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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

DIAMONDBACK INDUSTRIES, INC. *
*
VS. * CIVIL ACTION NO. W-19-CV-34
*
REPEAT PRECISION, LLC, ET AL * January 27, 2020

BEFORE THE HONORABLE ALAN D ALBRIGHT, JUDGE PRESIDING
BENCH TRIAL PROCEEDINGS
VOLUME 1 OF 3

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Court Reporter: Kristie M. Davis
United States District Court
PO Box 20994
Waco, Texas 76702-0994

Proceedings recorded by mechanical stenography, transcript
produced by computer-aided transcription.

05:40 1 Q. Any other reason?

05:40 2 A. None that's coming to me sitting right here.

05:40 3 Q. Isn't it true that Repeat Precision makes more money
05:40 4 when it sells PurpleSeal Expresses than when it sells
05:41 5 standalone tools?

05:41 6 A. That's true.

05:41 7 MR. LITTLE: Your Honor, I'll pass the witness.

05:41 8 THE COURT: Counsel?

05:41 9 MS. ZUNIGA: Your Honor, I'm going to hand the witness a
05:41 10 technology tool, if you'll allow it.

05:41 11 THE COURT: Sure.

05:41 12 MS. ZUNIGA: Thank you.

05:41 13 THE COURT: As long as -- do we have some way of making
05:41 14 clear in the record -- oh, you're just doing it to move things
05:41 15 along. This isn't something that's an exhibit?

05:41 16 MS. ZUNIGA: No, Your Honor. This is an electronic
05:41 17 pointer that he's going to use to point things out on the
05:41 18 screen.

05:41 19 THE COURT: Okay. I thought it was something y'all were
05:41 20 fussing over in the case.

05:41 21 MS. ZUNIGA: We have that as well.

05:41 22 THE COURT: Okay.

05:41 23 CROSS-EXAMINATION

05:41 24 BY MS. ZUNIGA:

05:42 25 Q. Good afternoon, Mr. Martin. When did you start

05:42 1 working at Repeat Precision?

05:42 2 A. I first began working at Repeat Precision in February
05:42 3 of 2017.

05:42 4 Q. And what is your current position with Repeat
05:42 5 Precision?

05:42 6 A. I am currently the president of Repeat Precision.

05:42 7 Q. Do you also have a position with NCS?

05:42 8 A. I do. That is vice president of P&P in
05:42 9 manufacturing.

05:42 10 For the Court, P&P acronym stands for plug and perforate.

05:42 11 It's an industry used acronym.

05:42 12 Q. When did you get that position?

05:42 13 A. I was promoted earlier this month actually. January.

05:43 14 Q. And talking again about Repeat Precision, does Repeat
05:43 15 Precision have any manufacturing facilities?

05:43 16 A. We do.

05:43 17 Q. Where are those?

05:43 18 A. We have two facilities. One is located in Ojinaga,
05:43 19 Mexico, and the other is located in Praxedis Guerrero, Mexico.

05:43 20 Q. In addition to the manufacturing facilities in
05:43 21 Mexico, does Repeat Precision have offices in the United
05:43 22 States?

05:43 23 A. We do. We have offices in Austin, Houston; Cheyenne,
05:43 24 Wyoming; Pittsburgh, Pennsylvania. We have a shared facility
05:43 25 just outside of Oklahoma City as well as Calgary Alberta,

05:43 1 Canada.

05:43 2 Q. When you say shared facilities, shared with whom?

05:43 3 A. I'm sorry. NCS Multistage.

05:43 4 Q. And what have your responsibilities been at Repeat
05:43 5 Precision?

05:43 6 A. Anything from sweeping a shop floor to I've been a
05:44 7 tool hand to signing checks.

05:44 8 Q. What products does Repeat Precision sell today?

05:44 9 A. We currently sell the PurpleSeal frac plug,
05:44 10 disposable setting tool and the PurpleSeal Express, which is a
05:44 11 combination of the two tools with an adapter kit.

05:44 12 Q. And do you also sell standalone setting tools?

05:44 13 A. Yes. We do.

05:44 14 Q. What product represented the largest portion of your
05:44 15 revenue in 2019?

05:44 16 A. 2019, about 65 percent of our revenue was frac plugs.

05:44 17 Q. What about the rest of your revenue?

05:44 18 A. 30 percent PSE and setting tool and five to six
05:44 19 percent other.

05:44 20 Q. What was the first product that Repeat Precision
05:44 21 manufactured and sold?

05:44 22 A. The first product was the PurpleSeal frac plug. That
05:45 23 was kind of midway through 2017.

05:45 24 Q. And for the Court, what is a frac plug?

05:45 25 A. A frac plug is a temporary wellbore isolation device

05:45 1 that is deployed into a cased wellbore, and it is set at a
05:45 2 predetermined place in the wellbore, and it provides isolation
05:45 3 for hydraulic fracturing process after the well has been
05:45 4 perforated. So it's the actual fracking operation.

05:45 5 Q. What's the name of Repeat Precision's frac plug?

05:45 6 A. PurpleSeal.

05:45 7 Q. And why is it called the PurpleSeal?

05:45 8 A. There's not a lot of purple oil field service
05:45 9 companies, and the seal mascot, again, is atypical in the
05:45 10 space, and we kind of saw clear line of sight that we could --
05:45 11 the rubber element on the frac plug is oftentimes referred to
05:46 12 as a seal, and we could make that purple. So it became kind of
05:46 13 a play on words.

05:46 14 Q. And is that PurpleSeal mascot on the packaging of
05:46 15 Repeat Precision's products?

05:46 16 A. It is. Yes.

05:46 17 Q. I'm going to show you Exhibit 2089. What is
05:46 18 Exhibit 2089? And I know that the image is small that's on the
05:46 19 top left-hand corner.

05:46 20 A. Yes. That's one of our frac plugs.

05:46 21 Q. And what's going on in Exhibits 2093 and 2095?

05:46 22 A. Those are some of our employees doing the final
05:46 23 touches of assembly or cleaning, prepackaging at our plant in
05:46 24 Mexico, in Ojinaga, Mexico.

05:46 25 Q. What tool do you use to set a frac plug?

05:46 1 A. Frac plugs are set with what's called a setting tool.

05:46 2 Q. Okay. And, again, just for the Court, what is a
05:46 3 setting tool?

05:46 4 A. A setting tool is a mechanical tool that is deployed
05:46 5 with the rest of the tools on the wireline run with the frac
05:47 6 plug. An electric signal is transmitted down to the tool. It
05:47 7 ignites a power charge that creates a gas expansion, and it
05:47 8 works a lot like a piston. And once a certain force is
05:47 9 reached, it overcomes the value of brass shear screws. It's
05:47 10 just a shearing medium, and it detaches from the frac plug. So
05:47 11 it's just a mechanical tool used to set frac plugs, bridge
05:47 12 plugs, packers, temporary wellbore isolation devices.

05:47 13 THE COURT: Have you actually seen all these tools in
05:47 14 operation in the fields?

05:47 15 THE WITNESS: Yes, sir.

05:47 16 THE COURT: Okay.

05:47 17 BY MS. ZUNIGA:

05:47 18 Q. Mr. Martin, because the Court just asked a question,
05:47 19 would you please walk us through this illustration that we have
05:47 20 prepared that shows how a setting tool works and sets a frac
05:47 21 plug briefly?

05:47 22 A. Sure. So, again, what we call a bottom hole
05:47 23 assembly, which is a frac plug with some other tools including
05:47 24 perforating guns, is dropped through the vertical portion of
05:48 25 the wellbore and pumped out to the horizontal to a

05:48 1 predetermined location. The setting tool is fired, and it sets
05:48 2 the frac plug in its place.

05:48 3 The wireline service company begins to retrieve the
05:48 4 remaining components of the tool and set off a series of
05:48 5 explosions called perforations or perforating. It's actually
05:48 6 what creates a communication with the reservoir that we're
05:48 7 trying to stimulate.

05:48 8 So now that we have holes in our casing, the frac company
05:48 9 can pump a lot of water and sand up against our temporary
05:48 10 isolation of ice beam frac plug and actually stimulate and
05:48 11 fracture the rock in the reservoir to release hydrocarbons in
05:48 12 the form of gas or liquids.

05:48 13 THE COURT: So when I hear the term fracking, this is what
05:48 14 fracking is?

05:48 15 THE WITNESS: Yes, sir. Yes, Your Honor. It's a highly
05:48 16 repetitive process. Over the course of a horizontal wellbore,
05:49 17 it can be repeated upwards of 150 times. We've done a job of
05:49 18 that size in Pennsylvania.

05:49 19 THE COURT: Okay. Thank you.

05:49 20 BY MS. ZUNIGA:

05:49 21 Q. Mr. Martin, what is a disposable setting tool?

05:49 22 A. A disposable setting tool is a setting tool that is
05:49 23 intended to be used one time and not rebuilt on location as
05:49 24 with conventional setting tools. So it could simply be
05:49 25 discarded or set aside for the next series of runs whereas a

05:49 1 conventional tool requires, under proper use and care, the
05:49 2 deconstruction, maintenance and reconstruction before it can be
05:49 3 redeployed.

05:49 4 Q. I'm going to show you Exhibit 2149. What's shown in
05:49 5 this exhibit?

05:49 6 A. So here on the bottom of the image is a
05:49 7 conventional -- what we've referred to as a conventional
05:49 8 setting tool. This is what's referred to as a B20 or Baker 20
05:50 9 setting tool. And this here is a disposable setting tool.

05:50 10 THE COURT: And if you'd be a little more precise and say
05:50 11 the bottom one or the top one just so we know on the record
05:50 12 which one it is that you're referring to.

05:50 13 THE WITNESS: Yes, sir.

05:50 14 BY THE WITNESS:

05:50 15 A. The bottom tool here in the image is the Baker Hughes
05:50 16 conventional setting tool, and the top tool here is what's
05:50 17 referred to as the disposable setting tool.

05:50 18 BY MS. ZUNIGA:

05:50 19 Q. Aside from it being single use, how is the disposable
05:50 20 setting tool different from a conventional setting tool?

05:50 21 A. It's shorter, which means lighter, and it is very
05:50 22 simple, has far fewer O-rings which present different failure
05:50 23 modes or failure opportunities. So just the simplicity creates
05:50 24 a sense of elegance, if you will, and creates a -- you know,
05:50 25 more reliability, opportunities for liability.

05:50 1 THE COURT: And there's a tape measure there. Can you
05:50 2 tell me how long each of those are?

05:51 3 THE WITNESS: Yes, Your Honor. Again, this setting tool
05:51 4 here at the bottom of the image, the Baker Hughes conventional
05:51 5 tool, is upwards of 72 inches long, whereas the setting tool
05:51 6 here at the top, the disposable setting tool at the top of the
05:51 7 image, is only 26, 27 inches long.

05:51 8 THE COURT: Thank you.

05:51 9 BY MS. ZUNIGA:

05:51 10 Q. Mr. Martin, do you recognize the disposable setting
05:51 11 tool in Exhibit 2149?

05:51 12 A. Yes, ma'am. I do.

05:51 13 Q. What tool is that?

05:51 14 A. That is an RP10 setting tool.

05:51 15 Q. And I believe we have an RP10 here in the courtroom.

05:51 16 Would you mind getting up and showing --

05:51 17 A. Sure.

05:51 18 Q. -- the Court which tool is in that photo?

05:51 19 A. Sure. So that would be this tool here. 27 inches
05:51 20 long, 25, 27 pounds.

05:51 21 THE COURT: Counsel, do we want to have some way, or if
05:52 22 you think it's clear enough on the record, what it is he's
05:52 23 using, that's fine. Or do you want to take a photo of it that
05:52 24 we can attach with a demonstrative exhibit number? Or how do
05:52 25 you want to protect your record as to what it is that he's

05:52 1 demonstrating to the Court?

05:52 2 MS. ZUNIGA: Yes, Your Honor. We have a photo that's
05:52 3 already been submitted to the Court through its system. It's
05:52 4 Exhibit 2171, and it's a series of photos of this tool.

05:52 5 THE COURT: And plaintiff's counsel, are you okay with if
05:52 6 I rely on those exhibits as being representative of what he
05:52 7 just -- what Mr. Grant just demonstrated?

05:52 8 MR. LITTLE: Absolutely, Your Honor.

05:52 9 THE COURT: Thank you very much.

05:52 10 BY MS. ZUNIGA:

05:52 11 Q. Mr. Martin, do you mind taking this?

05:52 12 A. Sure.

05:52 13 THE WITNESS: Would you like to see it more closely?

05:52 14 THE COURT: Sure. Actually, I would.

05:53 15 THE WITNESS: This is a retainer cap here in my left hand.
05:53 16 It's kind of the final button of the assembly. It goes here on
05:53 17 the upper end of the tool where you see the tape, the O-rings.

05:53 18 THE COURT: Okay. Counsel, can you follow what he's
05:53 19 saying? If y'all want to come up here and watch what he's
05:53 20 saying to me, you're welcome to, but my guess is you're pretty
05:53 21 familiar with this from where you're at. So y'all do whatever
05:53 22 makes you most comfortable.

05:53 23 MS. ZUNIGA: Thank you, Your Honor.

05:53 24 BY MS. ZUNIGA:

05:53 25 Q. You may have a seat. Mr. Martin, I'm now going to

05:53 1 show you Exhibit 2173. What's shown in this video?

05:53 2 A. This is a video showing the conventional setting tool
05:53 3 kind of in the upper portion of the frame, a Baker Hughes style
05:53 4 setting tool and a disposable setting tool. I believe the
05:54 5 camera will pan over here. This is a disposable setting tool,
05:54 6 and what they're highlighting there is just the length of the
05:54 7 mandrel to indicate the stroke length of the tool.

05:54 8 Q. Do you know which company manufactured the disposable
05:54 9 setting tool in this video?

05:54 10 A. Yes. That's Diamondback Industries.

05:54 11 Q. Okay. Do you recognize the video where it's from?

05:54 12 A. I believe it's from Diamondback Industries.

05:54 13 Q. And which Diamondback disposable setting tool do you
05:54 14 believe is in this video?

05:54 15 A. That appeared to be an SS10 disposable setting tool.

05:54 16 Q. You were in the room when Mr. Drury was testifying.
05:54 17 Do you know what SS stands for?

05:54 18 A. I understand SS to mean super short.

05:54 19 Q. And Mr. Drury also testified to a number of benefits
05:54 20 of a disposable setting tool over a conventional tool. Do you
05:54 21 agree with the benefits that he listed?

05:54 22 A. Yes. I do.

05:54 23 Q. I'm going to show you briefly Exhibit 2207. What is
05:55 24 this exhibit?

05:55 25 A. That appears to be a marketing flier for the SS20

05:55 1 from Diamondback Industries.

05:55 2 Q. Do you see the benefits listed on the bottom of that
05:55 3 flier?

05:55 4 A. Yes, ma'am. I do.

05:55 5 Q. Do you agree with those as well?

05:55 6 A. Yes. I do.

05:55 7 Q. Which do you view as most important?

05:55 8 A. To me the first bullet point, reduces human error.

05:55 9 That's what plagues the conventional setting tool which leads
05:55 10 to, you know, its failures in the field oftentimes.

05:55 11 Q. Is it your opinion that a disposable setting tool is
05:55 12 a better product than a conventional setting tool?

05:55 13 A. Yes.

05:55 14 Q. You showed the Court Exhibit 2171. I won't make you
05:55 15 get up again also because this is heavy. What is Exhibit 2172?

05:55 16 MS. ZUNIGA: And, Your Honor, that's this tool right here.

05:56 17 BY THE WITNESS:

05:56 18 A. That is an RP20, which is the larger variation of
05:56 19 this one here that's on the countertop.

05:56 20 BY MS. ZUNIGA:

05:56 21 Q. Is that modeled after Diamondback's SS20?

05:56 22 A. It is. Yes.

05:56 23 Q. And the RP10 we saw earlier, Exhibit 2171, is that
05:56 24 modeled after Diamondback's SS10?

05:56 25 A. Yes. It is.

05:56 1 Q. What is the difference between the RP10 and the RP20?

05:56 2 A. The RP10 is typically used for smaller wellbore
05:56 3 applications. So not every wellbore that we're drilling to
05:56 4 complete is the same diameter. So for smaller wellbores, you
05:56 5 run smaller tools which means you can use a smaller setting
05:56 6 tool in this case. And the same is true for larger wellbore
05:56 7 applications. Typically --

05:56 8 THE COURT: Larger what?

05:56 9 THE WITNESS: Wellbore applications.

05:56 10 BY THE WITNESS:

05:56 11 A. In this case you'd be setting larger isolation
05:57 12 devices or frac plugs and would need the benefit of a larger
05:57 13 setting tool that puts out more force.

05:57 14 BY MS. ZUNIGA:

05:57 15 Q. Which product did Repeat Precision start making
05:57 16 first? The RP10 or the RP20?

05:57 17 A. The RP10.

05:57 18 Q. Why was that?

05:57 19 A. We decided to use that as the platform setting tool
05:57 20 for what became the PurpleSeal Express.

05:57 21 Q. Was there a reason for that, that that was chosen to
05:57 22 be the platform tool?

05:57 23 A. Yes. So our frac plug only requires a certain amount
05:57 24 of force to be able to be set inside of the wellbore and
05:57 25 detached from, and the smaller tool can provide the necessary

05:57 1 force with ample safety factor, and it's a cheaper tool to
05:57 2 make. So in the combined package it made sense to us to use
05:57 3 the tool that was sufficient and the lowest cost to
05:57 4 manufacture.

05:57 5 Q. Is the PurpleSeal Express the combined package?

05:58 6 A. Yes, ma'am.

05:58 7 Q. And Exhibit 2170 is this tool to my right. Is this a
05:58 8 PurpleSeal Express?

05:58 9 A. Yes, ma'am. It is.

05:58 10 Q. And could you -- sorry to make you get up again.
05:58 11 Could you show the Court the various parts of this PurpleSeal
05:58 12 Express?

05:58 13 A. Sure.

05:58 14 THE WITNESS: Is that a decent vantage point?

05:58 15 THE COURT: No. It is now.

05:58 16 THE WITNESS: So we have closest to the floor is what you
05:58 17 see is the setting tool. So that is the outer barrel here.
05:58 18 And the standalone piece with the little brass screws in it,
05:58 19 that's actually this component right here.

05:58 20 THE COURT: On the bottom?

05:58 21 THE WITNESS: Yes. So in between --

05:58 22 THE COURT: And just for the purposes of the record, the
05:58 23 purple side is at the top?

05:59 24 THE WITNESS: Yes. Yes. This is the PurpleSeal frac plug
05:59 25 at the top.

05:59 1 THE COURT: Very good.

05:59 2 THE WITNESS: This is our frac plug de jure, and these two
05:59 3 things are coupled together by what we refer to as a wireline
05:59 4 adapter kit. It's just a two-part set of equipment that, you
05:59 5 know, allows us to assemble the frac plug on its setting tool,
05:59 6 and that would be this barrel here and a component that you
05:59 7 can't see inside.

05:59 8 THE COURT: In the middle portion?

05:59 9 THE WITNESS: Yes.

05:59 10 THE COURT: Yes, sir.

05:59 11 Counsel, why don't you do whatever you need to do to wrap
05:59 12 up the portion where we're dealing with the physical objects,
05:59 13 and when you finish up with that portion, we'll be done for the
05:59 14 day.

05:59 15 MS. ZUNIGA: Thank you, Your Honor.

05:59 16 BY MS. ZUNIGA:

05:59 17 Q. Mr. Martin, I heard you mention to the Court a
05:59 18 wireline adapter kit. Is that sometimes abbreviated as WLAK?

06:00 19 A. Yes, ma'am.

06:00 20 Q. The machines that Repeat Precision uses to make the
06:00 21 RP10, are those also capable of making RP20s?

06:00 22 A. Yes, ma'am. They are.

06:00 23 MS. ZUNIGA: Your Honor, I think now's a good point to
06:00 24 stop for the day.

06:00 25 THE COURT: Very good. You may step down, sir. Y'all

06:00 1 jumped up, but I'm not going anywhere yet. Y'all can sit down.
06:00 2 Very eager but a little -- so give me one second to get
06:00 3 organized. I'm going to do my best to do math here, which is
06:01 4 perilous.

06:01 5 Hopefully someone in y'all's group is keeping time. If
06:02 6 I've done this accurately, the plaintiffs have used up a little
06:02 7 over four hours, about four hours and ten minutes is what I
06:02 8 have, and the defendants have used up a little under three
06:02 9 hours. I have two hours and 50 minutes.

06:02 10 Is that reasonably close to what you -- when we finish,
06:02 11 I'm not going to be down to the minutes. I just want you all
06:02 12 to generally know. Does that sound about right to everyone?

06:02 13 MR. STORM: Yes, Your Honor.

06:02 14 THE COURT: Okay. Very good. So we're going to start
06:02 15 tomorrow morning at 8:30, and Mr. Grant will be back on the
06:03 16 witness stand.

06:03 17 Who will the plaintiffs be calling after Mr. Martin?

06:03 18 MR. LITTLE: Your Honor, we'll be calling Gary Martin
06:03 19 after Grant Martin is done and then Robert Nipper.

06:03 20 THE COURT: Very good. Do you have any other witnesses
06:03 21 after Mr. Nipper?

06:03 22 MR. LITTLE: We will.

06:03 23 THE COURT: Okay. Very good. And so I will see you all
06:03 24 tomorrow morning at 8:30. I can't imagine you'll need it, but
06:03 25 you all know you have my cell number. If something comes up

06:03 1 this evening, please just let me know. So I will see you all
06:03 2 tomorrow morning.

06:03 3 THE BAILIFF: All rise.

06:03 4 (Hearing adjourned at 6:03 p.m.)

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1 UNITED STATES DISTRICT COURT)
2 WESTERN DISTRICT OF TEXAS)

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4 I, Kristie M. Davis, Official Court Reporter for the
5 United States District Court, Western District of Texas, do
6 certify that the foregoing is a correct transcript from the
7 record of proceedings in the above-entitled matter.

8 I certify that the transcript fees and format comply with
9 those prescribed by the Court and Judicial Conference of the
10 United States.

11 Certified to by me this 7th day of February 2020.

12
13 /s/ Kristie M. Davis
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12:19 1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF TEXAS
3 WACO DIVISION

3 DIAMONDBACK INDUSTRIES, INC. *
4 VS. * CIVIL ACTION NO. W-19-CV-34
5 REPEAT PRECISION, LLC, ET AL * January 28, 2020

6 BEFORE THE HONORABLE ALAN D ALBRIGHT, JUDGE PRESIDING
7 BENCH TRIAL PROCEEDINGS
8 VOLUME 2 OF 3

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2 United States District Court
3 PO Box 20994
4 Waco, Texas 76702-0994

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6 produced by computer-aided transcription.
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07:56 1 (January 28, 2020, 8:32 a.m.)

08:32 2 THE BAILIFF: All rise.

08:32 3 THE COURT: Good morning, everyone. You may be seated.

08:32 4 Do y'all have anything we need to take up?

08:32 5 Okay. I have a couple of housekeeping matters. One is

08:32 6 extremely important and one is less important.

08:32 7 First, for our scheduling purposes, we are probably going

08:32 8 to go until about 11:30 today before we break for lunch. Why?

08:32 9 Because today the special at Jake's is beef tips and last week

08:32 10 I went until 1:00 and they ran out and so I'm not going to make

08:32 11 that mistake again on Tuesday. That was the really important

08:32 12 announcement.

08:33 13 The other is yesterday all the lawyers I thought were very

08:33 14 effective but occasionally were a little repetitive. And I

08:33 15 understand why that is because we've all been through trials

08:33 16 where we thought we'd beat something to death, and the jury

08:33 17 would say, well, you didn't talk about this. So I get that.

08:33 18 So I thought everyone was very effective. So here's what I'm

08:33 19 going to do today, and since it's to me is if I get something

08:33 20 when you're asking it, I'm going to say something like, I get

08:33 21 it. If you think you're asking a different question that is a

08:33 22 follow-up that's not the same question, you're free to ask it.

08:33 23 In other words, it's still all your time. That's the reason we

08:33 24 put time limits on it, at least I do. It helps in that regard.

08:34 25 I just think that since it's a bench trial, if you have made a

08:34 1 point, you know, for example with Mr. Martin, did he look or
08:34 2 not look at an e-mail and he says yes or no, I can follow that.
08:34 3 I don't need you to ask did he really, really look or not look
08:34 4 at the e-mail. I can get it.

08:34 5 So I don't really mean to chastise you at all because I'm
08:34 6 sure I was the absolute worst when I was trying cases of being
08:34 7 repetitive. It's just sitting up here, I'm letting you know
08:34 8 that there are times when you've made your point, and I'll let
08:34 9 you know so that you can use your time more effectively.

08:34 10 So we can proceed with Mr. Martin.

08:34 11 And of course none of that applied to you. I was talking
08:34 12 about only the other lawyers. You were virtually perfect
08:34 13 yesterday.

08:34 14 MS. ZUNIGA: Thank you, Your Honor.

08:34 15 THE COURT: So...

08:34 16 MS. ZUNIGA: This is Krisina Zuniga for Repeat Precision
08:34 17 and NCS.

08:34 18 CROSS-EXAMINATION CONTINUED

08:34 19 BY MS. ZUNIGA:

08:34 20 Q. Mr. Martin, I'm going to start today with your
08:35 21 relationship with Diamondback and an exhibit you were shown
08:35 22 yesterday. That's Exhibit 378. Is gmartin@RepeatPrecision.com
08:35 23 your e-mail address?

08:35 24 A. Yes, ma'am.

08:35 25 Q. And whose address is GHM457@gmail?

08:35 1 A. Gary Martin.

08:35 2 Q. Did Gary Martin send you this e-mail on January 12th,
08:35 3 2018?

08:35 4 A. Yes.

08:35 5 Q. What did that e-mail include?

08:35 6 A. A link to Diamondback Industries' website and a
08:35 7 disposable setting tool PDF.

08:35 8 Q. Does Gary Martin often e-mail you?

08:35 9 A. No.

08:35 10 Q. What is his most common method of communication?

08:35 11 A. Phone call or text message.

08:35 12 Q. Okay. In fact, if you take a look at Exhibit 2202,
08:35 13 did Gary also follow up with you about this e-mail via text?

08:35 14 A. Yes. He did.

08:35 15 Q. Why were you talking about Diamondback and its patent
08:35 16 at this time in January 2018?

08:35 17 A. It was something that we were just starting to look
08:36 18 into, the product space.

08:36 19 Q. Looking back at Exhibit 378 that was just on the
08:36 20 screen, who is CB Mickey?

08:36 21 A. That is Clint Mickey.

08:36 22 Q. Who is Clint Mickey? Please remind the Court.

08:36 23 A. Clint Mickey is the product line manager at Repeat
08:36 24 Precision.

08:36 25 Q. Did you get the sense that Mr. Mickey was familiar

08:36 1 with Diamondback's disposable setting tool?

08:36 2 A. Yes, ma'am.

08:36 3 Q. Do you have any sense of where he got that experience
08:36 4 with the tool?

08:36 5 A. Yes. I remember when he hired on, he had told us
08:36 6 that, you know, at his previous employer it's something that
08:36 7 they'd looked into and were starting to get familiar with and
08:36 8 it was a technology that he found, you know, interesting and
08:36 9 growing in popularity.

08:36 10 Q. When did Mr. Mickey join Repeat Precision?

08:36 11 A. I believe January 22nd of 2018 was his official start
08:36 12 date.

08:36 13 Q. Did Repeat Precision do anything to explore its
08:37 14 interests in Diamondback's disposable setting tool?

08:37 15 A. Yes.

08:37 16 Q. What was that?

08:37 17 A. We reviewed the patent, gained an understanding of
08:37 18 the claims in the '035 patent and we engaged a third party firm
08:37 19 to see if there were potential design opportunities that did
08:37 20 not infringe on the '035 patent.

08:37 21 Q. What third party firm?

08:37 22 A. That is Trahan Oilfield Consulting, I believe.

08:37 23 Q. I'm now going to ask Mr. Bolds to pull up
08:37 24 Exhibit 2204.

08:37 25 Do you recognize these as text messages between you and

08:37 1 your dad Gary Martin?

08:37 2 A. Yes.

08:37 3 Q. Okay. I'm going to point you to text 8. Who are you
08:37 4 referring to when you mention a third party guy looking into
08:37 5 setting tool?

08:37 6 A. That would be Kevin Trahan of the consulting firm.

08:37 7 Q. Later in the text you mention Repeat Precision
08:37 8 possibly, quote, doing it on our own, end quote. Did you mean
08:38 9 developing your own disposable setting tool?

08:38 10 A. Yes.

08:38 11 Q. At that time is that something you thought Repeat
08:38 12 Precision could do?

08:38 13 A. Absolutely.

08:38 14 Q. In text 11, a few texts down, you say that the,
08:38 15 quote, patent is very narrow, end quote. Were you talking
08:38 16 about the '035 patent?

08:38 17 A. Yes, ma'am.

08:38 18 Q. And it was your view that the patent is narrow?

08:38 19 A. Yes.

08:38 20 Q. Why were you interested in Repeat Precision making
08:38 21 disposable setting tools?

08:38 22 A. It was a new technology. We saw that it was growing
08:38 23 in popularity. Some of our customers at that time had begun
08:38 24 running it as their setting tool of choice. It's very adjacent
08:38 25 in the wellbore we like to say, which means, you know, it's

08:38 1 used in conjunction with plug and perforating. You know, it's
08:38 2 very complementary. You know, you need a setting tool to set a
08:38 3 frac plug.

08:38 4 Q. When was the first in-person meeting between
08:39 5 Diamondback and Repeat Precision?

08:39 6 A. That was February 16th, 2018.

08:39 7 Q. How do you know that it was on February 16th?

08:39 8 A. It's in my calendar.

08:39 9 Q. And did you attend that meeting?

08:39 10 A. I did. Yes.

08:39 11 Q. Who else?

08:39 12 A. I attended. Gary Martin was in attendance, Clint
08:39 13 Mickey, Derrek Drury and Trea Baker.

08:39 14 Q. Where did that meeting take place?

08:39 15 A. At Diamondback's headquarters in Crowley, Texas.

08:39 16 Q. Did you, Grant Martin, talk to anyone at Diamondback
08:39 17 before the February 16th meeting?

08:39 18 A. No, ma'am.

08:39 19 Q. What was discussed at the February 16th meeting?

08:39 20 A. I remember introducing Repeat Precision, you know,
08:39 21 giving an overview of the tools and whatnot that we made, the
08:39 22 services that we provide. Derrek doing the same for
08:39 23 Diamondback, explained to us the issue of Diamondback. Then
08:39 24 we, you know, talked about the setting tool, the SS setting
08:39 25 tool.

08:39 1 Q. Did you talk about a license to the setting tool?

08:40 2 A. We did. Yes.

08:40 3 Q. And was an agreement reached at that meeting?

08:40 4 A. We agreed to some terms in principal at that meeting.

08:40 5 Q. What were those terms?

08:40 6 A. The upfront license fee, I guess you could call it,

08:40 7

08:40 8

08:40 9

08:40 10 Q. Was there any discussion of Repeat Precision or one
08:40 11 of its affiliates acquiring Diamondback at the February 16th
08:40 12 meeting?

08:40 13 A. No, ma'am.

08:40 14 Q. Was an NDA executed after the meeting?

08:40 15 A. Yes. It was.

08:40 16 Q. Did you send that NDA to Mr. Drury?

08:40 17 A. I did.

08:40 18 Q. Was this Repeat Precision's standard NDA?

08:40 19 A. Yes.

08:40 20 Q. Looking at Exhibit 30 on Page 2, is that your e-mail
08:40 21 sending the NDA to Mr. Drury?

08:40 22 A. Yes. It is.

08:40 23 Q. When did you send that?

08:41 24 A. Friday, February 16th, 2018.

08:41 25 Q. So the same day as the meeting?

08:41 1 A. Yes, ma'am.

08:41 2 Q. Did Mr. Drury return a signed copy to you?

08:41 3 A. Yes. He did.

08:41 4 Q. What is Exhibit 4, Mr. Martin?

08:41 5 A. That is a mutual confidentiality and nondisclosure
08:41 6 agreement between Repeat and Diamondback Industries.

08:41 7 Q. What's the effective date of that agreement?

08:41 8 A. 16th day of February 2018.

08:41 9 Q. Flipping to the last page of the agreement. Who
08:41 10 signed for Repeat Precision?

08:41 11 A. I did.

08:41 12 Q. That was as the general manager of the company?

08:41 13 A. Yes, ma'am.

08:41 14 Q. Who signed for Diamondback?

08:41 15 A. Mr. Derrek Drury.

08:41 16 Q. After the February 16th meeting, did Repeat Precision
08:41 17 enter into a license agreement with Diamondback for the '035
08:41 18 patent?

08:41 19 A. Yes. We did.

08:41 20 Q. And is Exhibit 1 that agreement?

08:41 21 A. Yes, ma'am.

08:41 22 Q. And does it contain the terms that the parties
08:41 23 discussed at the February 16th meeting?

08:42 24 A. Yes. It does.

08:42 25 Q. Who sent the first draft of this agreement to

08:42 1 Diamondback?

08:42 2 A. I did.

08:42 3 Q. I'm going to show you Exhibit 31. Mr. Martin, is
08:42 4 this your e-mail with the draft?

08:42 5 A. Yes. It is.

08:42 6 Q. I'm now going to show you Exhibit 33. What is this
08:42 7 exhibit?

08:42 8 A. This is a response e-mail from Mr. Derrek Drury to me
08:42 9 on March 15th, 2018.

08:42 10 Q. So several weeks after the February 16th meeting,
08:42 11 right?

08:42 12 A. Yes, about a week.

08:42 13 Q. What did Mr. Drury say about the proposed license
08:42 14 agreement you sent?

08:42 15 A. Grant, I am good with the contract as is and am ready
08:42 16 to sign. Regards.

08:42 17 Q. I'm now going to show you Exhibit 35. What is
08:42 18 Exhibit 35?

08:42 19 A. A response from me to Derrek and then a response from
08:43 20 Ori to me and Derrek.

08:43 21 Q. And please remind the Court, who is Ori Lev?

08:43 22 A. Mr. Lev is the associate general counsel at NCS
08:43 23 Multistage.

08:43 24 Q. Mr. Martin, you're not a lawyer, right?

08:43 25 A. That's right.

08:43 1 Q. Was Mr. Lev the one who prepared the original
08:43 2 license?

08:43 3 A. Yes.

08:43 4 Q. I'm now going to show you Exhibit 36. What is this
08:43 5 exhibit?

08:43 6 A. Another response e-mail with the attached signature
08:43 7 page of the patent license agreement and a question for Ori.

08:43 8 Q. Turning to the last page of this exhibit, who signed
08:43 9 for Diamondback?

08:43 10 A. Mr. Derrek Drury.

08:43 11 Q. Who signed for Repeat Precision?

08:43 12 A. I did.

08:43 13 Q. And did Repeat Precision pay Diamondback that upfront
08:43 14 license fee around the same time --

08:43 15 A. Yes.

08:43 16 Q. -- as these signatures?

08:43 17 A. I'm sorry. Yes, ma'am.

08:43 18 Q. Thank you.

08:43 19 What product did the original license allow Repeat
08:44 20 Precision to make?

08:44 21 A. A frac plug preassembled to a setting tool.

08:44 22 Q. Is it your understanding that the original license
08:44 23 gave Repeat Precision the exclusive right to make this product?

08:44 24 A. Yes, ma'am.

08:44 25 Q. And did that become the PurpleSeal Express?

08:44 1 A. Yes. It did.

08:44 2 Q. After the February 16th meeting -- I believe you
08:44 3 heard Mr. Drury testify about this yesterday. Did Repeat
08:44 4 Precision employees, including Mike Whittenberg and Clint
08:44 5 Mickey, visit the Diamondback's facility?

08:44 6 A. Yes.

08:44 7 Q. Why did they do that?

08:44 8 A. We had some testing that we needed to get under our
08:44 9 belt, if you will, with the Diamondback setting tool and our
08:44 10 frac plug just to check a few functionality boxes as well as
08:44 11 just get a better understanding of best practices that
08:44 12 Diamondback was employing as far as manufacturing assembly and
08:44 13 just handling and making of the tool.

08:44 14 Q. Did Diamondback share information about its tools and
08:45 15 manufacturing with Mr. Mickey and Mr. Whittenberg?

08:45 16 A. Yes, ma'am.

08:45 17 Q. Did Repeat Precision also share information with
08:45 18 Diamondback in return?

08:45 19 A. Yes. We did.

08:45 20 Q. I'm going to show you Exhibit 2004. Is this an
08:45 21 example of Repeat Precision sharing information with
08:45 22 Diamondback?

08:45 23 A. Yes. It is.

08:45 24 Q. Who is this e-mail from?

08:45 25 A. This is from Clint Mickey.

08:45 1 Q. What modifications was Mr. Mickey sharing with
08:45 2 Mr. Drury in this e-mail?

08:45 3 A. In this e-mail he outlines the main changes that we
08:45 4 had made at this point in time to the setting tool, which is a
08:45 5 second shear screw to retainer cap, an undercut to the bleed
08:45 6 hole on ID, added a second bleed hole and added thread to bleed
08:45 7 hole and used plastic screws instead of a rubber thumb tack
08:45 8 insert.

08:45 9 Q. What is the date on this e-mail from Mr. Mickey?

08:45 10 A. April 9th, 2018.

08:45 11 Q. And at that point -- I'll point you to two lines
08:46 12 after the larger paragraph -- had Repeat Precision already
08:46 13 vetted the SS10?

08:46 14 A. Yes. We had.

08:46 15 Q. What did Repeat Precision do to start promoting the
08:46 16 PurpleSeal Express after developing it?

08:46 17 A. After development we created marketing fliers and
08:46 18 content for our website and went as far as creating a backdrop
08:46 19 for a booth, if you will, at a trade conference that
08:46 20 highlighted the PurpleSeal Express.

08:46 21 Q. Why did Repeat Precision choose the name the
08:46 22 PurpleSeal Express?

08:46 23 A. We wanted to carry forward the PurpleSeal name, which
08:46 24 is the frac plug. It was starting to get some brand
08:46 25 recognition so we wanted to pull that forward. And then the

08:46 1 word "express" just evoked the idea or sense of, you know, ease
08:46 2 or quick use on location, you know, kind of quick assembly onto
08:47 3 the rest of the tool string that we use for plug and
08:47 4 perforating.

08:47 5 Q. You heard Mr. Drury say yesterday that the PurpleSeal
08:47 6 Express is unique. Do you agree?

08:47 7 A. I do. Yes.

08:47 8 Q. Are you familiar, Mr. Martin, with Diamondback's
08:47 9 second amended complaint in this case?

08:47 10 A. Yes.

08:47 11 Q. Are you familiar with Diamondback's allegation in
08:47 12 Paragraph 21 that Gary Martin allegedly misrepresented to
08:47 13 Diamondback that, quote, Repeat Precision would purchase and
08:47 14 promote Diamondback's power charges, end quote?

08:47 15 A. Yes. I'm familiar with that.

08:47 16 Q. I'm now going to show you Exhibit 2016. Is this the
08:47 17 flier you created in spring 2018 to promote the PurpleSeal
08:47 18 Express?

08:47 19 A. Yes. It is.

08:47 20 Q. Did you discuss this flier with Diamondback before
08:47 21 finalizing it?

08:47 22 A. Yes, ma'am.

08:47 23 Q. I'm going to show you Exhibit 2011. What is this
08:47 24 exhibit? I'll show you the second e-mail on the first page of
08:48 25 2011.

08:48 1 A. This is an e-mail from me to Mr. Derrek Drury
08:48 2 attaching the first draft of the PurpleSeal Express flier.

08:48 3 Q. And then turning to the attachment to this e-mail.
08:48 4 Mr. Bolds, if we could zoom into the text.

08:48 5 Is Diamondback's Eliminator charge mentioned on this
08:48 6 flier?

08:48 7 A. Yes. It is.

08:48 8 Q. What does it say exactly? Just that one sentence.

08:48 9 A. Insert a Diamondback Eliminator, five and a half
08:48 10 charge.

08:48 11 Q. At that time was Diamondback's Eliminator charge the
08:48 12 only charge that worked with the PurpleSeal Express?

08:48 13 A. Yes, ma'am.

08:48 14 Q. Was it the only charge that worked with any
08:48 15 disposable setting tool?

08:48 16 A. Yes.

08:48 17 Q. Did you think it was important to include that on
08:48 18 Repeat Precision's flier?

08:48 19 A. Absolutely.

08:48 20 Q. I'm now going to show you Exhibit 2012. Is this an
08:49 21 e-mail Mr. Drury sent you in response to the draft?

08:49 22 A. Yes. After I had prompted him again on May 7th.

08:49 23 Q. In the e-mail there that's shown on the screen on the
08:49 24 bottom half of the page Mr. Drury is asking you about the SS10
08:49 25 language, correct?

08:49 1 A. Yes. That's correct.

08:49 2 Q. And in response did you explain that the flier was
08:49 3 specific to the SS10?

08:49 4 A. Yes.

08:49 5 Q. And that's because the PurpleSeal Express was
08:49 6 designed to use a 10, correct?

08:49 7 A. Yes, ma'am.

08:49 8 Q. Pulling up Exhibit 2014. Later that day did
08:49 9 Mr. Drury request some other changes to the flier?

08:49 10 A. Yes. He did.

08:49 11 Q. And are those shown on the last two pages of this
08:49 12 exhibit and red lined?

08:50 13 THE COURT: And if you will make clear on the record where
08:50 14 you're talking about, on which exhibit and which page.

08:50 15 MS. ZUNIGA: Yes. This is Exhibit 2014, and I'm talking
08:50 16 about the last two pages of the exhibit which are an attachment
08:50 17 to the e-mail.

08:50 18 THE COURT: Thank you, ma'am.

08:50 19 MS. ZUNIGA: Thank you.

08:50 20 BY THE WITNESS:

08:50 21 A. Yes. These are the suggested red line changes.

08:50 22 BY MS. ZUNIGA:

08:50 23 Q. The language in the footer at the end of the flier,
08:50 24 the last page of the exhibit, was that language inserted by
08:50 25 Mr. Drury?

08:50 1 A. Yes.

08:50 2 Q. Was this flier finalized with Mr. Drury's additions?

08:50 3 A. Yes. It was.

08:50 4 Q. Now I'm going to show you Exhibit 2016. Is this the
08:50 5 final flier?

08:50 6 A. Yes.

08:50 7 Q. Did Repeat Precision end up using this flier?

08:50 8 A. We did. Yes.

08:50 9 Q. How did you use it?

08:50 10 A. This flier was posted to our website for people to
08:50 11 download. It was taken to trade shows in loose-leaf for any
08:51 12 passersby to pick up and take with them and also used for sales
08:51 13 calls, you know, to give to a customer when in their office.

08:51 14 Q. Was it also available on Repeat Precision's website?

08:51 15 A. It was. Yes.

08:51 16 Q. Mr. Martin, I'm now going to show you Exhibit 37.

08:51 17 What is Exhibit 37? And I'll point you to your e-mail at the
08:51 18 top of Exhibit 37.

08:51 19 A. This is an e-mail from me to Mr. Derrek Drury with a
08:51 20 Word doc and a PDF attached, the amended and restated patent
08:51 21 license agreement.

08:51 22 Q. Had you talked with Mr. Drury about amending the
08:51 23 original license before sending him this e-mail?

08:51 24 A. I did not. No.

08:51 25 Q. What prompted you to send this e-mail?

08:51 1 A. I was asked by Mr. Nipper.

08:51 2 Q. I'm going to show you Exhibit 531. Is this the
08:51 3 e-mail from Mr. Nipper that you received?

08:52 4 A. Yes.

08:52 5 Q. What's the date on that e-mail?

08:52 6 A. April 11th, 2018.

08:52 7 Q. Were you in Marble Falls with Gary Martin and
08:52 8 Mr. Drury on April 11th, 2018?

08:52 9 A. No, ma'am.

08:52 10 Q. Did you talk to Mr. Drury by phone on April 11th,
08:52 11 2018?

08:52 12 A. No, ma'am.

08:52 13 Q. Was Exhibit 531 your only communication with
08:52 14 Mr. Drury on that day?

08:52 15 A. Yes. It was.

08:52 16 Q. Before receiving this e-mail from Mr. Nipper, had you
08:52 17 talked with him and Gary Martin about making changes to the
08:52 18 original license?

08:52 19 A. We had talked about the ability to make individual
08:52 20 setting tools. Sure.

08:52 21 Q. Why were you interested in selling standalone setting
08:52 22 tools?

08:52 23 A. We knew that at the time Diamondback had a
08:52 24 increasingly growing backlog of demand for the SS20 and, again,
08:52 25 just a tool that was growing in popularity, and we were seeing

08:52 1 more widespread usage of that kind of technology in the field.

08:53 2 Q. Is an advantage of standalone setting tools in
08:53 3 comparison to the PurpleSeal Express that customers can use a
08:53 4 non Repeat Precision frac plug?

08:53 5 A. That's right.

08:53 6 Q. Turning back to Exhibit 37. Who prepared the first
08:53 7 proposed amendment to the original license?

08:53 8 A. Mr. Ori Lev.

08:53 9 Q. And did you forward what he sent you to Mr. Drury?

08:53 10 A. Yes. I did.

08:53 11 Q. Who requested that you do that?

08:53 12 A. Mr. Nipper.

08:53 13 Q. I'm pulling up Exhibit No. 39. Looking at the e-mail
08:53 14 in the middle of this page, the first page of Exhibit 39, is
08:53 15 that you following up with Mr. Drury about the proposed
08:53 16 amendment?

08:53 17 A. Yes. It is.

08:53 18 Q. When was that?

08:53 19 A. April 16th, 2018.

08:53 20 Q. What did he say in response to your e-mail?

08:53 21 A. Grant, my legal team is still reviewing. Might be
08:54 22 tomorrow.

08:54 23 Q. I'm now going to show you the last page of
08:54 24 Exhibit 107. Mr. Martin, who is John Harenza?

08:54 25 A. He is a lawyer at Stevens & Lee.

08:54 1 Q. Why did he reach out to you?

08:54 2 A. He reached out to me at Derrek Drury's request to
08:54 3 discuss the patent license agreement.

08:54 4 Q. Did you end up talking with Mr. Harenza?

08:54 5 A. Yes. I did.

08:54 6 Q. How many times?

08:54 7 A. I believe twice.

08:54 8 Q. Do you remember what was discussed during the first
08:54 9 call?

08:54 10 A. I believe they went over some of the changes that
08:54 11 they were going to suggest to the agreement.

08:54 12 Q. Did you accept any of those proposed changes on the
08:55 13 call?

08:55 14 A. No, ma'am.

08:55 15 Q. Now looking to the top of Exhibit 107. Where
08:55 16 Mr. Harenza references a proposed draft, did you ever receive a
08:55 17 proposed draft amendment from Stevens & Lee?

08:55 18 A. Yes. I did.

08:55 19 Q. Pulling up Exhibit 40, please.

08:55 20 Who sent you that?

08:55 21 A. Mr. Elliott Stein of Stevens & Lee.

08:55 22 Q. He says on the first line of that e-mail, further to
08:55 23 our conversation this morning. Did you two talk on the phone?

08:55 24 A. Yes. We did.

08:55 25 Q. Is that on May 7th, 2018?

08:55 1 A. Yes, ma'am.

08:55 2 Q. What did Mr. Stein tell you on that call?

08:55 3 A. Exactly what he would be sending over, from what I
08:55 4 recall.

08:55 5 Q. And if you scroll down this exhibit, is the red line
08:55 6 you discussed attached to Exhibit 40?

08:55 7 A. Yes.

08:55 8 Q. Did you accept any of Stevens & Lee's proposed
08:56 9 changes on this call?

08:56 10 A. No, ma'am.

08:56 11 Q. Were any lawyers with you on this call?

08:56 12 A. No, ma'am.

08:56 13 Q. What did you do with information Mr. Stein shared?

08:56 14 A. I sent the information along to Mr. Lev.

08:56 15 Q. I'd like to pull up Exhibit 1180, which Mr. Little
08:56 16 showed you yesterday. I think it's Page 11. Are these notes
08:56 17 you took on the call?

08:56 18 A. Yes. They are.

08:56 19 Q. Did you share the substance of these notes with
08:56 20 Mr. Lev?

08:56 21 A. Yes. I did.

08:56 22 Q. Did you talk with any lawyers from Stevens & Lee ever
08:56 23 again after this call with Mr. Stein?

08:56 24 A. I don't believe I did. No.

08:56 25 Q. You never got back in touch with them to discuss any

08:56 1 of their proposed changes?

08:56 2 A. I don't believe I did. No.

08:56 3 Q. On May 22nd, 2018 did you attend a lunch with
08:57 4 Mr. Drury?

08:57 5 A. Yes.

08:57 6 Q. Where did that take place?

08:57 7 A. The Bird Cafe in downtown Fort Worth.

08:57 8 Q. Who else was there?

08:57 9 A. Mr. Drury, Mr. Nipper and my dad Gary Martin were
08:57 10 also in attendance.

08:57 11 Q. Do you agree with Mr. Drury that it was a brief
08:57 12 lunch?

08:57 13 A. Yes. I do.

08:57 14 Q. What did you discuss?

08:57 15 A. We discussed the amendment to the license, the ROFR,
08:57 16 which was a term that we wanted to include. That's all I
08:57 17 remember.

08:57 18 Q. Do you recall why you wanted to include the ROFR?

08:57 19 A. Yes.

08:57 20 Q. Why was that?

08:57 21 A. We were trying to protect from, you know, Diamondback
08:57 22 being acquired and us getting, you know, somehow left out in
08:58 23 the cold on the terms that we negotiated for this product and
08:58 24 this license agreement.

08:58 25 Q. Did Mr. Nipper say anything at that lunch about

08:58 1 Diamondback continuing to manufacture setting tools under the
08:58 2 amended agreement?

08:58 3 A. Not that I recall.

08:58 4 Q. Do you recall saying anything at that lunch about
08:58 5 Diamondback continuing to manufacture and sell disposable short
08:58 6 setting tools under the amendment?

08:58 7 A. Not that I recall.

08:58 8 Q. What about Gary Martin?

08:58 9 A. No, ma'am.

08:58 10 Q. Had an agreement on the amendment been reached by the
08:58 11 May 22nd lunch?

08:58 12 A. No.

08:58 13 Q. Was there also a trade show going on in Fort Worth
08:58 14 that day?

08:58 15 A. Yes. There was.

08:58 16 Q. Did you attend?

08:58 17 A. I did briefly.

08:58 18 Q. What's the name of that show?

08:58 19 A. It is the DUG Permian.

08:58 20 Q. When was the next time you heard from Mr. Drury about
08:58 21 the proposed amendment?

08:58 22 A. Maybe a week or two later.

08:59 23 Q. I'm going to show you Exhibit 41. Is this the next
08:59 24 time you recall having heard from Mr. Drury about the
08:59 25 amendment?

08:59 1 A. Yes, ma'am.

08:59 2 Q. What's the date on this e-mail?

08:59 3 A. June 4th, 2018.

08:59 4 Q. What was attached to that e-mail?

08:59 5 A. Attached financials. I'm sorry. Financials and
08:59 6 signed agreement.

08:59 7 Q. Was the amendment Mr. Drury signed one that was
08:59 8 prepared by Repeat Precision or Diamondback?

08:59 9 A. I'm sorry. Will you ask the question again?

08:59 10 Q. Yes. Was the amendment that Mr. Drury eventually
08:59 11 signed and that was attached to this e-mail one that was
08:59 12 prepared by Repeat Precision or Diamondback?

08:59 13 A. By Repeat Precision.

08:59 14 Q. I'm going to show you Exhibit 2. Is this the final
08:59 15 amended license?

08:59 16 A. Yes. It is.

08:59 17 Q. Turning to the last page. Who signed for Repeat
09:00 18 Precision?

09:00 19 A. Robert Nipper.

09:00 20 Q. That was in his position as CEO of Repeat Precision?

09:00 21 A. Yes.

09:00 22 Q. Who signed for Diamondback?

09:00 23 A. Derrek Drury.

09:00 24 Q. Mr. Martin, at the time of this agreement had you
09:00 25 considered the effect of the exclusivity term of the amended

09:00 1 license on Diamondback?

09:00 2 A. No.

09:00 3 Q. Did you view the amended license as tied to the
09:00 4 acquisition discussions you, Gary and Robert had started having
09:00 5 with Mr. Drury?

09:00 6 A. No.

09:00 7 Q. What was your view on a possible acquisition of
09:00 8 Diamondback?

09:00 9 A. You know, I guess I was indifferent to an extent. I
09:00 10 felt like, you know, there needed to be more due diligence to
09:00 11 be done before I had an opinion either way. It was exciting to
09:00 12 be talking about an acquisition, but, you know, to me there was
09:01 13 still a lot more learning to do.

09:01 14 Q. From your discussions with Mr. Gary Martin, was he
09:01 15 interested in acquiring Diamondback?

09:01 16 A. Yes. He was.

09:01 17 Q. You were shown Exhibit 392 yesterday and I'd like to
09:01 18 pull it up again. In the financial modeling you prepared, did
09:01 19 you consider Diamondback not making setting tools?

09:01 20 A. No.

09:01 21 Q. Why not?

09:01 22 A. Didn't see a need to.

09:01 23 Q. Why did you not see a need?

09:01 24 A. Because we were in the midst of talking about
09:01 25 acquiring Diamondback.

09:01 1 Q. Now looking at Exhibit 115. On June 13th did you
09:01 2 send Mr. Drury a proposed term sheet for an acquisition of
09:01 3 Diamondback by NCS?

09:01 4 A. Yes. I did.

09:01 5 Q. Did Mr. Drury ask you to make some changes to that
09:01 6 term sheet?

09:02 7 A. He did. Yes.

09:02 8 Q. Did you send him back a red line after making those
09:02 9 changes?

09:02 10 A. Yes.

09:02 11 Q. Is Exhibit 116 Mr. Drury's response to your red line?

09:02 12 A. Yes.

09:02 13 Q. I lost my input up here. Can you see the exhibit?

09:02 14 A. Yes. I can.

09:02 15 Q. Okay. Turning to the agreement, this is on
09:02 16 Exhibit 116, are Diamondback's changes shown in red line, or, I
09:02 17 guess because this is a black-and-white document, underlined?

09:02 18 A. Yes, ma'am.

09:02 19 Q. Turning to the second page of this term sheet, I'd
09:03 20 like you to zoom in, Mr. Bolds.

09:03 21 THE COURT: You may have said this, but what date are we
09:03 22 talking about when this was exchanged?

09:03 23 THE WITNESS: I believe June 13th.

09:03 24 THE COURT: Thank you.

09:03 25 BY MS. ZUNIGA:

09:03 1 Q. Mr. Martin, what date did Mr. Drury respond to your
09:03 2 e-mail with the proposed term sheet?

09:03 3 A. June 19th.

09:03 4 Q. Thank you.

09:03 5 And then turning to the second page of the term sheet
09:03 6 attached to Exhibit 116. Mr. Bolds, could you zoom into the
09:03 7 top part of that document? Thank you.

09:03 8 What language is added in this top three bullets of the
09:03 9 second page of the term sheet?

09:03 10 A. The words "previously budgeted."

09:03 11 Q. That was language added by Mr. Drury?

09:03 12 A. Yes.

09:03 13 Q. Did you sign the LOI for NCS?

09:03 14 A. I did not. No.

09:03 15 Q. Were you even an NCS employee at that time?

09:03 16 A. No.

09:03 17 Q. Mr. Martin, I'd now like to talk a bit about Repeat
09:04 18 Precision's manufacturing. When did Repeat Precision first
09:04 19 start manufacturing the PurpleSeal Express?

09:04 20 A. Summer of 2018.

09:04 21 Q. Where was Repeat Precision manufacturing the
09:04 22 PurpleSeal Express?

09:04 23 A. We first started at the Ojinaga facility.

09:04 24 Q. Where is Ojinaga?

09:04 25 A. Ojinaga is across from what I would call Big Bend

09:04 1 country in Texas. It's about an hour due south of Marfa.

09:04 2 Q. What is its sister city on the U.S. side of the
09:04 3 border?

09:04 4 A. Presidio, Texas.

09:04 5 Q. How big is Ojinaga?

09:04 6 A. Ojinaga has approximately 30,000 people.

09:04 7 Q. On the screen now is Exhibit 2160. What is
09:04 8 Exhibit 2160?

09:04 9 A. That is an aerial view of the plant and surrounding
09:05 10 yard of RJ Machine Mexico.

09:05 11 Q. How big is Repeat Precision's facility in Ojinaga?

09:05 12 A. We have just under 61,000 square feet under roof
09:05 13 line.

09:05 14 Q. Does Repeat Precision own or lease this facility?

09:05 15 A. We lease this facility.

09:05 16 Q. Is that directly or indirectly?

09:05 17 A. It is indirectly through RJ Machine Mexico, the
09:05 18 operating entity we have in Mexico.

09:05 19 Q. Is RJ Machine Mexico a subsidiary of Repeat
09:05 20 Precision?

09:05 21 A. Yes. It's a wholly owned subsidiary.

09:05 22 Q. For how long has this particular facility in Ojinaga
09:05 23 been operational?

09:05 24 A. We've been in this facility for the better part of
09:05 25 12 years, more or less.

09:05 1 Q. For how long has Repeat Precision manufactured
09:05 2 products at this facility?

09:05 3 A. Since we started in February of 2017.

09:05 4 Q. Historically, what kinds of products have been made
09:05 5 at this facility in Ojinaga?

09:05 6 A. Historically, we've made parts for ball drop systems.
09:06 7 It's another completion tool for hydraulic fracturing. We had
09:06 8 made some other composite products as well as components,
09:06 9 different kinds of components for artificial lift.

09:06 10 Q. I'm now going to show you Exhibit 422, which
09:06 11 Mr. Little also showed you yesterday. Is this a presentation
09:06 12 you prepared?

09:06 13 A. Yes. It is.

09:06 14 Q. What for?

09:06 15 A. This was the kind of business wide stakeholders sales
09:06 16 and ops people, a presentation with an NCS presentation.

09:06 17 Q. When did you give this presentation?

09:06 18 A. I believe on or around August 1st, 2018.

09:06 19 Q. What's shown on Page 4 of this presentation?

09:06 20 A. That is a panoramic view of the shop floor at
09:06 21 Ojinaga.

09:06 22 Q. Is that generally what the facility looked like in
09:07 23 spring 2018?

09:07 24 A. Yes, ma'am.

09:07 25 Q. Looking at the text below the photograph, Mr. Martin,

09:07 1 what is a CNC lathe and mill?

09:07 2 A. CNC lathe and mill is a machine controlled by a
09:07 3 computer that when uploaded with a program, it will fabricate
09:07 4 or machine different kinds of features on steel, for example.
09:07 5 It's agnostic to whether it's a medical device or an oil field
09:07 6 tool in this case.

09:07 7 Q. How many were in the Ojinaga facility in spring 2018?

09:07 8 A. 85. At least 85, maybe 90.

09:07 9 Q. What were those machines being used to make?

09:07 10 A. So spring of 2018 we were making composite frac
09:07 11 plugs -- let's see if I can get this pointer to work -- kind of
09:07 12 on these first rows of machines here. We had some steel
09:08 13 machines kind of here in the middle of the shop. They made
09:08 14 adapter kits or kind of other one-off metal parts that we had
09:08 15 made, and towards the far end of the shop, which is north, are
09:08 16 where machines were installed that made NCS parts or tools.

09:08 17 Q. When Repeat Precision started making the PurpleSeal
09:08 18 Express, were any of the machines shown in this photo used?

09:08 19 A. Yes.

09:08 20 Q. Could you point those out for the Court?

09:08 21 A. Sure. Those would be machines here kind of in this
09:08 22 middle section, kind of the middle five rows of machines.

09:08 23 Q. Thank you. What is Exhibit 2062?

09:08 24 A. This is a layout of the shop floor at Ojinaga.

09:08 25 Q. To orient the Court, what's the north end of the

09:08 1 building?

09:08 2 A. This end is north.

09:09 3 Q. Is this the facility's current layout?

09:09 4 A. Yes. This is the most current layout.

09:09 5 Q. What of this layout was the same in spring of 2018?

09:09 6 A. These machines here, I believe that's Rows 7 through
09:09 7 10, are composite machines. And then some of these machines
09:09 8 here in the middle portion are different lathes and mills that,
09:09 9 again, we use for wireline adapter kits or other steel
09:09 10 manufacturing.

09:09 11 Q. Were all of these machines in the facility being used
09:09 12 to make tools at that time or were some of them idle?

09:09 13 A. Some of them were idle.

09:09 14 Q. How many employees were working at the Ojinaga
09:09 15 facility in spring 2018?

09:09 16 A. Close to 200.

09:09 17 Q. So talking about the first step in the manufacturing
09:09 18 process, what material is used to create these tools?

09:09 19 A. For the setting tools we use what's called a bar
09:10 20 stock material. Specifically it's a 1045-grade carbon steel,
09:10 21 and this is shown here after it's been sawed, cut to shorter
09:10 22 lengths.

09:10 23 Q. Is that Exhibit 2107?

09:10 24 A. Yes, ma'am.

09:10 25 Q. Are there any other base raw materials that are used

09:10 1 to create the tools at Ojinaga?

09:10 2 A. Just the carbon steel.

09:10 3 Q. What about O-rings?

09:10 4 A. Yes. There are O-rings in the assembly.

09:10 5 Q. How much do you pay for the steel?

09:10 6 A. In the quantities that we purchase or the volumes

09:10 7 that we purchase, we pay on average 41 cents a pound.

09:10 8 Q. How many cut pieces of raw material do you need per
09:10 9 tool?

09:10 10 A. You need three different sizes of raw material to
09:10 11 make the three different parts here for the setting tool.

09:10 12 Q. So is different steel used for the different parts?

09:11 13 A. Different diameters in some cases but the same grade
09:11 14 of steel.

09:11 15 Q. Is the price per pound the same?

09:11 16 A. Yes.

09:11 17 Q. What are the different components of a disposable
09:11 18 setting tool? And if you'd like to use the demonstratives that
09:11 19 are on the Court's bench.

09:11 20 A. Sure.

09:11 21 Q. You can point to them.

09:11 22 A. So we have the three parts. Again, the retainer cap
09:11 23 made out of 1045 carbon steel. We have the barrel in the
09:11 24 mandrel here.

09:11 25 Q. Thank you. Are each of these shown in Exhibit 2082

09:11 1 as well?

09:11 2 A. Yes. They are.

09:11 3 Q. Are each of these made in Ojinaga?

09:12 4 A. They are.

09:12 5 Q. What machines are used to make these parts?

09:12 6 A. Samsung lathes that we have.

09:12 7 Q. Walking through the Ojinaga facility, what is shown
09:12 8 in Exhibit 2109?

09:12 9 A. So from this vantage point, we're at, again, the
09:12 10 northern end of the shop looking south. We have the rows upon
09:12 11 rows of machines here on the right-hand side, different CNC
09:12 12 lathes and mills, and on the left-hand side here just off the
09:12 13 image is a cutting area. Then we have a finishing and cleaning
09:12 14 area. And then just beyond that is an assembly and final
09:12 15 staging and packaging area.

09:12 16 Q. Thank you. Turning to the next slide. What is
09:12 17 Exhibit 2108?

09:12 18 A. Those are some of our newer Samsung lathes located at
09:12 19 the northern end of the shop.

09:12 20 Q. Okay. Now what about Exhibit 2088?

09:12 21 A. This is a Doosan LYNX that is in the composite area
09:13 22 of our shop.

09:13 23 Q. What is this machine used for?

09:13 24 A. This fabricates different components for our frac
09:13 25 plug.

09:13 1 Q. Was that machine there in spring 2018?

09:13 2 A. It was. Yes.

09:13 3 Q. What is Exhibit 2112?

09:13 4 A. This shows one of our employees in the process of
09:13 5 either putting raw material in or taking a semifinished part
09:13 6 out of one of our Samsung machines.

09:13 7 Q. Is this the machine that actually makes the parts out
09:13 8 of steel?

09:13 9 A. Yes. It creates the features on the raw steel.

09:13 10 Q. How does raw steel become the parts that are here in
09:13 11 the courtroom today? Could you walk us through that process
09:13 12 briefly?

09:13 13 A. Sure. So we take the raw billets of bar stock that
09:13 14 we receive. We cut it into the desired length for whichever
09:14 15 component. It is taken to a series of machines, what we call
09:14 16 operations, where different features are cut onto the raw
09:14 17 material. In some cases that might be a thread. It might bore
09:14 18 out an ID or hollow -- or I'm sorry -- bore out a solid piece
09:14 19 of steel to create an inside diameter.

09:14 20 So, for example, a mandrel might, you know, find its way
09:14 21 from one machine to another to another, you know, four
09:14 22 different machines for four different operations before that
09:14 23 part is complete.

09:14 24 Q. And Exhibit 2112 on the screen, are any parts shown
09:14 25 there that have been machined?

09:14 1 A. Yes. So here at the bottom of the image on this
09:14 2 pallet and cardboard is a mandrel that's in process. So on the
09:14 3 right-hand side you can see the more shiny metallic part of the
09:14 4 material. That's something that's already been machined,
09:15 5 whereas on the opposite side is the raw material that has yet
09:15 6 to have featured machined on it.

09:15 7 Q. The different iterations you just mentioned, how long
09:15 8 does this process usually take?

09:15 9 A. For the entire -- for the entirety of the tool for
09:15 10 all of the machining operations across three components,
09:15 11 approximately 45 minutes, 50 minutes.

09:15 12 Q. And after the tool is done being machined, what
09:15 13 happens next?

09:15 14 A. It is sent to a finishing and cleaning area where you
09:15 15 can see here in this drone footage where the parts are
09:15 16 deburred. They are rinsed in a bath, if you will, to get the
09:15 17 cutting fluid off of the tool before they're sent off to what
09:15 18 we call phosphate. It's a coating process that we put our
09:15 19 tools through that give them this matted kind of black texture.
09:15 20 So they go from that shiny metallic to this coated finish.

09:16 21 Q. And that drone video you just referenced, is that
09:16 22 Exhibit 2164?

09:16 23 A. Yes.

09:16 24 Q. And the phosphate coating you also mentioned, is that
09:16 25 important?

09:16 1 A. Yes. It is.

09:16 2 Q. Why?

09:16 3 A. Phosphate is an anti-corrosive coating that keeps the
09:16 4 tools or prevents the tools from being rusted when subjected to
09:16 5 different weather elements. You know, these tools might sit
09:16 6 out on location for days or weeks prior to being run so they
09:16 7 need to be able to withstand just, you know, nature's elements
09:16 8 so they're not rusty before being used.

09:16 9 Q. Mr. Martin, what's shown in Exhibits 2078, 2079 and
09:16 10 2083?

09:16 11 A. 2078 is a cart of finished barrels. 2079 is a cart
09:16 12 of finished mandrels. And 2083 is one of our retainer caps.

09:16 13 Q. Do these all have that phosphate coating?

09:16 14 A. They do. Yes.

09:17 15 Q. Are the different parts then assembled in the Ojinaga
09:17 16 facility?

09:17 17 A. They are. Yes.

09:17 18 Q. Is that what's going on in Exhibit 2080?

09:17 19 A. Yes. In 2080 this is one of our employees here using
09:17 20 what we call an Arbor press to press the mandrel into the
09:17 21 barrel of the tool for assembly.

09:17 22 Q. Are the tools also packaged in Ojinaga?

09:17 23 A. Yes. They are.

09:17 24 Q. What's shown in Exhibits 2115 and 2119?

09:17 25 A. Those are -- 2119 is our staging area, final

09:17 1 packaging and staging area. Those are frac plugs that we are
09:17 2 palletizing or assembling onto a pallet.

09:17 3 And then 2115 is after they've been shrink-wrapped and
09:17 4 loaded onto a trailer for final shipment.

09:17 5 Q. Where are the finished products shipped to?

09:18 6 A. They are shipped first to a freight forwarding yard
09:18 7 and then delivered to our service center in Midland, Texas.

09:18 8 Q. The different costs you've mentioned such as for the
09:18 9 material and the time of the machining process, does Repeat
09:18 10 Precision track this information?

09:18 11 A. We do. Yes.

09:18 12 Q. I'm going to show you Exhibit 2061. Is this
09:18 13 spreadsheet one of the ways you track this information?

09:18 14 A. Yes. This is.

09:18 15 Q. What is this spreadsheet?

09:18 16 A. This is a time study spreadsheet that we use to
09:18 17 evaluate new products or components that we manufacture. So we
09:18 18 will take prior experiences, if you will, in our experience
09:18 19 manufacturing tools, we'll run simulations on a software and
09:18 20 then we'll go as far as sometimes making a few samples to
09:18 21 determine what we call a run time where the time it takes to
09:18 22 manufacture each feature on these tools, and we will compile it
09:19 23 into a spreadsheet to get a sense for what our cost basis will
09:19 24 be to make said tool.

09:19 25 Q. What are these numbers based on?

09:19 1 A. The numbers in the spreadsheet?

09:19 2 Q. The different time and costs, is this based on --
09:19 3 where do you get that information?

09:19 4 A. Sure. Again, you know, just computer simulations,
09:19 5 maybe running a few samples ourselves and, you know, just
09:19 6 experience leveraging the vast experience that we have in
09:19 7 manufacturing.

09:19 8 Q. How accurate are these numbers?

09:19 9 A. They are typically conservative. We've learned that
09:19 10 over time that we are better than we initially modeled. We
09:19 11 gain certain efficiencies and just get better at making tools
09:19 12 as we become more familiar with them.

09:19 13 Q. Was this spreadsheet 2061 prepared for this
09:20 14 litigation?

09:20 15 A. No. It was not.

09:20 16 Q. For how long has Repeat Precision kept track of this
09:20 17 information?

09:20 18 A. Since the beginning of each tool that, you know, we
09:20 19 first contemplate making.

09:20 20 Q. Looking at the SS10 tab of Exhibit 2061, is that the
09:20 21 same as the RP10?

09:20 22 A. Yes. It is.

09:20 23 Q. [REDACTED]

09:20 24 [REDACTED]

09:20 25 [REDACTED]

09:20	1	[REDACTED]	[REDACTED]
09:20	2	[REDACTED]	[REDACTED]
09:20	3	[REDACTED]	[REDACTED]
09:20	4	[REDACTED]	[REDACTED]
09:20	5	[REDACTED]	[REDACTED]
09:21	6	[REDACTED]	[REDACTED]
09:21	7	[REDACTED]	[REDACTED]
09:21	8	[REDACTED]	[REDACTED]
09:21	9	[REDACTED]	[REDACTED]
09:21	10	[REDACTED]	[REDACTED]
09:21	11	[REDACTED]	[REDACTED]
09:21	12	[REDACTED]	[REDACTED]
09:21	13	[REDACTED]	[REDACTED]
09:21	14	[REDACTED]	[REDACTED]
09:21	15	[REDACTED]	[REDACTED]
09:21	16	[REDACTED]	[REDACTED]
09:21	17	[REDACTED]	[REDACTED]
09:21	18	[REDACTED]	[REDACTED]
09:22	19	[REDACTED]	[REDACTED]
09:22	20	[REDACTED]	[REDACTED]
09:22	21	[REDACTED]	[REDACTED]
09:22	22	[REDACTED]	[REDACTED]
09:22	23	[REDACTED]	[REDACTED]
09:22	24	[REDACTED]	[REDACTED]
09:22	25	[REDACTED]	[REDACTED]

09:22 1

[REDACTED]

09:22 2

[REDACTED]

09:22 3

[REDACTED]

09:22 4

[REDACTED]

09:22 5

[REDACTED]

09:22 6

[REDACTED]

09:22 7

[REDACTED]

09:22 8

Q. Yesterday you were shown Exhibit 1066. What are

09:23 9

these e-mails about?

09:23 10

A. These are about expanding our foreign policy package

09:23 11

in Mexico for the new facility.

09:23 12

Q. I'm going to turn to the third page. There's an

09:23 13

e-mail on July 19th, 2018. Who sent that e-mail?

09:23 14

A. Jake Costin.

09:23 15

Q. Who is he e-mailing?

09:23 16

A. He is e-mailing Courtney who I believe is our account

09:23 17

manager at our insurance firm.

09:23 18

Q. You see referenced in the third sentence, a million

09:23 19

dollars in sales. What is that meant to capture?

09:23 20

A. That is meant to capture the sales between RJ Machine

09:23 21

Mexico and Repeat Precision.

09:23 22

Q. Is that number something you use for insurance

09:23 23

purposes?

09:23 24

A. Yes. So because we're a NAFTA company, RJ Machine

09:24 25

Mexico is -- its only customer can be its parent entity, in

09:24 1 this case in the United States. So really RJ Mexico is just a
09:24 2 cost center. So the sales really in this scenario is cost, you
09:24 3 know, at the U.S. level. So Jake is saying, sales between the
09:24 4 two entities is going to be a million dollars in calendar year
09:24 5 one.

09:24 6 Q. Is that labor, the cost to run the facility, those
09:24 7 sorts of sales?

09:24 8 A. Yes. That would include the lease expense, the fully
09:24 9 burden elements of our labor force, shop supplies, you know,
09:24 10 certain shop supplies, things like that.

09:24 11 Q. Does that number include material, for example?

09:24 12 A. It does not.

09:24 13 Q. Is that number different for sales to third parties?

09:24 14 A. Yes.

09:24 15 Q. And does the insurance company tie you to this
09:25 16 number?

09:25 17 A. No. It's really a benchmark. And at the time of the
09:25 18 policy renewals, I would call it like an audit, if you will.
09:25 19 They kind of true-up what the actual number is since our
09:25 20 general liability is typically pegged on this sales. A
09:25 21 component of our general liability premium is pegged on this
09:25 22 component of sales. So if it's more or less, it's adjusted.
09:25 23 In some instances you might get a refund, or if it's more, you
09:25 24 just true-up the premium portion of your G&L.

09:25 25 Q. In spring 2018 when Repeat Precision started making

09:25 1 setting tools, how many setting tools could it make a month?

09:25 2 A. At that time we thought we had a capacity for 12 to
09:25 3 1,500 tools a month.

09:25 4 Q. Was that enough capacity to meet demand at that time?

09:25 5 A. Yes. It was.

09:25 6 Q. At some point did Repeat Precision begin to consider
09:26 7 an expansion?

09:26 8 A. Yes. We did.

09:26 9 Q. When was that?

09:26 10 A. Spring of 2018.

09:26 11 Q. Why did Repeat Precision start to consider an
09:26 12 expansion?

09:26 13 A. As we were looking into getting into the individual
09:26 14 setting tools and, you know, as we saw or we had hoped that the
09:26 15 PurpleSeal Express would grow in popularity, we would need more
09:26 16 space and more employees to be able to make and meet demand for
09:26 17 these products.

09:26 18 Q. Was leasing a new manufacturing facility a
09:26 19 possibility?

09:26 20 A. Yes.

09:26 21 Q. Did you have a location in mind?

09:26 22 A. We did. Yes.

09:26 23 Q. Where?

09:26 24 A. In Praxedis, Mexico.

09:26 25 THE COURT: Could you spell that for the court reporter?

09:26 1 BY MS. ZUNIGA:

09:26 2 Q. Yes. Mr. Martin, would you spell that for the Court,
09:26 3 please?

09:26 4 A. P-r-a-x-e-d-i-s.

09:26 5 THE COURT: And Ojinaga is O-j-i-n-a-g-a?

09:26 6 THE WITNESS: Yes, Your Honor.

09:27 7 MS. ZUNIGA: Thank you, Your Honor.

09:27 8 BY MS. ZUNIGA:

09:27 9 Q. Where is Praxedis, Mexico?

09:27 10 A. Praxedis is at the tip of the Juarez Valley. The
09:27 11 closest neighboring U.S. city is El Paso. So it's about an
09:27 12 hour east on the interstate and then across the border.

09:27 13 Q. How big is Praxedis?

09:27 14 A. Just between three and 4,000 people in that
09:27 15 community.

09:27 16 Q. And why Praxedis? Did you have experience with that
09:27 17 area?

09:27 18 A. Yes. So my family has owned and operated or leased
09:27 19 and operated a facility a little bit further down the road for
09:27 20 ten or 12 years.

09:27 21 Q. Mr. Martin, what is Exhibit 2165?

09:27 22 A. This is an image of the front facade of the Praxedis
09:27 23 facility.

09:27 24 Q. Aside from the setting tool project, were there any
09:27 25 other reasons why Repeat Precision was considering leasing a

09:27 1 facility in Praxedis?

09:28 2 A. Yes. So we were struggling to hire people in
09:28 3 Ojinaga. And, again, just with the anticipated growth or the,
09:28 4 you know, expectation that growth would continue for these
09:28 5 product lines, we needed somewhere that had what we viewed as a
09:28 6 labor rich market.

09:28 7 Q. And that would be Praxedis?

09:28 8 A. Yes.

09:28 9 Q. Was the labor issue you just described in Ojinaga
09:28 10 ever resolved?

09:28 11 A. It was. Yes.

09:28 12 Q. How was that resolved?

09:28 13 A. So we found out that our entry level pay was actually
09:28 14 10 to 12 percent under what the market was in Ojinaga, and once
09:28 15 we recognized that, we rectified it, and hiring people no
09:28 16 longer became an issue again.

09:28 17 Q. Looking again at Exhibit 2165, how big is the
09:28 18 facility in Praxedis?

09:28 19 A. It is just under 41,000 square feet.

09:28 20 Q. I'm now going to show you Exhibit 2169. What is this
09:29 21 exhibit?

09:29 22 A. This is a view from our shop floor of some of the
09:29 23 empty space that we have at the Praxedis facility.

09:29 24 Q. Does it depict all of the facility?

09:29 25 A. No, ma'am. There's more behind this person.

09:29 1 Q. When did Repeat Precision lease this space in
09:29 2 Praxedis?

09:29 3 A. I believe June 8th, 2018.

09:29 4 Q. I'm going to show you Exhibit 2176. Is this the
09:29 5 lease for the Praxedis facility?

09:29 6 A. Yes.

09:29 7 Q. And you just referenced June 8th. Is that shown on
09:29 8 the last page of this Exhibit 2176?

09:29 9 A. Yes. It is.

09:29 10 Q. Is that a signature of a Mexican notary?

09:29 11 A. Yes. It is.

09:29 12 Q. Was it important to Repeat Precision to finalize the
09:29 13 amended license before signing this lease for the Praxedis
09:30 14 facility?

09:30 15 A. Yes.

09:30 16 Q. Why was that?

09:30 17 A. We wanted to make sure that we had a deal before we
09:30 18 moved forward with any of these expansion plans.

09:30 19 Q. But wasn't Repeat Precision considering an expansion
09:30 20 even before the amended license was executed?

09:30 21 A. We were certainly doing some legwork. Yes.

09:30 22 Q. But nothing had been finalized?

09:30 23 A. No.

09:30 24 Q. How much does the lease cost?

09:30 25 A. Right around \$5,000 a month for this building.

09:30 1 Q. What is the term of the lease?

09:30 2 A. Ten years.

09:30 3 Q. After the lease was signed, was any equipment moved
09:30 4 into it?

09:30 5 A. Yes.

09:30 6 Q. What equipment?

09:30 7 A. We eventually moved the machines that had
09:30 8 historically made the NCS parts and tools to the Praxedis
09:30 9 facility.

09:30 10 Q. Was that always the plan?

09:31 11 A. No. It was not.

09:31 12 Q. What was the plan before Repeat Precision decided to
09:31 13 move those NCS focused machines to Praxedis?

09:31 14 A. We had originally contemplated moving some of the
09:31 15 idle assets or idle machines to this facility, and then we
09:31 16 eventually, you know, decided to flip the script, if you will,
09:31 17 and move NCS machines.

09:31 18 Q. When did that plan change?

09:31 19 A. Late August, early September.

09:31 20 Q. I'm going to show you Exhibit 1091. What is
09:31 21 Exhibit 1091?

09:31 22 A. This is a quarterly ops presentation.

09:31 23 Q. Did you prepare -- sorry. Go ahead.

09:31 24 A. That I prepared.

09:31 25 Q. What was that presentation for?

09:31 1 A. This is a retrospective look at the previous
09:32 2 quarter's updates for Repeat Precision.

09:32 3 Q. On Page 6 of Exhibit 1091 did you explain that change
09:32 4 of plans that you were just describing?

09:32 5 A. Yes.

09:32 6 Q. Why did you make the decision to flip the script?

09:32 7 A. We thought it made sense to have the setting tools
09:32 8 and frac plugs made under the same roof. It was a new product
09:32 9 line that we were still gaining experience, and our team in
09:32 10 Ojinaga has a wealth of institutional knowledge, and we had
09:32 11 been making the NCS parts long enough at that point that we
09:32 12 felt like we could, you know, pick up, take our learnings, our
09:32 13 know-how and install the new facility without as much of a
09:32 14 learning curve.

09:32 15 Q. So after the plan was changed, were some legacy
09:32 16 machines from Ojinaga moved into Praxedis?

09:32 17 A. Yes.

09:32 18 Q. When was that? When were they moved?

09:32 19 A. We started in September and throughout October.

09:33 20 Q. Of 2018?

09:33 21 A. Of 2018. Yes.

09:33 22 Q. I'm going to show you Exhibit 2167. What is
09:33 23 Exhibit 2167?

09:33 24 A. These are some of the machines that were previously
09:33 25 at the Ojinaga facility on the shop floor of Praxedis.

09:33 1 Q. These are some of the legacy machines that were
09:33 2 moved?

09:33 3 A. Yes.

09:33 4 Q. Is that the same for Exhibit 2168?

09:33 5 A. That's correct.

09:33 6 Q. Looking back at Exhibit 2062, where were the machines
09:33 7 that were moved? Where did they used to be in Ojinaga?

09:33 8 A. So, again, just as a point of reference, this is
09:33 9 north. They were in this northern portion here, this footprint
09:34 10 that my pointer is circling.

09:34 11 Q. What tools are made on these machines, the ones that
09:34 12 were moved, not the ones that are currently in Ojinaga?

09:34 13 A. The NCS parts.

09:34 14 Q. Were any machines put in their place in Ojinaga?

09:34 15 A. Yes.

09:34 16 Q. What machines?

09:34 17 A. We had purchased a number of Samsung machines from
09:34 18 South Korea.

09:34 19 Q. I'm going to show you Exhibit 2174. What is this
09:34 20 exhibit, Mr. Martin?

09:34 21 A. This is a rough capex schedule of the known and in
09:34 22 some cases unknown elements of the overall project, capital
09:34 23 expenditure items.

09:34 24 Q. When you say overall project, do you mean the overall
09:34 25 expansion project for Repeat Precision's manufacturing

09:34 1 facilities in Mexico?

09:34 2 A. Yes. The move, the acquiring of new equipment for
09:34 3 the new facility and just some existing facility upgrades.

09:35 4 Q. What was the total cost of these capital
09:35 5 expenditures?

09:35 6 A. At the end, nearly \$4 million.

09:35 7 Q. I see that SL3000-1000 CNC is mentioned multiple
09:35 8 times. What is that?

09:35 9 A. Those are the machines that we purchased from South
09:35 10 Korea. These are Samsung machines.

09:35 11 Q. When you say Samsung machines, are those CNC
09:35 12 machines?

09:35 13 A. Yes. CNC lathes in this case.

09:35 14 Q. Were these all placed in Ojinaga?

09:35 15 A. Yes. They were.

09:35 16 Q. Where in the facility?

09:35 17 A. In that northern portion. Again, here where the NCS
09:35 18 machines were previously installed.

09:35 19 Q. And you're pointing, for the record, at Exhibit 2062?

09:35 20 A. Yes. That's correct.

09:35 21 Q. And is that the north end of the facility?

09:35 22 A. It is. Yes.

09:35 23 Q. How many new CNC lathes were purchased after the
09:35 24 amended license?

09:35 25 A. 24.

09:36 1 Q. Were these machines used to make frac plugs or
09:36 2 setting tools?

09:36 3 A. Setting tools.

09:36 4 Q. When did Repeat Precision receive this equipment?

09:36 5 A. We first started receiving initial deliveries in
09:36 6 September of 2018.

09:36 7 Q. Did they arrive in waves or all at once?

09:36 8 A. They arrived in waves. Typically four or five at a
09:36 9 time.

09:36 10 Q. And what was the time between each arrival?

09:36 11 A. Some cases a couple weeks, you know, a week or two in
09:36 12 between arrivals.

09:36 13 Q. Once they arrived, when did they become operational?

09:36 14 A. As soon as they landed in port, we immediately
09:36 15 transported them, imported them, and after they arrived to our
09:36 16 facility, uncrated and they were online after arriving to the
09:36 17 facility within a week.

09:36 18 Q. How did these new machines affect Repeat Precision's
09:36 19 capacity for making disposable setting tools?

09:36 20 A. Each machine that was received added incremental
09:37 21 capacity.

09:37 22 Q. When did the last of the new machines arrive?

09:37 23 A. I believe in October or November of 2018.

09:37 24 Q. What was Repeat Precision's capacity to make
09:37 25 disposable setting tools once the machines were all installed?

09:37 1 A. The machines we had acquired we anticipated could
09:37 2 make upwards of 5,000 setting tools per month, you know, but we
09:37 3 learned later that they could yield upwards of 6,200 setting
09:37 4 tools per month.

09:37 5 Q. When you say learned later, how was that?

09:37 6 A. Again, just different efficiencies and things of that
09:37 7 nature that we were able to gain as we became more familiar
09:37 8 with the tools.

09:37 9 Q. I'm now going to show you Exhibit 2138. What is
09:37 10 shown in this exhibit?

09:37 11 A. That is the electrical area of our Ojinaga plant.

09:37 12 Q. Was there an upgrade to that electrical area in 2018?

09:38 13 A. Yes.

09:38 14 Q. Is that shown in Exhibit 2174?

09:38 15 A. Yes. So electrical upgrades included both the
09:38 16 Ojinaga and Praxedis facilities.

09:38 17 Q. Do you have an idea of how much that ended up
09:38 18 costing?

09:38 19 A. For both projects about \$350,000.

09:38 20 Q. Now I'm going to show you Exhibit 2175. What is
09:38 21 shown in this exhibit?

09:38 22 A. This is a sales order from American Pulverizer. They
09:38 23 make metal processing, like shaving processing, which is a
09:38 24 byproduct of the machine process. They make equipment that
09:38 25 allows you to densify it and, you know, kind of ship that to a

09:38 1 recycling facility. And it's detailed here in the item numbers
09:38 2 and it has a dollar amount for that equipment.

09:39 3 Q. Did Repeat Precision end up buying this equipment
09:39 4 shown in Exhibit 2175?

09:39 5 A. We did. Yes.

09:39 6 Q. How much did that cost? I'll point you to --

09:39 7 A. \$168,830.

09:39 8 Q. Thank you. I'm going to show you Exhibit 2161. What
09:39 9 is shown in this video?

09:39 10 A. This is some drone footage of our shop and some
09:39 11 employees walking around. These are the rows of machines that
09:39 12 I'd previously mentioned and the staging and packaging area,
09:39 13 finishing and cleaning up here on our right. Just beyond that
09:39 14 is the saw area. So this is just kind of the main corridor
09:39 15 towards the eastern side of the building.

09:39 16 Q. Was this drone video taken in the Ojinaga facility?

09:39 17 A. Yes. I'm sorry. This is in Ojinaga.

09:40 18 Q. Is that a recent video?

09:40 19 A. Within the last year.

09:40 20 Q. How many employees work at the Ojinaga facility?

09:40 21 A. Today we have about 240 employees.

09:40 22 Q. What is the gender breakdown of Repeat Precision's
09:40 23 employees in Mexico?

09:40 24 A. We employ about 40 percent women and 60 percent men.

09:40 25 Q. Is Repeat Precision a major employer in Ojinaga?

09:40 1 A. We are. We think we're one of the top three
09:40 2 employers in that town by head count.

09:40 3 Q. Have you ever had contact with any other
09:40 4 manufacturers for disposable setting tool parts?

09:40 5 A. Yes.

09:40 6 Q. Which manufacturers?

09:40 7 A. We've talked with manufacturers in China.

09:40 8 Q. When did Repeat Precision start talking with these
09:40 9 Chinese manufacturers?

09:40 10 A. 2018.

09:40 11 Q. Why was Repeat Precision interested in manufacturing
09:40 12 in China?

09:40 13 A. We wanted a contingency plan for additional capacity
09:41 14 beyond what we were acquiring ourselves. So we had some
09:41 15 experience at sourcing and getting the product from China, so
09:41 16 we were comfortable going to Asia for tools and we know that
09:41 17 they make good quality products at the right facilities. So we
09:41 18 were just planning for, again, future growth.

09:41 19 Q. Is Exhibit 2059 a quote you received from one of
09:41 20 these manufacturers?

09:41 21 A. Yes. It is.

09:41 22 Q. What's the name of that company?

09:41 23 A. Changzhou Xinqi Machinery Manufacturing Co., Ltd.

09:41 24 Q. [REDACTED]

09:41 25 [REDACTED]

09:41 1

[REDACTED]

09:42 2

Q. By part, is that the barrel, the mandrel and the
retainer cap?

09:42 3

09:42 4

A. Yes. That's correct.

09:42 5

Q. Does it also break down the cost by part?

09:42 6

A. Yes. It does.

09:42 7

Q. [REDACTED]

09:42 8

[REDACTED]

09:42 9

Q. Is Exhibit 2072 a purchase order sent in connection
with that quote?

09:42 10

09:42 11

A. Yes.

09:42 12

Q. Did you send that purchase order to Carter Soong as
shown in Exhibit 2071?

09:42 13

09:42 14

A. Yes. I did.

09:42 15

THE COURT: And Soong is S-o-o-n-g?

09:42 16

THE WITNESS: Yes.

09:42 17

MS. ZUNIGA: Thank you, Your Honor.

09:42 18

BY MS. ZUNIGA:

09:42 19

Q. Who is Carter Soong?

09:42 20

A. He's a RJ China employee.

09:42 21

Q. RJ China. Do you mean RJ Machine China?

09:42 22

A. Yes. RJ Machine.

09:42 23

Q. Did you ever receive parts or prototypes from this
manufacturer?

09:42 24

09:42 25

A. Yes. We did.

09:42 1 Q. Did you test those?

09:43 2 A. We did.

09:43 3 Q. When were those tests?

09:43 4 A. Late April or May of 2019.

09:43 5 Q. Did the parts pass Repeat Precision's tests?

09:43 6 A. Yes. They did.

09:43 7 Q. I'm now going to show you Exhibit 2074. What is

09:43 8 Exhibit 2074?

09:43 9 A. This is a quote from the same factory for the three
09:43 10 individual components of the 10 tool for a total cost of \$78
09:43 11 delivered to El Paso.

09:43 12 Q. I'm going to point you to the top left-hand corner of
09:43 13 Exhibit 2074. When did you receive this quote?

09:43 14 A. August 27, 2019.

09:43 15 Q. What was your initial understanding of this
09:43 16 manufacturer's capacity?

09:43 17 A. Our initial understanding is that they could make
09:43 18 5,000 tools per month.

09:44 19 Q. Have you had more recent conversations with this
09:44 20 manufacturer?

09:44 21 A. Yes. We have.

09:44 22 Q. Did they give you any more information about the
09:44 23 capacity?

09:44 24 A. Yes. When we asked how many they could make per
09:44 25 month, they responded back they could make 5,000, more or less,

09:44 1 of each of the 10 and 20 per month. So upwards of 10,000 tools
09:44 2 in aggregate.

09:44 3 Q. I'm going to show you Exhibit 1169. Is that what's
09:44 4 reflected in this exhibit?

09:44 5 A. Yes.

09:44 6 Q. Mr. Martin, has Repeat Precision made any
09:44 7 improvements to the setting tool designs it received from
09:44 8 Diamondback in early 2018?

09:44 9 A. Yes.

09:44 10 Q. Could you list those for me, please?

09:44 11 A. Sure. We added a second preset screw, a brass shear
09:44 12 screw, and we increased the strength of each of those
09:44 13 individual screws to two times that of the single screw
09:45 14 Diamondback has. We added the undercuts to the inside of the
09:45 15 barrel where the bleed ports are. We increased the base
09:45 16 material grade from 1018 to 1045. It's just a higher yielding
09:45 17 carbon steel. We added what we call flow channels through the
09:45 18 retainer cap to prevent upper barrel swelling. That's all that
09:45 19 comes to mind right now.

09:45 20 Q. Looking at Exhibit 379, the undercut you just
09:45 21 mentioned, is that what Mr. Mickey is describing at the top of
09:45 22 the second page of this exhibit?

09:45 23 A. Yes.

09:45 24 Q. What does that prevent, Mr. Martin?

09:45 25 A. Because the tool is assembled in reverse direction of

09:45 1 the way it strokes or functions, the lower O-rings on the
09:46 2 mandrel bypass or pass by the bleed ports of the barrel, and
09:46 3 because that feature is machined from the outside in, there can
09:46 4 be what's called a burr that is left on the inside of that
09:46 5 part, and it's a sharp metal protrusion. And, again, if you
09:46 6 think about assembling the mandrel pass, that profile, it could
09:46 7 slice an O-ring, and the sliced O-ring will, in some instances,
09:46 8 cause a tool to fail. So the groove is a process that we added
09:46 9 during the manufacturing whereby the machine basically reaches
09:46 10 in and cuts a recess which is a sure-fire way to know that that
09:46 11 burr is removed every single time rather than by hand with a
09:46 12 hand tool in a finishing and cleaning area, for example.

09:47 13 Q. Has this adjustment been successful in removing those
09:47 14 burrs?

09:47 15 A. Yes. It has.

09:47 16 Q. You just mentioned a failure. Is a soft set a type
09:47 17 of tool failure?

09:47 18 A. Yes. It is.

09:47 19 Q. What is a soft set?

09:47 20 A. A soft set is when a tool partially strokes to the
09:47 21 extent that the frac plug engages with the casing, but the
09:47 22 setting tool is not able to fully detach from the frac plug.
09:47 23 So you are stuck in the casing on your frac plug and you can't
09:47 24 get off.

09:47 25 Q. What are the consequences of a soft set?

09:47 1 A. Almost all soft sets result in some sort of fishing
09:47 2 operation. Fishing is a commonly used term in the oil field
09:47 3 services sector whereby you actually send specialty tools
09:47 4 downhole to grab onto or latch onto whatever you've left down
09:47 5 there to eventually retrieve back on surface.

09:48 6 Q. What does that typically cost?

09:48 7 A. If all goes to plan, a short fishing job, 60, 80,
09:48 8 \$90,000. But the problem is that fishing is not always
09:48 9 successful on the first attempt which leads to more time on
09:48 10 location and increases the cost. So fishing jobs can result in
09:48 11 some instances two, three, \$400,000 tickets. And in worst
09:48 12 cases, you know, somebody might temporarily abandon a well and
09:48 13 move their entire operation over to a new set of wells because
09:48 14 it's taking so long to retrieve a fish.

09:48 15 Q. Are soft sets more common with conventional setting
09:48 16 tools or disposable setting tools?

09:48 17 A. Conventional tools.

09:48 18 Q. I'm now going to ask you a few questions about
09:49 19 Hunting-Titan. What is Hunting-Titan?

09:49 20 A. Hunting-Titan is a distributor of wireline
09:49 21 accessories, a global distributor of wireline accessories and
09:49 22 tools.

09:49 23 Q. When did you, Mr. Martin, first hear about
09:49 24 Hunting-Titan?

09:49 25 A. When I received an e-mail from one of their

09:49 1 employees.

09:49 2 Q. I'm going to show you Exhibit 395, specifically the
09:49 3 last page of this exhibit. Is this the e-mail you were talking
09:49 4 about?

09:49 5 A. Yes, ma'am.

09:49 6 Q. When did you receive this e-mail?

09:49 7 A. Wednesday, May 23rd, 2018.

09:49 8 Q. This was the day after the May 22nd lunch in Fort
09:49 9 Worth?

09:49 10 A. Yes.

09:49 11 Q. Who sent you the e-mail?

09:49 12 A. Josh Howk of the Titan division.

09:49 13 Q. This was your communication with anyone at
09:49 14 Hunting-Titan?

09:49 15 A. Yes.

09:49 16 Q. And Howk is spelled H-o-w-k?

09:49 17 A. Yes.

09:49 18 Q. Who is Josh Howk?

09:49 19 A. Josh Howk was the director of sales and distribution
09:50 20 at that time.

09:50 21 Q. Do you know how he received your contact information?

09:50 22 A. I don't. No.

09:50 23 Q. Exhibit 395 shows some e-mails between you and
09:50 24 Mr. Howk about a call. Looking about halfway down the first
09:50 25 page, did you two eventually talk on the phone?

09:50 1 A. Yes. We did.

09:50 2 Q. When did you talk on the phone with Mr. Howk?

09:50 3 A. May 29th, 2018.

09:50 4 Q. That was your first phone call with anyone from
09:50 5 Hunting-Titan?

09:50 6 A. Yes.

09:50 7 Q. What did you talk about?

09:50 8 A. It was a very topical conversation. Just introduced
09:50 9 myself and Repeat Precision, and they did the same for
09:50 10 Hunting-Titan, you know, explained some of the products that
09:50 11 they carried or manufactured.

09:50 12 Q. Did Diamondback come up on the call?

09:50 13 A. No.

09:50 14 Q. Did you talk about Diamondback's sales numbers?

09:50 15 A. No.

09:50 16 Q. Their prices?

09:50 17 A. No.

09:50 18 Q. Their capacity?

09:50 19 A. No.

09:50 20 Q. Do you recall ever talking with any representative of
09:51 21 Hunting-Titan about Diamondback information of this sort?

09:51 22 A. No.

09:51 23 Q. To your knowledge, has Diamondback ever sold a
09:51 24 disposable setting tool to Hunting-Titan?

09:51 25 A. Not to my knowledge.

09:51 1 Q. Did you understand the NDA between Diamondback and
09:51 2 Repeat Precision that you signed to prevent you from talking to
09:51 3 Hunting-Titan in any way?

09:51 4 A. No.

09:51 5 Q. Did anyone from Repeat Precision meet with
09:51 6 Hunting-Titan after that phone call you had with Mr. Howk?

09:51 7 THE COURT: And why is that?

09:51 8 THE WITNESS: Excuse me?

09:51 9 THE COURT: She asked you if you considered it to preclude
09:51 10 you from talking to them. Why did you not think it did?

09:51 11 THE WITNESS: I understand our NDA to cover confidential
09:51 12 information that's shared amongst the parties, not a provision
09:51 13 such that you can't talk to people or -- you know, to me it
09:51 14 just covers details that may be shared between the two
09:51 15 entities.

09:51 16 THE COURT: Thank you.

09:52 17 BY MS. ZUNIGA:

09:52 18 Q. Mr. Martin, did anyone from Repeat Precision meet
09:52 19 with Hunting-Titan after the phone call you had with Mr. Howk?

09:52 20 A. Yes.

09:52 21 Q. Who was that?

09:52 22 A. I believe Clint Mickey and Collin Shaw.

09:52 23 Q. When did that meeting take place?

09:52 24 A. At a trade show in Pittsburgh. I believe the DUG
09:52 25 East.

09:52 1 Q. Do you remember about when that was?

09:52 2 A. Middle of June 2018.

09:52 3 Q. Were you at the meeting?

09:52 4 A. No.

09:52 5 Q. You didn't attend that trade show?

09:52 6 A. No. I did not.

09:52 7 Q. Would you characterize this meeting as Repeat

09:52 8 Precision pursuing Hunting-Titan?

09:52 9 A. No.

09:52 10 Q. Would you characterize any of Repeat Precision's

09:52 11 discussions with Hunting-Titan as Repeat Precision pursuing

09:52 12 Hunting-Titan?

09:52 13 A. No.

09:52 14 Q. What were you doing?

09:52 15 A. Negotiating a business deal.

09:52 16 Q. After that meeting in mid June 2018, was there

09:53 17 another meeting between Repeat Precision and Hunting-Titan?

09:53 18 A. Yes.

09:53 19 Q. When did that take place?

09:53 20 A. July 19th, 2018.

09:53 21 Q. Looking at Exhibit 397, before the July 19th meeting

09:53 22 did you suggest that Repeat Precision enter into an NDA with

09:53 23 Hunting-Titan?

09:53 24 A. Yes.

09:53 25 Q. Did Repeat Precision and Hunting-Titan enter into an

09:53 1 NDA?

09:53 2 A. We did. Yes.

09:53 3 Q. I'm now going to show you Exhibit 398. Is this the
09:53 4 e-mail you sent Mr. Howk with a proposed NDA?

09:53 5 A. Yes. It is.

09:53 6 Q. Like the one with Diamondback, was this Repeat
09:53 7 Precision's standard NDA?

09:53 8 A. Yes.

09:53 9 Q. And now I'm going to show you Exhibit 399. Is this
09:53 10 the NDA between Repeat Precision and Hunting-Titan that was
09:53 11 eventually executed?

09:53 12 A. Yes.

09:53 13 Q. What is the effective date on that agreement?

09:54 14 A. 22nd day of June 2018.

09:54 15 Q. Looking quickly at Exhibit 3, when was the LOI
09:54 16 finalized?

09:54 17 A. June 27th, 2018.

09:54 18 Q. And that's when the due diligence process between
09:54 19 Repeat Precision and Diamondback started?

09:54 20 A. Yes.

09:54 21 Q. And then you mentioned just a few minutes ago that
09:54 22 you met with Hunting-Titan when?

09:54 23 A. July 19th, 2018.

09:54 24 Q. Where was that meeting?

09:54 25 A. In my office in Austin, Texas.

09:54 1 Q. Is Exhibit 419 a calendar invite for that meeting?

09:54 2 A. Yes. It is.

09:54 3 Q. Who does it show as the attendees?

09:54 4 A. Ryan Rowell, Grant Martin, Adam Dyess and Clint
09:54 5 Mickey.

09:54 6 Q. Did all of those individuals attend the meeting?

09:54 7 A. Yes. They did.

09:55 8 Q. What did you discuss at the July 19th meeting?

09:55 9 A. We discussed frac plugs, the PurpleSeal Express, you
09:55 10 know, a business opportunity.

09:55 11 Q. Did you discuss the possibility of also selling
09:55 12 standalone disposable setting tools to Hunting-Titan?

09:55 13 A. No.

09:55 14 Q. Why not?

09:55 15 A. We were interested in selling them the PurpleSeal
09:55 16 Express.

09:55 17 Q. Why was that?

09:55 18 A. Again, just an innovative product. There was nothing
09:55 19 like it in the space at the time, and Hunting-Titan has a large
09:55 20 distribution platform.

09:55 21 Q. And the PurpleSeal Express also includes Repeat
09:55 22 Precision's frac plug, right?

09:55 23 A. That's right.

09:55 24 Q. What is Exhibit 535?

09:55 25 A. Those are notes that I took during the meeting.

09:55 1 Q. The July 19th, 2018 meeting?

09:56 2 A. Yes.

09:56 3 Q. Did the topic of power charges come up during the
09:56 4 meeting?

09:56 5 A. Yes. It did.

09:56 6 Q. What was discussed about power charges?

09:56 7 A. That Hunting-Titan was seriously considering getting
09:56 8 into that space.

09:56 9 Q. Did that concern you in any way?

09:56 10 A. It did.

09:56 11 Q. Why?

09:56 12 A. We were just getting into very serious conversations
09:56 13 and due diligence of Diamondback Industries.

09:56 14 Q. Did you share this information about Hunting-Titan
09:56 15 getting into the power charge business with anyone?

09:56 16 A. I did.

09:56 17 Q. Who?

09:56 18 A. Mr. Nipper and Gary Martin.

09:56 19 Q. How did you communicate that to Mr. Gary Martin?

09:56 20 A. I called him.

09:56 21 Q. Do you recall if he was in China at the time?

09:56 22 A. I believe he was.

09:56 23 Q. How did Mr. Gary Martin react?

09:56 24 A. He was concerned.

09:57 25 Q. Did you and Mr. Martin and Mr. Nipper decide to do

09:57 1 anything with this information?

09:57 2 A. In what way?

09:57 3 Q. Communicate it to anyone else beyond the three of
09:57 4 you.

09:57 5 A. Yes. We eventually decided to bring it to the
09:57 6 attention of Mr. Drury.

09:57 7 Q. Did you have that conversation with Mr. Drury?

09:57 8 A. I did not. No.

09:57 9 Q. Do you know who did?

09:57 10 A. I believe Gary did. Gary Martin.

09:57 11 Q. I'm going to show you Exhibit 537. Do you recognize
09:57 12 this exhibit?

09:57 13 A. Yes. I do.

09:57 14 Q. Were you a part of the text string that's on
09:57 15 Exhibit 537?

09:57 16 A. Yes. I was.

09:57 17 Q. Do you remember receiving the first text message on
09:57 18 this string?

09:57 19 A. I do.

09:57 20 Q. Do you know what prompted this text message?

09:58 21 A. I believe Derrek Drury on August 2nd, you know, just
09:58 22 wanted to let us know that he wanted to be the one to broach
09:58 23 the topic of power charges with Hunting-Titan.

09:58 24 Q. We're talking about text number 1, entry number 1 of
09:58 25 Exhibit 537, right?

09:58 1 A. That's correct.

09:58 2 Q. That's a text from Mr. Derrek Drury?

09:58 3 A. Yes.

09:58 4 Q. Had either Gary Martin or someone else talked to him
09:58 5 before this text message was sent?

09:58 6 A. Yes.

09:58 7 Q. What conversations were you having at this point in
09:58 8 time with Hunting-Titan?

09:58 9 A. We were having commercial conversations.

09:58 10 Q. When was your next in-person meeting with
09:58 11 Hunting-Titan?

09:58 12 A. I believe September 10th of 2018.

09:58 13 Q. Mr. Martin, turning back quickly to Exhibit 537. On
09:59 14 the second page of this exhibit toward the top, you sent a text
09:59 15 message as well, correct?

09:59 16 A. Yes.

09:59 17 Q. What did you say?

09:59 18 A. I agree with Robert. When I talk with Hunting-Titan
09:59 19 again, I will not bring it up.

09:59 20 Q. And that was in the text string with Mr. Derrek
09:59 21 Drury?

09:59 22 A. Yes.

09:59 23 Q. You just testified a moment ago that the next
09:59 24 in-person meeting you had with Hunting-Titan was about
09:59 25 September 10th, 2018?

09:59 1 A. Yes.

09:59 2 Q. Where was that meeting?

09:59 3 A. At NCS' world headquarters in Houston, Texas.

09:59 4 Q. Who attended that meeting?

09:59 5 A. I remember Robert Nipper, Gary Martin, myself, Collin
09:59 6 Shaw, Ryan Rowell and another member of the Hunting-Titan team.

09:59 7 Q. What was discussed at the September 10th, 2018,
10:00 8 meeting?

10:00 9 A. At that point we were discussing more substantively
10:00 10 commercial terms, you know, volumes and pricing. We were
10:00 11 specifically talking about the PurpleSeal Express and frac
10:00 12 plugs. They were still interested in frac plugs and I believe
10:00 13 even mentioned, you know, a product that NCS was at that point
10:00 14 in time still commercializing.

10:00 15 Q. Were standalone disposable setting tools discussed at
10:00 16 that meeting?

10:00 17 A. Yes.

10:00 18 Q. Was this the first time you discussed selling
10:00 19 standalone disposable setting tools to Hunting-Titan?

10:00 20 A. Yes.

10:00 21 Q. Did Hunting-Titan seem interested?

10:00 22 A. They did. Yes.

10:00 23 Q. When was the next meeting after that September 10th
10:00 24 meeting?

10:00 25 A. I believe exactly one week later back at NCS' office.

10:00 1 Q. Who attended that meeting?

10:01 2 A. I remember I was there, Collin Shaw, Ryan Rowell,
10:01 3 Robert Nipper, and I believe Gary was there as well.

10:01 4 Q. What was discussed at that second September 2018
10:01 5 meeting?

10:01 6 A. I remember it being a short meeting. You know, more
10:01 7 commercial terms, but I really don't remember much of that
10:01 8 meeting.

10:01 9 Q. What happened with respect to Repeat Precision's
10:01 10 potential business with Hunting-Titan after the second
10:01 11 September 2018 meeting?

10:01 12 A. It didn't go much further than that.

10:01 13 Q. There weren't further business discussions with
10:01 14 Hunting-Titan?

10:01 15 A. Not that I can recall.

10:01 16 Q. Did Hunting-Titan tell you why they lost interest?

10:01 17 A. No.

10:01 18 Q. What was your understanding of why the deal was
10:01 19 dropped?

10:01 20 A. At the time?

10:01 21 MR. LITTLE: Objection. Calls for speculation.

10:01 22 THE COURT: Reask the question. I'm not sure if she's
10:02 23 asking why he thinks it was dropped on their end or why someone
10:02 24 else thought it was dropped. So if you'll reask the question
10:02 25 and make that clear.

10:02 1 BY MS. ZUNIGA:

10:02 2 Q. Mr. Martin, what was your understanding of why the
10:02 3 deal was dropped?

10:02 4 A. At the time?

10:02 5 Q. Yes.

10:02 6 MR. LITTLE: I'll raise the same objection, Your Honor.

10:02 7 THE COURT: Overruled.

10:02 8 BY THE WITNESS:

10:02 9 A. I don't think I had an understanding.

10:02 10 BY MS. ZUNIGA:

10:02 11 Q. Has Repeat Precision ever sold any products to
10:02 12 Hunting-Titan?

10:02 13 A. No.

10:02 14 Q. Had Repeat Precision struck a deal with
10:02 15 Hunting-Titan, would it have needed to purchase new machines or
10:02 16 hire new employees to meet that capacity?

10:02 17 MR. LITTLE: Objection. Calls for speculation, Your
10:02 18 Honor.

10:02 19 THE COURT: And I'm sorry. I just missed the question
10:02 20 entirely. If you could ask it again.

10:02 21 MS. ZUNIGA: Yes.

10:02 22 BY MS. ZUNIGA:

10:02 23 Q. Had Repeat Precision struck a deal with
10:02 24 Hunting-Titan, would it have needed to purchase new machines or
10:02 25 hire new employees to meet that capacity?

10:02 1 MR. LITTLE: Objection. Calls for speculation.

10:02 2 THE COURT: If you can lay the groundwork that shows if he
10:02 3 did anything that would lay the groundwork for him having
10:03 4 knowledge, he can answer.

10:03 5 MS. ZUNIGA: Yes, Your Honor.

10:03 6 BY MS. ZUNIGA:

10:03 7 Q. Did Repeat Precision have sufficient capacity at that
10:03 8 time for the quantities that it was discussing selling to
10:03 9 Hunting-Titan?

10:03 10 MR. LITTLE: Objection. Lack of foundation. Calls for
10:03 11 speculation.

10:03 12 THE COURT: Overruled.

10:03 13 BY THE WITNESS:

10:03 14 A. We certainly had the machine capacity. Yes.

10:03 15 BY MS. ZUNIGA:

10:03 16 Q. Mr. Martin, yesterday you were shown Exhibit 1077.
10:03 17 I'm going to pull it up again. And this was an e-mail with an
10:03 18 attachment, correct?

10:03 19 A. Yes.

10:03 20 Q. Who's that e-mail from?

10:03 21 A. The original e-mail is from me to Nate Shipp and he
10:03 22 responds to that e-mail.

10:03 23 Q. And this e-mail had an attachment, correct?

10:03 24 A. That's correct.

10:03 25 Q. What kind of file is that attachment?

10:03 1 A. An Excel file.

10:03 2 Q. Okay. You were shown yesterday a PDF of that
10:04 3 attachment, correct?

10:04 4 A. Yes.

10:04 5 Q. I'm going to show you this version of Exhibit 1077,
10:04 6 which we'll mark as Exhibit 1077A with the additional pages
10:04 7 that are shown in the Excel spreadsheet that we've now
10:04 8 converted to a PDF so you can see the full attachment. So if
10:04 9 you turn to Pages 5, 6 and 7, we'll start with Page 5 of
10:04 10 Exhibit 1077A. What is shown on this page, Mr. Martin?

10:04 11 A. This is a screenshot, if you will, of the rolling 12
10:04 12 month budget under scenario 1.

10:04 13 Q. This is the same page you were shown yesterday,
10:04 14 correct?

10:04 15 A. Yes.

10:04 16 Q. Okay. Turning to the next page. What's the
10:04 17 additional chart that is shown underneath these numbers?

10:04 18 A. Those are the descriptors for each of the three
10:04 19 scenarios that this model is centered around.

10:05 20 Q. What was the first scenario that this model was
10:05 21 created to show?

10:05 22 A. Plugs and PurpleSeal Express per month without
10:05 23 Hunting-Titan.

10:05 24 Q. Okay. And what about the second scenario?

10:05 25 A. Plugs and PurpleSeal Express per month with

10:05 1 Hunting-Titan.

10:05 2 Q. And what about the third scenario?

10:05 3 A. The same as two, but now setting tools per month with
10:05 4 Hunting-Titan.

10:05 5 Q. And if you turn to the next page on Exhibit 1077A, I
10:05 6 believe this is the sixth page. Does it show the different
10:05 7 numbers for scenario 2?

10:05 8 A. Yes. The dollar values change in the table above
10:05 9 based on the inputs of scenario 2.

10:05 10 Q. Okay. And what about for scenario 3?

10:05 11 A. The same. So the table above shows the dollar value
10:06 12 outputs under scenario 3.

10:06 13 Q. And scenario 3 included selling standalone setting
10:06 14 tools to Hunting-Titan, correct?

10:06 15 A. That's correct.

10:06 16 Q. I'm now going to ask you a few questions about
10:06 17 Schlumberger. Is Schlumberger a Repeat Precision customer?

10:06 18 A. No. They're not.

10:06 19 Q. Has Repeat Precision had conversations with
10:06 20 Schlumberger about selling it disposable setting tools?

10:06 21 A. We have. Yes.

10:06 22 Q. Who is Isaac Aviles?

10:06 23 A. Isaac Aviles is a, I think, like market managers or
10:06 24 something. I might call him a product line manager, but he
10:06 25 oversees a family of products that Schlumberger makes.

10:06 1 Q. Were you communicating with Mr. Aviles in 2018 about
10:06 2 a possible business deal between Repeat Precision and
10:06 3 Schlumberger?

10:06 4 A. Yes.

10:06 5 Q. When did you first start talking with Mr. Aviles
10:06 6 about Repeat Precision selling disposable setting tools to
10:06 7 Schlumberger?

10:07 8 A. September, October. I don't recall exactly. Fall of
10:07 9 2018.

10:07 10 Q. How did you get in touch with Mr. Aviles?

10:07 11 A. The medium of communication?

10:07 12 Q. Or who put you two in touch?

10:07 13 A. I don't remember exactly.

10:07 14 Q. Did you meet with Mr. Aviles in person to discuss
10:07 15 potential opportunities in September 2018?

10:07 16 A. Yes.

10:07 17 Q. Where did that meeting take place?

10:07 18 A. I remember an initial meeting at the Sugar Land
10:07 19 airport just outside of Houston, Texas.

10:07 20 Q. Looking at the last page of Exhibit 493, after that
10:07 21 meeting did Mr. Aviles follow up by sending you an NDA?

10:07 22 A. Yes. He did.

10:07 23 Q. Was that a one-way or a two-way NDA?

10:08 24 A. It was a one-way NDA.

10:08 25 Q. Did you two discuss the fact that it was a one-way

10:08 1 NDA?

10:08 2 A. We did.

10:08 3 Q. Why did Schlumberger want a one-way NDA?

10:08 4 A. Schlumberger took the position that they were the
10:08 5 ones that would be sharing information with us and not us with
10:08 6 them, and Isaac felt like it would be easier for him to
10:08 7 navigate his bureaucracies with a one-way NDA with Repeat
10:08 8 Precision.

10:08 9 Q. What kind of information was Schlumberger sharing?

10:08 10 A. Different technical elements of their frac plug.
10:08 11 They're what we've called a wireline adapter kit, the one that
10:08 12 they designed for their frac plug, information on, you know,
10:08 13 how their frac plug needs to be set, the amount of energy it
10:08 14 takes and just things like that.

10:08 15 Q. Looking at Exhibit 494, was the NDA eventually
10:08 16 executed?

10:08 17 A. Yes. It was.

10:09 18 Q. When?

10:09 19 A. Isaac returned back a copy Tuesday, October 30th,
10:09 20 2018.

10:09 21 Q. If you go down to the attachment to Exhibit 494, is
10:09 22 that the signed NDA?

10:09 23 A. Yes. It is.

10:09 24 Q. Did you have other meetings with Mr. Aviles around
10:09 25 this time?

10:09 1 A. We did.

10:09 2 Q. What was discussed at those meetings?

10:09 3 A. We discussed the PurpleSeal Express, the frac plug
10:09 4 and the setting tool as well as a concept for Schlumberger to
10:09 5 have a setting tool modified to work with their frac plug,
10:09 6 their fracXion, I think it's called, frac plug.

10:09 7 Q. I'm going to show you Exhibit 495. Turning to the
10:09 8 last page, Mr. Aviles is connecting you with another
10:10 9 Schlumberger employee about an engineering meeting. Did an
10:10 10 engineering meeting take place?

10:10 11 A. Yes. It did.

10:10 12 Q. Which engineer joined for Repeat Precision?

10:10 13 A. I believe both Clint Mickey and CJ Kosel were in
10:10 14 attendance.

10:10 15 Q. Now looking at Exhibit 496. Was a Skype meeting held
10:10 16 on October 26, 2018?

10:10 17 A. That's correct.

10:10 18 Q. Looking at Exhibit 497, was another one held on
10:10 19 October 30th, 2018?

10:10 20 A. That's correct.

10:10 21 Q. Then looking at Exhibit 502, was another one held on
10:10 22 November 2nd?

10:10 23 A. That is correct.

10:10 24 Q. Now pulling up Exhibit 498. Did Schlumberger send
10:10 25 drawings of some of its products to Repeat Precision?

10:10 1 A. They did. Yes.

10:10 2 Q. Based on the attachments, are these drawings for
10:10 3 wireline adapter kits?

10:11 4 A. Yes.

10:11 5 Q. Remind the Court, what is the wireline adapter kit?

10:11 6 A. A wireline adapter kit is an ancillary product that
10:11 7 is sold with a frac plug so it can be adapted or attached to a
10:11 8 setting tool in the field. So it's the connecting equipment.

10:11 9 Q. Looking at Exhibit 529, on November 13th, 2018 did
10:11 10 Bobby Carroll e-mail you some points for a possible deal with
10:11 11 Schlumberger?

10:11 12 A. Yes. He did.

10:11 13 Q. Was this Schlumberger's final take-it-or-leave-it
10:11 14 offer?

10:11 15 A. No.

10:11 16 Q. Was it part of an ongoing discussion between Repeat
10:11 17 Precision and Schlumberger?

10:11 18 A. Yes. It was.

10:11 19 Q. Pulling up Exhibit 505. This is an e-mail from
10:11 20 Mr. Aviles to you, correct?

10:11 21 A. That's correct.

10:11 22 Q. After these meetings did Schlumberger seem interested
10:11 23 in doing business with Repeat Precision?

10:11 24 A. They did. Yes.

10:12 25 Q. What did Mr. Aviles say to you in this e-mail on

10:12 1 November 14th, 2018?

10:12 2 A. Thanks for the follow-up. I'm looking forward to our
10:12 3 continued conversation and potential business partnership.

10:12 4 Regards.

10:12 5 Q. Pulling up Exhibit 506. On November 15th, 2018 did
10:12 6 you send Mr. Aviles a quote?

10:12 7 A. I did. Yes.

10:12 8 Q. Did you also go through the process of becoming a
10:12 9 supplier for Schlumberger?

10:12 10 A. Yes. We did.

10:12 11 Q. Pulling up Exhibit 515. Is this your e-mail to
10:12 12 Schlumberger with the completed paperwork?

10:12 13 A. Yes. It is.

10:12 14 Q. Now looking at Exhibit 508. Did your point of
10:12 15 contact at Schlumberger ever change?

10:12 16 A. Yes. It did.

10:12 17 Q. From who to who?

10:12 18 A. I don't remember from who, but, you know, Isaac
10:12 19 passed me off to a gentleman named Bobby Carroll.

10:13 20 Q. Do you know why?

10:13 21 A. No. I don't.

10:13 22 Q. When did your conversations with Schlumberger stop?

10:13 23 A. Sometime in December of 2018.

10:13 24 Q. Why?

10:13 25 A. At that time?

10:13 1 Q. Yes.

10:13 2 A. I don't know.

10:13 3 Q. Did Schlumberger ever offer an explanation as to why
10:13 4 they lost interest?

10:13 5 A. They did not. No.

10:13 6 Q. Mr. Martin, now I'm going to ask you a few questions
10:13 7 about Mewbourne. Is Mewbourne a Repeat Precision customer?

10:13 8 A. They are. Yes.

10:13 9 Q. What is Exhibit 2060A?

10:13 10 A. This is a QuickBooks report. That is a sales by
10:13 11 customer detail.

10:13 12 Q. Is Mewbourne on the list?

10:13 13 A. They are. Yes.

10:13 14 Q. When did Mewbourne first start purchasing products
10:13 15 from Repeat Precision?

10:13 16 A. January 26, 2018 or January 2018.

10:14 17 Q. Which products?

10:14 18 A. Frac plugs. The 360 frac plug.

10:14 19 Q. When did Repeat Precision first sell PurpleSeal
10:14 20 Expresses to Mewbourne?

10:14 21 A. Give me a second. September of 2018, I believe.

10:14 22 Q. What about standalone disposable setting tools?

10:14 23 A. Same month.

10:14 24 Q. Was Mewbourne interested in using standalone
10:14 25 disposable setting tools with a different plug?

10:14 1 A. That's correct.

10:14 2 Q. Is that the preference of some of Repeat Precision's
10:14 3 customers?

10:14 4 A. It is. Yes.

10:14 5 Q. Has Mewbourne consistently purchased disposable
10:14 6 setting tools from Repeat Precision since Repeat Precision
10:14 7 started selling them?

10:14 8 A. No.

10:14 9 Q. When did it stop?

10:15 10 A. It first stopped in November of 2018.

10:15 11 Q. Do you know why?

10:15 12 A. Power charges were withheld from the wireline company
10:15 13 that was conveying the tools.

10:15 14 Q. How did you learn about this?

10:15 15 A. I don't remember if it was from a salesperson or one
10:15 16 of our operations managers.

10:15 17 Q. Did Mewbourne explain why Diamondback refused to sell
10:15 18 the power charges?

10:15 19 A. The service company -- I don't remember exactly, but,
10:15 20 you know, they just informed us that they were not able to get
10:15 21 power charges for the setting tools for the upcoming job and
10:15 22 asked if, you know, if we could help or if we knew why.

10:15 23 Q. What ended up happening?

10:15 24 A. We ended up picking up tools from that location for
10:15 25 that job.

10:15 1 Q. Mewbourne returned the tools?

10:15 2 A. Yes.

10:15 3 Q. Did Repeat Precision issue Mewbourne a credit for
10:16 4 those tools?

10:16 5 A. If there's an invoice already submitted, sure, but if
10:16 6 not, you know, it just would have been at no charge.

10:16 7 Q. Do you know of any other incidents of Diamondback
10:16 8 refusing to sell power charges to Repeat Precision customers?

10:16 9 A. Yes.

10:16 10 Q. What other incident?

10:16 11 A. A similar incident occurred for Concho, one of our
10:16 12 largest customers. Again, their service provider, their
10:16 13 wireline company was also attempting to purchase power charges
10:16 14 for an upcoming job whereby we would be providing the
10:16 15 PurpleSeal Express, and they reported back to us that, again,
10:16 16 they were not able to get the charges necessary to get the job
10:16 17 started.

10:16 18 Q. That customer had purchased tools from Repeat
10:16 19 Precision?

10:16 20 A. Concho did. Yes.

10:16 21 Q. In response to these two incidents, what did Repeat
10:17 22 Precision do?

10:17 23 A. We reached out to Diamondback and started the
10:17 24 conversations around a -- you know, I guess a solution to the
10:17 25 issue at hand.

10:17 1 Q. What came of those discussions?

10:17 2 A. We eventually entered into I think what's been
10:17 3 referred to as a stand-down agreement whereby they would
10:17 4 continue to provide the charges only for PurpleSeal Express
10:17 5 like tools if we would stop the offering of standalone setting
10:17 6 tools for a period of time.

10:17 7 Q. Is Exhibit 308 the stand-down agreement you just
10:17 8 referenced?

10:17 9 A. Yes.

10:17 10 Q. Did Repeat Precision believe that it had to sign this
10:17 11 for its customers to get access to power charges?

10:17 12 A. Yes.

10:17 13 Q. And is this agreement why Repeat Precision did not
10:18 14 sell any standalone disposable setting tools in December of
10:18 15 2018 and January and February of 2019?

10:18 16 A. Yes.

10:18 17 Q. I'm going to show you Exhibit 1215D which was shown
10:18 18 to you yesterday. Is that reflected in this document?

10:18 19 A. It is. Yes.

10:18 20 Q. If you go down to the graphical part of the exhibit,
10:18 21 it's illustrated there, the lack of sales in December 2018 and
10:18 22 January and February 2019?

10:18 23 A. That's correct.

10:18 24 Q. How are sales today for Repeat Precision's disposable
10:18 25 setting tools?

10:18 1 A. Fine.

10:18 2 Q. When did Repeat Precision sell its first standalone
10:18 3 setting tool?

10:18 4 A. I believe September of 2018.

10:18 5 Q. Was that the RP10?

10:18 6 A. Yes. That was.

10:18 7 Q. When did Repeat Precision first start making RP20s?

10:19 8 A. March or April of 2019.

10:19 9 Q. Why then?

10:19 10 A. Well, the months preceding that time we didn't have
10:19 11 the ability to sell individual setting tools, and there's no
10:19 12 need to build them if there was no market, and the 10 is what
10:19 13 is used for the PurpleSeal Express.

10:19 14 Q. [REDACTED]

10:19 15 [REDACTED]

10:19 16 [REDACTED]

10:19 17 [REDACTED]

10:19 18 [REDACTED]

10:19 19 [REDACTED]

10:19 20 [REDACTED]

10:19 21 [REDACTED]

10:19 22 [REDACTED]

10:19 23 [REDACTED]

10:20 24 [REDACTED]

10:20 25 [REDACTED]

10:20 1

[REDACTED]

10:20 2

[REDACTED]

10:20 3

[REDACTED] [REDACTED]

10:20 4

Q. What is Exhibit 2209?

10:20 5

A. This is a sales by item summary from January 2017

10:20 6

through December of 2019.

10:20 7

Q. Are you familiar with this document?

10:20 8

A. I am. Yes.

10:20 9

Q. Was this kept in the ordinary course of business?

10:20 10

A. Yes. This is generated through QuickBooks.

10:20 11

Q. Do you understand that the experts in this case have

10:20 12

relied on this document?

10:20 13

A. I do. Yes.

10:20 14

Q. What is Exhibit 2210?

10:20 15

A. This appears to be a profit and loss statement for

10:21 16

some period of time starting January of 2017.

10:21 17

Q. Are you familiar with this document?

10:21 18

A. I am. Yes.

10:21 19

Q. Was this kept in the ordinary course of business?

10:21 20

A. Again, yeah. This is something that's generated

10:21 21

through QuickBooks.

10:21 22

Q. And you understand that the experts in this case have

10:21 23

relied on it?

10:21 24

A. Yes.

10:21 25

Q. I'm now going to show you Exhibit 2058A. What is

10:21 1 this document, Mr. Martin?

10:21 2 A. Sales by item detail over some period of time
10:21 3 beginning January 2017.

10:21 4 Q. Is that through December 2019?

10:21 5 A. I believe that's correct. We're almost there. Yes.
10:22 6 December 2019.

10:22 7 Q. Was this document also kept in the ordinary course of
10:22 8 business?

10:22 9 A. Yes.

10:22 10 Q. And you understand that the experts in this case have
10:22 11 relied on it?

10:22 12 A. Yes.

10:22 13 Q. Now, Exhibit 2060A. What is this spreadsheet?

10:22 14 A. This appears to be a sales by customer summary
10:22 15 through December 2019.

10:22 16 Q. Was this also kept in the ordinary course of
10:22 17 business?

10:22 18 A. Yes.

10:22 19 Q. And you understand that the experts in this case have
10:22 20 relied on it?

10:22 21 A. Yes.

10:22 22 Q. I'm going to show you Exhibit 1153. Let's start with
10:22 23 this one. You were shown this document yesterday, correct?

10:22 24 A. That's correct.

10:22 25 Q. And what is this document?

10:22 1 A. This is an inventory valuation summary as of
10:22 2 April 30th, 2019.

10:22 3 Q. And I'm going to show you Exhibit 1161. Is that also
10:22 4 an inventory valuation summary?

10:23 5 A. It is.

10:23 6 Q. What about Exhibit 1164?

10:23 7 A. It is.

10:23 8 Q. Do these reports show you how many tools were made in
10:23 9 a certain month?

10:23 10 A. They do not. No.

10:23 11 Q. Do these reports show you how many tools were sold in
10:23 12 a certain month?

10:23 13 A. They do not. No.

10:23 14 Q. Why not?

10:23 15 A. These are simply just a snapshot in time, just a
10:23 16 basic accounting principle. You have a beginning inventory.
10:23 17 You build tools throughout the month. You sell tools
10:23 18 throughout the month, and you have an ending balance. So in
10:23 19 this case this would be an ending balance. It doesn't capture
10:23 20 the in-between.

10:23 21 Q. Can you get a sense of Repeat Precision's capacity to
10:23 22 make tools by its inventory in a given month?

10:23 23 A. No. You cannot.

10:23 24 Q. Why not?

10:23 25 A. Again, this is just a snapshot in time of finished

10:23 1 goods that we have on hand.

10:24 2 Q. What determines the amount of tools that Repeat
10:24 3 Precision makes in a given month?

10:24 4 A. Anticipated sales demand. You know, some element of
10:24 5 planning around what customers we know will need as well as,
10:24 6 again, upcoming demand maybe from new clients.

10:24 7 MS. ZUNIGA: Pass the witness. Thank you, Mr. Martin.

10:24 8 THE COURT: Your timing is perfect. I was going to take a
10:24 9 break. About how much time do you have with him?

10:24 10 MR. LITTLE: Very brief, Your Honor, probably ten minutes
10:24 11 or less.

10:24 12 THE COURT: Let's get him --

10:24 13 MR. LITTLE: I could use a restroom break.

10:24 14 THE COURT: That's fine. And so, Mr. Martin, you're
10:24 15 excused. We'll come back in about 15 minutes.

10:24 16 THE BAILIFF: All rise.

10:24 17 (A break was taken from 10:24 to 10:38.)

10:39 18 THE BAILIFF: All rise.

10:39 19 THE COURT: Thank you. You may be seated.

10:39 20 Yes, sir.

10:39 21 MR. LITTLE: Thank you, Your Honor. My name is Mitch
10:39 22 Little for Diamondback.

10:39 23 REDIRECT EXAMINATION

10:39 24 BY MR. LITTLE:

10:39 25 Q. Mr. Martin, I'll be as brief as possible. Repeat

10:39 1 Precision's not making any claims for tortious interference
10:39 2 related to Schlumberger in this case, is it?

10:39 3 A. I don't believe so. No, sir.

10:39 4 Q. And it's not making any claims for lost profits
10:39 5 related to Schlumberger in this case, is it?

10:39 6 A. I don't believe we are.

10:39 7 Q. Earlier Ms. Zuniga was asking you to take a look at
10:39 8 what's been marked as Exhibit 1077A, which is a series of
10:39 9 spreadsheets and scenarios that you prepared, true?

10:39 10 A. Yes, sir.

10:39 11 Q. I want to show you what's been marked as scenario
10:39 12 manager 1. And my understanding of this scenario is this is
10:40 13 what the company would look like without Hunting-Titan at all?

10:40 14 THE COURT: And sometimes y'all say it and maybe I just
10:40 15 missed it, but did you say which exhibit this is?

10:40 16 MR. LITTLE: 1077A, Your Honor. Yes.

10:40 17 THE COURT: Thank you, sir.

10:40 18 BY THE WITNESS:

10:40 19 A. Would you mind reasking the question, please?

10:40 20 BY MR. LITTLE

10:40 21 Q. Yes. And isn't scenario manager 1 a projection of
10:40 22 Repeat Precision's revenue without Hunting-Titan?

10:40 23 A. That is correct.

10:40 24 Q. All right. And without Hunting-Titan, as of the date
10:40 25 that you prepared this spreadsheet, were you projecting any

10:40 1 standalone setting tool revenue?

10:40 2 A. No, sir.

10:40 3 Q. Under scenario 2, my understanding is that this is a
10:40 4 scenario in which you are distributing the PurpleSeal Express
10:40 5 through Hunting-Titan in 2019; is that correct?

10:40 6 A. That is correct.

10:40 7 Q. All right. I just want to compare a couple of line
10:40 8 items. So under scenario manager 1, you're anticipating
10:40 9 PurpleSeal Express revenue of -- I'm letting it focus -- a
10:41 10 little less than \$20 million, true?

10:41 11 A. That's correct.

10:41 12 Q. And with Hunting-Titan -- I'm sorry for the zoom --
10:41 13 under scenario manager 2, you're projecting revenue on the
10:41 14 PurpleSeal Express of over \$29 million, correct?

10:41 15 A. That's correct.

10:41 16 Q. About a \$10 million revenue difference, true?

10:41 17 A. That's correct.

10:41 18 Q. And, finally, under scenario manager 3, this is a
10:41 19 scenario in which Repeat Precision is going to be distributing
10:41 20 the PurpleSeal Express and standalone setting tools through
10:41 21 Hunting-Titan. Do I have that correct?

10:41 22 A. That's correct.

10:41 23 Q. And you're projecting the same amount of PurpleSeal
10:42 24 Express revenue, 29 million 250 and an additional \$7,140,000 in
10:42 25 standalone setting tool revenue, correct?

10:42 1 A. Correct.

10:42 2 Q. And the numbers that you were expecting by the fourth
10:42 3 quarter of 2019 were that you were going to sell 12,000
10:42 4 PurpleSeal Expresses that quarter to Hunting-Titan and an
10:42 5 additional 9,000 standalone setting tools to Hunting-Titan,
10:42 6 true?

10:42 7 A. I believe the PurpleSeal Express contemplated open
10:42 8 market in addition to Hunting-Titan, that volume number there.

10:42 9 Q. So not just Hunting-Titan. That was market wide
10:42 10 volume?

10:42 11 A. I believe that's correct.

10:42 12 Q. Okay. I understand.

10:42 13 All right. Opposing counsel brought some different items
10:42 14 into the courtroom. I want to make sure I understand these
10:42 15 items in the context of what Repeat Precision sells. This item
10:43 16 here to the right of the lectern is the PurpleSeal Express,
10:43 17 true?

10:43 18 A. True.

10:43 19 Q. And it contains the combination of three items,
10:43 20 right?

10:43 21 A. Yes.

10:43 22 Q. The setting tool?

10:43 23 A. Correct.

10:43 24 Q. In this case to my right, the RP10. A wireline
10:43 25 adapter kit and a PurpleSeal Express, true?

10:43 1 A. The PurpleSeal frac plug.

10:43 2 Q. I'm sorry. The purpleSeal frac plug. Yes. Your
10:43 3 plug on the end of it.

10:43 4 A. Yes, sir.

10:43 5 Q. All right. I'm going to switch over. Ms. Zuniga
10:43 6 walked you through Exhibit 1164. This is an inventory
10:43 7 valuation as of July 31st, 2019, correct?

10:43 8 A. That is correct.

10:43 9 Q. And when she asked you questions about it, you said
10:43 10 that inventory at the end of any given month is a function of
10:43 11 anticipated sales, correct?

10:43 12 A. That's not what I said. No.

10:43 13 Q. I'm sorry? Is inventory at the end of any given
10:44 14 month a function of anticipated sales in the following month?

10:44 15 A. In some ways.

10:44 16 Q. Okay. Taking a look at the last page of Exhibit 1164
10:44 17 while you have -- I mean, can you tell how many PurpleSeal
10:44 18 Expresses you have on hand or different variants of the
10:44 19 PurpleSeal Express at the end of July 2019?

10:44 20 A. The answer is yes. Do I need to look for quantities?

10:44 21 Q. Yeah. You've got the ability to identify the SKUs on
10:44 22 there, correct?

10:44 23 A. I do. Would you like me to read --

10:44 24 Q. Yeah. Would you just identify the quantities of
10:44 25 each?

10:44 1 A. Of each?

10:44 2 Q. Yes.

10:44 3 A. Preceded with the name of the assembly?

10:44 4 Q. If you could.

10:44 5 A. Okay. RP10 PurpleSeal Express 360PS4, 7; SS10

10:44 6 PurpleSeal Express 438PS4, 0; RP10 PurpleSeal Express 438 PSX,

10:45 7 it appears to be 1,068; Reworked RP10 PurpleSeal Express

10:45 8 438PSX, 0; RP10 PurpleSeal Express 360PSX -- PurpleSeal Express

10:45 9 360PSX, 438 -- oh, gosh.

10:45 10 Q. I think our witness crowded the screen. How can we

10:45 11 get out of this, ma'am? Can you tell?

10:45 12 A. Okay.

10:46 13 Q. I got it. I got it. Thank you so much.

10:46 14 A. Okay. 438. Would you like me to read setting tools

10:46 15 as well?

10:46 16 Q. No. Just the PurpleSeal Express. Did we cover all

10:46 17 of them?

10:46 18 A. We may have. Would you mind scrolling down further?

10:46 19 Q. Sure.

10:46 20 A. 438 Bridge Plug PurpleSeal Express, 1.

10:46 21 Q. Okay. Is it fair to say that these inventory

10:46 22 valuation summaries that are produced by Repeat Precision are

10:46 23 some measure of what the company is expecting to need to sell

10:46 24 the next month?

10:46 25 A. Some measure. Yes.

10:46 1 Q. Okay. Now, the company Repeat Precision sells frac
10:46 2 plugs individually --

10:46 3 THE COURT: You need to --

10:47 4 MR. LITTLE: I'm sorry.

10:47 5 THE COURT: If you need to show it to him, you can. I'm
10:47 6 just saying, when you walk over there, there's a dramatic drop
10:47 7 in your voice level. If you need to do that, that's fine. I
10:47 8 didn't realize you were doing that, but I just wanted you to
10:47 9 know there's a dramatic drop in your voice.

10:47 10 MR. LITTLE: Okay. I want you to be able to hear me,
10:47 11 Mr. Martin.

10:47 12 Thank you, Your Honor.

10:47 13 BY MR. LITTLE:

10:47 14 Q. With respect to the plug, the PurpleSeal plug, Repeat
10:47 15 Precision sells plugs to customers without selling any setting
10:47 16 tools to that customer or any PurpleSeal Express?

10:47 17 A. We can sell a frac plug to a customer as well as a
10:47 18 setting tool independently and not put together.

10:47 19 Q. Yes. And Repeat Precision makes independent sales of
10:47 20 its frac plugs to end users, true?

10:47 21 A. That's correct.

10:47 22 Q. And what plugs are those plugs competing against in
10:47 23 the market?

10:47 24 A. Almost 30 others.

10:47 25 Q. And in order to use your plug with a setting tool, it

10:48 1 must be sold with a wireline adapter kit; is that true?

10:48 2 A. That is correct.

10:48 3 Q. All right. And your company Repeat Precision sells
10:48 4 wireline adapter kits to make your plug compatible with Baker
10:48 5 setting tools and other conventional setting tools, true?

10:48 6 A. That is correct.

10:48 7 Q. And the setting tools that are being sold by Repeat
10:48 8 Precision, including the RP10 and the RP20, compete against
10:48 9 those tools?

10:48 10 A. I want to make sure I understand. Are you asking if
10:48 11 the Express competes with tools?

10:48 12 Q. No, Mr. Martin. I'm not. The setting tools that are
10:48 13 sold by your company, including the RP10 and the RP20, those
10:48 14 tools compete out in the market against the Baker tools and the
10:48 15 ghost style tools, true?

10:48 16 A. That is true.

10:48 17 Q. And isn't it true that the PurpleSeal Express
10:48 18 competes out in the market against combinations that other
10:48 19 wireline and operator companies use to combine conventional
10:49 20 setting tools with other plugs?

10:49 21 A. I guess I don't understand that question. Would you
10:49 22 mind asking another way maybe?

10:49 23 Q. Sure. Does the PurpleSeal Express compete in the
10:49 24 market with other combinations of conventional setting tools
10:49 25 and plugs?

10:49 1 A. In some ways.

10:49 2 Q. And what are those conventional setting tool and plug
10:49 3 combinations that the PurpleSeal Express competes with?

10:49 4 A. One example is a Baker Hughes E4 setting tool and
10:49 5 Halliburton Obsidian.

10:49 6 Q. And the Baker Hughes setting tool and the Halliburton
10:49 7 Obsidian don't infringe in any way on the PurpleSeal Express or
10:49 8 the '035 patent, to your knowledge, do they?

10:49 9 A. To my knowledge, no.

10:49 10 Q. And when Repeat Precision sells a frac plug, a
10:49 11 PurpleSeal frac plug, independently to an end user, isn't
10:50 12 Repeat Precision missing out on a setting tool sale to that end
10:50 13 user?

10:50 14 A. I guess that's one way to put it. Yes.

10:50 15 Q. And when Repeat Precision sells a standalone setting
10:50 16 tool, isn't Repeat -- I'm sorry. When Repeat Precision sells a
10:50 17 standalone setting tool to an end user independently, isn't
10:50 18 Repeat Precision missing out on a plug sale to that end user?

10:50 19 A. In a sense. Yes.

10:50 20 Q. In obtaining your degree, your bachelor's degree in
10:50 21 business administration, did you ever run across the term
10:50 22 self-competition?

10:50 23 A. Maybe not in that specific form.

10:50 24 Q. Do you know what self-competition is?

10:50 25 A. I can infer what that means, but maybe you could

10:50 1 explain it to me in a formal definition.

10:50 2 Q. Isn't it true, Mr. Martin, that the PurpleSeal
10:50 3 Express, as a combination, competes against sales of Repeat
10:51 4 Precision's standalone setting tools and Repeat Precision's
10:51 5 sales, independent sales of PurpleSeal frac plugs?

10:51 6 A. I think that assumes that the market's agnostic to
10:51 7 what kind of frac plug they might be using where we don't think
10:51 8 that's the case, per se. There's people that have package
10:51 9 deals with Halliburton, for example, that it's required that
10:51 10 that person use a Halliburton frac plug. So in that case, you
10:51 11 know, there's not real choice, I guess.

10:51 12 Q. All right. Let me ask it a different way. When
10:51 13 Repeat Precision sells a standalone setting tool independently
10:51 14 to an end user, isn't it missing out on a chance to sell the
10:51 15 PurpleSeal Express?

10:51 16 A. Again, I think that assumes that that user has more
10:51 17 open ability to decide which frac plug that they could use,
10:51 18 whereas in some cases we know that that's determined by a
10:52 19 contract with somebody like Halliburton where it's required
10:52 20 that they use a Halliburton tool.

10:52 21 Q. So what you're saying is in the market out among
10:52 22 Repeat Precision's potential customers, those customers may be
10:52 23 in some way constrained from buying everything that you want to
10:52 24 sell them, true?

10:52 25 A. In some instances.

10:52 1 Q. Is the market for the disposable setting tool new and
10:52 2 unique?

10:52 3 A. Maybe -- could you give me new in a relative time
10:52 4 space?

10:52 5 Q. Yeah. In terms of -- how long has the disposable
10:52 6 setting tool been on the market?

10:52 7 A. I think late 2017.

10:52 8 Q. Is the --

10:52 9 A. Early 2018.

10:52 10 Q. Is the market for the disposable setting tool unlike
10:52 11 any other market for setting tools?

10:52 12 A. Unlike it in what ways?

10:52 13 Q. In any way.

10:52 14 A. Again, I don't fully understand the question.

10:52 15 Q. All right. Who's your target customer for Repeat
10:53 16 Precision's frac plugs?

10:53 17 A. An oil and gas company that drills and explores for
10:53 18 hydrocarbons.

10:53 19 Q. And who is your target customer for your combination
10:53 20 tool, the PurpleSeal Express?

10:53 21 A. The same and/or service companies.

10:53 22 Q. And what's the difference between a service company
10:53 23 and an oil and gas company in your mind?

10:53 24 A. A service company provides services to the owner of a
10:53 25 well, and services take a lot of different forms.

10:53 1 Q. Is there any agreement between Diamondback and Repeat
10:53 2 Precision that requires Diamondback to provide power charges to
10:53 3 Repeat Precision that you're aware of?

10:53 4 A. An agreement?

10:53 5 Q. Yes.

10:53 6 A. I believe they're required to currently under an
10:53 7 injunction.

10:53 8 Q. Okay. How about any type of agreement or contract
10:53 9 that you're aware of?

10:53 10 A. Not to my knowledge.

10:53 11 Q. Are Repeat Precision's -- and Repeat Precision filed
10:54 12 a lawsuit against Diamondback in November of 2018, true?

10:54 13 A. Yes.

10:54 14 Q. As of that date, Repeat Precision believed that it
10:54 15 had been injured by Diamondback, true?

10:54 16 A. By which? November of 2018?

10:54 17 Q. Yes.

10:54 18 A. Yes.

10:54 19 Q. And Repeat Precision has been more profitable as a
10:54 20 company after the lawsuit than it was before, true?

10:54 21 A. That is a fact.

10:54 22 MR. LITTLE: I'll pass the witness, Your Honor.

10:54 23 RE CROSS-EXAMINATION

10:54 24 BY MS. ZUNIGA:

10:54 25 Q. I have just a few questions, Mr. Martin. Do you

10:54 1 understand that Diamondback has sold tools to Schlumberger?

10:54 2 A. I do.

10:54 3 Q. Do you understand that Repeat Precision is seeking
10:54 4 lost profits on those sales and other sales Diamondback made?

10:54 5 A. Yes.

10:54 6 Q. Were you given access to Diamondback sales records to
10:55 7 know the amount of Diamondback's sales to Schlumberger?

10:55 8 A. No.

10:55 9 Q. When you said just a moment ago that the RP10 and
10:55 10 RP20 compete in the market with Baker and similar setting
10:55 11 tools, what did you mean by that?

10:55 12 A. A setting tool is needed for plug and perf
10:55 13 operations, and that's either going to be a conventional tool
10:55 14 or a disposable tool.

10:55 15 Q. Do you view conventional and disposable tools as the
10:55 16 same?

10:55 17 A. No.

10:55 18 Q. And when Mr. Little was asking you about missing out
10:55 19 on a plug sale, was Repeat Precision also making sales by
10:55 20 selling standalone tools?

10:55 21 A. Yes.

10:55 22 Q. Thank you.

10:55 23 MR. LITTLE: Nothing further, Your Honor.

10:55 24 THE COURT: You may step down, sir.

10:55 25 Would you call your next witness, please?