

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFFS:

Caroline E. Nickel, Esquire
Paul Stam, Esquire
Stam & Danchi, PLLC
510 West Williams Street
Post Office Box 1600
Apex, North Carolina 27502
(919) 362-8873
carolinenickel@bellsouth.net
paulstam@bellsouth.net

William W. Peaslee, Attorney at Law
102-K Commonwealth Court
Cary, North Carolina 27511
(919) 481-1992
peaslaw@aol.com

ON BEHALF OF THE DEFENDANT:

Elizabeth A. Martineau, Esquire
Martineau King, PLLC
Post Office Box 31188
Charlotte, North Carolina 28231
(704) 247-8524
emartineau@martineauking.com

Lisa Glover, Assistant Town Attorney
Town of Cary
Cary Town Hall
316 North Academy Street
Cary, North Carolina 27513
(919) 469-4008

T A B L E O F C O N T E N T S

WITNESS

DIRECT

WILLIAM M. BILLINGS

By Ms. Nickel

4-21

EXHIBITS

NUMBER

DESCRIPTION

MARKED

Plaintiffs

1	inspection PM, Walnut at Meeting, 12/23/09	7
2	inspection PM, Kildaire Farm at Cary Parkway, CCTV 2010, 12/6/10	12

1 PROCEEDINGS 9:00 a.m.

2 (This deposition was taken pursuant to the North Carolina
3 Rules of Civil Procedure.)

4 (Whereupon,

5 **WILLIAM M. BILLINGS**

6 was called as a witness, duly sworn, and testified as
7 follows:)

8 DIRECT EXAMINATION 9:00 a.m.

9 By Ms. Nickel:

10 Q Mr. Billings, if you could state your name and your
11 position with the Town?

12 A William M. Billings. I go by Mike. I'm the traffic
13 operations coordinator for public works and utilities
14 operations.

15 Q So you said the traffic operations coordinator?

16 A Uh-huh.

17 Q What do your duties entail, generally?

18 A I oversee the traffic operations and maintenance of
19 it, also the CCTV system.

20 Q What is the CCTV system?

21 A Closed circuit TV. It's cameras, surveillance
22 cameras; the DMS, which is the dynamic message boards.

23 Q And what is that?

24 A That's those big boards out there. They put up Amber
25 Alerts messages on them.

1 Q You mentioned that you do maintenance with regard to
2 the traffic signals?

3 A Correct.

4 Q And what procedure to you use? How do you maintain
5 them? Do you have a schedule or---

6 A (interposing) Uh-huh.

7 Ms. Martineau: (interposing) Yes or no. You're
8 saying "uh-huh," "huh-uh," and so just yes or no.

9 The Witness: Yes or no, okay. I've got it.

10 Ms. Martineau: Otherwise we won't know what you're
11 saying.

12 A We have a PM schedule that we use, and we---

13 Q (interposing) And does that stand for performance
14 maintenance?

15 A Preventative maintenance.

16 Q Preventative maintenance, okay.

17 A Which entails us going to each intersection once every
18 three months and we run through a schedule, such as checking
19 our detection system, checking the equipment inside our
20 camera, cleaning it up, cleaning the filters, just general
21 cleanup and checking the operation.

22 Q So with that schedule, do you actually check the
23 timing of the circuits or---

24 A (interposing) Yes.

25 Q Yes. And how--what's the system between the Town of

1 Cary and the NCDOT that you get those figures from, or could
2 you explain how you check the timing?

3 A We look at the signed, sealed plans. It has a timing
4 chart on it, and we compare that with what's in the equip-
5 ment.

6 Q And then do you do a physical timing or is it--how
7 does it work exactly?

8 A How does what work?

9 Q Do you actually time like with a stopwatch to make
10 sure that it's---

11 A (interposing) No.

12 Q No. You just make sure that the circuit matches
13 what's on the plan?

14 A Yes.

15 Q And who provides you with that plan?

16 A NCDOT.

17 Q And then when there is say a signal upgrade or a
18 change, how are you involved in that process?

19 A It depends. Sometimes it's contracted out. If it's a
20 development project, it's usually contracted out to signal
21 contractors.

22 Q So then the Town would not be responsible for---

23 Ms. Martineau: (interposing) I'm going to object to
24 the form of the question.

25 Q So when it's contracted out, what is the Town's role

1 in ensuring that the signal plan is actually being
2 implemented?

3 Ms. Martineau: And he's here to talk about
4 maintenance. We have someone else who has more--one of your
5 areas had to deal with design implementation and all that
6 stuff, and that might be a better question for that person.
7 If he knows he can answer, but he's not 30(b)(6) in that
8 area. Go ahead, Mr. Billings.

9 The Witness: What was your question?

10 Ms. Nickel: Could you repeat the question?

11 (The reporter read the record as requested.)

12 Ms. Martineau: When it's been contracted out. Go
13 ahead.

14 By Ms. Nickel:

15 Q When it has been contracted out, as you mentioned
16 before.

17 A What is our role? Is that your question?

18 Q Yeah.

19 A We have on staff inspectors, certified inspectors, and
20 we ensure through DOT--in conjunction with DOT, we inspect
21 and make sure that it's done as per the plans.

22 Ms. Nickel: I'd like to introduce Plaintiff's
23 Deposition Exhibit Number 1.

24 (Plaintiffs Exhibit 1 was
25 marked for identification.)

1 Q This is a document produced by the defendant stamped
2 3389 to 3391. You mentioned before preventative maintenance.
3 What is this document exactly?

4 A This is the preventative maintenance sheet that the
5 technicians fill out when they do preventative maintenance on
6 an intersection.

7 Q Does this check the timing of the lights or the
8 cameras? What exactly does this cover?

9 A It covers a whole barrage of things. We check---

10 Q (interposing) Could you just kind of go through it
11 with me and explain generally?

12 Ms. Martineau: I think you interrupted him.

13 Ms. Nickel: I'm sorry.

14 Ms. Martineau: Go ahead.

15 A We do all kinds of items, such as I mentioned earlier.
16 We check equipment operation. We check--make sure that our
17 joints are water sealed, watertight. We check the condition
18 of our pull boxes. We check everything on here. Do you want
19 me to go through each one for you?

20 Q Say for the cabinets, is that related to the camera
21 photo system?

22 A We don't do anything with the camera photo system.

23 Q So that is a separate--maintained separately?

24 A We don't maintain it. We don't do anything with it.
25 That's done by a company called RedFlex.

1 Q I see. So you are only responsible for the---

2 A (interposing) Traffic signals.

3 Q Traffic signals.

4 Ms. Martineau: I'm going to object to the form of
5 the question.

6 Q If you could turn to the second page, 3390?

7 (Witness complies.)

8 Q For the first and second categories, detectors and
9 detector units, could you explain what those are?

10 A The first item, the detectors, we have in-ground
11 detection systems. They saw cut the roadway, put in some
12 wire, run it back to our pull boxes and back into our
13 cabinet, which detects the vehicle. And those are the checks
14 that we do during our preventative maintenance routine.

15 Q For the next category, detector units, what is that?

16 A Those are modular rack mounted detectors. It's a
17 piece of equipment and you check its operation.

18 Q So when it says in number 3 under detector units
19 "Verify timing," what is that in reference to?

20 A Delay timing is basically what that is. For instance,
21 for a right turn movement, we will put a delay time on it, on
22 the actual detector itself, where it won't activate a call
23 for three seconds, five seconds or whatever is on the POR.

24 Q What does POR stand for?

25 A Plan of record.

1 Q Plan of record. So when you maintain these things, do
2 you have--when it says stretch or delay, do you have
3 authority to change that at all?

4 A No.

5 Q No. And then how do you actually verify the timing?
6 Is it---

7 Ms. Martineau: (interposing) How does he ensure
8 that the required delay is programmed into the equipment?

9 Ms. Nickel: Right.

10 Ms. Martineau: Okay.

11 A In the controller there is a detector portion where
12 you go in there and you enter it in per se. We just check
13 it. We don't enter any timing in. That's done by our TMC,
14 Traffic Management Center. We verify that it's in there.
15 That's it. That's all we do.

16 Q Okay. Is there anything else on this list that has to
17 do with the actual timing of the light besides the detector
18 unit?

19 A Could you rephrase that or repeat that, please?

20 Q Yes. Just not being familiar with how the stoplights
21 work really, is there anything else on here that checks the
22 timing of the traffic signal?

23 A That checks the timing?

24 Q Or is there anything else that pertains to the timing
25 of the traffic signal?

1 A On page 1 at the bottom under Control Equipment.

2 Q Can you explain what control equipment does?

3 A That's the piece of equipment that controls the inter-
4 section. That's where all the timing, all the parameters,
5 all the functions are stored.

6 Q Do you input data into that or do you just---

7 A (interposing) We verify it.

8 Q ---verify that it's working?

9 A Not so much that it's working. We verify that what
10 the POR says is in there.

11 Q So the numbers correlate with the plan of record?

12 A Correct.

13 Q And then what would be the procedure if they were not
14 working properly?

15 A We would call the TMC and notify them.

16 Q And the TMC is Traffic Management---

17 A (interposing) Management Center.

18 Q ---Center. And then do you do a follow-up after that?

19 A They--through our system, they make any changes that
20 need to be made.

21 Q And is the Traffic Management Center with the Town of
22 Cary?

23 A Yes.

24 Ms. Nickel: I would like to introduce Plaintiff's
25 Deposition Exhibit Number 2.

1 (Plaintiffs Exhibit 2 was
2 marked for identification.)

3 Q This is a document produced by the defendant stamped
4 3411 and 3412. Again this is an intersection preventative
5 maintenance document. And the reason I have a question about
6 this one is on the first page and the second page there are a
7 number of items that are marked not applicable.

8 A Uh-huh.

9 Q Could you tell me why they're not applicable?

10 A They didn't check them.

11 Q They did not check them, meaning--from looking at this
12 document can you tell why they would not be checked or be
13 required to be checked?

14 A I don't know.

15 Q So procedurally for the control equipment where it
16 says "not applicable"---

17 A (interposing) I would say that it's not applicable
18 because there is no extension timing there on that detector.

19 Q And can you explain what extension timing is?

20 A It goes back to the detectors where you have those dip
21 switch settings, which goes by pulse or activation, and it
22 will stretch out that extension time. For instance, when a
23 car hits a loop, instead of just sending a quick signal,
24 which is normal operation, in some instances we have it where
25 it will extend that pulse. Instead of it being a 300

1 millisecond pulse, it will be an 800 millisecond pulse or a 1
2 second pulse.

3 Q I'm sorry. Could you repeat or say your answer again?

4 With regard to the pulse, who actually changes the timing
5 from 300 milliseconds to---

6 A (interposing) It's not a timing--it's a function that
7 extends the activation of that loop detector by the vehicle.

8 Q So is it a technician's decision whether to check
9 these items when they all say "not applicable," like on page
10 2, or would that be direction from you?

11 Ms. Martineau: Can you tell us if they're just
12 checking cameras by that since it says CCTV?

13 The Witness: That's exactly what they're doing.

14 Ms. Martineau: Okay. And he just hasn't seen this
15 before.

16 Ms. Nickel: Right.

17 The Witness: That explains why they're all not
18 applicable, because our CCTV cabinet, which is a separate
19 entity from our traffic signal cabinet, does not have all
20 these items in it, such as mercury relays. It doesn't have
21 mercury relays in a CCTV cabinet.

22 By Ms. Nickel:

23 Q So is a CCTV cabinet related at all to a traffic
24 signal timing device?

25 A No. It's totally different.

1 Q Okay. Thank you. I know we talked about preventative
2 maintenance that is scheduled, which it appears with regard
3 to traffic signal timing is every three months. That's the
4 schedule that's set up?

5 Ms. Martineau: It's not just---

6 A (interposing) Traffic signal timing?

7 Q Yes.

8 Ms. Martineau: It's not just for.

9 Ms. Nickel: Right.

10 Q But that's scheduled maintenance. Are you responsible
11 for responding to complaints or issues with regard to
12 maintenance?

13 Ms. Martineau: Objection to the form of the
14 question. You can answer.

15 Q What are your responsibilities if someone complains
16 that a traffic signal is not working properly? That's your
17 department?

18 A It is.

19 Q And how does that work procedurally? Within the Town
20 of Cary who notifies you of that sort of thing?

21 A We get notifications from all kinds of avenues and we
22 respond. We have a two man crew. We refer to them as our
23 duty crew, and they're on call for seven straight days, 24
24 hours a day.

25 Q And then this duty crew, you said you--who actually

1 fields the calls to you?

2 Ms. Martineau: Meaning to the duty crew?

3 Ms. Nickel: Correct.

4 A Either I call them, our police department will call
5 them, our fire department will call them, DOT will call them,
6 our front office will call them. So we get notified by lots
7 of different avenues.

8 Q Would SafeLight be an avenue that would notify you?

9 A No.

10 Q No. When you receive notification that a traffic
11 cycle is not working properly, what's your response time?

12 A What do you mean by cycle?

13 Ms. Martineau: Are you talking about the duty crew?

14 Ms. Nickel: The duty crew; I'm sorry.

15 Q For a normal maintenance call when they say a light is
16 not working properly, meaning that it's staying green too
17 long, do you have a procedural--once you get a call you have
18 to respond in a certain number of hours or do you have any
19 policies in place?

20 A Yes. We have a policy where somebody will be on site
21 within one hour.

22 Q And then once you inspect whatever issue has been
23 given to you, then what's your reporting procedure for that?
24 Do you just report back to the entity that notified you?

25 A I don't understand what you're asking me.

1 Q For example, if DOT calls and says, "We have an issue
2 with the timing on" this intersection, you respond within an
3 hour. After you perform whatever required maintenance, who
4 do you--do you have a procedure or policy of who you then
5 report or how records are kept or anything like that?

6 A They fill out a work order and it's turned in to our--
7 I don't even know what you call her. She's one of the girls
8 up front. She records everything.

9 Q Within your operations department; correct?

10 A Yes.

11 Q And so a permanent record is kept of those issues?

12 A Yes.

13 Q I think I asked you this before, SafeLight complaining
14 to you, and you said that they don't call you to repair
15 things. But do you report to them at all if there's been an
16 issue with the timing on a signal or if you respond to a
17 maintenance call?

18 A I don't understand what you're asking me.

19 Ms. Martineau: When you say "you," you're not
20 talking about the Town of Cary. You're talking about
21 maintenance, his department; correct?

22 Ms. Nickel: I'm talking about the operations,
23 yes.

24 Ms. Martineau: Because he's here to talk about
25 maintenance.

1 Ms. Nickel: Right.

2 By Ms. Nickel:

3 Q And I'm asking you when you respond to a maintenance
4 call, you said you kept a record of it intradepartmentally.

5 A Yes.

6 Q Is there anyone else that is notified that there has
7 been an issue with a light or that sort of thing?

8 A No.

9 Q No.

10 Ms. Nickel: Can I consult with cocounsel?

11 Ms. Martineau: Sure.

12 Ms. Nickel: Thank you.

13 The Reporter: Off the record. 9:21 a.m.

14 (A brief recess was taken.)

15 The Reporter: On the record. 9:21 a.m.

16 By Ms. Nickel:

17 Q Going back to the calibration of the light timing,
18 you're not responsible for that. You said that you just
19 check and make sure it's in accordance with the plan of
20 record, but who does calibrate the timing? Do you know?

21 A NCDOT.

22 Q And then we discussed the--with regard to the duty
23 crew, the one hour response time when you have a maintenance
24 call, is there a written policy on that or is that---

25 A (interposing) That's just our internal procedure.

1 Q And it's not written?

2 A Well, the actual DOT requirement is four hours.

3 (Mr. Peaslee enters at 9:22 a.m.)

4 Q And so did you---

5 Ms. Martineau: (interposing) Is it sort of a goal,
6 a goal of one hour?

7 The Witness: Yes.

8 A It's just we expect our guys to respond when they're
9 notified.

10 Q And then with regard to notifying RedFlex or SafeLight
11 with regard to any maintenance issues you have, you're saying
12 that RedFlex is---

13 Ms. Martineau: You can take a break if you need to.

14 Ms. Nickel: Thank you.

15 (Ms. Nickel, Mr. Stam, and Mr. Peaslee confer.)

16 By Ms. Nickel:

17 Q Back to reporting to RedFlex and SafeLight, when you
18 say that you do not report to them, are you saying that
19 there's never been a problem that needs to be reported or
20 that's another department's responsibility?

21 A I don't recall saying we never reported anything to
22 them.

23 Q When I asked about maintenance issues and if you
24 reported it to SafeLight or RedFlex, you said you kept a work
25 order record.

1 A Of RedFlex's equipment?

2 Q No, no, no. I'm sorry. Traffic signal issues; if you
3 reported those to RedFlex or to SafeLight.

4 A No. We don't report anything to RedFlex.

5 Q And that's not because there haven't been traffic
6 timing issues. That's just because you don't report to that
7 entity?

8 A I'm not understanding what you're asking. You're
9 asking do we report our malfunctions to RedFlex?

10 Q Correct.

11 A No, we do not.

12 Q Are you aware if another department is responsible for
13 that?

14 A I'm not aware.

15 Q Back to the calibration of the timing, you said NCDOT
16 was responsible for that. Are you aware how often they
17 calibrate?

18 A I'm not aware.

19 Q And then if the plan of record changes, how do they
20 notify you?

21 A They send it to our engineering department.

22 Q And then the engineering department sends it to you?

23 A Well, they actually send us a copy of it, and they
24 download the new adjustments and new timing through our
25 central system.

1 Q The engineering department for the Town of Cary
2 downloads the plan from the NCDOT?

3 A Yes.

4 Q And then you are given a copy?

5 A We place that copy inside the cabinet. We take out
6 the old plan and put in the new plan.

7 Q And at that time do you go ahead and check and make
8 sure that everything is in order when you get the plan or do
9 you wait three months or whatever the schedule is?

10 Ms. Martineau: When you say "you," do you mean his
11 maintenance department?

12 Ms. Nickel: I mean the operations department.

13 Ms. Martineau: Well, he's not operations. It's
14 different.

15 By Ms. Nickel:

16 Q What did you say your title was?

17 A Traffic operations coordinator.

18 Ms. Nickel: That's where I was getting operations
19 from.

20 Ms. Martineau: Right, but he's here to talk about
21 maintenance. He's a 30(b)(b) maintenance--I mean you can ask
22 him if he knows. I'm just saying we have designated other
23 folks to talk about that other area, but go ahead.

24 Mr. Stam: Well, if he's in charge of that
25 department we can ask him about it anyway.

1 Ms. Martineau: Go ahead. If you would, restate the
2 question because I've forgotten it, or just rephrase it.

3 That's okay.

4 Ms. Nickel: Would you repeat the question,
5 please?

6 (The reporter read the record as requested.)

7 A We check it when we put the new plan in the cabinet.

8 Q So when you receive a new plan from the engineering--a
9 copy of the plan from the Town of Cary engineering
10 department, you put it in the box and you ensure that every-
11 thing is properly timed in accordance with the plan of
12 record?

13 A Yes.

14 Ms. Nickel: All right. I think we're done.
15 Thank you.

16 Ms. Martineau: I have no questions.

17 (The deposition was closed at 9:28 a.m.)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

C E R T I F I C A T E

I, Alexandra Hatcher, Notary Public-Reporter, do hereby certify that **William M. Billings** was duly sworn or affirmed by me prior to the taking of the foregoing deposition, that said deposition was taken by me and transcribed by me, and that the foregoing pages 4 through 21 constitute a true and correct transcript of the testimony of the witness to the best of my ability, and that the witness reserved the right to review his testimony.

I do further certify that I am not counsel for or in the employment of either of the parties to this action, nor am I interested in the results of this action.

In witness whereof, I have hereunto set my hand, this 14th day of July, 2011.

Alexandra Hatcher, CVR
Notary No. 19931480077

S I G N A T U R E

I have read the foregoing pages 4 through 21, which contain a correct transcript of the answers made by me to the questions herein recorded. My signature is subject to corrections on the attached errata sheet, if any.

(Signature of William M. Billings)

State of _____
County of _____

I certify that the following person personally appeared before me this day and I have personal knowledge of the identity of the principal or have seen satisfactory evidence of the principal's identity in the form of a _____ or a credible witness has sworn to the identity of the principal, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated herein and in the capacity indicated: _____.
(Name of Principal)

Date _____

(Official signature of Notary)

(Official Seal) _____, Notary Public
(Notary's printed or typed name)

My commission expires _____.

I, Alexandra Hatcher, the officer before whom the foregoing deposition was taken on June 24, 2011, certify that the foregoing transcript was delivered to the witness either directly or through the witness' attorney or through the attorney retaining the witness on _____ and that as of this date I have not received the executed signature page.

Therefore, more than 30 days having elapsed since receipt of the transcript by the witness, the sealed original transcript was filed with attorney for Plaintiffs on _____ by means of US Priority Mail, in accordance with Rule 30(e) of the North Carolina Rules of Civil Procedure.

Date

Alexandra Hatcher, CVR
Court Reporter