGGER: Objection; foundation. 09:29:42 09:29:44

BY ATTORNEY FLANNERY: 09:29:44

Q You can still answer, if you know. 09:29:44

A I mean, I don't know. I don't know. I think Masaba presents a unique combination of a very highly capable engineering group that can design something like this and make it work and also be able to manufacture it in such a short period of time and make it work. 09:29:46 09:29:52 09:29:56 09:29:58 09:30:01 09:30:04

Q Okay. Was the fact that they had that capable design group, would that -- in addition to the manufacturing, would that have any benefits in terms of the time to product finishing? 09:30:05 09:30:07 09:30:10 09:30:12

A I think so, yes. Yeah. 09:30:15

Q And what would those benefits be? 09:30:17

A Well, I think -- I mean, everything's in-house. So, you know, I know Masaba, when they designed it, they dedicated a large amount of 09:30:24 09:30:27 09:30:29

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their manufacturing to this project. They set many of their other projects aside for other customers and focused on this. 09:30:35 09:30:38 09:30:40

So in essence, that was a great advantage to Anchor and it was a great advantage to Solaris to get this turned around in such a -- designed, tested, and have a working test unit in such a short period of time. 09:30:41 09:30:43 09:30:45 09:30:48 09:30:51

Q Do you believe that they were able to produce a unit faster than, say, if Masaba had -- or if Anchor had chosen one company to do the design work and another company to do the manufacturing? 09:30:52 09:30:54 09:30:57 09:31:00 09:31:02

A I don't know. I don't know. I mean, that's -- I'd have to speculate. But all in all, Masaba was very capable and they turned it around very quickly. Yeah. 09:31:02 09:31:04 09:31:08 09:31:16

Q Okay. So at this point, this email that we were looking at around July 2020, had you told Solaris that you were working with Masaba? 09:31:18 09:31:22 09:31:25

A I'm sure I did. I don't remember, but I'm sure we did, yeah. 09:31:27 09:31:30

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Q Do you recall when you first told Solaris that you were working with Masaba? 09:31:31 09:31:34

A I don't remember, but I know during the project, there was communications going back and forth between Masaba and Solaris, so everybody is aware of who was involved. 09:31:35 09:31:37 09:31:39 09:31:43

Q Do you know if that was happening -- if those conversations were occurring as early as July of 2020? 09:31:45 09:31:46 09:31:49

A I don't remember. 09:31:50

Q Okay. In terms of making the decision to use Masaba for this project as opposed to some other company -- well, actually, let me take a step back. 09:31:51 09:32:00 09:32:02 09:32:06

So Beltservice, the company that Michael Blume was working at, were they capable of doing this kind of work? 09:32:06 09:32:10 09:32:12

A No. 09:32:13

ATTORNEY NYDEGGER: Objection; foundation. 09:32:14 09:32:15

BY ATTORNEY FLANNERY: 09:32:15

Q Why not? 09:32:15

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A I believe -- 09:32:16
ATTORNEY NYDEGGER: Same objection. 09:32:16
BY ATTORNEY FLANNERY: 09:32:18
Q You can go ahead. 09:32:18
A Do I -- okay. 09:32:19
No. They're a -- they're a belt 09:32:20
fabricator. So they have expertise as far as 09:32:24
belting and belt applications for conveyors and 09:32:27
conveying systems, but they don't have that type 09:32:30
of capability to design an entire system and to 09:32:33
manufacture a system. 09:32:36
Q Okay. Who at Anchor made the decision to 09:32:37
use Masaba as opposed to some other company? 09:32:45
A That would have come from our management, 09:32:46
so ultimately, you know, Dan Trantham. My job at 09:32:48
Anchor was to facilitate information back and 09:32:52
forth between the parties, so all the decisions 09:32:55
that came down came from our management, which 09:32:57
would have been Dan Trantham or Clay Trantham. 09:33:00
Q Okay. Did Solaris have any sort of veto 09:33:03
or sign-off on that? 09:33:05
A I mean, I'm sure they would have, but I 09:33:06

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don't remember -- recall anything ever coming up. 09:33:09

Q Okay. And so once Masaba was retained at 09:33:11

this point, around summer of 2020, what 09:33:17

instructions were they given regarding the mandate 09:33:21

for the project? 09:33:25

A Well, to my recollection, and probably 09:33:25

reflected in some of these emails, is Solaris laid 09:33:31

out what they wanted -- you know, what they wanted 09:33:33

as far as footprint and capacity for the conveyor. 09:33:35

You know, I gathered -- we gathered all that 09:33:39

information and passed it on to Masaba. So the 09:33:41

specifications were laid out by Solaris, and then 09:33:45

Masaba would try to work within those parameters. 09:33:48

Q So using -- you said "the specifications 09:33:51

were laid out by Solaris," and I think you 09:33:54

mentioned -- 09:33:56

A Specification -- I'm sorry. 09:33:57

Q Oh, no, no, that's okay. 09:33:58

Specifications as far as "footprint 09:33:59

and capacity for the conveyor." I think that's 09:34:01

what you said. 09:34:02

A Basic -- yeah. So Solaris provided kind 09:34:03

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of a layout of their six-pack system and they said, "Hey, we want to" -- if I remember correctly -- "convey this amount of material and we want it to be at this footprint." It was very basic specifications, and then Masaba designed the system around what they were asking. 09:34:05 09:34:07 09:34:10 09:34:12 09:34:16 09:34:21

Q Okay. So in Exhibit 1100 there, I'm going to ask you to flip to the very -- which is the last email on the first page. 09:34:24 09:34:30 09:34:32

A Okay. 09:34:33

Q And it's an email from Andrew Wells -- 09:34:34

A Okay. 09:34:39

Q -- to you and Mr. Blume and Mr. Brinkman. 09:34:40

Do you see that? 09:34:43

A Yes. At the very top? 09:34:44

Q Yes. 09:34:46

A Okay. 09:34:47

Q And you see he says: "Mike, please see attached preliminary concept." 09:34:48 09:34:50

A Okay. 09:34:51

Q And the email includes an attachment with a file name that has "S20124-Solaris Layout.PDF." 09:34:51 09:34:54

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Do you see that? 09:34:59
A Yeah. 09:34:59
Q Okay. 09:34:59
A Yes, ma'am. 09:35:01
ATTORNEY FLANNERY: I'm going to 09:35:19
mark this as 1101. 09:35:20
THE WITNESS: Thank you. 09:35:20
(Exhibit 1101 marked.) 09:35:27
BY ATTORNEY FLANNERY: 09:35:27
Q Mr. Stanton, you've been marked -- you've 09:35:27
been handed what's been marked as Exhibit 1101, 09:35:28
and I would draw your attention to the bottom 09:35:33
right-hand corner where you see the Masaba logo, 09:35:37
and then some text below it. 09:35:44
Do you see that? 09:35:45
A Yes. 09:35:45
Q Do you see the same number that was in 09:35:47
that file attachment that we were just looking at 09:35:49
a second ago? 09:35:51
A Let's see here. 09:35:52
It's very faint, but -- and I don't 09:35:55
have my -- I have my contacts in but not my 09:35:58

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glasses. I can't specifically read it out, but it looks to be the same. Mine is really bleached out, but... 09:36:00 09:36:02 09:36:07

Q Based on what you remember, is this the initial -- 09:36:07 09:36:10

A I think so. 09:36:10

Q -- design concept? 09:36:10

A I believe so, yeah. 09:36:10

Q Okay. Let me just make sure I get the question in. 09:36:14 09:36:15

A I'm sorry. 09:36:16

Q You're okay. It's okay. 09:36:16

To the best of your recollection, is this the initial design drawing that Masaba provided in response to those initial specifications? 09:36:17 09:36:20 09:36:22 09:36:24

A To my recollection, this appears to be it. 09:36:25

Q Okay. 09:36:33

ATTORNEY FLANNERY: 1102. 09:37:04

(Exhibit 1102 marked.)

THE WITNESS: I'm going to keep these --

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ATTORNEY FLANNERY: Yeah. Just keep a stack that she will take.

THE WITNESS: Okay. This is going to be hers? Okay. 09:37:14

ATTORNEY NYDEGGER: Mr. Stanton, 09:37:14

please don't -- 09:37:15

THE WITNESS: Don't mix those in 09:37:17

with mine. 09:37:18

ATTORNEY NYDEGGER: -- take any 09:37:19

exhibits out of this room. 09:37:20

THE WITNESS: Got you. Got you. 09:37:21

ATTORNEY NYDEGGER: Our last 09:37:21

witness took them all. 09:37:22

THE WITNESS: Oh, gosh. Okay. 09:37:23

ATTORNEY FLANNERY: Oh, no. 09:37:23

THE WITNESS: So, yeah, these are 09:37:24

mine. I'll keep everything here for you. 09:37:25

Okay? And I'll try to paper clip them 09:37:27

all, so... 09:37:29

ATTORNEY FLANNERY: Good deal. So 09:37:30

this is 1100. Where is 1101? Oh, here we 09:37:31

go. I see it. 09:37:34

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THE WITNESS: Are you looking for a paper clip on it? 09:37:35 09:37:36

ATTORNEY FLANNERY: I got it. 09:37:38

Okay. Housekeeping. 09:37:39

BY ATTORNEY FLANNERY: 09:37:39

Q All right. So you've been handed what has been marked as Exhibit 1102, and you see this is an email from you to Mr. Weinstein in August of 2020? 09:37:42 09:37:46 09:37:56 09:37:59

A Okay. 09:37:59

Q And just to orient, looking back at Exhibit 1100, this is immediately after -- or very shortly after you received the email from Mr. Wells with the initial concept. 09:38:00 09:38:04 09:38:10 09:38:12

A Okay. Understood. Yes. 09:38:13

Q And so looking at page -- the second page of that document, do you recognize that as the attachment to your email that you sent there? 09:38:15 09:38:18 09:38:26

A Yes. I -- looking at attachment to that Exhibit 1100. Correct? And then -- I don't see that reference on this email, but -- 09:38:28 09:38:33 09:38:39

Q So let's look at the email that's the 09:38:43

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first page of Exhibit 1102. It lists "Attachments." 09:38:45 09:38:47

Do you see that at the top? 09:38:48

A No. Where am I missing this? 09:38:49

Q Just under the "From," "Sent," "To," and "Subject," do you see "Attachments"? 09:38:54 09:38:56

A Oh, okay. It's "Solaris Incline Conveyor PDF." Okay. 09:38:57 09:38:59

Q Okay. And the next page, does that appear to be that attachment right there? 09:39:01 09:39:04

A I mean, I would have -- there's no reference to the numbers like on the other one, but I would say, to my recollection, this would have been the attachment to it, but I can't match them up number-to-number like we do here. 09:39:07 09:39:09 09:39:12 09:39:14 09:39:16

Q Understood. 09:39:18

A Yeah. 09:39:18

Q Do you remember -- do you recall sending a version of that drawing to Mr. Weinstein at that time? 09:39:19 09:39:21 09:39:23

A I don't remember recalling, but based off my email, it appears I did, yes. 09:39:23 09:39:25

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Q Okay. If you can, I'm going to put Exhibit 1101 that we were looking at just before in front of you. 09:39:27 09:39:30 09:39:34

Do those drawings appear to be generally similar to you? 09:39:34 09:39:37

A It looks like it, yes. 09:39:38

Q Okay. One difference I noticed is that 1101 has a Masaba logo, whereas the second page of Exhibit 1102 does not. 09:39:39 09:39:43 09:39:48

Do you see that? 09:39:49

A Yeah. 09:39:50

Q Do you know why that is? 09:39:50

A I don't. 09:39:51

Q Do you recall removing the Masaba logo from what you sent to Solaris? 09:39:53 09:39:55

A I don't. 09:39:58

Q I'm sorry? 09:39:59

A I do not, no. 09:39:59

Q Do you recall making any changes to the drawing that's in 1102 before you sent it to Solaris? 09:40:06 09:40:08 09:40:11

A No. I don't recall. 09:40:12

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Q Okay. Would it have been your practice to make any changes? 09:40:14 09:40:16

A Probably not, no. 09:40:17

Q Looking back at the email, the first page of Exhibit 1102, in the last paragraph of that email you say: "Please review the concept and let me know what you think. If this is something you feel we should pursue, let's set up a meeting between you, Anchor, and our partners for next week." 09:40:21 09:40:24 09:40:32 09:40:34 09:40:37 09:40:39 09:40:42

Do you see that? 09:40:43

A Yeah. 09:40:43

Q Were you referring to Masaba? 09:40:43

A I would -- yes, I'm sure I was. 09:40:44

Q At this point, do you know if you had informed Mr. Weinstein that you were working with Masaba? 09:40:47 09:40:49 09:40:50

A I don't remember. I don't recall. 09:40:51

Q Looking back at the drawing -- so the second page of Exhibit 1102, the one that's there on your right. 09:40:53 09:40:56 09:41:00

A Oh, yes. 09:41:01

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Q There you go. 09:41:02

Are you familiar with -- I want to 09:41:03

make sure I get -- I use terms that you 09:41:06

understand. 09:41:09

I should have mentioned, if I ever use 09:41:10

a term that you don't understand -- 09:41:12

A Sure. 09:41:13

Q -- in one of my questions, please let me 09:41:13

know and we'll get square on that -- 09:41:15

A Sure. 09:41:16

Q -- before you have to answer. 09:41:16

Do you understand what I say when I 09:41:18

talk about the "unloader component" of the unit? 09:41:22

A The unloader -- well, I'm assuming that 09:41:25

would be the truck drive-over. Is that what 09:41:26

you're talking about? 09:41:29

Q Yes. Yes. 09:41:29

A Okay. 09:41:30

Q And so in the system that was -- in this 09:41:31

drawing, are the unloader and the conveyor 09:41:33

separate units? 09:41:37

A It looks to be, yes. 09:41:41

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Q Okay. The conveyor, which is sort of the inclined -- I mean, it's kind of like a ramp shown in this drawing. 09:41:42 09:41:48 09:41:51

Do you see that? 09:41:52

A Yes. 09:41:53

Q It's the item that's 76 feet long or so? 09:41:53

A Yes. 09:41:56

Q In this drawing, did that conveyor belt have buckets? 09:41:58 09:42:00

A No. 09:42:01

ATTORNEY NYDEGGER: Objection; foundation. 09:42:03 09:42:05

BY ATTORNEY FLANNERY: 09:42:05

Q Go ahead. 09:42:05

A So my recollection, this would have been the sidewall belt that we -- so this would have been the first version of what Masaba started out designing based off of that email from Mike Blume at Beltservice. So they were utilizing that belt, so this was the predesign prior to the final bucket elevator design. 09:42:05 09:42:07 09:42:10 09:42:14 09:42:19 09:42:22 09:42:25

Q Can you describe for me what a sidewall 09:42:27

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is, a sidewall belt? 09:42:29

A It's a conveyor belt that has corrugated 09:42:31

sidewalls that holds in the material, and then 09:42:34

there are cleats, which some people may call 09:42:38

"buckets," that hold the material in as it's 09:42:40

conveyed up the conveyor. 09:42:42

Q So did this conveyor have cleats? 09:42:43

A Yes. But the belt -- the belt would have 09:42:46

had cleats on this, yes. 09:42:48

Q Okay. How do cleats differ from a bucket? 09:42:50

A A bucket is typically a plastic bucket 09:42:58

that's bolted onto an -- onto a belt using a 09:43:02

bucket elevator, like the final top fill version. 09:43:05

These would be rubber- or urethane-type flat 09:43:08

cleats that hold in the material. So they're -- 09:43:12

yeah. 09:43:16

Q Okay. Do you see on the left side of the 09:43:16

drawing where it refers to an air -- 27 -- I think 09:43:21

it's 27 foot -- 09:43:26

A Yes. 09:43:27

Q -- air slide articulating loading system? 09:43:27

A Uh-huh. 09:43:32

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Q Do you see that? 09:43:33
A Yes, ma'am. 09:43:33
Q Whose idea was it to use an air slide in 09:43:34
this concept drawing? 09:43:37
ATTORNEY NYDEGGER: Objection; 09:43:40
foundation. 09:43:40
BY ATTORNEY FLANNERY: 09:43:40
Q Go ahead. 09:43:42
A Masaba. 09:43:42
Q Okay. Who at Masaba had that idea? 09:43:43
A I don't know. It was -- I'd have to look 09:43:45
back at emails, but probably -- there's probably a 09:43:48
conversation between Andrew and Dan Brinkman, 09:43:49
probably, to us, but I don't recall. 09:43:52
Q Were you involved in the decision to use 09:43:53
an air slide? 09:43:57
A No. 09:44:00
Q Okay. Had you -- prior to this project, 09:44:01
had you seen air slides used for conveying sand or 09:44:02
other particulate material? 09:44:05
A I was familiar with using air slides in, 09:44:07
like, cement applications or where the material is 09:44:11

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very fluid. But this was new. This was something I had never seen before. This is a design I hadn't seen before. 09:44:13 09:44:17 09:44:22

Q Where had you used -- where had you seen air slides used for that type of application? 09:44:22 09:44:26

A Those are typically used in, like, cement plants, the manufacturing of cement. That would be the main application for an air slide. 09:44:28 09:44:30 09:44:36

Frac -- I know it's used in frac sand. I've never seen it myself. But -- but yeah. 09:44:39 09:44:42

Q The applications using it for cement, was that part of -- did you see that as part of your prior jobs? 09:44:45 09:44:49 09:44:51

A I never designed -- I have never sold anything into that, but I've seen the applications when I was in cement plants, yeah. 09:44:52 09:44:55 09:44:57

Q And where were you employed when you were in cement plants? 09:44:59 09:45:01

A Oh, gosh. Beltservice. Beltservice sold air slide material. 09:45:02 09:45:06

Q I think you mentioned you had also seen them used for conveying frac sand? 09:45:09 09:45:12

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A I have never seen it, no, but I believe 09:45:14
that that's an application used for air slides as 09:45:16
well. 09:45:17
Q And was that prior to the time of this 09:45:17
drawing, so around August 2020? 09:45:19
A Yeah. It would have been sometime in my 09:45:21
career, yeah. Yeah. 09:45:24
Q Okay. But before you were working on this 09:45:25
project? 09:45:27
A Yes. 09:45:28
Q Okay. Ultimately, the Masaba -- the unit 09:45:28
that Masaba built didn't use an air slide; right? 09:45:38
A Correct. 09:45:41
Q Do you know why that is? 09:45:41
A I can't remember what -- I can't remember. 09:45:42
I think, if I remember correctly, there were some 09:45:52
limitations on how it would discharge into the 09:45:54
silos, but I can't remember. I don't recall. 09:45:57
Q In the drawing where it says the air slide 09:46:04
is an -- "air slide articulating loading system," 09:46:06
what is -- the "articulating," what does that mean 09:46:10
to you? 09:46:12

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A It's that two-piece conveyor system, a belt up -- or the two-piece conveyor up top that moves back and forth that was ultimately part of Masaba's design for the final top fill system. They just didn't use an air slide material on those. They ended up using belt conveyors in the final design of the top fill. 09:46:12 09:46:16 09:46:18 09:46:22 09:46:24 09:46:28 09:46:30

Q Okay. So the two pieces that you're referring to, are those connected together with something? 09:46:34 09:46:35 09:46:39

A Yeah, they're -- 09:46:39

ATTORNEY NYDEGGER: Objection; foundation. 09:46:41 09:46:42

THE WITNESS: Yeah. They're connected. Yes. 09:46:42 09:46:43

BY ATTORNEY FLANNERY: 09:46:43

Q What are they connected with? 09:46:43

ATTORNEY NYDEGGER: Objection; foundation. 09:46:44 09:46:45

THE WITNESS: I forget what the -- it's a -- there's a term for the -- I can't remember. There's a term for the 09:46:45 09:46:47 09:46:52

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joint that uses that, but I can't remember off the top of my head. But it's two conveyors and then they're able to articulate back and forth to hit these silos. 09:46:55 09:46:57 09:46:58 09:46:59 09:47:03

BY ATTORNEY FLANNERY: 09:47:03

Q They're -- that connection allows them to pivot -- 09:47:03 09:47:05

A Yes. 09:47:06

Q -- relative to each other? 09:47:06

A Yes. 09:47:08

Q Okay. Who had the idea for using a loading system there at the top that was articulated? 09:47:08 09:47:12 09:47:14

ATTORNEY NYDEGGER: Objection; foundation. 09:47:16 09:47:16

THE WITNESS: Masaba. 09:47:16

BY ATTORNEY FLANNERY: 09:47:17

Q Okay. Do you know who at Masaba came up with that? 09:47:17 09:47:19

ATTORNEY NYDEGGER: Same objection. 09:47:20

THE WITNESS: If I remember 09:47:20

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correctly -- again, it's been a long time ago -- I'm sure Dan Brinkman, the engineering manager, would have had that ultimate call for that. 09:47:21 09:47:23 09:47:25 09:47:28

But I'm speculating, but I don't know for sure, but that came from Masaba. 09:47:28 09:47:30

BY ATTORNEY FLANNERY: 09:47:32

Q Okay. Why is that -- do you know if that -- let me ask again. 09:47:34 09:47:36

Do you know if using an articulated loading system is better than, perhaps, something that is not articulated; for example, telescoping? 09:47:37 09:47:40 09:47:43

A Yeah. 09:47:48

ATTORNEY NYDEGGER: Objection; foundation. 09:47:49 09:47:49

THE WITNESS: I mean, in my opinion, my experience, it allows -- you -- it makes the conveyor more versatile because you can probably put -- if I remember correctly, Solaris wanted to be able to position this anywhere around that six-pack of silos, so I think it 09:47:49 09:47:50 09:47:55 09:47:57 09:47:58 09:48:00 09:48:02

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aided in allowing you to hit those -- the farther silos. Say you're on one side, you can hit the farthest by using an articulating conveyor. 09:48:04 09:48:06 09:48:09 09:48:11

BY ATTORNEY FLANNERY: 09:48:11

Q Okay. 09:48:11

A It's made a little more efficient, is my understanding. 09:48:12 09:48:15

Q Do you know if Masaba ever considered a loading system there at the top that was not articulated? 09:48:15 09:48:19 09:48:21

ATTORNEY NYDEGGER: Objection; foundation. 09:48:22 09:48:23

THE WITNESS: I don't recall. I don't believe so, but I don't recall. 09:48:23 09:48:24

(Exhibit 1103 marked.) 09:49:23

BY ATTORNEY FLANNERY: 09:49:29

Q All right. You've been handed what's been marked as Exhibit 1103. 09:49:30 09:49:32

And you see at least the first page is referring to an email from you, Mike Stanton, to Jeremy Weinstein on September 1st, 2020. 09:49:41 09:49:44 09:49:49

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Do you see that? 09:49:51
A Uh-huh. Yes, ma'am. 09:49:51
Q And you see at the top there, it lists 09:49:52
"Attachments," and it lists, I guess, two 09:49:56
different PDFs. 09:50:00
Do you see that? 09:50:01
A Yes. Yes. 09:50:02
Q All right. And you say in the email: 09:50:05
"Hi, Jeremy. Please see our attached budgetary 09:50:09
proposal for the portable Beltwall silo conveyor, 09:50:12
portable truck unloader, and engineering." 09:50:16
Do you see that? 09:50:18
A Yes. 09:50:19
Q Okay. And if you can, I would ask you to 09:50:19
go just a couple -- I think it's about -- it's 09:50:24
past the email. So the email is five pages, and 09:50:25
there's a document with Anchor's header at the 09:50:29
top. 09:50:32
A Okay. 09:50:32
Q Do you see that? 09:50:32
Do you recognize that as the budgetary 09:50:33
proposal that you mentioned? 09:50:35

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A It appears to be, yes. 09:50:36
Q Okay. And so this budgetary proposal 09:50:37
lists the "portable Beltwall silo conveyor that 09:50:50
couples to a portable truck unloader." 09:50:56
Do you see that in bold? 09:50:58
A Yes. Yes. 09:50:59
Q And then on the next page, it refers to 09:50:59
the "portable truck unloader"? 09:51:02
A Yes. 09:51:04
Q Okay. So at this point, those were two 09:51:04
separate units? 09:51:10
A Yes. From what I recall, yes, based off 09:51:10
of this, utilizing the Beltwall belt. This was 09:51:14
not the final design. 09:51:16
Q Understood. 09:51:18
Who was going to do the design work 09:51:20
for this system? 09:51:22
A Masaba. 09:51:23
Q Okay. And who ultimately was going to 09:51:25
manufacture the system if it proceeded to that? 09:51:27
A Masaba. 09:51:29
Q Okay. You see the estimated cost there 09:51:30

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for the portable Beltwall silo conveyor is listed as [redacted] -- 09:51:34 09:51:38

A Yes. 09:51:39

Q -- plus or minus 10 percent? 09:51:40

A Yes. 09:51:42

Q Okay. And there's a separate lump-sum for the portable truck unloader of [redacted]? 09:51:42 09:51:47

A Yes. 09:51:50

Q Okay. Who came up with those estimated costs? 09:51:51 09:51:54

A That would have come from -- that would have all gone through our management at Anchor, through Dan Trantham. That would have all been approved, yes. 09:51:55 09:51:58 09:52:00 09:52:04

Q Do you know who came up with those numbers to start with? 09:52:04 09:52:06

A I mean, it would have been based off of our costs to -- from Masaba and then we would have added a percentage profit margin to that. 09:52:06 09:52:09 09:52:11

Q Okay. So Masaba would have provided you a cost estimate? 09:52:16 09:52:18

A Yes. 09:52:19

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Q And then you would have adjusted that to produce these numbers that are reflected here? 09:52:19 09:52:22

A Yes. 09:52:23

Q Okay. And who -- I understand Mr. Trantham would have approved it. Who was responsible for creating the proposal that's shown here? 09:52:24 09:52:32 09:52:34 09:52:36

A I would have put it together, he would have reviewed it, and then we would have sent it off to Solaris. 09:52:36 09:52:39 09:52:41

Q Okay. 09:52:41

A My job is to put all of the information together, put everything together, review it, and then I would have put the information -- sent the information back and forth between Anchor and Solaris. 09:52:47 09:52:49 09:52:51 09:52:55 09:52:56

Q Okay. The additional -- so the additional amount from whatever Masaba had provided to you, what would you base that amount on? 09:52:58 09:53:01 09:53:05

ATTORNEY MASTELLER: Objection; relevancy. Again, I don't think that this is related to the declaration that 09:53:08 09:53:08 09:53:10

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Mr. Stanton put together. If you can tie it in there, you know, we'll consider exploring that. But none of that is in his declaration right here. 09:53:11 09:53:14 09:53:16 09:53:18

ATTORNEY FLANNERY: I mean, this is all in the original proposal that he talked about in Paragraph 2. 09:53:19 09:53:19 09:53:23

ATTORNEY MASTELLER: Paragraph 2 of the declaration? 09:53:28 09:53:29

ATTORNEY FLANNERY: No. I'm sorry. Paragraph 3, "the initial concept: "Masaba generated an initial concept which involved a truck unloader unit that -- an inclined sidewall belt conveyor." 09:53:30 09:53:32 09:53:35 09:53:36 09:53:40

This is all about that proposal. 09:53:41

ATTORNEY MASTELLER: The way they structure their bids or their proposals or their profit on the actual development is not related to that, I don't feel. 09:53:42 09:53:43 09:53:46 09:53:50

ATTORNEY FLANNERY: Okay. Are you instructing him not to answer that question? 09:53:52 09:53:52 09:53:54

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ATTORNEY MASTELLER: I'm instructing him not to answer that question. 09:53:54 09:53:55 09:53:56

THE WITNESS: Okay. 09:53:56

BY ATTORNEY FLANNERY: 09:53:57

Q Okay. At this point in time, September 1st, 2020, would you agree that the design was still in the conceptual phase for this equipment? 09:53:57 09:53:59 09:54:01 09:54:05

A I don't know -- I mean, I -- I guess let's define "conceptual." I would say it would probably be on -- if we're putting together a proposal, we're moving forward with the project. There's some -- probably some changes that we've made along the way, but I say it's probably -- I guess the way I'd determine "conceptual" is we still have a thought about it. Right? We don't have any layouts or anything like that. So I'd say it's probably beyond conceptual. 09:54:06 09:54:14 09:54:17 09:54:19 09:54:23 09:54:25 09:54:31 09:54:33 09:54:35 09:54:37

Q Do you know if there were any layouts beyond the layout that we saw in Exhibit 1101 and 1102? 09:54:39 09:54:41 09:54:45

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A I don't recall. 09:54:46

Q Okay. 09:54:46

ATTORNEY NYDEGGER: And, Liz, I think that we should maybe mark Exhibit 1103 "confidential." It contains potentially sensitive pricing information. I know that this is not a Masaba document, but Anchor is not represented here, and this is -- this represents -- you know, it has no -- I don't think the transcript needs to be marked "confidential," because none of the numbers have been entered into the transcript, but if this 1103 document with the pricing information on it is put into the public record, I think it should be marked "confidential." 09:54:50 09:54:51 09:54:52 09:54:57 09:55:02 09:55:05 09:55:12 09:55:14 09:55:16 09:55:17 09:55:19 09:55:24 09:55:28 09:55:30

ATTORNEY FLANNERY: Well, I mean, I'm okay with you stating that on the record. I mean, there's -- it's not marked as "confidential" or neither is the email that it's attached to, so I'm not going to agree at this point. But I'm 09:55:32 09:55:34 09:55:36 09:55:37 09:55:40 09:55:42

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certainly happy to make that decision -- 09:55:44
you know, further confer with you about 09:55:49
that decision before it is posted 09:55:50
publicly. 09:55:53
Just to be clear, you're not 09:55:53
suggesting that this can't be shared with 09:55:54
Solaris. Am I right about that? This is 09:55:58
just for purposes of the public record? 09:56:01
ATTORNEY NYDEGGER: I -- yes. I'm 09:56:05
not saying that this -- my comment deals 09:56:05
with the public record -- 09:56:09
ATTORNEY FLANNERY: Okay. 09:56:10
ATTORNEY NYDEGGER: -- not with 09:56:10
sharing this with -- 09:56:11
ATTORNEY FLANNERY: I just wanted 09:56:12
to make sure I understood your -- 09:56:13
ATTORNEY NYDEGGER: And that's why 09:56:15
I said "confidential," not "AEO" because 09:56:16
"confidential," I think, could be shared 09:56:18
with Solaris. 09:56:19
ATTORNEY FLANNERY: Well, we don't 09:56:20
have a protective order, so I don't know 09:56:20

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what you're envisioning at this point. 09:56:21

ATTORNEY NYDEGGER: Yeah. 09:56:24

ATTORNEY FLANNERY: I'm certainly happy to confer with you further on that before it is filed in any sort of public-facing document. 09:56:25 09:56:26 09:56:28 09:56:30

ATTORNEY NYDEGGER: Okay. 09:56:30

ATTORNEY FLANNERY: We're going to reserve all of our objections to sort of what you said there -- 09:56:30 09:56:32 09:56:33

ATTORNEY NYDEGGER: Sure. 09:56:33

ATTORNEY FLANNERY: -- but we don't have to take it up. 09:56:34 09:56:34

ATTORNEY NYDEGGER: We can cross that bridge when we get there. 09:56:36 09:56:37

ATTORNEY FLANNERY: No reason to take up time on that today. Understood. 09:56:39 09:56:40

BY ATTORNEY FLANNERY: 09:56:48

Q So as we talked about, this quote listed the portable truck unloader as a separate piece of equipment from the conveyor; correct? 09:56:51 09:56:54 09:56:58

A Yes. It appears so, yes. 09:57:05

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Q Okay. 09:57:07
A Sorry. 09:57:07
Q Do you recall during the project points in 09:57:07
time where those were being designed as separate 09:57:09
pieces of equipment? 09:57:12
A I mean, everything I saw was always them 09:57:13
working together. So -- I guess expand on your 09:57:16
question and make sure I understand it correctly. 09:57:23
Q Yeah. Let me ask a little differently. 09:57:26
So was there a point in time where the 09:57:28
unloader component became integrated with the 09:57:29
conveyor attached -- permanently attached to the 09:57:33
conveyor unit? 09:57:35
A Yes. Once they came up -- if I recall 09:57:36
correctly, the -- once they came up with the final 09:57:38
bucket elevator design, it was all one piece, yes. 09:57:41
Q Do you recall who requested that 09:57:44
integration of those components? 09:57:47
A That was -- to my recollection, that was 09:57:48
the design -- that was the final design put 09:57:51
together by Masaba, is a one-piece -- is a 09:57:54
one-piece unit. 09:57:57

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Q Okay. 09:57:57
A There was no request from anyone. That's 09:57:58
just how it finally ended up being designed by 09:58:00
Masaba. 09:58:03
Q Do you know who had the idea of 09:58:03
integrating that component with the -- with the 09:58:06
elevator system? Do you know? 09:58:09
A Someone in Masaba's engineering 09:58:10
department. I mean, that came from them, so I 09:58:13
don't know exactly who, but someone on the Masaba 09:58:15
end. 09:58:17
Q How do you know it came from them? 09:58:17
A Because they're the ones that proposed it 09:58:18
and sent us the drawings of the -- I'm sure at 09:58:20
some point you've got the finalized drawings of 09:58:24
the bucket elevator, but that's what was sent to 09:58:26
us. So that came from Masaba. 09:58:29
Q Okay. Do you know if that functionality 09:58:31
could have been proposed by someone else and then 09:58:32
Masaba incorporated that into their drawings? 09:58:34
A I mean, I -- anything could happen, yes. 09:58:36
So I don't -- I don't know. But that -- our -- 09:58:39

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our -- Anchor's and my exposure to it came from Masaba, yes. 09:58:46 09:58:50

Q But it's possible somebody suggested that to them? 09:58:55 09:58:57

A I mean, anything's possible. So I don't -- I don't know. I mean, it could be, yes, but... 09:58:58 09:58:59 09:59:04

Q Okay. 09:59:05

A My -- everything that came as far as that came from Masaba to us. 09:59:05 09:59:08

Q And when you say "us," to Anchor? 09:59:11

A To Anchor, yes. I'm sorry. 09:59:12

Q Did Solaris ever give any instruction about integrating those two components, the unloader and the conveyor? 09:59:14 09:59:25 09:59:27

A No. What we got from Solaris was the basic requirements as far as, you know, wanting a smaller footprint, how much they wanted to convey, and they wanted to convey it faster. So some rough boundaries of what they're requesting that Masaba design around that. 09:59:27 09:59:31 09:59:35 09:59:38 09:59:40 09:59:45

Q Okay. 09:59:46

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(Exhibit 1104 marked.) 10:00:16

BY ATTORNEY FLANNERY: 10:00:17

Q You've been handed what's been marked as 10:00:22

Exhibit 1104. 10:00:24

Before I ask about that, earlier today 10:00:25

you were talking about the notion that Solaris had 10:00:27

provided certain specifications for what they 10:00:29

wanted in the system. Capacity -- what were some 10:00:33

of the other ones? Can you remind me? 10:00:39

A Footprint was a big deal with them, that 10:00:40

they wanted it as vertical and as close to the 10:00:42

six-pack as possible, was a big one for them. 10:00:46

Q Okay. And you see here on Exhibit 1104, 10:00:49

this is an email from Jeremy Weinstein to you and 10:00:52

copying Scott Lambert in October of 2020. 10:00:56

Do you see that? 10:00:59

A Yes. 10:00:59

Q And he says: "Mike, please review the 10:00:59

attached specification with Masaba and let us know 10:01:06

if there are any concerns and how it might affect 10:01:08

pricing." 10:01:10

Do you see that? 10:01:11

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A Uh-huh, yes. 10:01:11

Q And then the next page of Exhibit 1104, do you recognize this as a document that Solaris provided to you in connection with this project? 10:01:12 10:01:16 10:01:18

A I believe so. 10:01:20

Q Okay. In the first paragraph of that specification, the second sentence says: "The performance, geometry, and specified elements of design shall be as given." 10:01:22 10:01:29 10:01:34 10:01:38

Do you see that? 10:01:39

A Yes. Yes. The second sentence, yes. 10:01:42

Q What was your understanding as to what Solaris meant by that, that the perform -- well, first of all, that "the performance, geometry, and specified elements," what did that compose? 10:01:45 10:01:48 10:01:50 10:01:53

A My interpretation that -- looking at it now -- this has been a long time ago -- would be these are some outlines of what the design by Masaba needs to incorporate to fit what their requirements are for the system. 10:01:56 10:02:01 10:02:02 10:02:05 10:02:09

Q And those would be the requirements that were listed later on in this document? 10:02:12 10:02:13

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A I haven't read this in a long time, so... 10:02:16
Yes. I would say so, yeah. 10:02:24
Q Do you believe you read this at the time 10:02:26
when it was sent to you? 10:02:27
A Oh, I'm sure I did. Yeah. I'm sure I did 10:02:28
this. Yes. 10:02:32
Q Okay. Here in Section 2, Solaris gives 10:02:33
"Transport Dimensions." 10:02:38
Do you see that? 10:02:40
A Yes. 10:02:40
Q I'm sorry. Bear with me with for one 10:02:40
moment. 10:02:57
A Sure. 10:02:57
Q So in Section 2 where it's referring to 10:02:58
"Transport Dimensions," and it lists a number of 10:03:06
dimensions under there. 10:03:10
Do you see that? 10:03:10
A Yes. 10:03:11
Q So were these requirements that Solaris 10:03:11
provided? Were these parts of the specifications 10:03:16
they provided to you and then you provided to 10:03:18
Masaba? 10:03:20

A Yeah. I'm sure that's the way it would have proceeded, yes. 10:03:20 10:03:23

Q Okay. The "maximum portable length 60 feet from kingpin to rear bumper," do you see that? 10:03:24 10:03:26 10:03:29

A Yes. 10:03:29

Q Do you know what that was based off? 10:03:30

A What it was based off from Solaris? 10:03:32

Q Yes. 10:03:34

A If I remember correctly, it was based on probably some legal lengths that the unit needed to be to travel on the highways, is my guess and from my recollection. 10:03:35 10:03:36 10:03:45 10:03:47

Q Okay. And what about the maximum height of 13 feet and 6 inches? 10:03:49 10:03:51

A Probably the same thing. I know there were some discussions going back and forth -- and, again, it's been a long time ago -- about lengths and heights and things like that -- in order to be able to drive this down the highway. 10:03:53 10:03:55 10:03:57 10:03:59 10:04:02

Q Okay. So in the transport configuration, the maximum portable length, that would have been 10:04:04 10:04:09

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along the dimension of the height of the bucket elevator, right, in its -- when it's put in its operational position? 10:04:12 10:04:15 10:04:19

A It would have been when it's folded down into the actual unit to be hooked up to a tractor and -- down the highway. So it would be in the compact position, yes. 10:04:20 10:04:22 10:04:25 10:04:28

Q So when that's put in the operating position, that structure that lays on its side is then lifted up? 10:04:29 10:04:31 10:04:34

A Correct. Correct. 10:04:35

Q Okay. That structure that's lifted up, the height of that structure in that configuration, what was your understanding of what dictated the height of that structure? 10:04:36 10:04:39 10:04:41 10:04:44

A It would have been -- well, it would have been designed around the height of the silos. So Masaba, when they designed this, had to figure out, you know, the height of the bucket elevator, articulating conveyors, everything was designed around -- by Masaba around the height of the silos. 10:04:46 10:04:47 10:04:52 10:04:54 10:05:00 10:05:02 10:05:04

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Q And the silos, who provided those silos? 10:05:04
A Solaris. It was their existing silos in 10:05:08
their silo layout system, layouts. 10:05:12
Q Masaba didn't do any work on the silos 10:05:15
themselves, did they? 10:05:17
A Not that I recall. 10:05:18
ATTORNEY NYDEGGER: Objection; 10:05:19
foundation. 10:05:21
BY ATTORNEY FLANNERY: 10:05:21
Q Okay. As part of the project that you 10:05:21
worked on, were you doing any work on the silos 10:05:22
themselves? 10:05:25
A I think Anchor may have worked -- I think 10:05:25
Jeremy -- during the testing phase, Jeremy came 10:05:30
out to South Dakota and maybe did something to 10:05:33
some of the inlets and Anchor may have had a 10:05:35
couple of people out there, but I can't remember. 10:05:38
It's been a long time ago. But it was just 10:05:39
something really minimal, and I think Jeremy added 10:05:41
something to the silos. I can't remember what it 10:05:43
was. 10:05:45
Q Okay. And you said Jeremy -- 10:05:45

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Mr. Weinstein? 10:05:46

A Mr. Weinstein. Yes. Sorry. 10:05:47

Q All good. No problem. I think he's 10:05:48

probably the only Jeremy, so... 10:05:50

A Well, you never know. 10:05:51

Q And then the unloader -- well, let me go 10:05:52

back. 10:06:01

So under the "General Description" in 10:06:01

this specification, Exhibit 1104, under 1.4, do 10:06:08

you see where it says: "Will incorporate tandem 10:06:14

transload conveyors for truck unloading"? 10:06:17

Do you see that? 10:06:19

A Let me -- okay. I see that. Yes. 10:06:20

Q Okay. What is your understanding of what 10:06:22

was being required there? 10:06:25

A Excuse me. 10:06:25

I was -- thinking back, I would assume 10:06:32

that would be the truck drive-over. Because I 10:06:35

believe at this point, we were still going with 10:06:39

the Beltwall conveyor, so it's a two-piece system. 10:06:40

And thinking back and looking at this, this would 10:06:43

have been the first conveyor where the truck dumps 10:06:46

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and dumps into that incline conveyor. 10:06:49

Q And so when it says "will incorporate tandem transload conveyors," is it your understanding that then it would be an integrated system? 10:06:52 10:06:56 10:06:57 10:07:00

A At this point -- no. No. At this point, we were in two systems. So I believe -- again, this is so far back and this is the first time I've seen this email and I haven't looked at this in years -- but I think at this point, we were still with a two-piece system. 10:07:00 10:07:05 10:07:07 10:07:09 10:07:11 10:07:14

Q Okay. 10:07:14

A Yeah. 10:07:15

Q So those transload conveyors for truck unloading, what dictated the dimensions for those components? 10:07:16 10:07:19 10:07:26

ATTORNEY NYDEGGER: Objection; foundation. 10:07:26 10:07:26

THE WITNESS: I mean, that would have been dictated by, you know, Masaba's design -- when they were engineering this, I guess, design -- designing it within the 10:07:26 10:07:27 10:07:30 10:07:32

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smallest footprint available, because that was very important to Solaris from what I recall, but also I'm sure -- I would think that there's some engineering that went into the length of that. 10:07:34 10:07:36 10:07:38 10:07:41 10:07:42

I don't -- as a sales guy, I'm not sure. But that -- I'm not sure how that was -- how that was determined, but that would have been determined sometime in the engineering phase. 10:07:44 10:07:45 10:07:48 10:07:50 10:07:52

BY ATTORNEY FLANNERY: 10:07:53

Q Okay. Would -- 10:07:53

A As to what the parameters -- I'm sorry. 10:07:53

Q No. No, I -- 10:07:55

A As to what the parameters were, I don't know. I don't remember. 10:07:56 10:07:57

Q Do you know if those design parameters had to account for existing sizes and dimensions of trucks that were going to drive over them? 10:07:59 10:08:01 10:08:07

A The truck drive-over would have been -- I mean, that would have had to have been taken into account. But as far as the length of the 10:08:09 10:08:14 10:08:16

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transloader, I don't know what would have -- what would have determined that. 10:08:17 10:08:19

Q I see. 10:08:20

So the dimensions of the ramps that the trucks would drive over, that would have been affected by the dimensions of the trucks themselves. Agree? 10:08:20 10:08:22 10:08:27 10:08:28

A The width would be, I think, yeah. Yeah. 10:08:29

Q Okay. 10:08:31

A Because if I remember right -- I have to look back at that. We don't have the print. But I think the -- no. You gave it to me. What is it, 1101? 10:08:34 10:08:36 10:08:38 10:08:47

So -- yeah. So at this point, this design had the integrated truck drive-over to it. So as far as what determined all those dimensions, I don't remember. But this would have had to have been a specific width for a truck, yes. But I think that would be pretty universal. 10:08:49 10:08:51 10:08:56 10:08:58 10:09:02 10:09:04

Q So I just want to make sure I understood what you said. 10:09:05 10:09:07

For 1101 -- which is the exhibit 10:09:08

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you're looking at; correct? 10:09:10

A Yeah. 10:09:11

Q You're saying that design had an integrated truck drive-over? 10:09:13

A It appears so. I'm looking at the print. I don't remember if those were two pieces or one piece. I don't remember, so... 10:09:15

Q Fair enough. 10:09:22

A Yeah, it's just been so -- sorry. It's been so long ago, and I haven't looked at these in years. 10:09:24

Q I understand. 10:09:26

A Yeah. 10:09:28

Q All right. Do you recall communicating these specifications to Masaba? 10:09:28

A I don't recall, but I'm sure these would have been sent on, yes. I mean, it's an important document. 10:09:29

Q Would it have been your practice to send that to Masaba shortly thereafter? 10:09:30

A Absolutely. Yeah. Yeah. 10:09:38

Q Okay. Would you have waited a week? 10:09:41

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A No. This was -- yeah. This was -- yeah. This was all emergency stuff -- 10:09:53 10:09:56

Q Okay. 10:09:59

A -- we were working on. 10:09:59

Q When you say "emergency stuff," what do you mean by that? 10:10:00 10:10:02

A I mean, I was just working hard on it. I mean, I didn't sit on stuff. It was -- they wanted the design, they wanted it to work, they wanted it quickly, so... 10:10:04 10:10:06 10:10:08 10:10:11

Q "They" being Solaris? 10:10:12

A Solaris, yes. Yeah. 10:10:13

Q Okay. Why did they want it quickly? 10:10:15

ATTORNEY NYDEGGER: Objection; foundation. 10:10:19 10:10:20

THE WITNESS: Yeah. So, I mean, they just wanted it -- they wanted it designed and tested and in the field quickly. 10:10:20 10:10:23 10:10:25 10:10:27

I don't know. That would be a question for them. 10:10:27 10:10:28

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BY ATTORNEY FLANNERY: 10:10:30
Q Okay. 10:10:30
A Yeah. 10:10:30
Q Did they communicate to you that the timing and delivery of the system was important to them? 10:10:30 10:10:33 10:10:36
A I don't know the timing, but they wanted it as quick as they could get it, yeah. 10:10:36 10:10:39
Q Did they ever tell you why? 10:10:40
A My understanding was that -- I mean, it was very important to their company that it -- you know, at some point -- and I think it states in my declaration -- that helping them get back market share was communicated to me from Jeremy, yes. 10:10:43 10:10:45 10:10:48 10:10:51 10:10:54
ATTORNEY FLANNERY: We've been going about an hour and ten minutes. Good time for a break? 10:10:56 10:10:57 10:11:00
ATTORNEY MASTELLER: Sure. 10:11:01
(Recess from 10:11 a.m. to 10:17 a.m.) 10:11:01
BY ATTORNEY FLANNERY: 10:17:04
Q I want to go back to your declaration, Exhibit 2006. 10:17:04 10:17:07

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A Okay. 10:17:09
Q And let's look at Paragraph 4, please. 10:17:14
A Okay. 10:17:16
Q And so here in Paragraph 4, you say that 10:17:17
Mr. Weinstein at Solaris told you that the 10:17:21
project -- that this project was "the most 10:17:23
important project at Solaris at the time, and that 10:17:25
Solaris needed the solution in order to gain back 10:17:27
market share." 10:17:30
Do you see that? 10:17:30
A Yes. 10:17:31
Q Okay. And that was based on an email that 10:17:31
you attached as Appendix A. 10:17:38
Do you see that? 10:17:40
A Yes, that the -- yeah. They put -- yes. 10:17:40
Q Okay. 10:17:43
A Yes. 10:17:51
Q So I'm going to Appendix A, that email, 10:17:52
again, reverse chronological order. I'm going to 10:18:01
go to the last page of it. 10:18:07
A All right. 10:18:15
Q And so that email chain starts 10:18:15

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November 3rd, 2020. 10:18:17

Do you see that? 10:18:18

A Yes. 10:18:18

Q Okay. You said you think you're good for 10:18:18

9:00 a.m. tomorrow. 10:18:24

Is that for a phone call or some other 10:18:25

meeting? 10:18:27

A I'm sure it would have been phone calls, 10:18:27

yeah. 10:18:28

Q Okay. 10:18:29

A Yeah. Or a Zoom or something, yeah. 10:18:29

Q Yeah. That was around that time, where we 10:18:33

all starting using that more. 10:18:35

A Yeah. 10:18:36

Q And you said: "Attached is a Masaba NDA 10:18:37

for sharing files." 10:18:40

Do you see that? 10:18:40

A Yes. 10:18:41

Q Okay. Do you know why Masaba wanted you 10:18:43

to sign this NDA -- or Solaris to sign this NDA? 10:18:52

Excuse me. 10:18:58

A I don't recall. I don't recall the 10:18:58

context of when it was sent to me or not, but I'm assuming they had done, you know, engineering design work. So that would be fairly common, when someone's putting in that work, to try to protect that. 10:19:00 10:19:03 10:19:05 10:19:07 10:19:09

Q Okay. And just two emails up, you see an email from Mr. Christopher Powell to Jeremy Weinstein, as well as Mr. Lambert and Cindy Durrett at Solaris asking if it would be possible if they could use our form. 10:19:09 10:19:18 10:19:22 10:19:27 10:19:29

Do you see that? 10:19:31

A Yes. 10:19:31

Q Do you understand that to be asking to use Solaris' NDA form? 10:19:32 10:19:37

A Reading off of that, yes. That's what I would understand from this, yes. 10:19:39 10:19:41

Q Around this time, did you visit a jobsite of Solaris' in South Texas? 10:19:44 10:19:48

A We went to a jobsite. I don't remember if it was around that time or not. But we did, yes. Yes. 10:19:51 10:19:53 10:19:56

Q Okay. Do you remember if it was cold or 10:19:57

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not? 10:20:00

A No. It was -- I think it was -- no. It 10:20:00

wasn't cold. It would have been -- I don't 10:20:04

remember when, but it was not cold. Yeah. 10:20:07

Q Okay. Do you remember if it was before or 10:20:09

after that initial preliminary concept design from 10:20:13

August of 2020? 10:20:16

A I don't remember. 10:20:17

Q Okay. 10:20:21

A I don't recall. 10:20:22

Q Did you go to the site visit? 10:20:24

A I did, yes. 10:20:26

Q Okay. Did anyone from Masaba go to that 10:20:27

site visit? 10:20:30

A Yes. 10:20:31

Q Okay. Do you know if it was before or 10:20:31

after this discussion about NDAs? 10:20:36

A I don't recall. 10:20:38

Q Do you recall Solaris requesting an NDA to 10:20:41

protect information that was on their jobsite? 10:20:46

A No. 10:20:48

Q Okay. What was the purpose of that visit? 10:20:52

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A We wanted to bring Masaba's engineers down just to look at the application just to see the six-pack in person to get an idea about how it's laid out, the size of it, everything stood up because they designed the system and they had a better idea of what it entailed it was going to be designed around. 10:20:53 10:20:59 10:21:00 10:21:05 10:21:09 10:21:10 10:21:13

Q And when you say "the six-pack," that's an arrangement of silos? 10:21:13 10:21:15

A Yes. Yes. I'm sorry. It's Solaris', yes, arrangement of silos. 10:21:16 10:21:19

Q Okay. At that visit, did you or Masaba take any pictures of Solaris' equipment? 10:21:20 10:21:24

A I don't believe so. 10:21:26

Q Okay. 10:21:26

A I don't recall, but I don't believe so. 10:21:29

Q Do you recall either at that time or any other time, did Solaris provide documents or drawings about -- that related to that equipment? 10:21:30 10:21:34 10:21:37

A I think when we started -- and I don't recall what time they sent a layout of this -- like, maybe a drawing -- a rough drawing of the 10:21:40 10:21:44 10:21:47

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six-pack, the silo arrangement system, that Masaba could design the system around so they could make a CAD drawing or something that they could work around, yeah. 10:21:49 10:21:52 10:21:55 10:21:57

Q Okay. 10:21:57

A From my recollection, that -- when that was, I don't remember. 10:21:58 10:22:02

Q Okay. Do you recall one way or the other if it was before or after this November 2020 discussion we were looking at? 10:22:03 10:22:06 10:22:08

A I don't. 10:22:09

Q Okay. And so looking back at this email that was Appendix A -- I'm looking a couple of emails up -- 10:22:14 10:22:17 10:22:19

A Okay. 10:22:20

Q -- so now I'm looking at November 21st -- 10:22:20

A Okay. 10:22:22

Q -- 2020. So this would have been a few days after the emails we were just looking at. 10:22:23 10:22:26

Do you see that? 10:22:27

A Yeah. 10:22:28

Q Okay. And there's one sort of in the 10:22:28

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middle of the page at 7:10 p.m. from you. 10:22:29
Do you see that? 10:22:32
A Where is that? 10:22:36
Q I think you may be one page -- 10:22:37
A Am I one over? 10:22:38
Q Yup. There you go. So a little bit 10:22:39
earlier. 10:22:42
A Yes. 10:22:42
Q It's November 21st -- 10:22:42
A Yes. 10:22:44
Q -- 2020, at 7:10 p.m. -- 10:22:44
A Yes. 10:22:46
Q -- from you? 10:22:46
A Yes. 10:22:47
Q Okay. And you state: "Please scour your 10:22:48
records to make sure that Masaba did not sign this 10:22:50
NDA. Let me know." 10:22:52
A Yes. 10:22:53
Q Do you see that? 10:22:53
Why did you say that? 10:22:54
A Boy, thinking back -- you know, and I read 10:22:56
this email -- I've got to think about at that 10:23:00

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time, I think we put a bunch of work into this. And, again, I'm thinking back five years, but there may have been the feeling that Solaris was maybe backing out and we've put a lot of work in this, so we could maybe use this for another customer or sell this to another customer. 10:23:05 10:23:08 10:23:11 10:23:15 10:23:17 10:23:21

Q So you said there was a feeling that Solaris was backing out? Was that -- 10:23:22 10:23:25

A Yeah. Who -- 10:23:26

Q Hang on a second. 10:23:27

A I'm sorry. 10:23:28

Q That's okay. 10:23:29

Was that you or was that to Masaba or both? 10:23:29 10:23:31

A I don't remember. I mean, again, it's been five years ago and I'm trying to rack my brain on this email. I probably worded it little differently in some of this, but I'm trying to think back. I don't recall the exact situation, but that would be my guess as to what was going on at that time. 10:23:32 10:23:33 10:23:36 10:23:40 10:23:41 10:23:43 10:23:45

Q Do you recall if Solaris did anything 10:23:45

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specific that made you or someone at Masaba feel that way? 10:23:48 10:23:51

A I don't remember. 10:23:51

Q Okay. And so going up to where I think you were -- 10:23:52 10:24:04

A Yes. 10:24:05

Q -- in the highlighted section. 10:24:05

A Yes. 10:24:07

Q And just so that you're not confused, I assume that the email that you sent was not highlighted. Do you understand those highlights there at the bottom? 10:24:08 10:24:11 10:24:12 10:24:14

A Oh, yes. Yes. 10:24:15

Q Fair enough. 10:24:16

And so I'm looking at the email, November 21st, 2020, at 8:52 p.m. 10:24:17 10:24:22

Do you see that? 10:24:24

A Yes. 10:24:25

Q Okay. Now, you said, in the highlighted statement: "Jeremy told me last week that this is the most important project in their company right now and they had to have it back to gain -- they 10:24:25 10:24:27 10:24:29 10:24:31

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had to have it to gain back market share." 10:24:34
Did I read that correctly? 10:24:36
A Yes. 10:24:37
Q Okay. Those words that you have in the 10:24:37
email, were those Mr. Weinstein's exact words or 10:24:39
were you paraphrasing? 10:24:42
A I don't remember. I mean, it's been a 10:24:45
long time ago. But that was -- that was what was 10:24:46
told to me. If that's what I put in my email, 10:24:48
that's what was told to me. I don't remember if 10:24:50
it was exact or paraphrasing, but that was the 10:24:52
statement that was made to me. 10:24:54
Q Okay. 10:24:55
A Yeah. 10:24:56
Q When did Mr. Weinstein tell you this? 10:24:56
A I don't remember. I don't remember. It's 10:24:58
been -- again, it's been a long -- it's been five 10:25:01
years ago so... 10:25:03
Q Fair to say it was before November 21st at 10:25:05
8:52 p.m.? 10:25:08
A Yeah. I believe that would be fair to 10:25:09
say, yes. 10:25:10

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Q Okay. Do you recall meeting with Mr. Weinstein during that time period? 10:25:11 10:25:12

A I don't remember. 10:25:13

Q Okay. Do you recall if he said that to you in a phone call or was it in person? 10:25:14 10:25:19

A It would probably -- most of my communications with Jeremy were phone calls and emails. So probably a phone call, but, again, I don't remember. 10:25:21 10:25:25 10:25:27 10:25:31

Q You mentioned emails. Do you think he put this in writing? 10:25:31 10:25:33

A I don't know. I don't have access to my emails at Anchor, so -- but I -- it would probably have been a phone call. We talked on the phone a lot. Yeah. 10:25:35 10:25:37 10:25:40 10:25:41

Q Okay. Was anyone else on that phone call that -- 10:25:42 10:25:44

A I don't know. I don't know. Again, it's been a long time ago. 10:25:44 10:25:47

Q Okay. Do you know how long after you sent this -- or I guess I'll state it differently. 10:25:47 10:25:53

Do you know how long before your 10:25:56

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November 21st at 8:52 p.m. email he would have said it? 10:25:59 10:26:03

A No. I don't remember. 10:26:04

Q Okay. Did you tell anyone else at Anchor about this? 10:26:05 10:26:12

A I don't recall. I probably would have spoke about it with Dan Trantham, my boss, but I don't remember. 10:26:12 10:26:17 10:26:19

Q Okay. You said here that Jeremy said that Solaris had to have this top fill system "to gain back market share." 10:26:19 10:26:26 10:26:30

Do you see that? 10:26:31

A Yes. 10:26:31

Q Okay. Did Mr. Weinstein explain why they needed it "to gain back market share"? 10:26:32 10:26:34

A I don't recall. I don't remember. 10:26:35

Q Do you remember having any understanding as to why they needed it? 10:26:38 10:26:40

A I think -- I think looking back, the issue was it was taking so long to unload the trucks pneumatically that this top fill system, if we could cut down the amount of time it would take to 10:26:41 10:26:50 10:26:54 10:26:59

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unload a truck, would give them a larger market share due to the increase -- or the reduction in time to unload trucks. Okay? 10:27:01 10:27:05 10:27:09

But, again, this is five years ago, but thinking back, that's probably my thought process during that -- or what I understood from him at that time. 10:27:11 10:27:13 10:27:15 10:27:17

Q Okay. You mentioned gain back market share. Was it your understanding that Solaris had lost market share? 10:27:18 10:27:22 10:27:24

A That would have been my understanding coming off that conversation. Looking back now, that's probably what I took from that conversation, yes. 10:27:25 10:27:27 10:27:29 10:27:31

Q Okay. And that understanding, would that have been based on anything other than what Mr. Weinstein told you? 10:27:32 10:27:34 10:27:38

A No. I'm sure it would have been based off of my conversations with Jeremy, yes. 10:27:38 10:27:40

Q Okay. 10:27:41

A Jeremy Weinstein. 10:27:45

Q Were you going to receive a commission on 10:27:46

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the top fill project? 10:27:52

A I would have once it was finished, yes. 10:27:53

Q Okay. Approximately how much would that have been? 10:27:56 10:27:58

ATTORNEY MASTELLER: Objection. That's not relevant to the document. I'm going to instruct my client not to answer that. 10:27:59 10:28:01 10:28:02 10:28:04

ATTORNEY FLANNERY: You're saying how much commission he would have received is not relevant to the statements that he made? 10:28:06 10:28:07 10:28:08 10:28:10

ATTORNEY MASTELLER: I don't think it's relevant to the statements he's made at all, no. Feel free to tell me how it ties into the statements. 10:28:10 10:28:10 10:28:12 10:28:15

ATTORNEY FLANNERY: If he was going to receive a commission, that would have incentivized him to make certain statements or not. 10:28:16 10:28:17 10:28:19 10:28:21

ATTORNEY MASTELLER: But we're talking about the sale of a system five 10:28:22 10:28:23

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years ago. How would that incentivize him to make the statements he made now? 10:28:26 10:28:30

ATTORNEY FLANNERY: We're talking about the email. This is from back then. 10:28:31 10:28:32

ATTORNEY MASTELLER: I'm not following what you're saying then. 10:28:38 10:28:38

To me, you're asking him what his commission agreement with his employer was. Is that what you're intending to go with? 10:28:40 10:28:42 10:28:46 10:28:48

ATTORNEY FLANNERY: Yes. 10:28:48

ATTORNEY MASTELLER: And how is that relevant to his statement when we're talking about a sale of a -- of the equipment five years ago versus him making the statement now? 10:28:50 10:28:51 10:28:53 10:28:56 10:28:58

ATTORNEY FLANNERY: He's -- I'm not talking about him making the statement now. I'm talking about the statement that he made in the email around the same time that he would have been receiving a commission if it had been successful. 10:28:59 10:29:01 10:29:02 10:29:04 10:29:05 10:29:07

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Those are all related, statements that he could have made could have been related to that. I mean, that's the best way I can explain it. 10:29:10 10:29:14 10:29:15 10:29:17

If you disagree and you're going to instruct him not to answer, that's fine. 10:29:17 10:29:18

ATTORNEY MASTELLER: Yeah, I disagree. I'm going to instruct him not to answer. 10:29:20 10:29:21 10:29:22

ATTORNEY FLANNERY: Okay. Well, we're going to hold the deposition open for that reason. 10:29:23 10:29:24 10:29:25

BY ATTORNEY FLANNERY: 10:29:28

Q I think you said you would have -- before we had this conversation -- I just want to get us back to where we were. 10:29:32 10:29:34 10:29:37

A Yes. 10:29:39

Q You said you would have received a commission on the top fill project once it was finished? 10:29:40 10:29:41 10:29:44

A Yes. 10:29:44

Q Okay. Did you receive any such 10:29:45

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commission? 10:29:47
A I received a little bit, yes. 10:29:47
Q Okay. If there were going to be more 10:29:54
units of the system built, would you have received 10:29:57
commissions on those as well? 10:29:59
A If -- yes, if they were within a certain 10:30:00
profit margin. So I only got commission if we 10:30:03
made a certain profit margin on the project. 10:30:05
Q Okay. I'm going to ask again and give 10:30:09
your attorney an opportunity to respond. 10:30:12
How much would those commissions have 10:30:13
been? 10:30:15
ATTORNEY MASTELLER: I'm going to 10:30:16
object on the relevancy of that, and also 10:30:17
on confidential information within Anchor, 10:30:20
and I'm going to instruct my client not to 10:30:23
respond. 10:30:25
ATTORNEY FLANNERY: Even if we're 10:30:26
willing to agree to keep it confidential, 10:30:26
that wouldn't resolve your issue? 10:30:28
ATTORNEY MASTELLER: I just don't 10:30:43
like the territory we're going into with 10:30:45

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this. I don't -- he's already agreed that he would have received a commission off this. He's already answered that he would receive off multiple units if the profit was there. 10:30:48 10:30:50 10:30:52 10:30:55 10:30:57

The actual amount itself, I don't think it's relevant to the statement. And it's confidential company information so I'm going to instruct him not to answer that question. 10:30:57 10:31:00 10:31:04 10:31:07 10:31:08

ATTORNEY FLANNERY: Okay. I just want to make sure the record is clear. 10:31:09 10:31:10

We have offered to keep it confidential, and you're declining that offer for the other reasons and instructing him not to answer based on the other reasons. Is that my understanding? 10:31:12 10:31:13 10:31:14 10:31:16 10:31:18

ATTORNEY MASTELLER: Yes. Correct. 10:31:20

ATTORNEY FLANNERY: Okay. I just wanted to make sure the record is clear. 10:31:20 10:31:20

ATTORNEY MASTELLER: No. You're fine. 10:31:22 10:31:22

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ATTORNEY FLANNERY: Not trying to fight with you. 10:31:23 10:31:24

ATTORNEY MASTELLER: No, you're good. You're good. 10:31:25 10:31:26

BY ATTORNEY FLANNERY: 10:31:30

Q Okay. Fair to say that you wanted to receive those commissions? 10:31:30 10:31:31

A Sure. Yeah. 10:31:33

ATTORNEY FLANNERY: I just want to see if I can -- I want to try to get as much information as possible so if -- we don't have to reopen this. That's the only reason I'm asking. 10:31:44 10:31:45 10:31:48 10:31:49 10:31:51

ATTORNEY MASTELLER: Yeah. Fair. 10:31:52

ATTORNEY FLANNERY: I'm not trying to antagonize you. I just want to see if there's a way we can address this. 10:31:53 10:31:54 10:31:57

BY ATTORNEY FLANNERY: 10:31:59

Q Those commissions that you would have received, in terms of an order of magnitude -- I'm not looking for an absolute number, order of magnitude -- what would those order of magnitude 10:31:59 10:32:00 10:32:04 10:32:05

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of those commissions have been relative to your salary? 10:32:08 10:32:10

A You know, I -- to be honest with you, I'd have to look back at my commission structure. I received very few commissions when I was at Anchor. I didn't get paid. My salary was my basic income. 10:32:15 10:32:17 10:32:19 10:32:21 10:32:23

I don't remember what maybe my percentage was. It was not large. I can tell you that. So we lived on my -- we lived on my salary. They were -- commissions were few and far between. I don't know if that helps, but not large. 10:32:25 10:32:27 10:32:32 10:32:38 10:32:43

Q Would the commissions per unit have been larger than your -- per unit? 10:32:46 10:32:49

A No. 10:32:51

Q Would those have been larger than your -- 10:32:51

A No, no, no, no, not -- 10:32:53

Q Hang on. Would -- 10:32:53

A -- yes, not even. No. 10:32:54

Q Okay. 10:32:55

A No, no, no. 10:32:55

I think -- yeah, no. Absolutely not. 10:32:58

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Q Okay. 10:33:01

A Hopefully that helps you. But not even a 10:33:04

drop. Not much, yeah. Not compared to my salary, 10:33:07

no. 10:33:10

Q Okay. Do you recall -- switching gears a 10:33:11

little bit, do you recall when the idea of using a 10:33:16

vertical bucket elevator as opposed to the 10:33:22

drawings that we saw with an incline Beltwall 10:33:23

elevator, do you recall when the idea of using a 10:33:26

vertical conveyor was first proposed? 10:33:29

A I don't recall the date. I think I saw 10:33:32

somewhere in one of the emails -- I don't recall 10:33:34

the date, but I think somewhere in one of those 10:33:41

emails, there's a reference to that that can give 10:33:43

you that information. 10:33:46

Q Do you recall who suggested using a 10:33:48

vertical conveyor as opposed to an inclined? 10:33:51

A Masaba used -- suggested using a bucket 10:33:53

elevator, yes, a bucket elevator system, yes. 10:33:56

"Vertical," what you're calling "vertical," it's a 10:33:59

bucket elevator system, yes. 10:34:01

Q Okay. I'll try to use your terminology. 10:34:02

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A No. That's okay. That's okay. I know what you mean. 10:34:04 10:34:07

Q Prior to your work on this project, had you seen bucket elevators used before? 10:34:07 10:34:10

A I had seen a bucket elevator integral to a silo online somewhere. And I can't remember who it was, but it was nothing like this stand-alone system. It was part of an actual silo. It was frac sand silo. 10:34:11 10:34:21 10:34:26 10:34:28 10:34:31

Q Okay. It was a bucket elevator in the sense that the structure was the same. It was just integrated into the silo? 10:34:32 10:34:33 10:34:35

A It was integrated into it, yes. That's the only thing I had ever seen, yeah. 10:34:36 10:34:38

Q And you said you believe that was used for frac sand? 10:34:40 10:34:41

A I think so. Yeah. 10:34:42

Q And you recall seeing that before Solaris -- Masaba created this design? 10:34:43 10:34:46

A No, I don't know if was before. At some point during the time I was online and I saw something, but I don't know that it was before. I 10:34:47 10:34:49 10:34:51

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don't remember when I saw that. 10:34:53

Q Okay. Do you know if bucket elevators -- 10:34:53

whether they were used for frac sand or not -- do 10:34:55

you know if those were used before this work with 10:34:57

Masaba? 10:35:00

A I think that -- to my understanding or 10:35:02

from my look at that, I think that was the only 10:35:04

case. I think it was the National -- NOV design. 10:35:06

And at some point in conversations when we 10:35:10

presented that to them, either Scott or Jeremy 10:35:13

told me -- and I think it may be in my 10:35:16

declaration -- that they didn't have a good 10:35:18

reputation in the oilfield, and I think he was 10:35:20

probably referring to that system. 10:35:22

Q Okay. 10:35:24

A Yeah. 10:35:25

Q Bucket elevators -- did other companies 10:35:26

build bucket elevators prior to this work? 10:35:30

A For stand -- for this type of application 10:35:31

or just in general? 10:35:36

Q For any application. 10:35:37

A Sure. Sure. There's a lot of bucket 10:35:38

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elevator manufacturers out there. 10:35:43
Q So you'd agree Masaba did not invent the 10:35:43
concept of using a bucket elevator to elevate 10:35:46
material? 10:35:48
A No. They -- their niche or what they 10:35:48
designed was the mobile system for this particular 10:35:50
application. 10:35:52
Q Okay. Let's -- 10:35:52
A It was all integral. Sorry. I didn't 10:35:55
mean to cut you off. 10:35:59
Q No, no. You're good. 10:36:01
Let's go back to your declaration, 10:36:02
please. 10:36:04
A Are we done with this one? 10:36:04
Q Yes. 10:36:06
A Okay. Let me I got -- 10:36:06
Q Well, I think that is your declaration. 10:36:08
It's one of the documents attached to it. 10:36:09
A Oh, yes. Okay. I got it. 10:36:11
Q Same thing. 10:36:12
Let's go to Paragraph 5 of your 10:36:13
declaration. 10:36:16

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A Okay. 10:36:17

Q Okay. You see here it says that you 10:36:22

recalled Solaris telling you that "they wanted to 10:36:25

explore increasing the incline of the belt 10:36:27

conveyor even further in order to decrease the 10:36:29

footprint of the system." 10:36:32

Do you see that? 10:36:33

A Yes. 10:36:33

Q Okay. So increasing the incline angle 10:36:34

relative to, for example, the concept drawing that 10:36:39

Masaba had created? 10:36:41

A Yes. 10:36:42

Q Okay. And so Solaris had mentioned that 10:36:43

to you, doing that? 10:36:48

A Increasing the angle? 10:36:49

Q Yes. 10:36:50

A Yes. They wanted -- again, they -- 10:36:51

their -- one of the main -- and I don't know if it 10:36:54

says it on that outline that you gave me, but the 10:36:56

footprint was extremely important to them. So by 10:37:01

increasing the angle, you could move in the system 10:37:04

closer to the silos, and there would be more room 10:37:06

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around for other equipment to move around the silo system. 10:37:08 10:37:10

Q I see. So the steeper the angle, the smaller the footprint? 10:37:11 10:37:14

A The smaller the footprint. But with the original design, the less capacity of sand we could move. So that was the hindrance of using that original design. 10:37:14 10:37:17 10:37:20 10:37:24

Q Okay. How far did silo -- sorry. Let me say that again. 10:37:25 10:37:28

How far did Solaris want to increase the angle of that? 10:37:28 10:37:30

A I can't remember. I mean, they wanted to go 90 degrees. I can't remember what we got to. And then it -- I believe, if I recall correctly, there was a point where Masaba said, "We just can't hit the capacity that they want," which I believe was 400 tons an hour, and that's when they -- at some point, they came back with the bucket elevator design because then we could go 90 degrees and decrease the footprint. 10:37:32 10:37:35 10:37:39 10:37:41 10:37:43 10:37:45 10:37:48 10:37:50 10:37:52

Q Okay. And so that 90 degrees, that would 10:37:54

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be the minimal footprint possible, at least in terms of the conveyor itself? 10:37:56 10:37:58

A Yes. 10:37:58

Q Okay. And so in Paragraph 6, the very next paragraph -- 10:37:59 10:38:08

A Yes. 10:38:09

Q -- you state that "the Masaba team suggested using a bucket elevator instead of an incline belt conveyor." 10:38:09 10:38:14 10:38:17

A Yes. 10:38:19

Q Do you see that? 10:38:19

Now, was that before or after the statement in the previous sentence where "the Masaba engineering team concluded that this was not doable"? 10:38:20 10:38:23 10:38:25 10:38:27

A Well, I think we got to the point -- or my recollection, we got to the point where they said, "It wasn't doable. How about we try to use a bucket elevator and we can get to 90 degrees?" 10:38:28 10:38:31 10:38:33 10:38:35

Q Okay. So what -- let me break this down a little bit. 10:38:39 10:38:42

A Sure. 10:38:42

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Q So in the last sentence of Paragraph 5, when "the Masaba engineering team concluded that this was not doable," what's the "this" that they include -- that they determined wasn't doable? 10:38:43 10:38:48 10:38:50 10:38:52

A To get to that higher incline that Solaris was requesting to decrease the footprint, that that was not doable, and to maintain that capacity that they were -- that Solaris was asking for. 10:38:55 10:38:58 10:39:02 10:39:05

Q Okay. And do you know who on the Masaba team suggested using a bucket elevator? 10:39:07 10:39:17

A I don't recall. It was probably communicated to me by Andrew Wells. That was my main contact. But, you know, Dan Brinkman was the engineering manager, so I'm sure it would have come through him. 10:39:18 10:39:23 10:39:26 10:39:28 10:39:30

Q Okay. Do you think Andrew Wells came up with it? 10:39:31 10:39:33

A I don't believe so. I don't know. I don't remember. 10:39:33 10:39:44

Q Okay. Do you recall when the Masaba team suggested using a bucket elevator? 10:39:44 10:39:46

A No, I don't. I'm sorry. 10:39:47

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Q Do you know if it was before or after Christmas of 2020? 10:39:48 10:39:50

A I don't remember. 10:39:51

Q Okay. I think you mentioned just a few minutes ago and in your declaration that you said that either Mr. Weinstein or Mr. Lambert of Solaris told you that the bucket elevators did not have a good reputation in the oilfield? 10:40:03 10:40:06 10:40:08 10:40:12 10:40:14

A Yes. 10:40:16

Q Do you see that? 10:40:17

Do you know why they said that? 10:40:18

A Bucket elevators have an alignment to -- when you have a bucket elevator, you have a belt running inside of a housing, and alignment is very finicky. So the belt can run into the sides of the housing and cause problems. 10:40:22 10:40:30 10:40:33 10:40:37 10:40:41

So then you put that into a mobile application and things are moving around on the road, that can cause even more problems. Frac sand is very abrasive, so it can get in the bearings. It can cause issues within a bucket elevator. So that's my -- that's -- I believe 10:40:42 10:40:44 10:40:49 10:40:52 10:40:55 10:40:58

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Scott or Jeremy was talking about they didn't have a good reputation. 10:41:01 10:41:04

Q So did Jeremy or Scott -- let me ask first -- 10:41:07 10:41:11

A Sure. 10:41:11

Q -- do you know which of them said that? 10:41:12

A I can't remember. 10:41:13

Q Okay. 10:41:14

A Yeah. 10:41:14

Q But you are confident that it was one of them? 10:41:15 10:41:16

A It was communicated by one of them, yeah. 10:41:16

Q Okay. Do you recall if they told you that over the phone? Email? 10:41:18 10:41:22

A I don't remember. 10:41:24

Q Okay. 10:41:24

A Yeah. 10:41:25

Q And so the issues that you mentioned -- the alignment of the belt and then the abrasiveness of the sand -- were those things that Mr. Weinstein or Mr. Lambert mentioned to you? 10:41:25 10:41:39 10:41:44 10:41:47

A No, I don't remember. But that's just 10:41:52

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kind of me with my experience in bucket elevators, relaying what some of the issues could be with that, yes. So I don't remember exactly what the reasoning was. 10:41:54 10:41:59 10:42:00 10:42:03

Q So -- sorry. I didn't mean to interrupt you. 10:42:04 10:42:06

A That's okay. 10:42:07

Q So what was your understanding of those issues based on? 10:42:08 10:42:09

A My experience with bucket elevators, yeah, probably. 10:42:10 10:42:14

And, again, I'm thinking back, so this is me guessing, speculating. So I don't remember the exact -- I don't remember the particulars of it. I remember that being relayed to me, and me relaying that back to Masaba in an email. 10:42:14 10:42:16 10:42:18 10:42:22 10:42:26

Q So what was relayed to you by Mr. Lambert or Mr. Weinstein was that bucket elevators did not have a good reputation in the oilfield? 10:42:28 10:42:33 10:42:35

A Yeah. 10:42:37

Q Do you recall either of them relaying to you the reasons being the alignment of the sides 10:42:37 10:42:40

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of the housing or the abrasiveness of the sand? 10:42:42

A No. I don't remember that, no. 10:42:45

Q Okay. So that was based on something 10:42:46

other than statements by Mr. Lambert or 10:42:49

Mr. Weinstein? 10:42:50

A Yes. Yes. I'm sorry. Yeah, that's -- in 10:42:50

my experience, too, yes. 10:42:53

Q Okay. 10:42:53

A That's a correct statement. 10:42:54

Q Your prior experience with what? 10:42:54

A With conveyor -- with conveying -- with 10:42:56

watching bucket elevators. I worked for a couple 10:42:59

of bucket elevator manufacturers, so just my 10:43:01

experience, yeah. 10:43:04

Q Which companies did you work for? 10:43:05

A Martin Sprocket & Gear and a company 10:43:06

called WAM, yeah. 10:43:08

Q Okay. They manufactured bucket elevators? 10:43:12

A Yes. 10:43:14

Q For use with frac sand? 10:43:15

A I'm sure there's frac sand applications, 10:43:16

yeah. 10:43:19

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Q Was there -- were there frac sand applications while you worked with them? 10:43:20 10:43:22

A Yeah. I'm sure there were, yes. 10:43:23

Q Okay. 10:43:27

Let's see. In Paragraph 7 of your declaration -- 10:43:40 10:43:41

A Yes. 10:43:41

Q -- you stated -- and I'm looking at the second sentence: "After some additional work by Masaba on the bucket elevator concept, Masaba proposed a design with a bucket elevator that fed a two-piece articulated belt conveyor." 10:43:44 10:43:47 10:43:50 10:43:50 10:43:53

Do you see that? 10:43:55

A Yes. 10:43:56

Q Okay. 10:43:56

(Exhibit 1105 marked.) 10:44:28

BY ATTORNEY FLANNERY: 10:44:50

Q You've been handed what has been marked as Exhibit 1105, and it's an email from you to Mr. Weinstein and Mr. Lambert and copying dan@anchor-industrial.com. 10:44:50 10:44:52 10:45:01 10:45:05

Do you see that? 10:45:06

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A Yes. 10:45:06
Q Is "Dan" Mr. Dan Trantham? 10:45:06
A Yes. 10:45:08
Q Okay. And that is an email with an 10:45:08
attachment -- 10:45:15
A Yes. 10:45:15
Q -- that includes a number of drawings. 10:45:18
And do you see that that email is sent 10:45:22
January 12th -- 10:45:27
A Yes. 10:45:27
Q -- 2021? 10:45:28
Do you see that? 10:45:29
A Yes. 10:45:30
Q Is it your understanding that this is one 10:45:31
of the -- was this an initial design for Masaba of 10:45:32
the bucket conveyor? 10:45:39
A If I remember correctly, this was, yeah, 10:45:39
where we started. 10:45:40
Q Do you recall any earlier drawings with a 10:45:41
bucket elevator? 10:45:46
A It's been -- I don't think so. It's been 10:45:46
so long ago, but I don't remember. 10:45:49

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Q Okay. The unloader that's in this drawing shown here -- 10:45:52 10:45:58
A Yes. 10:45:59
Q -- is this integrated with the conveyor -- with the bucket elevator? 10:45:59 10:46:02
A It appears to be. 10:46:02
ATTORNEY NYDEGGER: Objection; foundation. 10:46:07 10:46:07
THE WITNESS: Yeah, it appears to be. I mean, there's no dimensioning or specifics on it. 10:46:07 10:46:11 10:46:14
BY ATTORNEY FLANNERY: 10:46:15
Q When you say "it appears to be," what is it that makes you think that? 10:46:15 10:46:17
A Well, I mean it all looks to be one piece here. 10:46:17 10:46:21
Q Okay. 10:46:21
A Then if I look at the next page -- is the next page part of the PDFs that were sent with this? 10:46:21 10:46:24 10:46:26
Q Uh-huh. 10:46:26
A So looking at that third page, it looks 10:46:27

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like everything's one piece and folds down into one. 10:46:37 10:46:39

Q Was this the first time that Masaba provided a drawing showing the integrated truck unloader? 10:46:44 10:46:47 10:46:51

A I don't remember. I would assume this is it, but I don't -- it's been so long ago, I don't remember. 10:46:52 10:46:53 10:46:56

Q Based on your memory, do you remember one being earlier than January of 2021? 10:46:56 10:46:58

A I don't remember anything, no. 10:47:00

Q Okay. Was this the first drawing that you recall seeing a vertical bucket elevator? 10:47:01 10:47:06

A I mean, yeah. Again, so long ago, but this appears to be one of the originals that was -- that Masaba designed, yes. 10:47:07 10:47:13 10:47:15

Q The note pointing to the bucket elevator -- there's a label that says: "Bucket Elevator." But then underneath, do you see the one that says: "Erect similarly to silos"? 10:47:19 10:47:22 10:47:24 10:47:26

A Okay. 10:47:29

Q What is your understanding of what that 10:47:29

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meant? 10:47:30

A Probably that it lays down into one piece 10:47:30

and stands up, and I believe that's how the silos 10:47:35

also are on a trailer and they stand up. 10:47:37

So that would be my understanding of 10:47:40

that statement. 10:47:42

Q Okay. Was it your understanding the 10:47:44

mechanism for lifting them would be similar? 10:47:45

A Not -- I mean, I -- at that point, I 10:47:47

didn't know what the mechanisms were, so -- I 10:47:49

don't see any specifics on there on how it would 10:47:53

stand up. This appears to be just a conceptual 10:47:55

drawing. 10:47:57

Q Okay. You see the text on the right is 10:47:58

pointing to a -- what is called a "telescoping 10:48:05

conveyor belt with pivot to reach silos." 10:48:10

Do you see that? 10:48:12

A Yes. 10:48:12

Q When it's referring to the "pivot," where 10:48:12

does that -- where does that conveyor belt pivot? 10:48:16

ATTORNEY NYDEGGER: Objection; 10:48:22

foundation. 10:48:23

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THE WITNESS: It looks like this was prior to the final two-piece articulating conveyor up top, so I believe it just moved back and forth, probably showing -- like the arrow is showing. 10:48:23 10:48:24 10:48:25 10:48:27 10:48:30

BY ATTORNEY FLANNERY: 10:48:32

Q Understood. 10:48:33

A Yeah. 10:48:33

Q And so it would pivot from where it's attached to the bucket elevator? 10:48:33 10:48:36

A Yes. It looks like it, yes. 10:48:36

Q Okay. The prior drawings -- well, I guess let me ask a different question. 10:48:38 10:48:43

Do you recall seeing an earlier drawing than this one using a conveyor belt at the top? 10:48:45 10:48:47 10:48:51

A I don't remember. It looks like -- again, this is five years ago, but this is talking about "could use air slide or gravity feed chute." So my assumption would be that this is prior -- I mean, this is prior to the final design being a belt conveyor. 10:48:51 10:48:56 10:49:01 10:49:04 10:49:06 10:49:09

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Q Okay. 10:49:10
A But I don't remember anything about that, 10:49:10
no. 10:49:12
Q Okay. The air slides were in the prior 10:49:12
drawings that we saw with -- that didn't include a 10:49:15
vertical bucket elevator? 10:49:17
A Yes, I believe they utilized an air slide 10:49:17
up top. 10:49:19
Q Okay. Do you recall who had the idea of 10:49:20
using a conveyor belt as opposed to an air slide? 10:49:22
ATTORNEY NYDEGGER: Objection; 10:49:27
foundation. 10:49:28
THE WITNESS: Someone at Masaba as 10:49:28
they were designing it. I don't remember. 10:49:30
BY ATTORNEY FLANNERY: 10:49:32
Q Do you know if Solaris provided any input 10:49:33
on using an air slide versus a belt conveyor 10:49:35
versus something else at the top? 10:49:39
A I don't recall anything. 10:49:40
Q You don't recall that they provided 10:49:42
anything or you don't know? 10:49:45
A I don't recall if they provided 10:49:46

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information on what type of belts or air slides or anything to use up top, no. 10:49:47 10:49:50

Q Do you know if they would have provided anything like that to Masaba directly without including you? 10:49:52 10:49:54 10:49:57

A I doubt it. Everything -- I mean, my -- everything -- my job was to gather the information and move it back and forth, so my understanding is they would have provided all that to me and I would have forwarded that on to Masaba so we could be aware of it, yes. 10:49:58 10:50:00 10:50:02 10:50:04 10:50:06 10:50:08

Q Okay. So when it says: "Shown with a telescoping conveyor belt," would that conveyor have been able to reach all six silos in the six-pack there? 10:50:09 10:50:13 10:50:19 10:50:23

A I don't know. 10:50:23

ATTORNEY NYDEGGER: Objection; foundation. 10:50:25 10:50:25

THE WITNESS: It looks awful short -- and, again, it's been a long time since I looked at this -- so I don't -- I don't know. I mean, it's not really 10:50:25 10:50:27 10:50:30 10:50:31

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dimensioned out or anything. So without, you know, looking at a CAD model, I don't know. 10:50:32 10:50:34 10:50:36

BY ATTORNEY FLANNERY: 10:50:36

Q Okay. When you say it's "not dimensioned out," this drawing that we're looking at with -- that says the -- I guess it's labeled the "48 inch Truck Unloader," but it shows the six-pack of the silos. This drawing is -- does not include any dimensions. 10:50:36 10:50:38 10:50:41 10:50:43 10:50:46 10:50:50

You agree with that? 10:50:51

A Yes. Up top it does not, no. 10:50:52

So in answering your question, I don't know -- 10:50:56 10:50:59

Q Okay. 10:50:59

A -- your original question. 10:50:59

Q At this point, do you know if the dimensions of the bucket elevator and the arm on top had been decided? 10:51:01 10:51:02 10:51:06

A I don't remember. I don't remember. 10:51:07

Q Okay. 10:51:13

A I would say no because it's not on here, 10:51:13

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but I don't remember. 10:51:15

Q Okay. So flipping back to your 10:51:19

declaration -- I'm sorry for making you go back 10:51:32

and forth. 10:51:34

A Sure. That's okay. Let me get this out 10:51:34

of the way here. 10:51:36

Are we done with this or are we 10:51:36

still -- 10:51:38

Q Keep that for one second. Don't put it in 10:51:38

your stack yet. 10:51:41

A Okay. Got you. 10:51:42

Q But looking at Paragraph 7 of your 10:51:43

declaration -- 10:51:45

A No. 10:51:45

Q -- Exhibit 2006. 10:51:45

So we were talking about the second 10:51:48

sentence where you said: "After some additional 10:51:49

work by Masaba on the bucket elevator concept, 10:51:52

Masaba proposed a design with a bucket elevator 10:51:55

that fed a two-piece articulated belt conveyor." 10:51:55

A Okay. 10:51:58

Q The conveyor that we were looking at just 10:51:58

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a second ago in Exhibit 1006 -- 10:52:03

THE REPORTER: The last one was 5. 10:52:03

BY ATTORNEY FLANNERY: 10:52:03

Q -- I'm sorry, 1006 -- 10:52:10

ATTORNEY NYDEGGER: It's 1105. 10:52:10

ATTORNEY FLANNERY: Thank you. I 10:52:12

appreciate it. The -- I'll start over. 10:52:14

BY ATTORNEY FLANNERY: 10:52:16

Q The design that we were looking at in 10:52:17

Exhibit 1105, the conveyor at the top was 10:52:19

telescoping, not articulating; correct? 10:52:24

A Yes. 10:52:27

Q Okay. So Masaba proposed the design that 10:52:27

you're referring to here in Paragraph 7 with the 10:52:31

articulated belt conveyor. Was it sometime before 10:52:34

or after the one we were looking at? 10:52:37

A Oh, I'm sure it would have been after. 10:52:38

This would be -- yeah. 10:52:40

Q Okay. 10:52:41

A So this was still referencing an air slide 10:52:41

and telescoping, so my recollection then we moved 10:52:43

into the two-piece design, and then that was the 10:52:48

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final design when the PO was placed. 10:52:52

Q Got it. Okay. 10:52:55

And then in the next sentence in 10:52:57

Paragraph 7 there, you said: "After Masaba 10:53:00

presented this concept" -- just to ask so I've got 10:53:03

information -- when you say "after Masaba 10:53:05

presented this concept," are you referring to the 10:53:07

concept with the articulated belt conveyor? 10:53:09

A Let me read this real quick. 10:53:15

Q Sure. 10:53:16

A So you're asking me: "After some 10:53:17

additional work by Masaba on the bucket elevator 10:53:21

concept, Masaba proposed a design with a bucket 10:53:23

elevator that fed a two-piece articulating 10:53:25

conveyor. After Masaba presented this concept, 10:53:28

Solaris issued a purchase order" -- yes. 10:53:32

So after -- to my recollection, after 10:53:36

Masaba presented the final version with the 10:53:38

two-piece articulating conveyor, then the PO was 10:53:43

placed. Yes. 10:53:45

Q Okay. 10:53:45

(Exhibit 1106 marked.) 10:54:17

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THE WITNESS: Okay. Can I put this one up? 10:54:21 10:54:22

ATTORNEY FLANNERY: Yes, you can. 10:54:24

THE WITNESS: I'll keep them all straight for you. 10:54:25 10:54:26

BY ATTORNEY FLANNERY: 10:54:27

Q So you've been handed what's been marked as Exhibit 1106. 10:54:37 10:54:40

A Yes. 10:54:43

Q And it's the -- that is a string of emails between you and Mr. Weinstein with some Masaba folks copied on the CC on the last one. 10:54:43 10:54:47 10:54:51

A Yes. 10:54:54

Q And this email is dated January 20th, 2021. 10:54:55 10:55:04

Do you see that? 10:55:04

A Yes. 10:55:04

Q Okay. And so I'm going to go to the last email. You can review as many -- as much of this as you need to. 10:55:04 10:55:13 10:55:15

A Okay. Sure. 10:55:16

Q I'm not trying to prevent you from reading 10:55:17

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the rest of it, but my questions are about the latest email in the chain -- 10:55:19 10:55:21

A Okay. The -- okay. Got you. 10:55:22

Q -- the one from Mr. Weinstein. 10:55:24

And he notes that -- I guess in the second-to-last sentence: "We would like Masaba to proceed with the concept, incorporating a drive-over unloader as depicted." 10:55:25 10:55:32 10:55:35 10:55:37

Do you see that? 10:55:38

A Yes. 10:55:39

Q Okay. At this point, is it your understanding that Masaba had a design that included an articulated conveyor? 10:55:39 10:55:40 10:55:43

A I don't remember at that point. 10:55:44

Q Okay. 10:55:46

A Yeah. 10:55:47

Q In the next sentence, he says: "We still need a budgetary cost and delivery schedule is of primary importance." 10:55:48 10:55:52 10:55:55

Do you see that? 10:55:55

A Yes. 10:55:56

Q Okay. The budgetary cost and delivery 10:55:56

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schedule, who was responsible for providing that? 10:56:01
A Anchor. 10:56:02
Q Okay. 10:56:03
A Yes. 10:56:04
Q Do you know why one hadn't been provided yet? 10:56:05 10:56:07
A I don't recall. 10:56:07
Q Would Anchor have provided a budgetary cost or delivery schedule before Masaba had the finalized design? 10:56:13 10:56:16 10:56:19
A Probably not, but I don't -- I don't recall the situation. 10:56:21 10:56:26
Q It wouldn't have been your typical practice to do that before they had a final design? 10:56:28 10:56:30 10:56:32
A Not to give an accurate budgetary -- yeah, which would we would -- I'm sure we would have wanted to do, but I don't remember again. 10:56:33 10:56:37 10:56:39
Q Makes sense. 10:56:40
A Yeah. 10:56:41
Q And so the budgetary cost and delivery schedule, you said Anchor would have been 10:56:42 10:56:45

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responsible for providing that? 10:56:47
A Yes. 10:56:47
Q Would you have gotten input from Masaba on 10:56:49
that? 10:56:51
A We would have been quoted a price from 10:56:52
Masaba and then we would have -- we were the 10:56:55
middleman, so we would have put our, you know, 10:56:57
mark-up on it and then provided the price or 10:57:00
budgetary quote to Solaris, yes. 10:57:04
Q Okay. So you wouldn't have provided -- 10:57:06
Anchor wouldn't have provided its price until 10:57:07
Masaba provided its price to Anchor? 10:57:10
A I -- in most cases. But, again, I don't 10:57:11
remember the situation, but that would be typical, 10:57:13
yes. 10:57:16
Q Do you remember doing anything different 10:57:17
in this -- for this project? 10:57:19
A I don't remember. Yeah. 10:57:20
Q Okay. At the end of that sentence that we 10:57:21
were just reading in Mr. Weinstein's email, he 10:57:27
says that -- the -- I guess I was bringing it 10:57:30
down: "We still need a budgetary cost and 10:57:34

delivery schedule is of primary importance." 10:57:36

Do you understand him to be saying 10:57:38

that the delivery schedule was of primary 10:57:40

importance to Solaris? 10:57:43

A Yes. I'm sure, yes. 10:57:44

Q Okay. Is that consistent with your 10:57:45

recollection of what Solaris wanted for this 10:57:46

project? 10:57:48

A That they have a specific delivery date? 10:57:48

Q Yes. 10:57:53

A Yes. Yeah. 10:57:53

Q Okay. When did Solaris want the project 10:57:55

delivered at this point? This is in January 10:57:58

of 2021. What would that -- 10:58:00

A I can't remember what they were 10:58:01

requesting, but every -- you know, as quickly as 10:58:02

possible. But I don't remember -- I don't know 10:58:04

there was a specific date. It was just get it 10:58:07

designed, get it tested, get it done. So I don't 10:58:09

remember. I don't recall. 10:58:12

Q Okay. And you stated there -- sorry, 10:58:15

flipping back to Paragraph 7 -- 10:58:22

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A Yes. 10:58:23
Q -- I think it was in the sentence you read 10:58:24
that Solaris issued a purchase order to Anchor for 10:58:25
one unit of the Masaba design? 10:58:28
A Yes, I believe so. Yes. 10:58:30
Q And then Anchor, in turn, issued a 10:58:33
purchase order to Masaba? 10:58:34
A Yes. 10:58:35
Q Okay. You can put that one aside. 10:58:36
A Okay. We're done with this exhibit? 10:58:47
Q Yes. 10:58:49
A Okay. 10:58:50
(Exhibit 1107 marked.) 10:59:01
BY ATTORNEY FLANNERY: 10:59:07
Q You've been handed what has been marked as 10:59:08
Exhibit 1107, and the last email in the chain is 10:59:10
an email from Mr. Weinstein to you -- 10:59:16
A Yes. 10:59:18
Q -- with the subject "Solaris Oilfield 10:59:19
PO 90826." 10:59:22
Do you see that? 10:59:24
A Yes. 10:59:25

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Q Is it your understanding this was that first purchase order for the first unit of the Masaba design? 10:59:25 10:59:27 10:59:29

A I believe so. 10:59:30

Q Okay. To be clear, the attachment, I guess, to this email was the purchase order; correct? 10:59:30 10:59:34 10:59:36

A Okay. 10:59:37

Okay. 10:59:40

Q Okay. And so following receipt of this purchase order, Anchor would have issued a purchase order to Masaba? 10:59:41 10:59:52 10:59:54

A Yes, I'm sure. Yes. 10:59:56

Q Okay. Looking at that purchase order that we were just looking at -- I think it's about four or five pages into the document. 10:59:57 11:00:00 11:00:02

A Yes. 11:00:06

Q The first page after the emails. 11:00:06

A Let me put this up here and out of the way here. 11:00:08 11:00:10

Okay. This one right here? 11:00:11

Q Yes. I just want to make sure -- 11:00:13

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A Yeah. I'm trying not to get them mixed up here. 11:00:18 11:00:20

Q No. You're good. You're good. 11:00:20

A Okay. 11:00:22

Q And so in this purchase order, it states that the "Unit Price" was [redacted]? 11:00:23 11:00:26

A Okay. 11:00:29

Q Was that for the entire unit, for the conveyor as well as the transloader, the truck transloader? 11:00:30 11:00:33 11:00:36

A I'm sure it was. Can I look at the -- can I have a minute -- 11:00:37 11:00:41

Q Yes. 11:00:42

A -- to look at the proposal and everything just so I can give you -- 11:00:42 11:00:44

Q Yes. 11:00:46

A -- a good, correct answer? 11:00:48

So it appears from the proposal, the [redacted] was everything -- there was an additional option of a drive-over truck unloading area, so that did not include the truck drive-over. 11:00:55 11:01:10 11:01:14 11:01:17

Again, it's been so long I looked at 11:01:22

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these. I apologize. But... 11:01:23

So in answer to your question, the 11:01:32

[redacted] relating to the Anchor Technical proposal 11:01:34

included the truck unloading, electric over 11:01:41

hydraulic unit for lifting, the single-leg 11:01:45

centrifugal bucket elevator, the camera, 11:01:49

telescoping chute, RIG-A-LITE 130W J flood, 11:01:50

switchgear, road portable package, and paint and 11:01:55

primer. 11:01:58

And that's what [redacted] was placed on 11:01:58

PO from Solaris. 11:02:02

Q Okay. Looking at the Solaris protect -- 11:02:05

purchase order -- excuse me -- when it lists the 11:02:10

"Part Number/Revision/Description," you see where 11:02:13

it lists: "Bucket elevator silo system with 11:02:16

single Masaba truck unloader"? 11:02:18

A Yes. 11:02:20

Q So is it your understanding that the 11:02:21

[redacted] -- that's the only price listed here -- 11:02:23

did not cover the truck unloader? 11:02:27

A You know, I don't remember, and I... 11:02:29

So the proposal was [redacted] for 11:02:52

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everything except for the truck unloader. However, their PO states it has the truck unloader. 11:03:03 11:03:07 11:03:09

So I don't remember at that time, looking at this. 11:03:09 11:03:11

Q Just let me know when you're finished. 11:03:23

A Yeah. 11:03:24

ATTORNEY MASTELLER: You can take your time and read through it. 11:03:28 11:03:28

THE WITNESS: Well, I'm just trying to -- I'm trying to rectify the two. 11:03:29 11:03:30

So what I would say is that the Anchor Technical proposal for [redacted] did not include the truck unloader, but I do see the PO for [redacted]. On the Solaris PO, it says: "Single Masaba truck unloader" included, so those don't rectify. Those don't match up. 11:03:43 11:03:45 11:03:48 11:03:51 11:03:55 11:03:58 11:04:01

BY ATTORNEY FLANNERY: 11:04:02

Q Do you recall what the final amount actually paid by Solaris was? 11:04:02 11:04:04

A I don't remember. 11:04:05

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Q Okay. So these were the purchase order documents between Solaris and Anchor; correct? 11:04:06 11:04:12

A Yes. 11:04:14

Q The purchase order documents were between Anchor and Masaba that you mentioned in your declaration would have been different documents? 11:04:14 11:04:17 11:04:18

A Anchor would have issued a -- yeah, their own PO to Masaba, yes. 11:04:21 11:04:24

Q Do you recall the pricing on that document? 11:04:26 11:04:27

A I don't. 11:04:27

Q Okay. 11:04:28

A I don't. 11:04:29

Q It stands to reason it was going to be less than [redacted]? 11:04:30 11:04:32

A I don't remember. Yeah, I don't remember any of that. I'm sorry. Yeah. 11:04:35 11:04:36

Q Okay. On the -- or I'm sorry. 11:04:38

On the Solaris purchase order, it lists "Due Date." 11:04:41 11:04:44

Do you see that? 11:04:47

A Yes. 11:04:47

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Q Listing May 19th, 2021. 11:04:48
Do you see that? 11:04:50
A Yes. 11:04:50
Q Was that a delivery date that the parties had discussed? 11:04:52 11:04:54
A I don't remember. I don't remember. It's been so long ago, I don't remember the conversations around that. I don't know -- I mean, it could have been a testing date. I'm not sure. So I don't recall. 11:04:55 11:05:02 11:05:05 11:05:07 11:05:10
Q Okay. On the Anchor proposal that follows it, on Page 2, sort of the bottom of Page 2 -- 11:05:13 11:05:16
A Yes. 11:05:21
Q -- do you see where it says: "Lead Time"? 11:05:21
A Yes. 11:05:21
Q And it states: "Approval drawings: By February 15th, 2021." 11:05:28 11:05:31
Do you see that? 11:05:32
A No. I see: "Approval drawings: By 2/15/21" -- I'm sorry. Yes. "Approval drawings," yes, I see that. 11:05:32 11:05:40 11:05:43
Q And then: "First unit (prototype): 12 to 11:05:45

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14 weeks from print approval." 11:05:45

Do you see that? 11:05:45

A Yes. 11:05:49

Q When it's talking about "print approval," 11:05:49

is it referring to the approval drawings date 11:05:52

that's listed above it? 11:05:53

A I believe that would have been after they 11:05:54

signed off on the approval drawings and any 11:05:56

pertinent changes would have been made and there 11:05:58

was a final agreement on the final -- you know, 11:06:00

final design. 11:06:02

Q Okay. 11:06:03

A It would be 12 to 14 weeks after that. 11:06:04

Q And that 12 to 14 weeks, was that 11:06:06

something that you put together? 11:06:08

A No. I mean, that would have -- I mean, we 11:06:09

would have been quoted that from our vendor, you 11:06:15

know. So we would have relayed that from the 11:06:17

manufacturer on our proposal. 11:06:23

Q Okay. So Masaba would have given you that 11:06:25

12- to 14-week -- 11:06:27

A Most likely. Again, this is a long time 11:06:28

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ago. I don't remember. But that's -- that would be my assumption, is that we would have got that from someone else, yes. We weren't manufacturing it. 11:06:30 11:06:32 11:06:35 11:06:36

Q You don't remember get -- having -- changing an input that Masaba gave you? 11:06:37 11:06:40

A I don't remember, no. 11:06:42

Q Okay. Who at Anchor was responsible for this purchase order paperwork that we've been talking about for this project? 11:06:42 11:06:52 11:06:56

A I would have prepared it and then it would have come from -- it would have been performed by our management, yes. 11:06:57 11:06:58 11:07:00

Q Okay. And this, sort of, package of attachments included the Solaris purchase order that we looked at, the Anchor proposal, there's some additional drawings. 11:07:03 11:07:06 11:07:11 11:07:19

A Okay. 11:07:21

Q And then you see this -- I think you're actually -- this page, the "Solaris Oilfield Site Services Operating, LLC Standard Terms and Conditions." 11:07:22 11:07:25 11:07:28 11:07:29

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Do you see that? 11:07:30

A Yes. 11:07:30

Q Okay. Would you have read these terms and conditions when you received this? 11:07:30

A No. I would have forwarded them on to management -- 11:07:33

Q Okay. 11:07:34

A -- who would have read them and -- but, yeah, that's not my purview as a salesperson. 11:07:36

Q By "management," who are you referring to? 11:07:40

A I would have -- I would have sent them to probably Dan Trantham, my boss. Yeah. And then -- yeah. 11:07:43

Q Okay. Did you ever discuss these terms and conditions with Solaris? 11:07:44

A No. I don't get involved in T&Cs. 11:07:46

Q Okay. Do you know if anyone at Anchor discussed them with Solaris? 11:07:48

A I don't know. 11:07:51

Q Okay. The purchase order that Anchor issued to Masaba, is that also paperwork you would have created? 11:07:55

11:07:57

11:08:03

11:08:06

11:08:06

11:08:08

11:08:11

11:08:14

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A No. 11:08:15
Q Okay. 11:08:15
A No. 11:08:15
Q Who would have created that? 11:08:16
A On something like that -- I mean, Dan 11:08:17
would have been involved. Dan Trantham would have 11:08:21
been involved in it. I'm not sure who would have 11:08:22
cut that PO. Somebody -- somebody in purchasing, 11:08:24
probably. 11:08:28
Q Okay. But you know it was sent to Masaba? 11:08:28
A Oh, I'm sure there was a PO sent to 11:08:31
proceed with the order, yes. I'm sure there would 11:08:33
have been. 11:08:33
I don't know for a fact; but, yeah, 11:08:36
there would have been some exchange of POs between 11:08:39
the two to proceed with manufacturing. 11:08:42
Q Did you send that to Masaba? 11:08:43
A No. No. 11:08:45
Q Okay. So someone else at Anchor would 11:08:46
send it? 11:08:49
A Yes. Yes. 11:08:49
Q Were you involved in discussing with 11:08:53

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Masaba the terms of that purchase order? 11:08:56

A "The terms" as in, like, deliveries and -- 11:08:58

Q Yes. 11:09:03

A No, not that I recall. 11:09:04

Q Okay. Who at Anchor would have done that? 11:09:06

A Someone -- I don't know who he would have had cut the PO, so someone -- I don't know who was working in purchasing at that point, but Dan and -- now, I will say at some point, you know, that the deliveries and so on would have been conveyed to me. But anything in terms of the PO or terms and conditions, I had nothing to do with. 11:09:08 11:09:10 11:09:17 11:09:19 11:09:21 11:09:23 11:09:25

Q Okay. 11:09:27

A Yeah. 11:09:28

Q Do you know if ownership of intellectual property was discussed during that negotiation? 11:09:33 11:09:36

A I don't know. 11:09:37

Q Okay. You can set that document aside. 11:09:45

A Sure. 11:09:46

Q After this time period -- so after January of 2021 -- were there meetings between, amongst you, Solaris, and Masaba particularly in South 11:09:54 11:09:58 11:10:02

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Dakota at Masaba's facility? 11:10:05

A Yes. We went up for testing a long time 11:10:07

ago. I think Solaris maybe came up once or twice 11:10:11

during the manufacturing process, and then came up 11:10:19

for the testing probably a couple times. But, 11:10:21

again, it was so long ago I can't tell you exactly 11:10:25

how many times, but we did meet up there, yes. 11:10:27

Q Okay. So let me take a step back and 11:10:31

orient ourselves on time. 11:10:33

So in Paragraph 9 of your declaration, 11:10:34

Exhibit 2006 -- 11:10:36

A Yes. 11:10:37

Q -- you stated: "In the summer of 2021, 11:10:38

after Masaba built the first unit, Masaba 11:10:40

performed tests." 11:10:43

A Yes. 11:10:44

Q Okay. So the manufacturing would have 11:10:44

been occurring at some point before the summer 11:10:46

of 2021? 11:10:49

A Yes. Yes. 11:10:49

Q Okay. And I think you said -- 11:10:51

A Excuse me. I'm sorry. 11:10:55

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Q No. No. Take your time. That's okay. 11:10:56

So the meeting -- or the instances 11:10:58

where Solaris visited during the manufacturing, 11:11:01

that would have been sometime before the summer? 11:11:02

A Yes. 11:11:04

Q Okay. Did you attend those meetings? 11:11:04

A Yes. 11:11:06

Q Okay. So you attended -- did anybody else 11:11:07

from Anchor attend those meetings during the 11:11:14

manufacturing? 11:11:15

A Dan Trantham would have -- I think he 11:11:16

was -- I don't know if he was at all of them, but 11:11:19

Dan would have been there. I think it was just 11:11:21

Dan and I would have been there, yeah. 11:11:25

Q From Anchor? 11:11:28

A Yeah. 11:11:29

Q Okay. And from Solaris, who would have 11:11:30

attended? 11:11:32

A There was one meeting where Kelly -- I 11:11:33

can't remember his last name, he's the VP, but you 11:11:35

know who I'm talking about from Solaris -- was 11:11:38

there, and Scott and Jeremy, and then -- I think 11:11:39

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the others there was Jeremy and Scott. 11:11:43

Q Okay. 11:11:45

A Yeah. 11:11:45

Q What were the -- well, and so who from Masaba would attend those meetings? 11:11:50 11:11:53

A Dan Brinkman was there. Andrew would come -- Andrew Wells would come up. Various people from engineering would probably be there during the testing and so on. 11:11:55 11:11:59 11:12:02 11:12:06

Q And I just want to make sure I'm getting it clear. 11:12:11 11:12:12

So I'm asking right now about the meetings during the manufacturing period -- 11:12:12 11:12:15

A Yes. 11:12:16

Q -- so before the testing. 11:12:16

A Yes. 11:12:17

Q All those people. 11:12:17

A Yeah. I mean, there are just various people coming in and out. So -- but, yeah, there was just various people from Masaba. But engineering, there was a man named Dustin Buchholtz was there. He was kind of their 11:12:18 11:12:20 11:12:22 11:12:24 11:12:35

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operations field guy, so yeah. 11:12:37

Q Okay. Those meetings during the 11:12:37

manufacturing process -- 11:12:37

A Yes. 11:12:37

Q -- so I guess this would have been spring 11:12:38

of 2021? 11:12:40

A Probably, yeah. Something like that. 11:12:40

Q Okay. I'm just going to use "spring 11:12:41

of 2021" so we avoid -- 11:12:44

A Okay. 11:12:45

Q -- any confusion with that. 11:12:46

Those meetings in the spring of 2021, 11:12:48

what was the purpose of you and Solaris visiting 11:12:50

during that time, during manufacturing? 11:12:54

A I think Solaris just wanted to see 11:12:55

progress. You know, where they were at on the 11:12:57

building. 11:13:00

Boy, thinking back now, there may -- I 11:13:02

can't recall. There may have been some -- I think 11:13:05

it was mainly probably just looking at progress at 11:13:07

the system and seeing where they're at for their 11:13:09

own eyes, just to kind of see where it was at for 11:13:11

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the most part, is my understanding, yes. 11:13:13

Q Okay. So progress with their own eyes. 11:13:15

Did you and the Solaris 11:13:18

representatives go into the manufacturing 11:13:19

facility? 11:13:21

A Oh, yes. Yeah. 11:13:22

Q Okay. Did you get a tour? 11:13:22

A Did we get a tour? 11:13:25

Q Yes. 11:13:27

A Yeah, I don't know if you'd call it "a 11:13:27

tour." We walked through the facility and looked 11:13:29

at the capabilities, but mainly was there to look 11:13:31

at the project -- at the piece of equipment. 11:13:33

Q So you and the Solaris representatives 11:13:34

observed the actual unit being manufactured? 11:13:37

A Yes. Yes. 11:13:39

Q Okay. Was -- so at that point, was the 11:13:40

design -- had the design been finalized at that 11:13:45

point during manufacturing? 11:13:48

A Yes. I -- 11:13:50

ATTORNEY NYDEGGER: Objection; 11:13:50

foundation. 11:13:52

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THE WITNESS: There may have been some changes made along the way. I don't remember what those might have been, but they'd have been minor. But the overall design, I would say, would have probably been finalized, yes. 11:13:52 11:13:53 11:13:55 11:13:56 11:13:58 11:14:00

BY ATTORNEY FLANNERY: 11:14:01

Q Okay. Do you have any more recollect -- more detailed recollection during that time period of when you visited the manufacturing? Was it April? May? 11:14:09 11:14:10 11:14:11 11:14:15

A I don't remember. 11:14:16

Q Okay. 11:14:17

A I'm sorry. 11:14:18

Q It's okay. 11:14:19

During those meetings in the spring of 2021, do you recall any discussion involving either you, Solaris, Masaba regarding ownership of the intellectual property in the design? 11:14:19 11:14:24 11:14:28 11:14:34

A No. 11:14:36

Q Okay. During that time, do you know when Masaba was expecting to have that manufacturing of 11:14:38 11:14:40

the first unit completed? 11:14:43

A I don't -- I don't remember. I mean, I think we -- I think they finished it in beginning the August, I think is when we tested it. So I think they were shooting for late summer, but I don't remember specifics. 11:14:45 11:14:51 11:14:53 11:14:56 11:14:58

Q Okay. You're certainly free to go confirm this, but the -- I think the Anchor proposal listed approval of the drawings mid-February of 2021. 11:14:59 11:15:02 11:15:05 11:15:09

Do you recall that? 11:15:09

A Those were when the approval drawings were sent to Solaris to sign off on. Yeah, I don't recall how quickly they turned those around and sent them back, so I don't know what space of time was -- before they sent approval drawings back before that 12 to 14 weeks started. 11:15:10 11:15:12 11:15:15 11:15:17 11:15:20 11:15:23

Q Do you think it took until longer than March? 11:15:24 11:15:26

A I don't remember. I don't remember. 11:15:26

Q Okay. Do you know if -- that August date that you talked about, do you know if that was 11:15:30 11:15:33

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more than 12 to 14 weeks from the approval of the drawings? 11:15:38 11:15:40

A I don't remember. I don't remember when the drawings came back. 11:15:40 11:15:42

Q But the expected date would have been, to your recollection, 12 to 14 weeks from whenever the drawings were approved? 11:15:48 11:15:50 11:15:52

A That's what was on the proposal, yes. Now, I don't remember if anything changed after that or along the way or there were any issues with, you know, availability of parts or anything. I don't recall any of that. 11:15:54 11:15:56 11:15:58 11:16:00 11:16:02

Q Okay. Did Solaris pressure you to get the unit delivered as soon as possible? 11:16:04 11:16:08

A I wouldn't say "pressure." But, yeah, they needed it. You know, they're my customer. I wanted to get it done for them and have a working unit that helped them -- you know, helped my customer. 11:16:09 11:16:12 11:16:14 11:16:16 11:16:19

So, yeah, I worked tirelessly on this for them. So I did my best to gather the information, relay it, and be the liaison between 11:16:20 11:16:22 11:16:26

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everyone to get this thing done for them. 11:16:29

Q Okay. Do you recall when the first unit 11:16:31

actually was delivered to Solaris? 11:16:33

A I don't remember. I don't remember. I 11:16:34

know we did the testing beginning of August, but I 11:16:37

don't remember when the final unit was sent to 11:16:39

them. 11:16:41

Q Okay. So it wasn't before August? 11:16:41

A I don't believe so. 11:16:43

Q Okay. 11:16:46

A Yeah. 11:16:46

Q Let's see. 11:16:48

A But I don't recall the dates, but I don't 11:16:56

believe so. 11:16:57

ATTORNEY FLANNERY: You can put

that one aside.

THE WITNESS: Okay.

ATTORNEY FLANNERY: I've got a new

one for you.

THE REPORTER: 1108. 11:17:16

(Exhibit 1108 marked.) 11:17:16

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BY ATTORNEY FLANNERY: 11:17:19

Q All right. You've been handed an email 11:17:19

chain with attachments that's been marked as 11:17:24

Exhibit 1108. 11:17:28

Do you see that? 11:17:28

A Yes. 11:17:29

Q Okay. And I'm going to look at the last 11:17:29

email, which is the first one on the first page. 11:17:33

A Okay. 11:17:35

Q But, again, you can review as much of it 11:17:35

as you like. 11:17:37

An email dated Wednesday, June 2nd, 11:17:38

2021 -- 11:17:41

A Okay. 11:17:41

Q -- from a Mr. Derek Bullard at Solaris 11:17:42

Oilfield to you, Rita Griffin, and accounts 11:17:48

payable. 11:17:51

Do you see that? 11:17:52

A Yes. 11:17:52

Q Who is Rita Griffin? 11:17:53

A I don't know. Maybe somebody on our end. 11:17:54

Q Okay. 11:17:58

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A I'm not familiar with her. 11:17:58

Q I was just curious. 11:18:00

A Yeah. 11:18:02

Q And do you see this is a -- the subject line says this is a Solaris -- for a "Solaris Oilfield PO 91578." 11:18:03 11:18:06 11:18:09

Do you see that? 11:18:11

A Yes. 11:18:12

Q Okay. And do you understand that the attachment were a purchase order for a second unit from Masaba? 11:18:13 11:18:15 11:18:21

A Yes. 11:18:23

Q So looking at the attachment, which is, I guess, the fourth page in the exhibit, you see the purchase order from Solaris? 11:18:26 11:18:28 11:18:35

A Yes. 11:18:36

Q Okay. And the "Unit Price" here reflected is [redacted]. 11:18:37 11:18:39

A Yes. 11:18:40

Q Okay. Do you know how that price was determined? 11:18:41 11:18:45

A Well, we would have been given a price by 11:18:46

Masaba, and then we would have put our markup on it and quoted Solaris. 11:18:49 11:18:51

Q Okay. So you think this price was based on something that Masaba gave to you and then you conveyed to Solaris? 11:18:53 11:18:56 11:18:58

A Yes. 11:18:59

Q Okay. That price, [redacted] -- you can check if you like -- but I'll represent to you that is higher than the price from the first Solaris purchase order. 11:18:59 11:19:08 11:19:10 11:19:13

A Yes. 11:19:15

Q Do you recall that? 11:19:15

A Yes. 11:19:15

Q Do you recall why that price is higher? 11:19:15

A Probably because the changes that were made. You know, I think there were some changes made, there were some extra costs in it. So there was -- it was just a higher cost because of the changes or additional things that may have been put in it. What those were, I don't remember, but that would have -- that would have accounted for the difference in price. 11:19:18 11:19:19 11:19:21 11:19:25 11:19:28 11:19:29 11:19:32 11:19:34

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Q Okay. Did Anchor also issue a purchase order to Masaba for this second unit? 11:19:38 11:19:40

A I'm sure we would have, yeah. I didn't have any -- I wasn't involved in that, but, yeah, I'm sure we would have issued a PO as well, yes. 11:19:42 11:19:43 11:19:45

Q Okay. Do you have any independent knowledge of Anchor issuing that purchase order? 11:19:47 11:19:49

A I did not see it. I don't -- that I recall, yeah. 11:19:51 11:19:53

Q Okay. Let's see. I'll do one more. 11:19:54

A Are we done this with one? 11:20:21

Q Yes. We're done with that one. You're learning the drill. 11:20:23 11:20:26

THE REPORTER: 1109. 11:20:26

ATTORNEY FLANNERY: 1109, yes, ma'am. 11:20:26 11:20:26

(Exhibit 1109 marked.) 11:20:37

BY ATTORNEY FLANNERY: 11:20:37

Q All right. You've been handed an email chain marked as Exhibit 1109. 11:20:39 11:20:40

And this email, I'm going to go earlier in time. So I'm going to go to the second 11:20:44 11:20:49

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page. We'll start with your email on June 8th, 2021, at 8:22 a.m. It's sort of in the middle of the page. 11:20:55 11:20:57 11:20:59

A Okay. 11:21:00

Q Do you see that? Okay. 11:21:01

You say: "How did my email go over? Not well, I'm guessing." 11:21:02 11:21:07

A Okay. 11:21:08

Q Do you recall what that email was about? 11:21:09

A No. Is there something further in here? 11:21:14

Q So -- 11:21:16

A I don't remember this email. 11:21:18

Q You are free to review as much of this as you like. See if this helps refresh your recollection. I will point you to something that I think may refresh your recollection, but you can look at it as much as you like. 11:21:19 11:21:22 11:21:24 11:21:26 11:21:28

The email that Mr. Weinstein sent in response to yours says: "There is acceptance, but we are hoping to see an improved delivery if possible." 11:21:29 11:21:32 11:21:35 11:21:37

I don't know if that or anything else 11:21:38

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refreshes your recollection as to what you might have been talking about in the previous email? 11:21:40 11:21:42

A I don't remember. I mean, based off of this, maybe there's a delivery issue. But I don't remember -- I don't recall the email thread. 11:21:44 11:21:46 11:21:49

Q When you say "maybe there's a delivery issue," what do you mean by that? 11:21:52 11:21:54

A I'm looking at his email above: "There is acceptance, but we're hoping to see improved delivery." 11:21:55 11:21:57 11:22:00

So I don't -- I guess what I will say, I don't remember the email thread. 11:22:00 11:22:01

Q Okay. When he said: "It was noted that we are somewhere around five to six weeks delayed from the initial project delivery" -- 11:22:03 11:22:06 11:22:09

A Yeah. 11:22:10

Q -- do you see that? 11:22:10

A Yes. 11:22:11

Q Is that consistent with your recollection of the schedule? 11:22:12 11:22:14

A Man, I don't remember. I don't remember. 11:22:14

To give you an honest answer, I don't 11:22:22

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recall this email thread, so I don't remember the situation surrounding it. 11:22:23 11:22:27

Q Okay. Separate from whether you remember this email -- I don't remember most emails I send either. 11:22:31 11:22:33 11:22:36

A Yeah. It was five years ago -- 11:22:37

Q I get that. 11:22:38

A -- or four years ago. 11:22:38

Q Let me ask you a cleaner question. 11:22:39

A Sure. 11:22:41

Q In that time period, June of 2021, do you recall the project was behind schedule? 11:22:42 11:22:44

A I don't know if we were behind schedule. I know that Solaris wanted this, like, soon and quickly, and to be tested quickly. So I don't -- I don't remember the context at that point. 11:22:49 11:22:50 11:22:53 11:22:57

So my answer to you is I don't remember. I'm sorry. 11:23:01 11:23:03

Q Okay. 11:23:06

A Yeah. 11:23:06

Q Did -- at that time, did you have any concerns that you were not meeting Solaris' 11:23:06 11:23:07

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expectations in terms of the timing of the delivery? 11:23:10 11:23:13

A No, I don't think so. I think, you know, from my perspective, from basically concept to testing of a successful large piece of equipment in, you know -- what were we -- February to August was a pretty tall order. 11:23:13 11:23:15 11:23:25 11:23:27 11:23:32

So I think it was -- and even Jeremy noted and I think I noted in my declaration that to do that and have a working piece of equipment like that, design and manufacturing was pretty impressive. But I don't remember the context as far as delivery or being late on this. I just don't recall. 11:23:38 11:23:42 11:23:45 11:23:48 11:23:50 11:23:54 11:23:56

Q Okay. Looking at your response to Jeremy's email -- it's just one page -- 11:23:57 11:23:59

A Yes. 11:24:02

Q Yeah. There you go. 11:24:02

You responded, it looks like, two minutes after his email is sent. 11:24:03 11:24:08

Do you see that? 11:24:10

A Yes. 11:24:10

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Q Okay. And you said you "were doing" -- 11:24:10
you say "I" -- I'm assuming that means you? 11:24:12
A Yes. 11:24:15
Q That you "were doing everything possible 11:24:15
to move this along. Please know that. Thanks for 11:24:17
your patience." 11:24:20
A Yes. 11:24:21
I think probably looking at that, I 11:24:22
know -- you know, Solaris was my customer and 11:24:24
Jeremy and I worked really closely together, so I 11:24:26
wanted to make sure that I was taking care of him 11:24:28
and taking care of Solaris. So everything I could 11:24:31
do to get this to them, even ahead of schedule, 11:24:33
was my goal working on the project. 11:24:35
So I don't remember the for instance. 11:24:37
I'm sorry. But I know that they needed it and 11:24:38
they wanted it, so I was just trying to move the 11:24:42
project along and get it done. 11:24:43
Q At this time, was it your understanding 11:24:45
that you had the possibility of delivering it 11:24:47
ahead of schedule? 11:24:49
A I don't remember. I don't remember. I'm 11:24:50

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sorry. 11:24:53

Q Okay. And then in the -- I guess the last email -- it's the top email on this page -- 11:24:53 11:25:02

A Yes. 11:25:05

Q -- where you say: "Dan Brinkman asked if we can come on the July 14th," I guess is what's being referred to there -- 11:25:05 11:25:07 11:25:11

A Okay. 11:25:12

Q -- "and give him -- give them a couple of extra days." 11:25:13 11:25:15

Do you recall that? 11:25:15

A I don't recall that, but I'm reading it. I don't recall the instance of what that surrounded. 11:25:16 11:25:21 11:25:24

I mean, from the email, it looks like they were doing their own testing there. I don't remember. I'm sorry. It's been so long ago. 11:25:31 11:25:32 11:25:37

ATTORNEY FLANNERY: I think we've been going about an hour and 15. Why don't we take a break? 11:25:43 11:25:44 11:25:46

THE WITNESS: I'm good to keep going unless you're good. 11:25:47 11:25:48

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ATTORNEY FLANNERY: Your counsel looked like maybe he -- 11:25:49 11:25:50

ATTORNEY MASTELLER: Please ignore me. I got ten hours of sleep last night and that makes me even more tired the next day, I feel like. 11:25:51 11:25:53 11:25:54 11:25:57

THE WITNESS: I mean, if you're okay, let's keep going and get it done. Is that all right? 11:25:58 11:25:59 11:26:02

ATTORNEY FLANNERY: Okay. 11:26:02

THE WITNESS: Are you okay with that? 11:26:02 11:26:04

THE REPORTER: I'm fine. 11:26:04

THE WITNESS: Are you okay with that? 11:26:05 11:26:05

ATTORNEY MASTELLER: Yeah, I'm good. 11:26:06 11:26:06

THE WITNESS: We'll send you out for a nap after this. 11:26:06 11:26:08

ATTORNEY MASTELLER: That is the problem. I slept too much. 11:26:09 11:26:09

THE WITNESS: Are we still on this? 11:26:11

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Okay. 11:26:12

ATTORNEY FLANNERY: Done with that 11:26:12

exhibit. All good. 11:26:13

BY ATTORNEY FLANNERY: 11:26:16

Q Let's see. Let's go back to your 11:26:16

declaration, 2006. 11:26:17

A Okay. 11:26:19

Q And I'm looking at Paragraph 9 now. 11:26:19

A Okay. 11:26:22

Q And you stated in this declaration -- and 11:26:24

I'm looking at the -- I think it's the third 11:26:30

sentence: "The first tests were performed at 11:26:32

Masaba's facility, and then the first unit was 11:26:34

towed a few miles to a gravel pit where silos had 11:26:36

been set up for additional testing with truckloads 11:26:40

of frac sand." 11:26:42

Do you see that? 11:26:43

A Yes. Yes. 11:26:44

Q All of this was occurring in the summer 11:26:45

of 2021; is that correct? 11:26:48

A Yes. 11:26:48

Q Okay. Do you have any more specific 11:26:48

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recollection of when in the summer it was occurring? 11:26:53 11:26:54

A I don't. 11:26:55

Q I'll take -- I'll ask you to take a look at exhibit -- I'm sorry -- Appendix C to your declaration -- 11:26:59 11:27:03 11:27:05

A Okay. 11:27:06

Q -- still on Exhibit 2006, but it's the last page. 11:27:06 11:27:11

A Okay. 11:27:12

Q So this was an email -- other -- I'm skipping over the "FYI" at the top, but the other email is an email from you to a few folks at Masaba. 11:27:13 11:27:19 11:27:21 11:27:24

Do you see that? 11:27:24

A Yes. 11:27:24

Q And that was dated August 2nd, 2021? 11:27:25

A Yes. 11:27:26

Q Does this email refresh your recollection as to when the testing would have occurred? 11:27:27 11:27:31

A If this was the initial testing where everybody came up, yes, it would have been 11:27:33 11:27:35

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beginning of August. Yeah. 11:27:37

Q Do you know if that testing was delayed 11:27:38

from an earlier date, if it was intended to happen 11:27:46

earlier than that? 11:27:49

A I don't recall. 11:27:50

Q Okay. At this testing in early August 11:27:55

of 2021, who attended from Anchor for sure? 11:27:58

A Dan Trantham and myself, we were the two 11:28:03

Anchor representatives, and then, you know, the 11:28:08

various Masaba people were out there, and then 11:28:09

Jeremy and Scott. 11:28:13

And I think they had one other Solaris 11:28:14

person with them. I can't remember who it was. 11:28:17

Q Okay. At the meeting -- at the visits to 11:28:24

see manufacturing, was Dan Trantham present for 11:28:33

those in the spring? 11:28:35

A Possibly for one. I can't remember. I 11:28:39

know he was there for one of them, one of the 11:28:42

initial meetings. I can't remember on the others. 11:28:44

Q Okay. 11:28:46

A Yeah. But I was always there. 11:28:47

Q Yup. 11:28:48

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What dictated when Mr. Trantham would attend or not? 11:28:49 11:28:52

A I don't know. Probably schedule. I'm not -- I'm not sure. 11:28:53 11:28:56

Q Okay. Do you remember the reason why he attended the testing even if he hadn't always been there for the other meetings? 11:28:58 11:28:59 11:29:03

A I mean, it was -- we were all excited to see the -- you know, see the final product and see if it worked, so yeah. 11:29:04 11:29:05 11:29:07

Q When the Solaris representatives arrived -- and just so that I'm getting the names right, you said you believe it was Mr. Weinstein, Mr. Lambert, and a third person? 11:29:12 11:29:16 11:29:17 11:29:20

A Yeah. I can't -- I think there may have been somebody else there. Yeah. 11:29:22 11:29:24

Q Did you travel to the Masaba facility with them? 11:29:25 11:29:28

A No. I -- you're talking about my travel from Texas? 11:29:28 11:29:32

Q Yes. 11:29:33

A No. I would have traveled on my own. 11:29:34

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Yeah. 11:29:35

Q Okay. Were you there when the Solaris representatives arrived? 11:29:36 11:29:39

A At the Masaba facility? 11:29:39

Q Yes. 11:29:40

A I can't remember. 11:29:41

Q Okay. 11:29:42

A Yeah. 11:29:42

Q During that visit -- again, early August 2021 -- did the Solaris -- did you and the -- well, let me ask it a little bit differently. 11:29:45 11:29:47 11:29:51 11:29:54

Did the Solaris representatives come into the Masaba facility? 11:29:55 11:29:56

A I don't remember. I don't remember if we -- I don't remember if we went to there or we went straight to the testing site. I don't recall. 11:29:58 11:30:01 11:30:03 11:30:06

Q Okay. We saw earlier today that there was a purchase order for a second unit issued in June of 2021. 11:30:06 11:30:10 11:30:14

Do you recall that? 11:30:14

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A Yes. 11:30:15

Q Do you know if Solaris -- sorry. 11:30:15

Do you know if Masaba had started the 11:30:18

manufacturing of that second unit by this time? 11:30:20

A I don't remember. 11:30:21

Q Okay. 11:30:24

A I don't remember. 11:30:24

Q When the Solaris folks arrived for this 11:30:29

testing, did you meet them? 11:30:33

A I would have met them at some point. I 11:30:34

don't remember where I met them, but yeah, I mean, 11:30:37

I would have seen them, yeah. I would have made a 11:30:39

point to meet with them. 11:30:42

Q At some point during the testing? 11:30:43

A I was -- yeah. We were all there during 11:30:44

the testing. We were there. 11:30:46

Thinking back -- it's a long time -- 11:30:48

but I think we did testing from early morning 11:30:50

until the evening, if I remember correctly. We 11:30:52

were all there during that time, yes. 11:30:53

Q So the Solaris folks would have arrived in 11:30:55

the morning at some point? 11:30:57

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A Yeah, I don't remember. But we were all together, yes. Yeah. 11:30:58 11:31:00

Q Do you recall meeting them when they arrived that morning? 11:31:01 11:31:03

A I don't remember. I don't remember. 11:31:05

Q Okay. Do you recall if Mr. Trantham met them that morning? 11:31:07 11:31:10

A I don't remember. 11:31:11

Q Okay. Would you have -- would it have been your typical practice to meet the Solaris folks when they arrived? 11:31:15 11:31:17 11:31:20

A It would have been my practice to -- yeah. I mean, I would have wanted to meet them and greet them and shake their hand, you know, when they got there, but I just don't -- I don't remember the specifics of when I saw them or where it was. 11:31:21 11:31:26 11:31:28 11:31:31 11:31:33

Q So you don't remember where it was? 11:31:35

A No. I don't remember if it was at the facility or if it was at the test site. 11:31:37 11:31:38

Q Okay. And the test site was somewhere away from the Masaba facility? 11:31:41 11:31:44

A It was, like, 10 miles away. Yeah. It 11:31:45

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was a few miles away, yeah. 11:31:47

Q Okay. Do you remember if you rode with them from the Masaba facility to the test site? 11:31:48 11:31:49

A I don't recall. 11:31:52

Q Sorry. I'm going back to your declaration, Paragraph 7, I think. 11:32:02 11:32:05

No. 9. Sorry. 9. 11:32:07

You say: "The first tests were performed at Masaba's facility." 11:32:09 11:32:15

Do you see that? 11:32:18

A Yes. 11:32:19

Q So was that with the Solaris folks present? 11:32:19 11:32:21

A Okay. So what we were just talking about was the test at the rock quarry. I don't remember -- I don't remember if they were there or not. Thinking back, I don't recall. 11:32:22 11:32:25 11:32:30 11:32:33

Q You don't remember if the Solaris people were at the tests performed at the Masaba facility? 11:32:35 11:32:37 11:32:40

A Yeah, I don't remember. 11:32:40

Q Okay. 11:32:42

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A Yeah. I think they were, but I can't recall. I'm sorry. 11:32:42 11:32:44

Q Is there a reason they wouldn't have been? 11:32:45

A I don't think so, but I don't remember. I don't remember the particulars of it. But it all kind of -- that summer runs together. There was so much going on. 11:32:49 11:32:54 11:33:00 11:33:02

I think -- boy, I'm sorry. I can't -- for the tests there, I don't remember. Yeah. I don't want to give you an answer that I'm not sure of. 11:33:09 11:33:17 11:33:20 11:33:22

Q Were you present for the tests performed at Masaba's facility? 11:33:23 11:33:28

A Yes. Yes. 11:33:30

I think they were there. You'd have to ask Jeremy and Scott. They'll know for sure. But I think they were, but I just -- I can't recall. 11:33:31 11:33:32 11:33:35 11:33:38

Q Okay. So you would defer to their recollection on whether they were there? 11:33:38 11:33:41

A I don't know if -- I'd say they may remember. I don't remember. Yeah. 11:33:42 11:33:45

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Q Okay. Sitting here right now, you don't have any memory as to whether they were at the test performed at the Masaba facility? I'm just talking about those. 11:33:46 11:33:49 11:33:51 11:33:53

A Yeah, I can't remember. I can't remember. 11:33:55

Q Was Mr. Trantham at those tests performed at the Masaba facility? 11:33:57 11:33:59

A He may have been. 11:34:04

Boy, it's just so long ago. He may have been there for that. I don't recall either. I know I was there. Dan may have been there. 11:34:06 11:34:09 11:34:11

Q How long were those tests that were performed at the Masaba facility? 11:34:14 11:34:16

A If I remember correctly, it was basically just standing the system up and kind of articulating everything. So I don't think it was more than like -- I don't think we were there for more than a day. Maybe two days. 11:34:17 11:34:20 11:34:23 11:34:24 11:34:27

But, again, it's a long time ago. I can't remember. 11:34:29 11:34:31

Q Okay. So I just want to make sure I understand. 11:34:31 11:34:33

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The testing that performed -- that was performed at Masaba's facility, was that before the Solaris folks arrived? 11:34:33 11:34:37 11:34:39

A I don't remember if they were there or not. So I think -- if I remember correctly -- again, we're getting back into four years. 11:34:43 11:34:45 11:34:47

If I remember correctly, we went there. There were some testing where they stood it up, articulated it, moved everything around. 11:34:49 11:34:51 11:34:54

And then at that later -- I think -- I'm getting into things here I don't recall, but then there was a separate test at the rock quarry. So those were two different dates. What those dates were, I don't remember. 11:34:56 11:34:58 11:35:00 11:35:03 11:35:05

Q I see. 11:35:06

A Yeah. Now, I know Jeremy and Scott and the Solaris people was were there and Dan was there for the rock quarry testing where we actually ran sand through the system. 11:35:06 11:35:09 11:35:10 11:35:11

Q Okay. 11:35:12

A Yes. Yes. 11:35:13

Q All right. So let me ask some questions 11:35:13

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about that testing. 11:35:14

A Okay. 11:35:15

Q Again, your best recollection is that was occurring in early August of 2021? 11:35:17 11:35:19

A I believe -- based off of that and what I could put it together, I think it was early August. I believe so, yes. 11:35:21 11:35:23 11:35:25

Q Okay. You said the first unit was towed a few miles to a gravel pit for that testing? 11:35:25 11:35:27

A Yes. 11:35:30

Q Did you all travel together for -- from Masaba facility where the unit was to that gravel pit? 11:35:30 11:35:34 11:35:37

A Like travel in the same vehicles? 11:35:37

Q Or a series. 11:35:39

A I think -- if I remember right, I think we all caravanned down there behind it, but I can't remember. I'm sure we were all kind of -- I don't remember. But maybe we followed it down there. 11:35:41 11:35:43 11:35:46 11:35:48

Q Okay. Would that have been first thing in the morning? Later in the day? 11:35:52 11:35:55

A I don't recall. I don't recall what time 11:35:56

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it was. 11:35:59

Q The testing at the gravel pit, do you know approximately how long that took? 11:36:00 11:36:04

A We were there all day long, so -- again, I'm thinking four years back. 11:36:04 11:36:10

It probably started in the morning. We finished up maybe late afternoon. 11:36:11 11:36:13

Q Okay. 11:36:15

A And Solaris had set up sand trucks to be there to run sand through. They set up all that. 11:36:16 11:36:20

Q This was still within South Dakota; yes? 11:36:22

A Yes. Yes. 11:36:25

Q Okay. And so what tests were run at the gravel pit? What operation did you-all actually do with the system? 11:36:27 11:36:29 11:36:33

A The truck would pull up onto the truck drive-over, empty the sand, and everything was run through the bucket elevator out the articulating conveyors into the silos. So it was a full test of material running through the system. 11:36:33 11:36:38 11:36:40 11:36:42 11:36:45

Q Do you remember how many truckloads of sand were run? 11:36:46 11:36:48

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A I don't remember. I can't recall. 11:36:49
Q Okay. Were you present for the whole test 11:36:53
for the whole day? 11:36:59
A Yes. 11:36:59
Q And I think you said you believe you 11:37:03
started in the morning and then finished up 11:37:04
sometime in the afternoon? 11:37:06
A I think so, yeah. 11:37:07
Q So most of the day? 11:37:07
A Yes. Yeah. 11:37:09
Q Okay. Were the tests considered 11:37:10
successful? 11:37:12
A Yes. I would say yes. 11:37:12
Q Okay. How do you know? 11:37:15
A Because you moved a full truckload of sand 11:37:17
through -- one, two, three, -- four conveyors into 11:37:24
a 3-foot diameter hole. What -- it was extremely 11:37:26
impressive. 11:37:32
Q Were there problems that occurred within 11:37:33
the -- during the test run? 11:37:36
A If I remember correctly, there may have 11:37:37
been a problem with a camera and some minor 11:37:38

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problems. But overall, the system performed really well. 11:37:40 11:37:42

Q Okay. 11:37:43

A Yeah. 11:37:43

Q Do you recall any comments -- let me back up a second. 11:37:44 11:37:50

When the Solaris folks arrived at the Masaba facility, do you remember the Solaris folks making any comments at that time about the system? 11:37:50 11:37:54 11:37:57

A I don't remember anything, no. 11:38:00

Q Okay. 11:38:03

A After -- after the testing, I mean, everyone was really happy. You know, everyone was extremely excited that it worked, yes. 11:38:04 11:38:08 11:38:11

Q Okay. At the conclusion of the testing -- well, I guess I should ask: Did the -- was the unit collapsed back to its transport state? 11:38:13 11:38:18 11:38:22

A Most likely. Most likely. I don't remember for sure, but, yeah, I'm sure it probably was, yeah. 11:38:25 11:38:28 11:38:30

Q Do you recall being there when that happened? 11:38:31 11:38:32

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A I'm sure I was. I don't remember specifically, but I was there the entire time, yes. 11:38:32 11:38:36 11:38:38

Q Was Mr. Trantham there? 11:38:39

A I don't know if he was there the whole day. I don't recall. 11:38:40 11:38:43

(Interruption in proceedings.) 11:38:43

(Recess from 11:38 a.m. to 11:45 a.m.) 11:38:43

BY ATTORNEY FLANNERY: 11:38:43

Q So going back to the last question that we asked before the break, at the testing in beginning of August 2021, did you and Mr. Trantham arrive together at the test site? 11:45:42 11:45:45 11:45:48 11:45:52

A I don't recall. 11:45:54

Q Okay. 11:45:56

A I don't recall. 11:45:56

Q Do you recall what the weather was like that day? 11:46:05 11:46:07

A It didn't rain on us. I know that. So -- I don't think. 11:46:08 11:46:13

Q That would be a limiting factor? 11:46:14

A Yeah. Yeah. Yeah. 11:46:15

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Q You said it started in the morning, went into the afternoon. Was there a break at some point during the day, like a lunch break or anything like that? 11:46:17 11:46:20 11:46:22 11:46:24

A I don't remember. I think we may have had food brought in for everybody and just kept testing, but I don't recall. 11:46:24 11:46:28 11:46:30

Q At the site? 11:46:31

A Yeah. 11:46:32

Q Did -- for the gravel pit -- well, let me take a step back. 11:46:38 11:46:44

For the trucks that were unloading, did Anchor make those arrangements to have the trucks come with sand or did -- 11:46:44 11:46:47 11:46:49

A Solaris did. To my recollection, Solaris had a truck set up to bring the sand. 11:46:51 11:46:53

Q Okay. 11:46:55

A Yeah. 11:46:55

Q Let's go back to the declaration, Paragraph 9. You mentioned that -- I guess after the testing, the Solaris representatives, including Mr. Weinstein and Mr. Lambert, told you 11:46:57 11:47:02 11:47:15 11:47:17

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that they were impressed and excited by the results of the tests? 11:47:19 11:47:21

A Yes. 11:47:22

Q Okay. And you state at the end of this paragraph that an email that you sent to Masaba on August 2nd, 2021, memorializing this conversation is in Appendix C. 11:47:22 11:47:26 11:47:29 11:47:31

A Okay. 11:47:32

Q So let's go to that. 11:47:32

So I'm looking at your email, the portion of the highlighting has been added. 11:47:41 11:47:43

A Okay. 11:47:47

Q You state in the second paragraph, you said that you spent all evening with Jeremy? 11:47:47 11:47:48

A Yes. 11:47:51

Q Okay. Was this after the testing? 11:47:51

A Yes. If I remember correctly, I drove him -- if I remember correctly -- again, this is four years ago -- I drove him to -- I think it was flying out of Omaha, and I think I drove -- I drove him to Omaha and we spent that evening together. I believe that was the context of that. 11:47:54 11:47:57 11:47:59 11:48:04 11:48:08 11:48:11

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Q I see. 11:48:13

So spending the evening with him was 11:48:14

in the car driving to the airport? 11:48:16

A Yeah. Yeah. 11:48:17

Q Got it. 11:48:20

A I believe so, yes. 11:48:20

Q How far, approximately, was Masaba located 11:48:21

from the Omaha airport? Do you remember? 11:48:24

A It was a couple hours. 11:48:26

Q Okay. 11:48:27

A Maybe more than a couple hours, yes. 11:48:27

Q Okay. Was there anybody else with the two 11:48:29

of you? 11:48:34

A No. 11:48:34

Q Okay. 11:48:35

A It was just him and I. 11:48:35

Q The other Solaris personnel that -- 11:48:36

Mr. Lambert and the third person who you can't 11:48:41

remember their name, did they leave separately? 11:48:42

A Yeah, Scott -- I don't remember where 11:48:44

Scott went, if he -- I don't remember. Jeremy had 11:48:50

to fly out of Omaha. If this -- if I'm 11:48:54

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remembering correctly, Jeremy had to fly out of Omaha. 11:48:56 11:48:59

I don't remember where Scott was. He must have left. Sometimes we have to fly into South -- is it Sioux Falls? Anyway, I'm not sure why Scott didn't go at that time, but it was just Jeremy and he needed a ride. 11:49:00 11:49:01 11:49:03 11:49:06 11:49:09

Q Were you flying out of Omaha that day? 11:49:11

A No. I drove him there then I was going to drive back and ended up getting a hotel. I was really tired. So -- but I just did it as kind of a favor to help him out, yeah. 11:49:13 11:49:15 11:49:16 11:49:18

Q When did you return to Texas after those tests? 11:49:20 11:49:23

A I don't remember. I don't remember. 11:49:23

Q Do you remember if you stayed for several days? 11:49:23 11:49:25

A Probably not. I probably got home, but I don't recall. 11:49:25 11:49:29

Q Okay. Do you recall after the testing any further in-person meetings with Masaba at their facilities in that -- in the couple of days 11:49:29 11:49:32 11:49:34

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following the tests? 11:49:37

A With Masaba? 11:49:38

Q Yes. 11:49:39

A I don't recall. 11:49:40

Q Okay. When you say "Jeremy was full of compliments," do you remember specifically what he said? 11:49:41 11:49:52 11:49:55

A It's been a long time ago, but I know we were all pretty excited that it worked. I do, per my declaration, remember him telling me specifically that their management wouldn't really have an understanding of what the Masaba folks had done designing this and putting this together and making it work. 11:49:56 11:49:58 11:50:03 11:50:05 11:50:08 11:50:11 11:50:12

Q Okay. Do you know if he had talked with his management about what had been required to make it work? 11:50:15 11:50:16 11:50:18

A I don't know. 11:50:18

Q Okay. You stated in -- I guess after the "but he was full of them," in the next sentence you stated: "He told me that there is no one that he is aware of that could have designed this piece 11:50:19 11:50:25 11:50:28 11:50:30

of equipment and making it work." 11:50:32

Do you see that? 11:50:33

A Yes. 11:50:34

Q Were those his exact words or were you 11:50:35

paraphrasing? 11:50:37

A I don't remember if I was paraphrasing or 11:50:38

not, but he was very complimentary of the Masaba 11:50:40

engineering staff and what they had done in 11:50:43

designing that to make it work. 11:50:46

Q Okay. Do you recall him specifically 11:50:47

saying that no one else could have done that? 11:50:49

A That was my recollection when I put that 11:50:51

in the email, yes. 11:50:52

Q Okay. Do you know why he thought that? 11:50:53

Did he say? 11:50:59

A I mean, what Masaba did is just a feat of 11:51:00

engineering. I mean, to put all of those pieces 11:51:05

together and to make that work is very, very 11:51:07

impressive and not easy to do. I mean, you can 11:51:09

have one conveyor work and two conveyors work, but 11:51:11

you get all of these pieces working together, it's 11:51:15

revolutionary, in my opinion. It's just very -- 11:51:17

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it's impressive. 11:51:19

And I think he was -- my understanding 11:51:20

from that conversation with him, looking back, is 11:51:21

he was impressed with that as well. He's an 11:51:23

engineer and he understands how difficult that is 11:51:26

to do. 11:51:28

Q Okay. So I think we talked about it 11:51:30

earlier, conveyor belts -- or, sorry -- bucket 11:51:33

elevator systems for filling silos, those existed 11:51:37

before? 11:51:39

A Yes. 11:51:39

Q Okay. The truck unloader that was used, 11:51:41

did systems like that exist before this project? 11:51:45

A I think so, yeah. 11:51:47

Q Were you aware of systems that had an 11:51:51

extension arm at the top of the bucket elevator? 11:51:58

A I had never seen that before. 11:52:01

Q Okay. 11:52:02

A Yeah. 11:52:03

Q Do you know if Masaba had ever seen that 11:52:04

before? 11:52:06

A I don't know. 11:52:06

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Q Okay. Other than what you have written in this email that's attached as Appendix C, do you have an independent recollection of Jeremy making these statements? 11:52:07 11:52:15 11:52:18 11:52:20

A I remember that -- being in the car and him making those statements, yes. I specifically remember him saying that, yes. 11:52:21 11:52:25 11:52:28

Q Okay. When you first started working on your declaration, before you had seen this email -- just to back up, you didn't have this email when Masaba first told you that they wanted you to prepare your declaration; is that correct? 11:52:30 11:52:34 11:52:38 11:52:39 11:52:42

A Yes. 11:52:44

Q Okay. Did you remember that, Mr. Weinstein's statements, before having been provided this email? 11:52:44 11:52:49 11:52:51

A I do, yeah. I remember being in the car with him and him saying that. We were very excited that it worked. You know, everybody was really high and we put a lot of work -- I put a lot of work in this, trying to get this made for them, and I was very excited that it worked. 11:52:52 11:52:54 11:52:56 11:52:58 11:53:00 11:53:02

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So, yeah, I remember that. 11:53:05

Q Okay. After these tests in August -- 11:53:06

early August of 2021, were you still the person at 11:53:09

Anchor who was responsible for the project? 11:53:14

A I -- yeah. I was still the liaison, 11:53:16

gathering information, and bringing that back and 11:53:18

forth, yes. 11:53:19

Q Okay. I think you had said, I guess, 11:53:20

before the tests, you had been working very hard 11:53:23

to get this product to Solaris? 11:53:25

A Yes. 11:53:27

Q What kind of hours were you spending on 11:53:28

this project? 11:53:30

A 60-plus hours a week sometimes. Yeah. 11:53:30

Whatever -- evenings, weekends, 11:53:39

whatever I needed to do to get this done. 11:53:43

Q Was this the only project you were working 11:53:44

on at Anchor during this time? 11:53:46

A At that time, yes. 11:53:47

Q Okay. After the tests, did you continue 11:53:49

to work a similar amount of hours per week on this 11:53:51

project? 11:53:55

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Sorry. I should have -- 11:53:56

A Yeah. I mean, it was still a full-time job for me, yeah. Yeah. 11:53:57 11:53:59

Q Do you think you were working 60 hours a week or was it some amount less? 11:54:02 11:54:05

A It may have tapered off a bit since we got the prototype done, but it was still -- it was still -- it still took up a lot of my time, yes. 11:54:06 11:54:08 11:54:11

Q Did the nature of your role change once the testing was completed? 11:54:13 11:54:16

A No. My job was still to take care of Solaris and to make sure they had what they needed and make sure the flow for information between all the parties went smoothly and that everything was conveyed to each other. 11:54:16 11:54:19 11:54:22 11:54:25 11:54:27

Q So after the testing, what types of information was being conveyed? 11:54:27 11:54:29

A If I remember correctly, you know, there was a price -- a price change, so there were changes being made as far as some of the features of it. So pushing -- kind of trying to push Masaba to move forward with, you know, getting -- 11:54:32 11:54:35 11:54:38 11:54:42 11:54:48

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move forward with the second project and so on. 11:54:51

So just -- communication between all 11:54:54

three parties was a full-time job, just keeping 11:54:57

track of that and making sure everybody knew what 11:55:00

was going on and communicating that back and 11:55:02

forth. 11:55:03

Q So the second project -- this is the 11:55:03

second unit -- 11:55:05

A Yes. 11:55:06

Q -- that we're referring to? 11:55:06

A Yeah. 11:55:10

Q Okay. Were there intended to be 11:55:10

differences in the design between the second unit 11:55:11

and first unit? 11:55:13

ATTORNEY NYDEGGER: Objection; 11:55:15

foundation. 11:55:16

THE WITNESS: No. The overall 11:55:16

workings, I don't recall any changes. But 11:55:17

I -- I don't remember what the changes 11:55:19

were, but there may have been some cameras 11:55:21

and there may have been some dimensional 11:55:23

changes on the ramps, but I don't recall, 11:55:26

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but... 11:55:29

BY ATTORNEY FLANNERY: 11:55:29

Q Okay. Do you recall there being 11:55:30

significant modifications between the first and 11:55:32

the second unit? 11:55:33

A I don't think so. 11:55:34

ATTORNEY NYDEGGER: Objection; 11:55:34

leading. 11:55:34

THE WITNESS: I don't believe so, 11:55:35

no. 11:55:36

BY ATTORNEY FLANNERY: 11:55:37

Q Okay. And so in terms of the information 11:55:38

that you were communicating about that second 11:55:39

unit, you mentioned the pricing change; correct? 11:55:41

A I believe so, yes. Yeah. 11:55:44

Q Okay. What other information were you 11:55:45

conveying -- communicating between the parties at 11:55:47

the time? 11:55:49

A I mean, I don't recall. I'd have to look 11:55:49

back at my emails. But I think a lot of it was me 11:55:52

just pushing -- trying to push Masaba -- not 11:55:54

"pushing" -- but working with Masaba to get moving 11:56:01

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forward with the second unit, yeah. 11:56:03

Q Is it your understanding that Masaba -- 11:56:04

did Masaba ever build that second unit? 11:56:11

A I don't know. I don't believe so. 11:56:14

Q Okay. Do you know if they performed any 11:56:15

sort of partial manufacturing of the first unit -- 11:56:19

of the second unit? Excuse me. 11:56:22

A I don't know. I don't know. 11:56:24

Q Okay. You don't recall communicating any 11:56:25

information about the status of the manufacturing 11:56:28

of that second unit? 11:56:29

A No. After we kind of moved -- and I don't 11:56:30

remember the exact day, but I kind of moved back 11:56:33

into my regular BDM position at a point that fall, 11:56:36

so I started working on some other projects for 11:56:40

Anchor. So I wasn't as much in the loop as I had 11:56:42

been through the whole first part of the process. 11:56:44

Q Okay. So at that point in time, how much 11:56:46

of your time was spent on this project as opposed 11:56:50

to the other projects you mentioned? 11:56:53

A I don't remember. I mean, I don't -- I 11:56:55

can't give you a percentage. I don't remember. 11:56:58

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Q Do you know if it was more than half? 11:57:00
A Maybe. I don't recall. 11:57:02
Q Okay. 11:57:04
A Yeah. 11:57:05
Q Do you know if Mr. Trantham was doing 11:57:07
additional work relating to that project at that 11:57:11
time? 11:57:14
A I don't recall. I don't -- I don't know. 11:57:14
Q Okay. Was there ever a discussion about 11:57:19
somebody else at Anchor taking over this project? 11:57:26
A No, I don't think so. I don't recall what 11:57:28
that -- no. 11:57:29
Q Let's go to Paragraph 10. 11:57:36
Sorry. Before I go to that, let me 11:57:42
just ask a couple other quick questions. 11:57:44
On the second unit that Solaris had 11:57:45
ordered, do you know if there was an expected 11:57:49
delivery time for that? 11:57:52
A I don't remember. I don't remember what 11:57:54
that was or if anything was discussed or what was 11:57:57
in play there. 11:58:00
Q Okay. Just to see if this job has 11:58:02

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anything loose, let's look at Exhibit 1108. 11:58:09
A Yes. 11:58:12
Q This will be quick. I think you can leave 11:58:12
that there. 11:58:18
A Okay. I'll put those right there. Okay. 11:58:18
Q If you can look at purchase order -- the 11:58:21
Solaris purchase order that's attached to that 11:58:23
email. 11:58:24
A Yes. Yes. 11:58:24
Q And you see it states: "Shipping Release 11:58:25
Requirement," "Due Date, October 13th, 2021"? 11:58:27
A Where is that at on here? 11:58:30
Q Oh, I'm sorry. You're looking at the -- 11:58:33
look at first page of the -- 11:58:36
A Oh, okay. 11:58:37
Q You're good. 11:58:39
A Okay. 11:58:40
Q You see the "Due Date" listed as 11:58:41
October 13th, 2021? 11:58:43
A I do, yes. 11:58:44
Q Okay. Does that refresh your recollection 11:58:44
as to when there was an expected delivery time for 11:58:46

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that unit? 11:58:48

A It -- not really. I mean, that would 11:58:49

probably sound about right based on -- when did 11:58:52

they place this PO? What's the date on the PO? 11:58:54

Q If it helps, in the middle, the "Order 11:58:58

Date, June 2nd, 2021." 11:58:59

A Okay. So that would probably make sense. 11:59:01

Q Okay. That would be a reasonable -- 11:59:02

A It's about four months out. 11:59:05

Q Sorry. 11:59:07

A I'm sorry. It's about four months out, 11:59:08

but, again, I don't remember. But it's a 11:59:10

four-month delivery off of that. That would make 11:59:12

sense, but I don't remember. 11:59:14

Q Okay. The drawings were certainly 11:59:15

approved by June of 2021; correct? 11:59:18

A Well, I'm trying to think back. 11:59:21

I mean, if there were changes, those 11:59:24

would have had to have been approved and then the 11:59:27

delivery would start after that. But I don't 11:59:29

remember -- I don't remember what changes or how 11:59:31

that transpired. I just don't recall. 11:59:32

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Q Okay. All right. Sorry. You can put that back. 11:59:37 11:59:39

A That's okay. 11:59:39

Q Let's go back to your declaration. 11:59:45

A Yes. 11:59:47

Q Paragraph 10, please. 11:59:47

A Okay. 11:59:48

Q Sorry. I'm getting there. 11:59:50

Let's see. You stated, Paragraph 10: "During a visit at the Masaba facility," you "recall standing beside Jeremy Weinstein and he appeared to be visibly upset with the patent pending markings on the Masaba unit." 11:59:54 12:00:01 12:00:04 12:00:05 12:00:08

Do you see that? 12:00:12

A Yes. 12:00:12

Q When you say "during a visit at the Masaba facility," do you recall if this was during manufacturing? During testing? 12:00:12 12:00:14 12:00:17

A I think -- I don't recall exactly. It may have been -- and I'm -- again, it's so far back. But, you know, the axle broke at one point and they had to bring it back and work on it. I think 12:00:18 12:00:21 12:00:25 12:00:27

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it may have been after that. 12:00:30

But we were in the backside of the 12:00:32

facility and when we went out, there was a big 12:00:35

"patent pending" sticker on it and Jeremy noticed 12:00:37

that. I don't remember exactly what he said, but 12:00:41

my interpretation he was visibly upset about that. 12:00:44

And I had never thought about that stuff before. 12:00:47

You know, it's not in my purview. 12:00:50

So that -- I don't know exact date of 12:00:52

when that happened, but I do remember where we 12:00:54

were, where we were standing when that happened. 12:00:58

Q Okay. So not trying to get you to commit 12:00:59

to a date, but I'm just trying to make -- 12:01:01

understand the order -- 12:01:03

A Yeah. 12:01:04

Q -- the order of events. 12:01:04

We talked about the testing that he 12:01:06

attended -- 12:01:08

A Yeah. 12:01:08

Q -- that occurred in August of 2021 -- 12:01:08

A Yeah. 12:01:10

Q -- early August. 12:01:10

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Do you know if this instance that you're talking about in Paragraph 10 was before or after or that same time? 12:01:11 12:01:12 12:01:16

A I don't remember. I'm sorry. I just don't. I remember where we were when it -- when we saw it, but I don't remember when exactly it was. 12:01:17 12:01:18 12:01:22 12:01:25

Q Okay. The accident that you mentioned, that would have occurred after the testing; correct? 12:01:25 12:01:29 12:01:30

A Yes, but -- and I can't really narrow it down to that. So I'd go back and I'd say I don't remember exactly when it was. I just remember where we were and when it happened. 12:01:30 12:01:33 12:01:35 12:01:37

Q Okay. At the time that -- well, let me just -- so when you say "these markings were on the Masaba unit," that was the first unit that they built; correct? 12:01:40 12:01:44 12:01:46 12:01:50

A Yes. Yes. I believe so, yeah. 12:01:50

Q Okay. 12:01:51

A Yeah. 12:01:51

Q Okay. At that point, did you know if 12:01:52

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Masaba had actually filed their patent application or not? 12:01:54 12:01:57

A I didn't know. No, I didn't know any -- I mean, that's not what -- my deal was to get the -- get the thing made and get it out the door and get it tested successfully. So I haven't been involved in any of that. 12:01:57 12:02:01 12:02:03 12:02:05 12:02:08

Q At that point, had Masaba told you that they were filing a patent application? 12:02:08 12:02:10

A I don't remember. I don't remember. Yeah. 12:02:11 12:02:16

Q At some point, they told you they were filing a patent application; correct? 12:02:17 12:02:19

A At some point, yeah, but I don't remember when that was. 12:02:20 12:02:22

Q Okay. 12:02:22

A Whether it was -- you know, I just don't -- I don't recall. 12:02:23 12:02:24

Q Do you remember relative to the testing when it was? 12:02:25 12:02:28

A I don't. 12:02:29

Q Okay. 12:02:29

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A I'm sorry. 12:02:30

Q Okay. You stated that he, Mr. Weinstein, 12:02:31

"appeared to be visibly upset." 12:02:36

Do you see that? 12:02:38

A Yes. 12:02:39

Q What did he do or say that made you think 12:02:40

that? 12:02:44

A I don't remember exactly. He said 12:02:44

something to the effect of, "Patent pending, huh?" 12:02:46

And then I looked at him, and I could just tell -- 12:02:49

my interpretation of it was just seeing when 12:02:51

somebody's kind of pissed off, they just kind of 12:02:54

went like that (indicating). And so I saw that 12:02:56

was -- it seemed to be an issue. 12:02:59

You know, my -- again, my job 12:03:01

throughout this was to gather the information, get 12:03:03

this thing made to take care of Solaris, to take 12:03:05

care of Jeremy. Jeremy was my contact. I wanted 12:03:08

to make sure he had what he needed. So keeping 12:03:11

Jeremy happy, you know, was one of my main jobs 12:03:13

and getting him what he needed. So the fact that 12:03:16

he was upset about that, you know, I didn't like 12:03:18

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that either. 12:03:20

Q Did it seem that he was upset at you or at somebody else? 12:03:22 12:03:26

A No. I don't think he was upset at me. He knew I worked really hard for him. 12:03:26 12:03:28

Q Okay. 12:03:30

A Yeah. 12:03:30

Q What did you say or do in response to his comment? 12:03:32 12:03:34

A I didn't say anything. Yeah. I just -- yeah, I just let it go. Yeah. 12:03:34 12:03:37

Q You were just silent? 12:03:39

A Yeah. Just silent. I didn't say anything. Yeah. Yeah. 12:03:40 12:03:42

Q Okay. Did you tell Masaba that he made that comment? 12:03:43 12:03:46

A I don't remember. I don't think so. I think I may have mentioned it to Dan, but I don't remember -- I don't remember the context or what happened after that. 12:03:47 12:03:51 12:03:54 12:03:56

Q You think you mentioned it to Dan? 12:03:56

A Yeah. 12:03:58

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Q Brinkman? 12:03:58
A No. Dan Trantham, I think, maybe talked 12:03:59
about it, yeah. 12:04:02
Q Multiple Dans. 12:04:03
A Sorry. Too many Dans. Only one Jeremy, 12:04:03
lots of Dans. 12:04:07
Q That's okay. 12:04:07
A But I do remember -- you know, again, I 12:04:08
worked really hard. Jeremy and I worked really 12:04:10
close together, you know, and so my job was to 12:04:11
take care of Solaris and take care of Jeremy. So, 12:04:16
you know, when my customer is not happy, you know, 12:04:18
I want to make sure that -- I want to make sure my 12:04:19
customer's happy. So that was just the situation. 12:04:21
Q So what did you do to try to resolve his 12:04:26
displeasure? 12:04:29
A I just left it alone. Sometimes it's 12:04:30
better just to not say anything. So he didn't 12:04:32
bring it up to me and I just left it alone and I 12:04:34
went on doing my job. 12:04:37
Q You said you think you mentioned it to Dan 12:04:39
Trantham? 12:04:42

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A I think so. I don't remember. I don't remember what conversations after that, but -- specifically, but I do remember Jeremy was upset with it. 12:04:42 12:04:44 12:04:48 12:04:51

Q Okay. And you told Mr. Trantham that? 12:04:51

A I believe so. I believe I did. I believe we talked about it. 12:04:56 12:04:57

Q Okay. Was that around the time that it occurred? 12:04:58 12:05:01

A I don't remember. It was so long ago. It probably would have been, yeah. 12:05:02 12:05:06

Q It wasn't -- it wasn't in connection with this case? 12:05:07 12:05:09

A No. No, no, no. 12:05:10

Q Okay. 12:05:12

A No, I knew nothing -- yeah. 12:05:12

Q It would have been more closer in time to the 2021 time period? 12:05:13 12:05:16

A Yeah. Yeah. Yeah. 12:05:17

Q Okay. Do you remember if you sent Mr. Trantham an email about that or you were just talking? 12:05:18 12:05:22 12:05:24

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A Probably not. We probably just talked about -- yeah. Probably just conversation. 12:05:25 12:05:27

Q Anyone else at Anchor you remember telling about that? 12:05:29 12:05:30

A No. Dan and I were the ones that really worked on this together, so... 12:05:30 12:05:33

I don't recall. I don't recall anything. 12:05:36 12:05:37

Q Do you recall ever telling anyone at Solaris -- after you learned that Masaba had filed a patent application, did you tell anyone at Solaris that that had occurred? 12:05:38 12:05:40 12:05:43 12:05:46

A No. I mean, that's outside of my -- my job is to gather the information and get the thing out the door. So anything to do with that would have to do with our management, and they can -- I don't want to be involved in that. That's out of my -- that's above my pay grade. 12:05:46 12:05:51 12:05:53 12:05:54 12:05:57 12:05:59

Q You never discussed ownership of the IP rights with Solaris? 12:06:00 12:06:03

A No. 12:06:04

Q Okay. 12:06:05

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A No. 12:06:05
Q Was that the only interaction -- whether 12:06:06
you said anything or not -- 12:06:08
A Not that -- not that I recall. I don't 12:06:10
remember having a discussion, yeah. 12:06:11
Q So was that the only time that Solaris 12:06:12
ever made a comment to you about ownership of the 12:06:14
IP rights? 12:06:17
A From what I recall, yeah, that would have 12:06:17
been the only instance. But, again, it's four 12:06:19
years ago, but that's all I recall, yeah. 12:06:21
Q Okay. You didn't consider it part of your 12:06:23
responsibilities to negotiate the ownership of the 12:06:26
intellectual property in this project? 12:06:30
A Absolutely not. No. That would be our 12:06:30
management's responsibility and ownership's 12:06:32
responsibility. 12:06:35
Q Okay. Do you know whether Solaris 12:06:35
expected to own the intellectual property in 12:06:38
Masaba's design? 12:06:41
A At that time, no. No. 12:06:41
Q No, you don't know, or, no, they didn't 12:06:43

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expect? 12:06:45

A I -- no. I knew nothing about -- I didn't get involved in any of that. So any time T&Cs come in or anything like that, that is -- I'm a sales guy so that goes on to management and I do my job and I take care of the customer. 12:06:46 12:06:48 12:06:52 12:06:53 12:06:55

Q Okay. And just so I know. When we're talking about management, is it Mr. Trantham -- Dan Trantham? 12:06:58 12:06:58 12:07:00

A Yeah. 12:07:00

Q Clay Trantham, was he involved in that? 12:07:00

A I don't know. I don't know. 12:07:03

Q Okay. Anyone else at Anchor who would have been responsible for that? 12:07:04 12:07:05

A I don't -- I don't know. I don't believe so. I don't know. 12:07:06 12:07:07

Q Okay. Do you recall who at Masaba -- at some point, someone at Masaba told you that they filed a patent application? 12:07:08 12:07:14 12:07:17

A Yeah. I don't remember -- at some point. I don't remember when it was or who it was. Yeah. 12:07:18 12:07:22

Q Okay. Do you remember if it was before or 12:07:25

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after the testing that they told you that? 12:07:29

A I don't remember. 12:07:32

Q Did you ever see a copy of the patent application? 12:07:33 12:07:36

A No. 12:07:36

Q Did they -- 12:07:37

A I don't -- I don't believe so, no. 12:07:38

Q Sorry. 12:07:39

Did they ever ask you for your help with regard to the patent application? 12:07:39 12:07:42

A No. 12:07:43

Q Have you read the patent, sitting here today? 12:07:45 12:07:48

A No. 12:07:48

Q Would you agree that the development of the system was a collaborative effort? 12:07:50 12:07:57

ATTORNEY NYDEGGER: Objection; foundation; vague. 12:08:00 12:08:02

THE WITNESS: I would say that the parameters were conveyed to Masaba by Solaris and by Anchor, but the system was designed -- in my opinion, the system was 12:08:02 12:08:04 12:08:08 12:08:13

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designed by Masaba. They came up with the idea of the bucket elevator, an elevator integrated together, and they're the ones that made it work. 12:08:14 12:08:18 12:08:22 12:08:23

BY ATTORNEY FLANNERY: 12:08:25

Q Is it your understanding that Anchor did not contribute any of the design elements? 12:08:26 12:08:29

A Yeah. I mean, we didn't have any design -- really any design input specific to what Masaba put together, no. 12:08:30 12:08:35 12:08:39

Q Did Solaris have input regarding the design, the components? 12:08:40 12:08:43

A Not that I recall. 12:08:44

ATTORNEY NYDEGGER: Objection; foundation; vague. 12:08:47 12:08:47

THE WITNESS: Solaris -- you know, Solaris sent us that document -- which I appreciate you bringing it up. I forgot about that. But there was some parameters as to what they wanted done and maybe some things they wanted on it. 12:08:47 12:08:48 12:08:50 12:08:51 12:08:53 12:08:56

But my experience with it is that 12:08:57

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Masaba came up with the idea and put it together to make it work and made it work. 12:08:59 12:09:02

BY ATTORNEY FLANNERY: 12:09:04

Q You say "came up with the idea." What are you referring to? 12:09:07 12:09:10

A The bucket elevator. The final solution. The final system. 12:09:11 12:09:12

Q Okay. 12:09:12

A Putting all those pieces together. So -- yeah. 12:09:14 12:09:17

Q Okay. Is it your view that Masaba invented everything in the patent? 12:09:17 12:09:21

A Well, I think you've got several components that were preexisting, but they invented the system that -- they designed the system that put them all together and made it work. 12:09:22 12:09:24 12:09:27 12:09:30 12:09:32

Q Were you involved in the prosecution of the patent office -- of the patent application, the back-and-forth with the patent office? 12:09:33 12:09:39 12:09:41

A No. 12:09:43

Q No. Okay. 12:09:43

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When you learned about the patent application, did you tell Solaris about it? 12:09:44 12:09:46

A No. I don't recall what -- I don't recall what conversations took place. I don't know if Dan talked to them or not. I don't remember what exactly transpired as far as conversations. I know at some point, when I had kind of been pulled back away from it, Dan and Kelly talked about it, but I'm not sure what that conversation entailed. 12:09:48 12:09:58 12:10:00 12:10:02 12:10:06 12:10:09 12:10:12

Q You say when you were "pulled back away from it"? 12:10:16 12:10:19

A Well, when I went to, kind of, back of doing part of my -- doing my other job that I had originally been doing, my BDM position, then Dan and -- Dan was working with Kelly -- and I don't remember Kelly's last name -- at Solaris. So they were working together on that. 12:10:19 12:10:21 12:10:23 12:10:27 12:10:31 12:10:34

Q Okay. So this would have been after the testing? 12:10:34 12:10:36

A Yes. Yeah. Yeah. 12:10:38

Q Okay. But you knew about the patent application being filed before that? 12:10:39 12:10:45

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A I don't remember when they told me. So I don't know a date of when I knew about it, no. 12:10:46 12:10:50

Q Did Masaba tell you to -- instruct you to not tell Solaris about that? 12:10:53 12:10:57

A No. No. 12:10:58

Q Do you think it's something Solaris would have wanted to know about? 12:10:59 12:11:04

A Well, I think they knew about it when Jeremy saw that sign. So I don't remember -- again, it's four years, so I'm trying to think about when I found out. 12:11:04 12:11:08 12:11:12 12:11:15

But I think -- I don't know that I knew anything about it before I saw that sign too, you know, with him. So I don't -- it's been so long ago that I don't remember exactly the timing or the conversations. 12:11:16 12:11:18 12:11:22 12:11:23 12:11:25

Q Okay. 12:11:26

A But I think in my -- my capacity, again, is to gather the information to make sure everybody's on the same page to get the machine built. Anything with those other -- you know, patents and T&Cs, that's above me and that goes to 12:11:26 12:11:29 12:11:33 12:11:35 12:11:37

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management and that's something for them to address. 12:11:40 12:11:41

Q Okay. So I just want to make sure I understood what you said. 12:11:42 12:11:44

The patent marking that you were -- that Mr. Weinstein saw when you were standing next to him, you're not sure if that was the first time that you knew about the patent -- that Masaba had filed a patent application? 12:11:44 12:11:47 12:11:51 12:11:53 12:11:57

A I can't remember when -- I don't remember when I over -- when I heard that and when I saw that sign. So I don't remember when all that fit together. 12:11:58 12:12:00 12:12:02 12:12:05

Q Okay. 12:12:06

A Yeah. 12:12:06

Q Do you remember having any conversations with anyone at Masaba about them having filed a patent application? 12:12:06 12:12:08 12:12:15

A I don't recall. I don't remember. I don't remember. 12:12:15 12:12:20

I guess explain your question to me. Do I have any conversations like them telling me 12:12:21 12:12:23

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they did -- they had a patent, they were applying for a patent? 12:12:27 12:12:29

Q Yes. 12:12:29

A Yeah. I think Jim Peterson, who is the president, I think told me. But I can't remember when he told me. 12:12:30 12:12:34 12:12:36

Q Okay. 12:12:36

A Yeah. 12:12:36

Q You don't remember if it was before -- 12:12:36

A But I don't remember if it was -- 12:12:38

Q Sorry. 12:12:39

A Sorry. 12:12:39

I don't remember if it was before or after I saw that sticker on there, when Jeremy saw that. 12:12:40 12:12:41 12:12:44

Q Okay. Do you remember, after seeing that sticker, asking anyone at Masaba about patent filings? 12:12:44 12:12:47 12:12:49

A No. I didn't get involved in it. 12:12:49

Q Okay. Your declaration, Paragraph 11. 12:12:51

A Yes. 12:13:06

Q You still okay? 12:13:06

A Yes. 12:13:07
Q Okay. You say that you "remember after 12:13:08
the testing" -- again, just to stop there, we're 12:13:12
talking about the testing that occurred early 12:13:16
August 2021? 12:13:19
A Yes. The rock quarry. 12:13:20
Q -- "Masaba continued to work on testing 12:13:21
and fine-tuning the first unit." 12:13:26
A Yes. 12:13:26
Q Okay. "And then delivered it to Solaris a 12:13:26
few weeks later." 12:13:29
A Okay. 12:13:30
Q So is it your understanding that the first 12:13:31
unit was delivered to Solaris between sometime in 12:13:34
August of 2021? 12:13:42
A Yeah. It would have been after the 12:13:43
testing at the rock quarry. 12:13:45
Q Okay. 12:13:47
A Yeah. I don't remember exactly when, but 12:13:47
yes. 12:13:50
Q Okay. You mentioned an accident that 12:13:51
occurred. Do you know if that accident -- if 12:13:53

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the -- that prevented the unit from being delivered to Solaris at that time? 12:13:57 12:13:59

A I can't remember when that happened. I think -- I think it may have happened on the way to deliver it, but I can't remember. 12:14:00 12:14:03 12:14:06

Q Okay. 12:14:08

A And then it came back to Masaba and then they had to come back and fix it. 12:14:08 12:14:11

Q Okay. So this was the first unit that had the "patent pending" marking on it? 12:14:13 12:14:15

A Yes. Yes. 12:14:17

Q Okay. So your recollection was there was the accident and it got returned to Masaba? 12:14:20 12:14:21

A Yes. 12:14:24

Q Okay. Did you visit Masaba at any point in time while the -- 12:14:26 12:14:28

A Yes. 12:14:29

Q -- damage to the unit -- 12:14:29

A Yes. 12:14:31

I'm sorry. Sorry. 12:14:33

Q It's okay. No, it's all right. I just want to make sure it's clear on the record. 12:14:33 12:14:35

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Did you visit Masaba at any point in time while the damaged unit was at their facility? 12:14:35 12:14:38

A Yes. 12:14:40

Q Okay. And so that would have been at some point September 2021? Is that fair to say? 12:14:40 12:14:45

A Sometime after August 2nd, yeah. I don't remember. 12:14:48 12:14:51

Q Okay. Were you involved with setting up the delivery of that first unit when it was being shipped down before the accident? 12:14:51 12:14:56 12:15:00

A No. If I recall correctly, I think Solaris set up someone to come pick that up. I can't remember. But I think they had somebody come pick it up, but I don't recall. 12:15:01 12:15:03 12:15:07 12:15:09

Q Was that part of the information you were passing between the parties? 12:15:11 12:15:12

A Probably. I can't remember. Probably. 12:15:13

Q Okay. 12:15:16

A I don't remember. 12:15:17

Q Would you have been aware of the shipment occurring? 12:15:18 12:15:20

A Oh, yes. Yeah. I would have known it was 12:15:21

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coming. I don't know if they worked directly with Masaba to set that up or not. I don't remember. 12:15:25 12:15:27

Q Okay. 12:15:28

A Yeah. 12:15:28

Q So it's possible Solaris worked directly with Masaba instead of through you? 12:15:29 12:15:30

A Yeah, I don't remember. I don't remember. Yeah. 12:15:32 12:15:36

Q Okay. You saw the accident -- the unit -- that first unit after it had been damaged in the accident? 12:15:36 12:15:40 12:15:42

A Yes. 12:15:43

Q Okay. What was the damage -- your understanding of the damage? 12:15:44 12:15:47

A If I remember correctly, I think one of the axles had broken, so that had to be repaired. I think there was some minor cosmetic issues with it, but I don't recall all the damage. 12:15:47 12:15:49 12:15:56 12:16:00

But it was repairable, thank God. We put all that work into it. But I don't remember exactly what happened, but I think an axle broke, if I remember correctly. 12:16:03 12:16:06 12:16:09 12:16:10

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Q Let me take a step back. 12:16:12

How did you learn about the accident? 12:16:14

A I think I got a call. It may have been -- 12:16:15

I don't remember. Jeremy may have called me. I 12:16:23

want to say that -- and, again, I'm trying to 12:16:26

remember back. 12:16:29

Solaris had one of their drivers or 12:16:30

somebody come down -- come and pick it up in South 12:16:31

Dakota and were driving it back, and maybe Jeremy 12:16:34

or Scott may have called me when it happened. I 12:16:36

don't remember exactly. 12:16:39

Q Okay. 12:16:41

A Yeah. 12:16:44

Q When you found out about it, what did you 12:16:44

do? 12:16:46

A I mean, I'm sure I was all over the phone 12:16:46

calling Masaba and -- well, I think it was -- if I 12:16:50

remember correctly, it was stuck beside the 12:16:52

freeway for a while. So I think Anchor -- we sent 12:16:54

up a couple of our millwrights that went up there 12:16:56

to try to maybe see if they could get it to where 12:17:00

they could get it towed back up to Masaba. 12:17:04

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But I was on the phone constantly between everybody, just trying to get the thing back to Masaba to where we could repair it. 12:17:06 12:17:07 12:17:10

Q You said "millwrights." I'm sorry. What is that? 12:17:14 12:17:16

A They're, like, guys that work on equipment. That's what -- Anchor Industrial has a millwright company, so they're working on different types of mobile equipment or silos, factories, things like that. 12:17:16 12:17:18 12:17:22 12:17:24 12:17:27

Q I see. So these were Anchor employees who would have gone to the site? 12:17:27 12:17:30

A Yeah. They didn't really do anything. We just -- I felt like we needed to be involved, so I think we sent a couple guys up there just to be there and try to help out however they could. 12:17:31 12:17:32 12:17:34 12:17:36

Q Why did you feel like you needed to be involved? 12:17:38 12:17:40

A Because it's our -- I mean, Solaris is our customer. You know, I want to take care of my customer, so, you know, it was very important to us. 12:17:40 12:17:42 12:17:44 12:17:47

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Q Do you know if Masaba had sent anyone? 12:17:47
A Oh, I'm sure they -- yeah. I think they 12:17:49
had a couple people down there too. I think it 12:17:52
was stuck beside the road for several hours -- I 12:17:54
mean, for quite a while. 12:17:56
So -- but I don't remember who Masaba 12:17:59
sent, but I think Anchor sent a couple people to 12:18:01
help. 12:18:03
Q Okay. You remember Anchor sent a couple 12:18:03
people to help. How do you know if Masaba sent 12:18:05
someone? 12:18:07
A I don't. I don't. But I'm assuming -- 12:18:08
again, this is four years ago. So this is one 12:18:10
day. But I would think Masaba would have sent 12:18:12
somebody too. 12:18:15
Q Okay. 12:18:18
A Yeah. 12:18:18
Q Do you know what caused the accident? 12:18:19
ATTORNEY NYDEGGER: I'm going to 12:18:22
start objecting on relevancy. Liz, how is 12:18:23
this -- I mean, you've explored -- I've 12:18:26
let you explore this for a bit now, but 12:18:27

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can you tie this back to the declaration? 12:18:30

ATTORNEY FLANNERY: I mean, it's 12:18:31

the unit that he said everybody was so 12:18:33

excited about. That's the -- I mean, this 12:18:35

is the unit that you-all are saying was 12:18:37

praised and all of that. I think anything 12:18:39

having to do with that unit seems 12:18:43

relevant. 12:18:44

ATTORNEY NYDEGGER: Well, I -- the 12:18:45

fact that a unit is praised does not open 12:18:47

the door to anything relevant to the unit. 12:18:50

I mean, that's -- 12:18:52

ATTORNEY FLANNERY: Well, it 12:18:53

certainly rebuts the praise of the unit. 12:18:55

ATTORNEY NYDEGGER: How does -- how 12:18:59

does that rebut the praise of the unit? 12:19:02

ATTORNEY FLANNERY: It's a problem 12:19:05

with the unit. I don't think there's any 12:19:06

debate about that. 12:19:11

ATTORNEY NYDEGGER: The praise was 12:19:13

about how the unit functions to deliver 12:19:13

sand. A trailer -- 12:19:15

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ATTORNEY FLANNERY: It's a transportable unit. 12:19:18 12:19:20

ATTORNEY NYDEGGER: Yeah. 12:19:21

ATTORNEY FLANNERY: Transportation is part of its function. 12:19:21 12:19:22

ATTORNEY NYDEGGER: Yeah, I -- 12:19:25

ATTORNEY FLANNERY: Are you -- 12:19:27

ATTORNEY NYDEGGER: I'm going to object on relevancy. 12:19:28 12:19:29

ATTORNEY FLANNERY: Okay. Are we going to continue or is this going to be -- 12:19:30 12:19:32 12:19:33

ATTORNEY NYDEGGER: Yeah. 12:19:33

ATTORNEY FLANNERY: -- a instruct him not to answer? I just don't -- 12:19:34 12:19:34

ATTORNEY NYDEGGER: Well, he's not my witness. I can't instruct him. 12:19:36 12:19:36

ATTORNEY FLANNERY: Oh, okay. 12:19:38

ATTORNEY NYDEGGER: Because he's not my -- I'm not representing him. 12:19:39 12:19:40

ATTORNEY MASTELLER: Okay. And to add to that, you know, my understanding is 12:19:43 12:19:43

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we're going to be testifying to the declaration here, and I feel like we are going off on a rabbit hole -- or a side trail that has taken some time. 12:19:44 12:19:46 12:19:48 12:19:52

I'll let him answer that question, but as far as, like, probing further, I don't see the importance of that at all -- 12:19:54 12:19:57 12:20:00

ATTORNEY FLANNERY: Okay. 12:20:01

ATTORNEY MASTELLER: -- the relevancy of that at all to this. 12:20:01 12:20:02

THE WITNESS: What was the question -- 12:20:04 12:20:04

ATTORNEY FLANNERY: I'll repeat it again. Don't worry. It's not a memory test. 12:20:05 12:20:06 12:20:07

BY ATTORNEY FLANNERY: 12:20:08

Q Do you know what caused the accident? 12:20:08

A I don't know the final -- that would be a question for Masaba. I don't know the final -- what the final cause was. My understanding was an axle failed, but I don't know that for sure. That would be a question for Masaba. 12:20:10 12:20:12 12:20:18 12:20:20 12:20:23

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Q Was the axle part of the design that Masaba created? 12:20:24 12:20:27

A I mean, it's part of the machine, so I would assume so, but... 12:20:28 12:20:31

Q Did you select the axle? 12:20:36

A No. 12:20:37

Q Okay. You said that you saw the unit being repaired there at the Masaba facility. Were there any changes to the design or operation of the unit at that point that were made? 12:20:38 12:20:54 12:20:58 12:21:01

A I don't know. I don't know. 12:21:03

Q Why were you there? 12:21:05

A Well, it was my customer. I felt like I needed to be there just -- I went up a couple times just to make sure, on Solaris' behalf, who is my customer -- Jeremy was my customer -- that I was there and observing it, you know, making sure that things were moving along to repair it and get it to my customer. 12:21:06 12:21:10 12:21:13 12:21:15 12:21:17 12:21:19 12:21:21

Q Did Mr. Weinstein or anyone else from Masaba -- or I'm sorry. Try it again. 12:21:24 12:21:26

Did Mr. Weinstein or anyone else from 12:21:29

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Solaris go visit the Masaba facility at that point? 12:21:32 12:21:34

A I can't remember. I can't remember. Jeremy may have gone up there, but I don't recall. I don't remember. 12:21:34 12:21:37 12:21:39

Q Were there other Anchor millwrights or other Anchor employees there assisting with the repair? 12:21:41 12:21:44 12:21:46

A I don't recall. I know we sent a couple of guys up when it was alongside the road, but I don't remember. 12:21:47 12:21:56 12:21:59

Q You don't remember if you sent them to the Masaba facility? 12:21:59 12:22:02

A Yeah. 12:22:03

Q Okay. Other than the axle, do you remember if there was any other damage to the unit? 12:22:03 12:22:13 12:22:14

A I think it was just maybe some cosmetic damage to some sheet metal on it, if I remember correctly, which was usually repairable, so -- from my recollection. 12:22:14 12:22:16 12:22:22 12:22:26

Q How long were you at the facility there 12:22:27

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during that visit? 12:22:30

A I don't remember. I would have gone up 12:22:31

for maybe a day or two just to look at it. 12:22:33

And, again, I wanted to be involved 12:22:36

because, you know, number one, I felt horrible we 12:22:37

worked on it that long and then that happened, and 12:22:40

that just I was there present as someone from 12:22:43

Anchor and representing Solaris to make sure we're 12:22:45

getting it fixed to get them their piece of 12:22:48

equipment. 12:22:52

Q Did Solaris ever express to you that they 12:22:52

were displeased with the schedule for the repairs? 12:22:54

A I don't remember. I don't even remember 12:22:57

how long it took to fix it, but it -- I don't 12:23:01

recall. I don't recall. 12:23:06

Q Was Solaris putting pressure on you to 12:23:06

deliver it more quickly? 12:23:08

ATTORNEY MASTELLER: I'm going to 12:23:10

object to the relevancy of this question 12:23:11

again. Again, this is not in the 12:23:13

declaration here. Now we're outside of 12:23:14

the entire scope of what he's been -- what 12:23:16

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he declared. And I don't see how this ties back to anything in here. 12:23:20 12:23:21

ATTORNEY FLANNERY: So he says in Paragraph 11: "It was delivered to Solaris a few weeks later." 12:23:23 12:23:24 12:23:25

I'm trying to understand that because it doesn't make sense with this timeline. 12:23:27 12:23:28 12:23:30

ATTORNEY MASTELLER: If you want to answer the question, go ahead. 12:23:37 12:23:39

ATTORNEY FLANNERY: I'll say it: No way you could remember. 12:23:41 12:23:42

BY ATTORNEY FLANNERY: 12:23:43

Q Was Solaris putting pressure on you to deliver the unit -- the repaired unit more quickly? 12:23:43 12:23:45 12:23:47

A I don't know if it was "pressure." Jeremy and I had a really good working relationship. I knew he needed it so I was probably more putting pressure on myself that we needed to get it done and get it back to him. 12:23:48 12:23:49 12:23:51 12:23:54 12:23:56

Q Did the repairs take more than a week? 12:23:57

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A I don't remember how long they took. 12:23:59
Probably more than a week, but I don't remember 12:24:01
how long they took. 12:24:02
Q Do you know if the -- if the unit was 12:24:06
delivered to Solaris -- actually made it to the 12:24:08
Solaris field -- 12:24:14
A Yes. 12:24:14
Q -- or facility before the end of September 12:24:16
2021? 12:24:20
A I don't remember. 12:24:20
Q Okay. 12:24:21
A Yeah, I don't remember. 12:24:22
Q Were you present when the unit was 12:24:24
delivered? 12:24:25
A I don't believe so. I couldn't even 12:24:26
remember where we had it sent to, but I don't 12:24:28
remember -- I don't believe so, but I don't 12:24:30
remember. 12:24:37
I did attend some -- they had it -- I 12:24:37
think they had it shipped out to Kermit and I went 12:24:39
to some test -- they did their own testing so I 12:24:42
was there for those, but I don't remember where 12:24:44

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those were. I'm sorry. 12:24:45

Q So "they did their own testing." You're talking about Solaris? 12:24:46 12:24:50

A Uh-huh, yes. 12:24:50

Q Okay. So they did their own testing of the unit after it was shipped to them? 12:24:51 12:24:53

A Yes. 12:24:54

Q And you attended that testing? 12:24:54

A Yeah. I just observed it, yeah. 12:24:56

Q Okay. Is that somewhere in Texas? 12:24:58

A Yeah. It was out in West Texas, yeah. 12:25:01

Q Okay. Do you know if anyone from Masaba attended that? 12:25:04 12:25:06

A I don't remember. I don't remember. 12:25:07

Q Okay. 12:25:07

A But I was always there. I always tried to be present there when they were doing something like that. 12:25:13 12:25:15 12:25:17

Q And I should have asked: So for the delivery of the repaired unit to Solaris -- 12:25:17 12:25:20

A Yes. 12:25:22

Q -- did you have any involvement in setting 12:25:22

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up that shipment? 12:25:24

A I don't believe so. I don't recall. 12:25:25

Q Do you know if Solaris arranged that directly with Masaba? 12:25:28 12:25:30

A I don't remember. I don't remember. God, it's so long ago. 12:25:31 12:25:38

I don't remember how we got -- how it got to them. 12:25:40 12:25:42

Q You're not sure? 12:25:42

A I don't remember. Yeah. 12:25:43

Q Okay. After this -- after the first unit was delivered, did Solaris ever approach you or Anchor about ordering more units? 12:25:44 12:25:50 12:25:54

A Well, they had already -- if I remember correctly, they had already placed the second PO. And then -- I'm trying to think back. 12:25:56 12:26:02 12:26:04

At some point, things -- I don't remember -- Dan kind of took -- and Kelly kind of worked together on things. So -- I'm trying to think back about how this transpired. 12:26:09 12:26:12 12:26:16 12:26:22

I kind of got pulled back into my regular position and going after some of the other 12:26:23 12:26:26

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work that we were doing. So Dan dealt more with that. So I'm not sure what transpired in those conversations as far as ordering more. 12:26:28 12:26:30 12:26:33

Q Okay. At least at that time, you weren't actively working on -- 12:26:35 12:26:37

A No. 12:26:38

Q -- facilitating more orders by Solaris? 12:26:38

A Not like I had been, no. 12:26:42

Q Okay. Do you know if they discussed future units of -- orders of more units? 12:26:44 12:26:46

A I'm not sure what their discussions were. Yeah. I started working on -- you know, I did a lot of -- trying to get our millwrights working in plants and so on, so I kind of got redirected working more towards that. 12:26:48 12:26:52 12:26:56 12:26:58 12:27:01

Q Did you still speak with Jeremy Weinstein during this time? 12:27:02 12:27:04

A I did, yeah. Yeah. 12:27:05

Q Okay. From the conversations that you had, do you think that Solaris had lost faith in Masaba? 12:27:06 12:27:08 12:27:14

A I think there was some -- I don't -- I 12:27:15

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mean, it was never -- I think there was some hard feelings there. Over what, I'm not sure. Things like that, I don't delve into unless somebody volunteers that information to me. But there could have been some hard feelings there, yeah. 12:27:19 12:27:22 12:27:24 12:27:28 12:27:30

Q And what did Mr. Weinstein say that made you think that? 12:27:31 12:27:33

A He didn't say anything, but I think everybody was not as excited about the whole project as they had been in the beginning. I think maybe it breaking down had kind of taken some of the air out of the sails and so on. 12:27:33 12:27:36 12:27:39 12:27:41 12:27:45

And, again, I was kind of moving on to some different things with our business so I wasn't involved -- intimately involved in the day-to-day of that as I had been. 12:27:47 12:27:50 12:27:51 12:27:53

Q Okay. Do you think that Mr. Weinstein had hard feelings towards Anchor about that? 12:27:55 12:27:56

A I don't think so. I think we -- Anchor worked really hard to take care of them and so did Masaba. You know, Masaba pulled the rabbit out of the hat on a lot of this stuff. So everybody 12:27:58 12:28:02 12:28:04 12:28:07

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worked really hard on the project and making it work. 12:28:08 12:28:12

So -- but I don't -- I don't think there was any hard feelings towards Anchor. I don't think there was towards me. Jeremy and I really worked good -- well together and I worked really hard for them. 12:28:13 12:28:14 12:28:17 12:28:18 12:28:21

Q Did you work with Mr. Weinstein on any projects after this? 12:28:22 12:28:25

A No. 12:28:27

Q Okay. 12:28:28

A No. 12:28:28

Q Did you ask him about working on any projects after this? 12:28:28 12:28:31

A I think we had a conversation at one point to where I just -- I told him I appreciated working with him and, you know, anything in the future, I'd appreciate it, and that was it. You know, so that was the end of our working relationship. 12:28:31 12:28:35 12:28:37 12:28:38 12:28:41 12:28:43

Q And did he ever approach you about any other opportunities? 12:28:44 12:28:46

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A No. Not that I know of, no. 12:28:46
Q Okay. Let's look at paragraph -- you 12:28:50
still okay? 12:28:53
A Yes. Yeah. 12:28:53
Q Okay. Paragraph 12 of your declaration. 12:28:54
A Okay. 12:28:57
Q You stated that you "were impressed with 12:28:57
Masaba's bucket elevator design for two 12:29:00
reasons" -- 12:29:03
A Yes. 12:29:04
Q -- and you list those there? 12:29:04
A Yes. 12:29:06
Q Okay. Sorry. One moment. 12:29:06
The first reason you say: "First, it 12:29:22
allowed frac sand to be transported to the top of 12:29:24
Solaris' silos with a mobile system using a 12:29:26
minimal footprint." 12:29:29
A Yes. 12:29:29
Q It was the vertical bucket elevator that 12:29:29
allowed that to occur? 12:29:31
A It was, and it was mobile. I've never 12:29:32
seen a bucket elevator that was mobile before. 12:29:35

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Everything's always been stationary. So that's why it was impressive to me. 12:29:37 12:29:39

Q Okay. And then the second item, you said: "It allowed Solaris to fill its silos at a much faster rate than its existing system." 12:29:41 12:29:52 12:29:55

A Yes. 12:29:57

Q Just so I've got it, what is the "existing system" you were referring to? 12:29:57 12:29:59

A The pneumatic -- they were pneumatically -- so they're blowing through tubes throughout the hose the frac sand into the silos. 12:30:00 12:30:03 12:30:05

So my understanding was it took 20-plus minutes to unload those trucks before. With the system that, you know, Masaba designed, I think we were down around 4 to 5 minutes. So it was much faster than what they were originally doing. 12:30:07 12:30:10 12:30:14 12:30:16 12:30:19 12:30:21

Q Were you aware of Solaris having any system that used an inclined belt as opposed to a pneumatic system to elevate the frac sand? 12:30:22 12:30:25 12:30:28

A I think they tested one -- I was out at a site where they were doing some work with our -- 12:30:31 12:30:37

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with the Masaba system, and they had an incline belt conveyor out there that they were testing as well. But I don't know anything -- I didn't ask questions. I don't know any particulars about that. 12:30:39 12:30:44 12:30:46 12:30:49 12:30:50

Q You're not aware of Masaba building that? 12:30:50

A No. No. 12:30:53

Q Okay. And do you know anything about the rate at which that was able to fill silos? 12:30:53 12:30:57

A I don't, no. 12:31:00

(Discussion off the record.) 12:31:00

BY ATTORNEY FLANNERY: 12:31:01

Q Okay. Have you heard of a company called "Dynatek" before? 12:31:01 12:31:38

A I've heard the name and I saw something on one of the back of these. I didn't look at it. It looked like there was something on the back of one of those things you gave me. 12:31:39 12:31:45 12:31:47 12:31:50

Q Rather than putting another exhibit in front of you... 12:31:53 12:31:55

ATTORNEY NYDEGGER: Exhibit 1106. 12:32:24

THE WITNESS: 1106? There it is 12:32:26

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right there. 12:32:28

ATTORNEY FLANNERY: Good assist. 12:32:30

Efficiency. 12:32:32

THE WITNESS: You should hire me as 12:32:33

your assistant. 12:32:34

BY ATTORNEY FLANNERY: 12:32:38

Q All right. So 1106 I think was an email, 12:32:38

and it included an attachment that you have in 12:32:41

front of you there. 12:32:46

A Okay. 12:32:46

Q So was this the first time -- receipt of 12:32:51

this attachment, was this the first time you had 12:32:56

heard of Dynatek? 12:32:59

A I've got to look back at the email. 12:33:00

Q Sure. 12:33:02

A Okay. Yeah, I don't remember this, but, 12:33:23

yeah, that would have been the first time I've 12:33:31

seen that, yeah -- 12:33:33

Q Okay. 12:33:34

A -- or when he sent that, yeah. 12:33:34

Q Were you aware that Dynatek had an 12:33:36

EconoLoader system that was an articulated belt 12:33:42

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conveyor? 12:33:45

A No. I'm trying to think back when this 12:33:45

came through, and I'm sure there were discussions 12:33:48

about it, but I don't recall the context and I 12:33:50

don't recall the email. 12:33:52

Q Do you recall -- independent of the email, 12:33:52

do you recall knowing whether Dynatek sold a 12:33:56

system that had articulated conveyor belts? 12:33:59

A No. I don't recall anything, no. 12:34:03

Q Okay. Do you remember knowing if Dynatek 12:34:04

sold articulated air slides? 12:34:07

A No. I don't remember. 12:34:08

Q Did you do any investigation as to 12:34:09

articulated air slides or conveyor belts that were 12:34:16

available on the market? 12:34:19

A I don't recall anything, no. 12:34:20

Q Okay. 12:34:21

A I don't remember anything. But, again, 12:34:21

this is a long time ago. 12:34:23

Q Okay. Before this project, had you seen 12:34:24

conveyor belts on an extension arm like this? 12:34:28

A No. 12:34:30

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Q Okay. Do you believe that Masaba invented conveyor belts on an extension arm? 12:34:31 12:34:35

ATTORNEY MASTELLER: I'm going to object to that question. It calls -- to the extent it -- can you read that question back, please? 12:34:37 12:34:39 12:34:46 12:34:54

(Record read as requested.) 12:35:05

ATTORNEY MASTELLER: To the extent it calls for the witness to speculate as to the answer to that. 12:35:05 12:35:05 12:35:09

ATTORNEY FLANNERY: So I've not commented on speaking objections yet, but we're getting into speaking objections and that's not allowed under PTAB rules. 12:35:10 12:35:11 12:35:13 12:35:15

ATTORNEY MASTELLER: Okay. 12:35:18

ATTORNEY FLANNERY: So I'm going to ask that we cut down on that. Okay? If you are going to instruct him not to answer, that's okay. If you have an objection, say "objection; form." 12:35:18 12:35:19 12:35:23 12:35:24 12:35:25

ATTORNEY MASTELLER: I'm not -- to the extent that it's even relevant to this 12:35:26 12:35:27

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declaration, it's caused -- he's -- how does that tie into the declaration? 12:35:28 12:35:33

ATTORNEY FLANNERY: He says he was impressed with Masaba's design, and he's already testified that he thought Masaba invented it. 12:35:34 12:35:36 12:35:38 12:35:39

THE WITNESS: No, I don't -- 12:35:39

ATTORNEY FLANNERY: So I'm trying to understand -- you can object. You can lodge your objections if you have an objection. 12:35:40 12:35:41 12:35:46 12:35:48

ATTORNEY MASTELLER: I'm going to lodge my objection, but you can answer the question. 12:35:48 12:35:48 12:35:50

ATTORNEY FLANNERY: I'll repeat the question again -- 12:35:50 12:35:51

THE WITNESS: Sure. 12:35:52

ATTORNEY FLANNERY: -- just to make sure we've got it clear. 12:35:52 12:35:54

BY ATTORNEY FLANNERY: 12:35:55

Q Do you believe that Masaba invented conveyor belts on an extension arm? 12:35:55 12:35:58

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A Yeah. So two things what you just said about me, if -- I don't -- my -- what I believe Masaba did was put all of these things together and make it work and designed it. 12:36:01 12:36:03 12:36:05 12:36:08

So I don't -- if I said I thought they invented that, that's not -- I don't believe that's what I said. But if I did, that's not what I meant. 12:36:09 12:36:11 12:36:13 12:36:16

So, no, I don't think they invented that. I think they were able to come up with their own design that fit into that system that fit the Solaris silos. 12:36:16 12:36:20 12:36:27 12:36:30

Q Their own design for what? 12:36:32

A To move frac sand to put together an articulating conveyor belt conveyor with a bucket elevator with a loading conveyor and a truck unloader altogether. Yeah. 12:36:35 12:36:41 12:36:44 12:36:47

Q Okay. Just the concept of an articulated belt conveyor? 12:36:48 12:36:51

A That's one piece of it, yeah. One piece of the system, yeah. 12:36:52 12:36:55

Q But to your knowledge, those existed 12:36:56

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before? 12:36:58
A I'm sorry? 12:36:58
Q But to your knowledge, those existed 12:36:59
before? 12:37:01
A One piece of it, yes. Yeah. I'll give 12:37:01
you that. Yeah. 12:37:04
Q Okay. Did you work with Masaba -- well, 12:37:05
let me take a step back. 12:37:12
You mentioned NOV -- and, yes, you can 12:37:13
put that back. 12:37:18
A Okay. 12:37:19
Q Sorry. I'll let you do that. 12:37:19
You mentioned NOV earlier in your 12:37:22
testimony. 12:37:24
Do you recall that? 12:37:24
A Yeah. They have a -- what I saw was they 12:37:25
had a silo -- a silo system with an interval 12:37:27
bucket elevator in it, yes. 12:37:32
Q How did you learn about that system? 12:37:33
A Online. Yeah. 12:37:35
Q Was it looking online in connection with 12:37:36
this project? 12:37:39

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A I don't remember. It was probably after Scott said there was -- my guess is that it was probably after Scott said that they didn't have a good reputation in the oilfield. So I think I probably did a little research after that and found it online. 12:37:39 12:37:43 12:37:47 12:37:49 12:37:51 12:37:54

Q Okay. 12:37:55

A Yeah. 12:37:55

Q Did you ever have any conversations with anyone at NOV about the Masaba system -- the Masaba design? 12:37:55 12:37:57 12:38:00

A Yes. 12:38:04

Q Okay. When was that? 12:38:04

A I don't recall exactly when it was. Yeah. 12:38:05

Q Was it after the unit -- the repaired unit was delivered to Solaris? 12:38:09 12:38:12

A I don't remember. It could be, yeah, possibly. 12:38:13 12:38:19

Q Okay. Do you recall if it was before or after the testing that occurred in August of 2021? 12:38:20 12:38:24

A I don't remember. 12:38:27

It's been so long ago, I don't 12:38:32

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remember. I -- yeah. 12:38:34

Q Did you have emails with NOV or phone 12:38:36

calls or both? 12:38:37

A I don't -- I don't recall. It's been so 12:38:38

long ago. I mean, I don't remember. 12:38:43

Q Do you remember meeting with them in 12:38:46

person? 12:38:47

A I don't recall. 12:38:48

ATTORNEY MASTELLER: I'm -- go 12:38:55

ahead and ask your next question. 12:38:56

THE WITNESS: Yeah. 12:38:57

BY ATTORNEY FLANNERY: 12:38:59

Q Okay. What were your discussions with NOV 12:39:00

about? 12:39:01

ATTORNEY MASTELLER: I'm going to 12:39:02

object to that question. It's not 12:39:02

relevant to anything in the declaration at 12:39:04

all. If you can tell me how you're tying 12:39:05

that into the declaration and we'll 12:39:07

consider it. 12:39:10

ATTORNEY FLANNERY: I think whether 12:39:10

his future work on the design -- on trying 12:39:11

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to commercialize the design is relevant. 12:39:14
I disagree with you. 12:39:17
ATTORNEY MASTELLER: Whose future 12:39:18
work? 12:39:19
ATTORNEY FLANNERY: His 12:39:19
communications with NOV about the design. 12:39:20
ATTORNEY MASTELLER: How does NOV 12:39:23
have anything to do with this declaration 12:39:24
and the future work of the design? 12:39:27
ATTORNEY FLANNERY: If he worked -- 12:39:29
if he didn't talk to NOV about the Masaba 12:39:30
design, then nothing. But I'm trying to 12:39:32
understand if he talked with them about 12:39:34
the design. 12:39:36
ATTORNEY MASTELLER: Are we talking 12:39:37
after Solaris canceled the PO? I'm having 12:39:38
trouble understanding what the relevancy 12:39:45
of NOV is with this. 12:39:47
ATTORNEY FLANNERY: If he spoke 12:39:49
with them about this system that he was 12:39:49
impressed by, I think it's relevant to the 12:39:51
assertions the patent owner is making 12:39:54

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about the success of that system. 12:39:55

If you want to instruct him not to answer -- 12:39:59

ATTORNEY MASTELLER: I'm not -- 12:40:01

ATTORNEY FLANNERY: I mean, you know, I don't want to get into a lot of coaching and stuff like that. 12:40:02

ATTORNEY MASTELLER: Yeah, no, no, no, no, no. You're fine. 12:40:05

I don't see how it's relevant, and I'm going to instruct him not to answer the question. 12:40:07

ATTORNEY FLANNERY: Okay. So I'll ask this question, and I don't know what your instruction will be or not. 12:40:10

BY ATTORNEY FLANNERY: 12:40:18

Q After -- other than Solaris, did you ever have any conversations with any other companies about the Masaba design? 12:40:19

A I don't believe so. I don't recall anything, no. 12:40:27

Q You never made any attempt to get other 12:40:33

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companies interested in purchasing a unit from Masaba; is that right? 12:40:36 12:40:38

A No. No. Not that I remember, no. 12:40:39

Q Why not? 12:40:43

A Why not? Because I went on -- I left Anchor. You know, so that's not -- you know, it's not my -- anything to do with it anymore. 12:40:44 12:40:47 12:40:48

Q Do you know if Masaba ever approached anyone about selling more of the units other than Solaris? 12:40:57 12:40:59 12:41:01

A I don't know. 12:41:02

Q You didn't do any work to assist them with that effort? 12:41:06 12:41:08

A No. 12:41:08

Q Okay. After the repaired unit, do you know if Masaba built any other units that were -- that reflected the design that we've been talking about? 12:41:09 12:41:18 12:41:23 12:41:26

A After -- after we -- state that again. 12:41:26

Q Sure. 12:41:32

A Let me try and understand you correctly. 12:41:33

Q Other than that repaired unit that was 12:41:35

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delivered -- 12:41:37
A Yes. 12:41:38
Q -- eventually delivered to Solaris -- 12:41:38
A Yes. 12:41:40
Q -- do you know if Masaba ever built any other units of that system for anyone? 12:41:41
A No, not that I know of. I haven't been involved with it, but I don't believe so. 12:41:42
Q Not that you're aware of? 12:41:44
A Not that I'm aware of, no. 12:41:48
Q So to your knowledge, that repaired unit that was delivered to Solaris is the only unit that Masaba has ever built, according to that design they created? 12:41:50
A As far as I know, yes. Again, I've been out of it four or five years. So -- but as far as I know, no. 12:41:51
Q Do you know if Anchor ever built such units? 12:41:52
A No. I don't think so. No. 12:41:53
Q You mentioned leaving Anchor after the conclusion of this project? 12:41:55
12:41:59
12:42:00
12:42:02
12:42:04
12:42:04
12:42:06
12:42:06
12:42:07
12:42:14

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A Excuse me. Yes. 12:42:16
Q You okay? 12:42:17
A Yeah. A little heartburn. 12:42:18
Q It's okay. Understand. 12:42:22
How long were you at -- were you 12:42:24
working at Anchor after the conclusion of this 12:42:25
project, before you left? 12:42:27
A I mean, I left in March of 2022. So I 12:42:31
don't know -- I don't remember exactly when this 12:42:36
ended. So a few months, yeah. 12:42:37
Q I think you mentioned between the Solaris 12:42:39
project and the time you left, you did work on 12:42:41
some other projects? 12:42:43
A Yes. I worked on millwright projects 12:42:44
where we were repairing, you know, things in 12:42:48
factories and plants and stuff, yeah, which was my 12:42:51
original job. 12:42:53
Q When did you first consider leaving 12:42:54
Anchor? 12:42:56
A When did I first consider it? Oh, I don't 12:42:56
remember. I had an opportunity at my current 12:42:58
company, so I'm able to make a better life for my 12:43:02

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family here, so I went ahead and left. 12:43:05

Q You said -- oh, you had an opportunity at your current company, at Gates? 12:43:06 12:43:09

A Yeah. Yeah. Yeah. 12:43:10

Q Do you know if Gates approached you while you were still working on the Solaris project? 12:43:11 12:43:13

A No. No. 12:43:14

Q Okay. Wait. No, you don't know, or no, they didn't? 12:43:16 12:43:21

A No. No one approached me. Yeah. No, Gates didn't approach me, no. 12:43:21 12:43:24

Q So this would have been after the work with Solaris -- 12:43:25 12:43:27

A Yes. 12:43:27

Q -- was concluded? 12:43:27

A Yes. Yeah. 12:43:29

Q Okay. When you left Anchor, did you already have a job at Gates? 12:43:29 12:43:31

A Yes. Yes. I left to go to Gates, yes. 12:43:32

Q Okay. Why did you leave? 12:43:36

A Why did I leave? Because Gates is a really great company. I had an opportunity -- it 12:43:37 12:43:40

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was more in line with what my sales roles have been, selling PT -- power transmission components in my career, so it was just a better fit for me. 12:43:44 12:43:51 12:43:54

Q A better fit than your role at Anchor? 12:43:57

A Yeah. 12:43:59

Q Was your role at Anchor less, I guess -- I'm sorry. Did you say "PT" or "BD"? 12:43:59 12:44:04

A "PT," power transmission. 12:44:06

So Anchor is very good to me. They're very good people. Anchor did everything -- you know, we -- Anchor did everything we could to take care of Solaris -- to take care of everybody. Right? So there was no hard feelings with Anchor when I left. I just had an opportunity at Gates which fit me more with my training and what I had done in my career. 12:44:09 12:44:11 12:44:15 12:44:18 12:44:20 12:44:22 12:44:24 12:44:27

Q Did anyone at Anchor ask you to stay? 12:44:28

A I don't remember. I don't remember that conversation, but -- yeah. 12:44:30 12:44:31

Q Did you find your job at Anchor stressful? 12:44:35

A I mean, this project was stressful, yes. 12:44:38

Q Okay. What was it that made it stressful? 12:44:43

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A What was it that made it stressful? 12:44:45
Q Yes. 12:44:46
A I mean, there was tight timelines and -- 12:44:47
you know, wanting to take care of my customer and 12:44:52
make sure they had what they needed and -- yeah. 12:44:55
It was just -- it was a lot of -- shoved into a 12:44:57
really small period of time to get something 12:45:02
designed and manufactured and working. So it was 12:45:03
a stressful time, yes. 12:45:07
Q Did that cause any problems for you in 12:45:08
terms of your job performance? 12:45:10
A No. I think I performed very well. 12:45:11
Q Did that cause any problems for you -- I 12:45:15
think you referred to a good opportunity for your 12:45:17
family. Did you see your job at Anchor as being 12:45:18
detrimental to your family? 12:45:22
A No. I don't think so. No. They were 12:45:24
very good to me. 12:45:27
Q Is your job today less stressful? 12:45:29
A I think I handle stress better than I did 12:45:33
a couple years ago. 12:45:35
Q That's interesting. Passage of time or 12:45:37

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something specific? 12:45:40

A I learned a lot during this, yeah. 12:45:40

Q Learned a lot during your time at 12:45:42

Solaris -- at Anchor? Excuse me. 12:45:45

A During this project, yeah. I learned a 12:45:46

lot, yeah. 12:45:48

Q Like what? You've got me curious. 12:45:49

A How to handle stress better. 12:45:51

Yeah, so I learned a lot and I think 12:45:53

I've matured and, you know, all in all, I think 12:45:56

situation -- this was a stressful time, and it 12:45:58

didn't -- I put a lot work into this. 12:46:02

I worked really hard on this, and I 12:46:03

made sure everyone was involved from my management 12:46:07

to my customers to Masaba, and I did the best I 12:46:11

could and worked really long hours and took time 12:46:14

away from my family. And I think at the end of 12:46:17

the day, I did the best job I could and did what I 12:46:19

was told. 12:46:21

But, you know, it's -- everything's an 12:46:22

opportunity to learn, and, you know, you just -- 12:46:28

we learn from our stress and from the things we do 12:46:33

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and try to do better next time. 12:46:36

Q Do you think you managed the stress 12:46:38

poorly? 12:46:40

A I don't know. No, I think I did fine. I 12:46:40

think I did fine. 12:46:47

Q Taking time away from your family, did 12:46:47

that cause problems? 12:46:49

A No. I have a great wife that's very 12:46:50

understanding. 12:46:52

Q Lucky man. 12:46:52

A Yes. 12:46:52

ATTORNEY FLANNERY: If we could 12:46:56

take a quick break, I want to review my 12:46:57

notes. I think I'm finished, but I just 12:46:59

want to make sure I'm not skipping 12:46:59

anything. So let's go off the record. 12:47:00

(Recess from 12:47 p.m. to 12:54 p.m.) 12:47:01

BY ATTORNEY FLANNERY: 12:54:12

Q Just a couple of quick follow-up 12:54:12

questions -- 12:54:14

A Sure. 12:54:14

Q -- Mr. Stanton. 12:54:15

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In Paragraph 10 of your declaration, this is the paragraph where you mention Mr. Weinstein making -- appearing visibly upset with the patent pending markings. 12:54:16 12:54:20 12:54:24 12:54:26

A Yes. 12:54:28

Q I just wanted to know: Was there anyone else with you at that point -- standing with you two at that point? 12:54:28 12:54:30 12:54:33

A I don't think so, but I don't remember. 12:54:35

Q Okay. 12:54:36

A Yeah. 12:54:36

Q Do you recall anyone else from Masaba ever making comments about the patent markings? 12:54:36 12:54:40

A No. 12:54:42

Q Scott Lambert, you don't recall him making comments? 12:54:42 12:54:44

A No. 12:54:44

Q Okay. During your breaks today, have you discussed the substance of your testimony either with Mr. Masteller or Mr. Nydegger? 12:54:45 12:54:54 12:54:55

A No. Not a word. 12:54:57

Q Going back to the testing in July -- or 12:54:59

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sorry -- August of 2021, during that visit, were you with the Solaris representatives the entire time? 12:55:02 12:55:10 12:55:11

A The testing in the rock quarry? 12:55:12

Q Yes. 12:55:14

A Most of the time we were all standing around watching it. So we were all around the area where the material was being dumped in and then walking around the conveyor. So right next to each other, no, but we were all interacting throughout that entire time. 12:55:15 12:55:18 12:55:21 12:55:24 12:55:26 12:55:30

Q So that entire -- and even while you were -- when you started at the Masaba facility, were you with them during that period? 12:55:30 12:55:33 12:55:34

A I don't remember. Again, I don't remember if we all met there. Again, it's so far -- it's so long ago. I don't remember how that day transpired, so I don't know -- I would assume we all met at the Masaba facility and went over together, but I don't recall. 12:55:35 12:55:36 12:55:41 12:55:44 12:55:46 12:55:48

Q Do you remember doing anything else earlier that morning? 12:55:49 12:55:51

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A No. I don't remember. 12:55:51
Q You didn't have -- attend to anything personal? 12:55:52 12:55:54
A Attend to anything personal? 12:55:54
Q Yes. 12:55:56
A I don't think so. I don't recall anything. 12:55:57 12:56:00
Q Do you know if Mr. Trantham met with the Solaris personnel at the start of the day instead of you? 12:56:02 12:56:05 12:56:07
A I don't know. I don't remember. 12:56:08
Q Do you remember meeting with the Solaris personnel at the Masaba facility? 12:56:11 12:56:13
A I don't. I don't remember that morning. 12:56:14
Q Okay. 12:56:16
A I remember being at the testing site all day, but I don't remember how we started out the day. 12:56:16 12:56:18 12:56:19
Q You don't remember doing anything at the Masaba facility that morning? 12:56:20 12:56:22
A I don't recall, no. 12:56:23
Q Do you remember leaving by yourself? 12:56:24

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A No. I don't think so. 12:56:26

Q Okay. Did you have any other projects you were working on that day for other clients? 12:56:33 12:56:34

A No. Everything during that time is when I was working for Solaris. 12:56:36 12:56:40

Q You didn't have any personal emergencies that day? 12:56:41 12:56:43

A I don't think so. 12:56:43

ATTORNEY FLANNERY: Okay. I don't have any more questions for this witness at this time. I'll pass the witness. 12:56:49 12:56:49 12:56:50

If I don't get a chance to say it on the record, thank you for your time. 12:56:52 12:56:53

THE WITNESS: Sure. Thank you. 12:56:55

ATTORNEY FLANNERY: I really appreciate it. 12:56:55 12:56:56

THE WITNESS: Sure. Thanks for your time. 12:56:57 12:56:57

EXAMINATION 12:56:58

BY ATTORNEY NYDEGGER: 12:56:58

Q Mr. Stanton, I just have a few follow-up questions. 12:56:59 12:57:01

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Earlier you were asked some questions about an axle that broke. 12:57:02 12:57:05

Do you recall that? 12:57:07

A Yes. 12:57:07

Q And counsel was questioning on you along -- on that issue with regard to Solaris' praise. 12:57:08 12:57:12 12:57:16

Do you recall that? 12:57:17

A Yes. 12:57:17

Q When that incident occurred, did Solaris ever withdraw any of the praise it had previously given the Masaba unit after its testing? 12:57:18 12:57:21 12:57:26

ATTORNEY FLANNERY: Object to form. 12:57:30

Go ahead. 12:57:32

THE WITNESS: Can I -- okay. 12:57:32

No. No. I think everybody was still really happy with the performance of the system. 12:57:33 12:57:37 12:57:38

BY ATTORNEY NYDEGGER: 12:57:40

Q Was Solaris, to your understanding, still anxious to get the unit? 12:57:40 12:57:46

ATTORNEY FLANNERY: Object to form. 12:57:48

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THE WITNESS: Yes. My understanding, yes. 12:57:49 12:57:50

BY ATTORNEY NYDEGGER: 12:57:50

Q Did Solaris communicate any concerns to you regarding that axle failure? 12:57:51 12:57:57

A Any concerns? 12:58:00

Q Yes. 12:58:01

A I mean, I'm sure there were concerns about, yeah, is it going to -- is it going to -- any issues in the future and how is that going to be addressed, but I don't remember any specifics. 12:58:03 12:58:05 12:58:08 12:58:09

Q Did Solaris express to you that they had lost faith in the Masaba system at all? 12:58:12 12:58:15

A Not in the system, no. 12:58:18

Q Going back to Exhibit 1106. 12:58:25

A Oh, okay. 12:58:32

Q Do you recall you were asked about this Exhibit 1106, and you were asked some questions about the final design. 12:58:42 12:58:47 12:58:53

Do you recall that? 12:58:55

A I believe so, yes. 12:58:56

Q And I just want to make sure that we 12:58:58

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understand your testimony completely. 12:59:01

At the time of this email in 12:59:05

January 2021, do you know whether the complete 12:59:10

engineering design had been finalized at that 12:59:17

time? 12:59:19

A I don't remember. 12:59:19

Q So -- 12:59:26

A July 2021? 12:59:27

Q This is -- this is January 2021. 12:59:29

A Okay. 12:59:33

Q On -- do you see the date January 2021 -- 12:59:33

A Yes, I do. 12:59:36

Q -- on the top of Exhibit 1106? 12:59:36

A Yes. 12:59:39

Q Okay. So that's the time frame that we're 12:59:39

talking about. 12:59:40

A Okay. 12:59:41

Q And so when you were talking about a final 12:59:42

design in connection with 1106, were you talking 12:59:50

about, like, a final concept to move forward with 12:59:55

designing and engineering, or were you talking 12:59:58

about a final engineered design? 13:00:01

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ATTORNEY FLANNERY: Object to form. 13:00:05

THE WITNESS: I mean, I was talking about a final product, a final finished product utilizing various components that fit into one that actually work to solve the issue. 13:00:06 13:00:08 13:00:10 13:00:13 13:00:15

BY ATTORNEY NYDEGGER: 13:00:17

Q So when you say that, I'm just trying to understand what you mean when you say -- a final finished product did not exist at that time; correct? 13:00:17 13:00:21 13:00:24 13:00:24

A No. To my knowledge, this system did not exist, no. 13:00:27 13:00:30

Q In January of 2021? 13:00:31

A Yes. To my knowledge, no. 13:00:31

Q Because the testing occurred around August 2021; correct? 13:00:32 13:00:35

A Yes. 13:00:37

Q And so when you talk about a final -- I guess what I'm trying to understand is when you say -- when you said "final design" in your testimony, were you talking about there was a 13:00:37 13:00:42 13:00:45 13:00:47

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final concept that was going to be moved forward with as the project and Masaba would continue -- would then take that final concept and do the engineering and design manufacturing, or were you -- did you mean by your testimony that -- when you said the words "final design" that the engineering was finalized and that design was now complete? 13:00:53 13:00:57 13:01:00 13:01:03 13:01:06 13:01:08 13:01:12 13:01:20

ATTORNEY FLANNERY: Object to form. 13:01:21

THE WITNESS: I think we're talking about when her and I were speaking earlier? 13:01:22 13:01:23 13:01:25

BY ATTORNEY NYDEGGER: 13:01:25

Q Yes. You were talking about this Exhibit -- 13:01:26 13:01:28

A Yeah. Yeah. 13:01:28

Q -- 1106 and talking about this conversation -- this email exchange that occurred in January 2021. 13:01:28 13:01:32 13:01:34

A Yeah. No, I -- I mean, I believe I was -- if I'm recalling our conversation earlier is that the "final design" as in the final finished 13:01:35 13:01:36 13:01:40

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product utilizing the articulating conveyors, the bucket elevator, the -- and put conveyor in the truck drive-over as in the final finished product, the final design. 13:01:42 13:01:46 13:01:50 13:01:52

Q Okay. And so had that design been completed by January 20th, 2021, to your knowledge? 13:01:57 13:02:00 13:02:05

A The -- what was finally made as the finished product? 13:02:05 13:02:08

Q Yes. 13:02:08

A No. I mean, I think we were still at -- you know, or Masaba was still at the point where they were -- you know, we had moved from the Beltwall to the original bucket elevator design with the telescoping chute and then ultimately to the final -- I guess what I'm saying the "final design" was the final finished product. 13:02:09 13:02:14 13:02:16 13:02:19 13:02:21 13:02:23 13:02:25

Q Okay. So when you're talking about the "final design," that's the design that became the final finished product; correct? 13:02:28 13:02:30 13:02:32

A Yes. I believe that's what I was referring to, yes. 13:02:33 13:02:34

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Q Okay. I understand. Thank you. 13:02:35

Did you have calls on which both 13:02:36

Jeremy Weinstein and Scott Lambert were on the 13:02:43

call at the same time with you? 13:02:45

A Yes. 13:02:46

Q And so in Paragraph 6, when you said that 13:02:48

you didn't -- that either Jeremy or Scott made a 13:02:51

comment as reflected in Paragraph 6 of 13:02:55

Exhibit 2006, do you recall whether that was a 13:03:02

conversation where both Mr. Weinstein and both -- 13:03:08

and Mr. Lambert were present in that conversation? 13:03:11

A I don't remember. I'm sorry. 13:03:14

Q Okay. That's fine. 13:03:20

A Yeah. 13:03:22

Q Do you recall being asked questions about 13:03:24

who contributed certain aspects to the design of 13:03:28

the Masaba unit? 13:03:32

A Yes. 13:03:33

Q Did you work directly with the engineers 13:03:35

as they designed the project? 13:03:40

ATTORNEY FLANNERY: Object to form. 13:03:44

THE WITNESS: "Work" as in -- 13:03:45

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define that. What do you mean by that? 13:03:47

BY ATTORNEY NYDEGGER: 13:03:49

Q Sure. So let me approach it from a 13:03:49

different way. 13:03:55

Were you in the room with the 13:03:56

engineers as they designed the Masaba unit? 13:04:01

A No. 13:04:04

Q And so is it fair to say that once a 13:04:05

design concept was created by Masaba, it was then 13:04:09

later communicated to you; correct? 13:04:12

A Yes. 13:04:15

Q And that communication typically came from 13:04:15

who? 13:04:17

A Typically Andrew Wells. I mean, there 13:04:18

were some conversations with Dan Brinkman, but 13:04:23

typically Andrew was the one communicating to me. 13:04:25

Q So while Mr. Brinkman and Mr. Wells were 13:04:28

the individuals that primarily communicated to you 13:04:35

the designs, do you know who actually came up with 13:04:37

the design concepts, who originated them in the 13:04:39

first instance? 13:04:42

A Somebody in the engineering department at 13:04:42

Masaba. I'm not sure exactly who. 13:04:45
Q But you -- 13:04:46
A But it was a collaborative -- I think 13:04:47
there were several -- my understanding, there were 13:04:48
several engineers working on this project. 13:04:50
Q Okay. But is it fair to say that you 13:04:51
don't know which specific individuals came up with 13:04:53
which concepts? 13:04:56
A Yes, that's fair to say. 13:04:57
Q Okay. Did the possibility of receiving a 13:04:58
commission for sales of this conveyor unit affect 13:05:04
the substance of any of your statements in 13:05:11
Paragraph 7 of your declaration? 13:05:16
ATTORNEY FLANNERY: Object to form. 13:05:21
THE WITNESS: No. 13:05:22
BY ATTORNEY NYDEGGER: 13:05:29
Q Did the possibility of receiving a 13:05:29
commission affect the substance of any of your 13:05:31
statements in your declaration? 13:05:33
ATTORNEY FLANNERY: Object to form. 13:05:34
THE WITNESS: No. No. I -- my job 13:05:34
was to solve a problem, to bring all the 13:05:36

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parties together to convey information, and to get it built and get it built successfully, and the rest takes care of itself. 13:05:41 13:05:43 13:05:47 13:05:48

ATTORNEY NYDEGGER: Okay. I have no further questions at this time. 13:05:49 13:05:50

ATTORNEY FLANNERY: I have nothing further. 13:05:51 13:05:51

I don't mean to cut you out. 13:05:53

ATTORNEY MASTELLER: I have no questions. 13:05:54 13:05:54

ATTORNEY FLANNERY: Okay. Off the record then. 13:05:54 13:05:57

(Off the record at 1:05 p.m. CST) 13:05:58

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CHANGES AND SIGNATURE

PAGE/LINE	CHANGE	REASON

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Solaris Oilfield v. Masaba, IPR2024-01179

I, MIKE STANTON, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

_____
MIKE STANTON

THE STATE OF _____)

COUNTY OF _____)

BEFORE ME, _____, on this day personally appeared MIKE STANTON, known to me (or proved to me under oath of _____ or through _____) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this ___ day of _____, 2025.

_____
NOTARY PUBLIC IN AND FOR
THE STATE OF _____
MY COMMISSION EXPIRES:
_____

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CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

I, Rebecca A. Graziano, Certified Shorthand Reporter within and for the States of Texas and California, do hereby certify:

That, MIKE STANTON, the witness whose deposition is hereinbefore set forth, was duly sworn by me before the commencement of such deposition, and that such deposition was taken before me and is a true record of the testimony given by such witness.

I further certify that the adverse party, MASABA, INC., was represented by counsel at the deposition.

I further certify that the deposition of MIKE STANTON occurred at the offices of Masteller Law Firm, PLLC, 124 South Main Street, Suite 210, Burleson, Texas, commencing at 8:56 a.m. to 1:05 p.m.

I further certify that I am not related to any of the parties to this action by blood or marriage. I am not employed by or an attorney to any of the parties to this action, and that I am in no way interested, financially or otherwise, in the outcome of this matter.

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IN WITNESS HEREOF, I have hereunto set my hand this 7th day of July, 2025.

_____
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
MY COMMISSION EXPIRES:
_____

_____
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
MY COMMISSION EXPIRES:
_____

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