FILE NAME: The Budd Company (BUD)

DATE: 2007 June 27

DOC#: BUD010

DOCUMENT DESCRIPTION: Legal – Deposition of L Brooks

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

Budd Engineers in Topeka

SHIRLEY MUNOZ, Individually and as Personal Representative for the Estate of HENRIQUE H. MUNOZ, deceased,

Plaintiff,

vs. Case No. CV2005-010954

BNSF RAILWAY COMPANY, et al.,

Defendants.

Meeting with Budd Engineers

VIDEOTAPED DEPOSITION OF

LAWRENCE BROOKS,

taken on behalf of the Defendants, pursuant to Notice to Take Deposition, beginning at 9:50 a.m. on the 27th day of June, 2007, at Appino & Biggs Reporting Service, 5111 SW 21st Street, in the City of Topeka, County of Shawnee, and State of Kansas, before Kenda K. Falley, Certified Shorthand Reporter.

APPEARANCES

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ON BEHALF OF THE PLAINTIFF:

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Mr. John D. Rove
Mr. Hector L. Sandoval
Roven-Kaplan
2190 North Loop West, Suite 410
Houston, Texas 77018-8008

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ON BEHALF OF THE DEFENDANT ACF INDUSTRIES:

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Mr. Larry J. Crown
Jennings, Haug & Cunningham
2800 North Central Avenue
Suite Eighteen Hundred
Phoenix, Arizona 85004-1049

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ON BEHALF OF THE DEFENDANT RESCO HOLDINGS:

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Mr. Bradley C. Batig
Akin, Gump, Strauss, Hauer & Feld
1111 Louisiana Street
44th Floor
Houston, Texas 77002-5200

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ON BEHALF OF THE DEFENDANT BNSF:

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Mr. Kenneth L. Weltz
Lathrop & Gage
10851 Mastin Blvd, Suite 1000
Building 82
Overland Park, Kansas 66210-2007

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Also present was Mr. Efrain Soto, videographer.

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WITNESS

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EXHIBITS

BROOKS DEPO EXHIBIT NO.: MARKED
.1 (copy of picture) 6
.2 (passenger car pipe coverings) 6
.3 (passenger car construction) 6
.4 (passenger car construction) 6
.5 (passenger car construction) 6
.6 (Johns-Manville refrigerator car materials) 6

.7 (copy of picture) 6
.8 (copy of picture) 6
.9 (copy of picture) 6
.10 (copy of picture) 6
.11 (copy of picture) 6
.12 (copy of picture) 6
.13 (copy of picture) 6
.14 (copy of picture) 6
.15 (copy of picture) 6
.16 (UNARCO Wovenstone) 6
.17 (copy of picture) 6
.18 (copy of picture) 6
.19 (copy of picture) 6
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.21 (copy of picture) 6
.22 (copy of picture) 6
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.28 (copy of picture) 6
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(THEREUPON, Brooks Deposition Exhibits-1thru28 was marked for identification by the reporter.)
MR. ROVEN: Before we begin, Ken, I wanted -- since you are taking the lead on this, I wanted to produce to you some documents that the witness has looked at and let me just give a general description of them. I'm sorry, I don't have multiple copies.
MR. WELTZ: Shouldn't we go ahead and just mark those first?
MR. ROVEN: Yeah. Sure, if you want to. We can mark them individually and we can put a description in the record.
(THEREUPON, a discussion was had off the record.)
THE VIDEOGRAPHER: Today is the 27th day of May -- June 2007. The time is approximately 9:55 a.m. We are at Appino & Biggs Reporting Service to take the deposition of Lawrence Brooks in the matter of Shirley Munoz, et al versus BNSF Railway Company, et al; case number

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CV2005-010954.
Would counsel please state your appearances for the record.
MR. ROVEN: On behalf of the plaintiff this is John Roven.
MR. SANDOVAL: On behalf of the plaintiff Hector Sandoval.
MR. BATIG: On behalf of Resco Holdings Brad Batig.
MR. CROWN: Larry Crown on behalf of ACF.
MR. WELTZ: Kenneth L. Weltz on behalf of BNSF Railway Company.
THE WITNESS: I'm Larry Brooks retired from Santa Fe.
LAWRENCE BROOKS,
called as a witness on behalf of the Defendant, was sworn and testified as follows:
DIRECT-EXAMINATION
BY MR. WELTZ:
Q. Mr. Brooks, would you please state your full name on the record?
A. Lawrence Eugene Brooks, Junior.
Q. And, Mr. Brooks, what is your

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address?
A. 4005 Northwest Greenhills Road.
Q. Is that here in Topeka?
A. Well, it's -- we are outside of the city limits.
Q. Mr. Brooks, I had the privilege of taking your deposition a couple of years ago in June of 2005 right here at Appino & Biggs; do you recall that, sir?
A. Yes, I remember you.
Q. We are taking your deposition today because you have been identified by Mr. Roven as a co-worker of Mr. Henrique Munoz, is that correct?
A. That's right.
Q. And what I would like to do with you, I'm going to go over and do some background questions just so we can get it in the record and specifically talk about your work with the railroad, and then we will talk about any experience that you had with Mr. Munoz, okay?
A. Okay.
Q. What have you done, sir, to get prepared for this deposition? You have

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talked to Mr. Roven?
A. Yes, I visited with him.
Q. And did you review any materials?
A. Some, yes.
Q. And are those the materials that Mr. Roven gave us this morning that we are going to be copying?
A. I believe that to be true.
Q. Okay. What's your date of birth?
A. 7-5, 1923.
Q. And where were you born?
A. In Topeka, Kansas.
Q. Are you a life long resident of Topeka?
A. Except for two tours in the military.
Q. And that was both during World War II and the Korean war?
A. That's right.
Q. Would you tell the jury what you did in the military? First, what branch of service were you in?
A. I was in the navy from '42 to '45. Running north Atlantic convoy duty as a navy gunner aboard merchant ships.

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And then after I was out of the service about '48 -- 1948 I joined the army reserves and we got called up for the Korean conflict in 1950, except my wife and I had three children and so they let me out because they weren't paying family allotments, so I didn't have to go overseas.

Q. Now, for the record would you state your wife's name?

A. Naomi, N-A-O-M-I, Jean, J-E-A-N Brooks.

Q. And that's your only marriage, is that correct?

A. Yes.

Q. Your married her in 1944, is that correct?

A. That's right.

Q. And I believe you had five children?

A. I have five children.

Q. Did any of your children ever work for the railroad?

A. No.

Q. And how about your father? He

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was a railroader.

A. Yes, he was an electrician.

Q. And what railroad?

A. He also worked for the Pennsylvania railroad.

Q. Did he also work for the Santa Fe?

A. Right, he retired from the Santa Fe.

Q. Is that what brought the family here to Topeka?

A. No. He came here and went in business in the electronic field and then went to work for the railroad after he got here.

Q. Now, you worked for the Santa Fe railroad?

A. Yes.

Q. When did you start and when did you retire?

A. I started in I think it was the first week in June of '41 and I took disability about I think they made it effective November of '71. I was actually gone in February.

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Q. And what was your disability, sir?

A. I had had a number of surgeries and I had problems.

Q. So you worked approximately 30 years for the old ATNSF?

A. Yes.

Q. When you started in June of 1941, was that here in Topeka?

A. Yes.

Q. And did you always work in Topeka?

A. For the Santa Fe, yes.

Q. Okay. Did you work for any railroads other than the Santa Fe?

A. I worked for the Rock Island during the flood of 1951.

THE REPORTER: Which railroad?

A. Rock Island. Chicago Rock Island or whatever they call it.

BY MR. WELTZ:

Q. Were you -- were you laid off at the time from the Santa Fe?

A. Well, they shut the shops down and I had a mortgage to pay and a wife

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and three kids, so I went to work for the Rock Island.

Q. Now, the flood of '51, that was the flood when they took a couple of the old locomotives and put them on the bridge and the water just washed them right into the river and they are still there, is that right?

A. That's right, they are buried. Yeah.

Q. And when you say you were laid off, that's because the shops were all flooded?

A. They were flooded and the only ones that they had were pipe fitters and electricians to, you know, renovate.

Q. Let's talk about your career with the Santa Fe starting in 1941. When you hired on, was that in Topeka?

A. Yes.

Q. And that's what used to be called the Atchison, Topeka and Santa Fe railroad, is that correct?

A. That's correct.

Q. And when you hired on in 1941

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After that time that you worked with him other than just occasionally saying hello, did you have another relation --
A. I didn't have a social relationship. I just met him in the shops.
Q. Okay. I'm sorry. Not a social. But I mean just a business relationship, knew somebody to say hello, knew his name and that was pretty much it?
A. Yeah, I always introduced myself to new people and I was always that way.
Q. When was the last time that you recall even seeing or talking to Mr. Munoz?
A. Probably been 40 some years because I have been retired 37.
Q. After he moved out to Arizona, did you have any further contact with him?
A. I didn't even know he moved to Arizona.
Q. So you wouldn't have any knowledge of what he did in Arizona, is that correct?

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A. That's correct.
Q. Now, during the time that you worked for the railroad, in any of the materials that you used did you ever see any warnings on any materials about asbestos?
A. No, I never saw anything like that.
Q. Did anybody ever warn you about asbestos when you worked there?
A. No.
Q. Did anybody ever provide you with any breathing protection?
A. Nothing.
Q. Were there ever representatives of any of these car manufacturers like Pullman or anybody like that? Did they ever come out there to observe what was being done on the cars?
A. Yes, I have worked with BUDD engineers.
THE REPORTER: Worked for what?
A. BUDD company engineers. That's the only one I recall when we were rebuilding wrecks.

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BY MR. WELTZ:
Q. And by a wreck, are you talking like either a derailment or a crossing accident or something like that?
A. That's correct.
Q. And the BUDD engineers actually came to Topeka?
A. Yes.
Q. Do you recall anybody from other manufacturers either from ACF or Pullman being present?
A. I don't recall.
Q. Do you recall ever seeing any type of literature from any of the manufacturers with respect to the cars; specs or repair or manuals or anything like that?
A. Yes, I worked in the engineering office when I was an apprentice. So I was privy to the prints and things like that.
Q. So there would actually be blueprints of these cars?
A. Yeah.
Q. That would be in the engineering

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office?
A. Yes, the schematic drawings of everything. Electrical, air-conditioning and everything.
Q. And those were the original blueprints that would come from the manufacturer?
A. Yes, as far as I know they were delivered with the cars.
Q. And when -- when they were delivered with the cars, would those blue prints be used when you did your -- your stripping and rebuilding to build it back according to those specs?
A. If there was any modification we probably would have. But most of the time we didn't need them.
Q. Do you recall when you saw any of the blueprints or any of the instructions from the manufacturers anything relating to asbestos containing material being in those cars?
A. I don't recall that.
Q. Do you recall any warnings ever being on any of the blueprints or specs

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