



02-2-11657-0 19848266 DEP 10-20-03

COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PIERCE

RAY DUNN and JODI DUNN, individually
and on behalf of their martial community,
Plaintiffs,

vs.

FINISHERS CORPORATION, a Washington
Corporation,
Defendant.

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)
)
)
) No.
) 02-2-1657-0
)
)
)

DEPOSITION OF ORLANDO SALINAS
December 12, 2002
Tacoma, Washington



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Mr. Shaffer

EXHIBIT INDEX

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>	<u>PAGE NO.</u>
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(No exhibits marked for identification.)

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1 BE IT REMEMBERED that on Thursday,
2 December 12, 2002, at 1501 Market Street, Suite 300,
3 Tacoma, Washington, at 1:07 p.m., before Judy
4 Steenberg-Webb, CCR, RPR, Notary Public in and for the
5 State of Washington, appeared **ORLANDO SALINAS**, the
6 witness herein;

7 WHEREUPON, the following proceedings
8 were had, to wit:

9
10 <<<<<< >>>>>>

11
12 ORLANDO SALINAS, having been first duly sworn
13 by the Notary, deposed and
14 testified as follows:
15
16

17 EXAMINATION

18 BY MR. SHAFFER:

19 **Q** Mr. Salinas, could you give your address; where do you
20 live?

21 **A** I live in Seattle, and the address 144 Northwest 136th
22 Street, Seattle, Washington, 98177.

23 **Q** And are you employed?

24 **A** No. I'm laid off right now.

25 **Q** Where is the place that you worked most recently before

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1 Q You said you were married, but did you have family in the
2 United States here before you got married?

3 A Family meaning I had uncles in D.C.

4 Q Before you worked for Finishers, did you work for any other
5 construction companies?

6 A Yeah. I was working for Brooks Construction before
7 Finishers, and before Brooks I was for Pacific -- Pacific
8 Construction and Expert and Arox. I worked for First Line.

9 Q How about as a foreman, who did you work for as a foreman?

10 A Not on Seattle as a foreman. I was -- I got the job as a
11 foreman out here with Finishers.

12 Q Was Finishers the first construction job where you were a
13 foreman?

14 A Well, I had two, three guys that I was -- I was kind of
15 like jefe -- well, out here they call it "foreman," but
16 we -- at Finishers I was more like -- you can say it like
17 more -- more as a title than, you know, with the other job
18 it was so little, you know, pick up a couple of my
19 friends and -- but now officially.

20 Q Okay, spell "jefe."

21 A J-E-F-E, jefe.

22 Q Which is like chief?

23 A Yeah. It's like chief. You will say -- well, it doesn't
24 have the translation, but you can say chief, but it's more
25 like you would say a foreman, somebody who is up or someone

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1 that is in charge of what need to be -- what need to be done
2 on the job. It's the same thing, but in Spanish it's called
3 "jefe," but like I say, it was a very small group, and it
4 was not a company. More like my own little side job out
5 there and something like that.

6 **Q** When at Finishers, did you have tasks that you were supposed
7 to do as a foreman that you didn't do before like paperwork,
8 safety, dealing with suppliers, that kind of thing?

9 **A** Yeah. With Finisher, I started doing safety meetings, fill
10 out time cards, communicate with general contractor and see
11 what -- what are we going to be doing next following week so
12 I can order the material and stuff like that.

13 **Q** Where did you get your material; where did you get metal
14 studs?

15 **A** We getting at that time, our supplier was Steeler
16 Corporated. It was located in -- they got a few places, but
17 I think they are located in Seattle.

18 **Q** How do you spell it?

19 **A** S-T-E-E-L-E-R.

20 **Q** Okay. Did they bring the material to the job site?

21 **A** They bring the material to the site, yes.

22 **Q** Well, I represent a guy, Ray Dunn, who was injured out at
23 Green River Community College at that work site.

24 Now, at that site, did Steeler bring the material to
25 that job site, also?

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1 but that's down from the outside. So the pitch, we were not
2 involved in the pitch. We were involved in walls in --
3 attach to the steel frame and to do the drywall on the
4 inside.

5 Q Okay.

6 A And a little bit on the outside. Like I say, down from the
7 outside. That is it's just to fill up the -- just to fill
8 up the exterior walls so it has some kind of look.

9 Q Did you guys do any kind of structural steel out there or
10 structural iron?

11 A No. We don't have -- not on that job we don't. I don't
12 know if you can call it structural, but we did some -- I'll
13 say, yeah, it's a little structural, but I don't know -- I'm
14 not quite right if that's structural or not, but we did some
15 exterior -- that was on the west side on the roof on the
16 outside of the building. On top of the roof would be some
17 kind of -- I will say structural because we didn't attach
18 it. We didn't attach to any -- to any iron work. So we had
19 to build that to do that, yeah.

20 Q And what was it, just part of the wall?

21 A No, it's part of the roof. Some kind of -- it's some kind
22 of look that kind of gives it some kind of look that -- what
23 is -- where the fans sucks the air out.

24 Q Yes.

25 A From the inside it sucks it out. So we kind of build that

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1 with metal studs, so I suppose it's kind of -- I suppose
2 it's structural, but I'm not quite sure if they call it
3 that, structural, but I think it is.

4 Q What other companies had employees out there while you guys
5 were out there?

6 A I know it was the electrician.

7 Q Who was the electrician on that job, do you know?

8 A No, I don't remember. I don't remember who was electrician.

9 Q Who was the general?

10 A I couldn't tell you either. I don't know the general.

11 Q Do you remember the people's names at all?

12 A No. I don't remember any. Maybe I'll remember the general
13 if you tell me the name of the general.

14 Q I was going to see if I had it.

15 A I'm not very good on names but... (Pause.)

16 Q I got something that says Construction Enterprises and
17 Contractors, which I think is a Tacoma company. I think
18 it's CE&C. Does that sound familiar? Let me see if I find
19 somebody's name on it.

20 Dan Beaird, does that ring any bells; do you know Dan
21 Bearid?

22 A Yeah, Dan Beaird. I think that's the guy. I think that's
23 the general contractor.

24 Q Was it, okay.

25 Do you remember if you dealt with anybody from the

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- 1 general contractor besides Dan Beard?
- 2 **A** I'm sorry, I didn't understand that.
- 3 **Q** Was there anybody else there for the general besides Dan?
- 4 **A** No, not that I know. Oh -- I know he had two or three guys
5 working for general contractor, but I don't know their name.
6 I know that he got a couple guys working for him.
- 7 **Q** Okay, and then there was an electrical -- this was going to
8 be a welding job, right?
- 9 **A** Correct.
- 10 **Q** So they had to bring in electrical service for welding
11 machines?
- 12 **A** Yeah. They also -- I think they also -- I'm not quite sure
13 if the plumber were there at that time, but I know that the
14 plumber was there, too, but I don't know if it was right at
15 that time.
- 16 **Q** Were you waiting for some people to get done so you guys
17 could get in and start framing?
- 18 You know, does your work depend on somebody else
19 getting finished?
- 20 **A** Yes. We -- we were waiting -- at the beginning of the job,
21 we were kind of waiting on the steel guys to complete what
22 they had to do so in order for us to get in.
- 23 **Q** And who was doing the steel work?
- 24 **A** I can't remember the name of the company.
- 25 **Q** Do you know was that Corona; does that sound right?

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1 **A** I'm not sure. I don't remember the name of the company.

2 **Q** There's -- my client is a guy name Ray Dunn, big guy with a
3 beard, and there was another guy on his crew named Dave,
4 Dave Chase?

5 **A** I don't remember. There was one named Ray?

6 **Q** Ray.

7 **A** He's not the guy that got hurt?

8 **Q** That's Ray.

9 **A** Yeah, that's the only name that I can remember.

10 **Q** Now, do you remember Ray from working with him?

11 **A** I don't remember. If I see him, yeah, I probably will
12 remember him, but not -- I don't know how he looked like,
13 but if I see him, I know I will remember him.

14 **Q** Well, I heard that -- now, were you there on the day that he
15 got hurt?

16 **A** Yeah, I was, I was that day at the job.

17 **Q** Okay. We saw a police report where a policeman came out and
18 said that either Ray took a swing at somebody and tried to
19 hit him or somebody tried to hit Ray unrelated to the
20 accident with the metal stud.

21 **A** Okay.

22 **Q** Were you involved in that at all?

23 **A** Yeah. He assaulted me that day, and that's why I called the
24 police, and the next day when he show up at the job, and I
25 saw him, and so I went and called the police because my

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1 that something -- that somehow they dropped the metal stud
2 out of their hand.

3 Q They never said it was anyone else's fault?

4 A No, it was -- no, not -- I don't think it was somebody
5 else's fault.

6 Q If it was anybody's fault, it was Carlos' is what I'm
7 saying.

8 A Yes.

9 Q As foreman, did you have to do anything to Carlos in
10 violation of safety rules or reprimand or anything like
11 that; was anything like that done?

12 A We always had safety meeting. He worked before in another
13 job with me, and so I didn't do anything to punish him, if
14 that's what your question is, but I told him to be
15 more -- more careful because I didn't want any accident at
16 all on the job.

17 After that incident, I didn't want to have any type of
18 accident, and so I -- after that everything -- after that
19 everything I think went fine because we didn't have any
20 accident.

21 Q Does Carlos still work for Finishers?

22 A Yes.

23 Q Do you know where he is working these days?

24 A He was working in Arlington, on a job in Arlington.

25 Q And how about Josue?

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1 **A** I think he is also working over there in Arlington.

2 **Q** Did they -- are either one of them certified for scissor
3 lift and power lift equipment?

4 **A** No, I don't think so. Maybe Josue, but no, I don't think
5 Carlos, at that time, I don't think he was certified.

6 **Q** Do you have that certification for power lift?

7 **A** No, no. No, I don't know if we are required to have
8 certificates on scissor lift but... (Pause.)

9 **Q** You can get it if you -- you can get certified by going to
10 the training session for it, right?

11 **A** Yeah. I'm pretty sure that if you wanted to like get kind
12 of a career or some kind of -- which specialize in driving
13 machines and stuff like that, you can get certified in that,
14 but I'm not quite sure that just for a small job you are
15 required to have a CCF certificate.

16 **Q** Did Finishers do any training for you or Josue for safety
17 training for using lift equipment?

18 **A** I did some safety, like a kind of teach them how to do
19 the -- how to drive the machine and how to go up and how to
20 go down, and like I mentioned it before, we always have a
21 safety meeting about the job, being safe on the job.

22 **Q** So if these guys knew how to use the lift equipment, they
23 learned it from you?

24 You know how you can go to these classes, you can have
25 somebody come out to the site and train you for an hour, if

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1 you want, but where would -- so if Josue and Carlos knew how
2 to use that machinery, that basically you would have taught
3 them?

4 **A** Yeah. I'm not quite sure if Josue had a certified card for
5 scissor lift, but if he didn't have at that time, he
6 probably already knew how to use that machine.

7 **Q** Describe the scissor lift; what kind was it?

8 **A** It's pretty small. It's just a -- I'll say it's like --
9 it's eight feet by three feet wide. Very, very simple. It
10 has one button and a stick where you push the button, and
11 you push the stick forward and it take you up and then
12 push -- push the button -- push a button. It will take you
13 down, pretty simple, and also when they drive you just
14 push -- it has a button here on the stick where it takes
15 wheels right, wheels left. You can push it and go back.
16 It's pretty simple.

17 **Q** Did you -- on the day that this happened, did you leave it
18 parked in one position there to go up to the second level or
19 would you have put stuff in it and moved it in and out, do
20 you know?

21 **A** Well, I think that scissor lift was -- I'm not quite sure if
22 I had at that time I had two scissor lift or one scissor
23 lift, but I had that scissor lift -- not quite sure if it
24 was parked all the time, but we were using as a ladder when
25 we needed to go up there.

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- 1 Q Now, what size studs were you using up on the second level
2 that day?
- 3 A We had, I think, either 12 or 14 feet -- not quite sure how
4 big, but I don't think it's more than 14 feet.
- 5 Q Did you have equipment to cut them up there in that
6 mechanical room, or were you cutting them down below, or
7 were you taking them up and cutting them upstairs?
- 8 A I think what they were doing is cutting up there, cutting up
9 there on that because to get the -- the different heights.
10 So they were -- you take the material out there and cut it.
11 Depends on the height that they needed.
- 12 Q Okay, and what you mean there is that the wall --
- 13 A Has like braces.
- 14 Q Yeah. The building didn't have a finished ceiling, right?
- 15 A No.
- 16 Q It had like a pitched roof with rafter, with concrete
17 rafter?
- 18 A Yeah, with braces and stuff like that. So it's not a single
19 number for the height. So they had to cut it one-by-one.
20 So probably took the material and then cut it over there.
- 21 Q And when Steelers brought you studs, they either brought 12
22 foot or 14 feet?
- 23 A Yeah. They brought either 10, 12, 14. I can't remember
24 what it was.
- 25 Q And anything bigger than 14?

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1 **A** I don't think so, not that I remember, but -- not that I
2 remember.

3 **Q** And then what's the gauge of that stuff?

4 **A** We were working with -- I believe we were working with 18
5 gauge for that particular area. I could be wrong, but I
6 think it was 18 gauge. I don't think it was 20.

7 **Q** Might have been 20, or you're not sure?

8 **A** I think it was 18. I'm not quite sure.

9 **Q** In that upstairs mechanical room, you guys had -- your crew
10 had framed the wall to it, and then, what, left a doorway so
11 you could go in through -- so you could continue going into
12 that area?

13 **A** Yeah.

14 **Q** At that time this accident happened, had that wall been
15 framed up and the doorway put in?

16 **A** I can't remember.

17 **Q** Let me take you back to that day. You and the general
18 contractor's employee walked into the building.

19 Did you know before you walked in that something had
20 happened; had anyone called or let you know some other way?

21 **A** No. It was right at the moment. It was right on the money.
22 Kind of everything happened like it hit him, and right when
23 he was yelling and screaming, we walked into the scenario.

24 **Q** So where was he when you first saw him?

25 **A** Right -- no more than 10 feet away from the -- from the

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1 accident.

2 Q Where were you coming from, which side of the building?

3 A East side of the building from the general contractor's
4 trailer. Actually I was talking to him and pointing some
5 issues that had related with framing, and so we were walking
6 into the building so we could see what -- what needed to be
7 done. I can't remember what it was at that time, but -- and
8 then we got surprised by that incident.

9 Q East side of the building -- well, you know where the big
10 open doors are?

11 A Yeah. That's the south.

12 Q That's the south?

13 A Yeah.

14 Q It's too many trees around there. I couldn't tell which --
15 but, so the big open doors are on the south side?

16 A I'm pretty sure that's what it is, the south. And the east
17 is -- the one is close to the buildings where the
18 buildings -- they are more buildings out there.

19 Q Yeah. The parking lot then is on the west side?

20 A No. The west side is that side where the students has --
21 like a walk side.

22 Q Yes.

23 A That's the west side, and the east side is the one is right
24 next to the mechanical buildings.

25 Q And the general had a contractor on the east side; is that

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1 what you said?

2 **A** The trailer was located on the east side.

3 **Q** When you and the general's employee walked into the building
4 that day, was Ray closer to you -- was he on -- let's see.
5 I'm trying to figure out was he closer to you, or was the
6 scissor lift closer to you; was he in-between you and the
7 scissor lift?

8 **A** Yes, correct.

9 **Q** Was he underneath the overhang that the mechanical room sits
10 on?

11 **A** Right there. He was not inside, but he was right there
12 because it was like -- like I said, the room is like this
13 long, and the accident happened in that corner.
14 (Indicating.)

15 So he was somewhere between the ceiling and the
16 exposed ceiling on the other side. So it was between. It
17 could be on both sides because it seems like he was walking
18 back and forth.

19 **Q** Were you able to see where he was when he got hit?

20 **A** I'm sorry?

21 **Q** Did you see where he was when the stud hit him in the head?

22 **A** The ceiling -- when that -- when he got hit?

23 **Q** Did you see where he was standing when he got hit?

24 **A** No.

25 **Q** What's your best guess of where he was standing when he got

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1 hit; closer to the welding table, closer to the scissor
2 lift, or closer to that hallway where they had the exposed
3 ceiling?

4 **A** Well, he was close to the table or he would have never got
5 hurt. So at some point, he was closer to the scissor lift,
6 but otherwise it would not hit. I don't know. I'm just
7 guessing on that.

8 **Q** Okay. Well, I was thinking that if you are holding a piece
9 of material, and it hits the railing of the scissor lift,
10 it's going to go that way and not that way. (Indicating.)

11 **A** That's why I say I'm not quite sure on that.

12 **Q** Did anybody ever -- did you or Carlos ever talk to Ray and
13 say, "Hey, it was an accident, no hard feelings"?

14 Let me ask you first: Did Carlos ever talk to him
15 that you know about?

16 **A** The way he was enraged and stuff like that, I don't think
17 so, but I don't know. I don't know. He could have, but not
18 that day, but see, he didn't know much English. So like I
19 said, I told him that it was an accident. You know, that I
20 didn't think he did it on purpose, but I don't think he
21 talked to him because he had a -- like a -- like English.

22 **Q** Where is Carlos from?

23 **A** Also from Peru.

24 **Q** Did you know him before --

25 **A** Yes.

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1 answer the question.

2 THE WITNESS: Oh, okay. I'm sorry, one
3 more time?

4 Q (By Mr. Shaffer) Was he trying to get personal with you, or
5 personal and insult Josue or Carlos, or would you say he was
6 blowing off steam, angry?

7 I mean was this something that may have been building
8 personally between him and the guys on your crew at all, or
9 was it just sort of a one-time thing? That's what -- I'm
10 not clear on that.

11 MR. NOVASKY: Same objection. Go ahead.

12 THE WITNESS: It's hard to say because
13 it could have been both. It could have been because he was
14 angry at that moment or -- because I was surprised to hear
15 that he was acting out of control.

16 Q (By Mr. Shaffer) You mentioned the safety meetings; who
17 attended safety meetings when you were the foreman?

18 A Usually we have the general contractor doing the safety
19 meeting every week, and -- and like I say, I also do safety
20 meeting with my crew like daily saying, you know, "Go be
21 safe," but I can't remember for sure that we were having a
22 safety meeting. I think after that incident is when we
23 started having safety meeting with the general contractor.

24 Q Okay. That's -- yeah.

25 Before that accident, did you guys have safety

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1 meetings?

2 **A** Not with the general contractor.

3 MR. NOVASKY: Could we take a quick
4 break?

5 MR. SHAFFER: Sure.

6 (Recess.)

7

8

9

EXAMINATION (Continuing)

10 BY MR. SHAFFER:

11 **Q** Now, before this accident happened, did you have safety
12 meetings with your crew at the Green River site? Tell me if
13 you remember. I know sometimes you get in a habit of doing
14 something at the work site, and you don't specifically
15 remember but --

16 **A** I know I had a safety meeting with them, with those two guys
17 before, and not quite sure we had meeting on that job, but I
18 know -- I probably mentioned to them to be safe, you know,
19 like any other foreman, you know, send somebody to go to
20 work on the job but... (Pause.)

21 **Q** On that particular job, did you keep logs or notes of safety
22 meetings?

23 **A** No, no. I didn't keep notes on that job.

24 **Q** And on that job you don't specifically remember having
25 safety meetings before this injury happened?

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1 **A** Before, no. I think we started having the safety meeting
2 after with the general contractor.

3 **Q** And what were the issues for safety meetings; what were the
4 safety issues on that job?

5 **A** After the incident, that if we -- see, this accident
6 happened over the head. Then one of the main issues, if you
7 were going to work up above, then from now on we are going
8 to have to red tape it or put caution tape, and anybody that
9 uses like ladders and pick up garbage and things like that.

10 **Q** After this accident happened, did you start using caution
11 tape?

12 **A** Yeah. Then we start using caution tape for any -- for any
13 little thing.

14 **Q** After the injury happened out there, did you do anything
15 different with ladders or lifts?

16 **A** No. The only different we did is was just to put caution
17 tape.

18 **Q** And then you said there was more -- that one of the safety
19 issues had something to do with waste material or material
20 on the floor; what was that?

21 **A** To pick up garbage and keep the area clean, you know, so
22 nobody can get hurt so... (Pause.)

23 **Q** You know we have been talking about this for a while. Can
24 you remember -- I asked you a long time ago what you and Ray
25 would have talked about after he came back from his

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1 vacation, and you said you thought you talked to him a
2 couple of times just for work-related things.

3 Do you remember any more what the two of you would
4 have talked about?

5 **A** No, I don't. I don't see him -- the only time I see him is
6 when we took something about -- on the ceiling, on the south
7 side of the building something came up, and that's when he
8 mentioned something to me, and -- but I said, "Okay, well,
9 I'll do it. Don't worry."

10 You know, I didn't want to say, "Oh, I'm not going to
11 get into it at that point," and I will say, "Okay."

12 **Q** It was something he wanted your crew to do?

13 **A** Yeah. It was something he wanted to be done, and I can't
14 remember what was it.

15 **Q** Did his crew leave the job before your crew finished their
16 work?

17 **A** Yeah. Their crew left the job.

18 **Q** If you guys didn't have a trailer out there, where did you
19 have safety meetings?

20 **A** Right outside the trailer, the general contractor's trailer.

21 **Q** And is there anything else that you thought was a safety
22 issue on that job in terms of protecting your people or
23 anybody else's people on the site?

24 MR. NOVASKY: Object to the form. Go
25 ahead and answer the question.

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1 THE WITNESS: One more time, can you
2 repeat that?

3 Q (By Mr. Shaffer) Yeah, I just wondered if there were any
4 other safety issues that came up, you know, to you that was
5 for protection of your people or for protection of people at
6 the site that we haven't already talked about. We talked
7 about the overhead safety issues and using the caution tape,
8 picking up the area and keeping it clean.

9 Was there anything else that came up on that job that
10 presented a safety issue as far as you were concerned?

11 A Tie down when you work on the roof, backhoe.

12 Q Did Carlos, you know, yell that -- people to get out of the
13 way or anything when he dropped that metal stud?

14 A I don't know.

15 Q Did he ever tell you why he dropped it?

16 A He probably did, and I don't know. I don't remember if he
17 did or not.

18 Q Okay, but just so I'm clear on this, you may have already
19 said this, but he always said it was his fault?

20 MR. NOVASKY: Object to the form.

21 THE WITNESS: Yeah. He -- he say that
22 he dropped something, but it was -- as far as he was -- he
23 was on the -- in his hand, I suppose. That's his fault.

24 Q (By Mr. Shaffer) Yeah. No one else had any -- had the
25 material; no one else was helping him with the material at

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1 that time?

2 **A** No. I don't know. Not that he told me or that I know.

3 **Q** How did you learn the business; where did Carlos start doing
4 drywall or metal stud framing?

5 **A** He started working with the company in that church.

6 **Q** So this would have been the second job he did with
7 Finishers?

8 **A** I believe so.

9 **Q** Had he ever done any metal stud framing work before that
10 church job in Tacoma?

11 **A** No, not that I know.

12 **Q** So he had maybe been -- so he had been doing this for six
13 months or less?

14 **A** Probably so, since he came to the company.

15 **Q** And is there -- did he get any kind of training except just
16 on-the-job training?

17 **A** As far as I know, only he tell -- the day he hire him, the
18 company, so since then he was doing metal stud.

19 **Q** Now, he is your aunt's son or how does that work?

20 **A** He is my cousin, which is my mother's brother is his dad.

21 **Q** Okay. Your uncles 's son?

22 **A** Yes, my uncle's son, yes.

23 **Q** And where do they live, his parents?

24 **A** His father is already pass away, and his mother live in
25 Peru.

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- 1 Q Where did he live before he came up -- before he worked for
2 Finishers?
- 3 A Where did he live, he live in Peru.
- 4 Q Does he have legal status in the United States?
- 5 A Not that I know.
- 6 Q Green card or work Visa or anything like that?
- 7 A Not that I know.
- 8 Q Is that -- do you think he would come in and sit down for a
9 deposition like this; is he worried about, you know, legal
10 status issues?
- 11 A I don't know.
- 12 Q How about Josue, does he have legal status in the United
13 States?
- 14 A I don't know.
- 15 Q If you are the foreman, are you required to get a Social
16 Security card or an I9 --
- 17 A I don't check those.
- 18 Q It's not your job to check them?
- 19 A No.
- 20 Q Now, who do you report to at Finishers?
- 21 A I remember -- I remember I reported to -- you are talking
22 about the accident?
- 23 Q Yes.
- 24 A Okay. I told my boss, which is at the time, Gustavo Loya.
- 25 Q Can you spell his last name?

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- 1 A L-O-Y-A.
- 2 Q Is he still with Finishers?
- 3 A Yes.
- 4 Q Where he is these days, if you know?
- 5 A He is -- I suppose he is in the office right now.
- 6 Q And they have a couple of offices in Vancouver or? --
- 7 MR. NOVASKY: He's here. He's in
- 8 Seattle.
- 9 MR. SHAFFER: In Seattle, okay.
- 10 Q (By Mr. Shaffer) Where is the Seattle office?
- 11 A I know the one is located in Puyallup.
- 12 Q And do they have a job site, you know, a job trailer, or do
- 13 they have a regular office in Puyallup?
- 14 A No, they've got a office just like this.
- 15 Q At that time, after this injury happened on the -- at the
- 16 welding shop now, did you report it to Mr. Loya?
- 17 A Yes. I told him about the accident happened.
- 18 Q Did he ask you to do any kind of paperwork?
- 19 A No, not that I remember.
- 20 Q What did you tell him happened?
- 21 A What I -- what I just knew, that Carlos had slipped a metal
- 22 stud and hit this guy in the head, and that's pretty much
- 23 that's what I told him, and I also mentioned something about
- 24 that he push me and was cursing and stuff like that.
- 25 Q Has anyone suggested that you should have prevented the

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1 accident from happening in some way; did Mr. Loya or the
2 inspector or somebody with the general contractor, has
3 anybody ever said there was something you could have done to
4 prevent this?

5 **A** No. Like I say, I was in the trailer at the time that
6 happened. So I couldn't prevent it because I didn't know
7 that -- that was -- that he was out there. I don't know.

8 **Q** As far as you know, did any inspector from the state or the
9 county, building inspector, WISHA, ever learn about the
10 accident or question you about the accident?

11 **A** I'm sorry?

12 **Q** That was a long question.

13 Did anybody from WISHA -- you know WISHA?

14 **A** Yeah.

15 **Q** Did anybody ever question you about the accident from WISHA?

16 **A** No.

17 **Q** Did any of the King County inspectors ever talk to you about
18 the accident?

19 **A** No.

20 **Q** And then the State has somebody come out there because Green
21 River -- it was a, you know, Green River is a community
22 college; did anyone from the State ever talk to you about
23 the accident?

24 **A** No.

25 **Q** Other than Mr. Loya, did anybody at your company ever

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1 discuss the accident with you?

2 **A** I don't remember. I don't remember. Like meeting somebody
3 else or --

4 **Q** Mr. Loya's boss or anything like that?

5 **A** Oh, yeah. I talked to -- I think Chris -- I can't remember
6 his last name, Chris.

7 **MR. NOVASKY:** Troxel.

8 **THE WITNESS:** He kind of asked me -- he
9 kind of asked me what -- what happened that day of the
10 accident, something like that. Somehow I got into the
11 conversation, I don't know why, but I told him what I knew,
12 and it was -- and another person there asked me, too. It
13 was somebody -- I don't know if it was you or some kind of
14 lawyer or somebody. I can't remember who was it.

15 **MR. NOVASKY:** Just for the record, Mike,
16 he's talking about Finishers' corporate lawyer who, as I
17 understand it, had been involved in this prior to the
18 lawsuit being filed.

19 **THE WITNESS:** Yeah, was trying to get in
20 touch with me and kind of asked me a little -- what I could
21 tell him. That was all.

22 **Q** (By Mr. Shaffer) When did you talk to Chris Troxel about
23 it; was it way back when it happened?

24 **A** Yeah.

25 **Q** And then when did you talk to the corporate lawyer about it?

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- 1 **A** Maybe four months ago, something like that. Maybe more than
2 that, maybe more. It could be more than that, too.
- 3 **Q** And every time they just wanted to know the same things?
- 4 **A** Yeah, they wanted to know what happened. That's all.
- 5 **Q** Now, did Carlos and Josue keep their own time cards?
- 6 **A** No. I write the time cards.
- 7 **Q** And is it like a regular little hard cardboard time card
8 that you write in?
- 9 **A** More like a paper. It is not cardboard.
- 10 **Q** And did they punch a clock?
- 11 **A** No.
- 12 **Q** You just sign in and sign out?
- 13 **A** No sign in. Just that I know what time they arrived, so I
14 put the time. We get in at 7:00 and we get off at 3:30, and
15 the only time that if they come late and write it down what
16 time they came, but I've never had any problem with guys
17 showing up to the job late or leaving early, not at that
18 job.
- 19 **Q** Now, how did they get to and from work?
- 20 **A** By driving, I suppose. I was driving, yeah.
- 21 **Q** You drove your own car?
- 22 **A** Yes.
- 23 **Q** And they drove their own car or cars?
- 24 **A** Yes.
- 25 **Q** Did they ever come together?

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1 **A** No, not Josue. I'm not quite sure if Carlos was driving or
2 with me or was carpooling with me. I can't remember. I
3 think he was carpooling with me.

4 **Q** Did Carlos live at your house back in those days?

5 **A** Carlos, that time, yes.

6 **Q** He would have just moved up from Peru around that time,
7 right?

8 **A** (No response.)

9 **Q** Let me ask it this way: When did he move out of your house
10 and move into his own place?

11 **A** He still living in my house. He has not moved out.

12 **Q** He did move out?

13 **A** He did not.

14 **Q** Okay, I'm sorry.

15 Now, if -- I'm thinking if we just wanted to check who
16 was on the job site on some day in the summer of 2001, could
17 I go back and look at the time cards that you filled out and
18 just figure out who was there that day, and you know, what
19 time they got there and what time they left?

20 **A** Yeah, if they got records of that. There should be -- there
21 should be a way that you could track that down, yeah.

22 **Q** Do you write in lunch, and morning and afternoon breaks on
23 those?

24 **A** No. We just come eight hours, just put eight hours for
25 Josue and eight hours for Carlos. We don't got that kind

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1 hiring hall?

2 **A** Yeah, they were in -- go through the union.

3 **Q** Now, this is a case filed in court, and in some of the stuff
4 that's filed in court by Finishers, it says that other
5 people might have been responsible for safety out there, and
6 I'm just -- do you have any personal knowledge or personal
7 opinion about anyone else that was responsible for safety in
8 the operation of the lift or getting material up to the
9 second level?

10 MR. NOVASKY: Object to the form. Go
11 ahead and answer the question.

12 THE WITNESS: One more time?

13 **Q** (By Mr. Shaffer) Did anyone else have responsibility for
14 safety of lift operation or for safety of the lift operation
15 that Carlos and Josue were on?

16 **A** I'm not quite sure what are you asking me.

17 Is somebody else besides Carlos and my crew?

18 **Q** Yeah, was there anybody else that had responsibility for
19 safe operation of that lift or moving the material up?

20 **A** Let me think. No, I can't think of anything right now, and
21 if somebody has some kind of responsibility of that, I can't
22 tell you now.

23 **Q** Okay. Yeah, it's kind of -- it's a legal question to some
24 extent, but has anybody ever said that, for example, the
25 general contractor should have done something to prevent

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1 this from happening?

2 **A** Well, it was an accident. Nobody knew that that's going to
3 happen, prevent in a way that going to tell everything to
4 go -- I mean that's a construction job. I don't know.
5 Nobody goes to know that it's going to happen, but it's kind
6 of hard to prevent something to happen. You know, you just
7 be safe, and that's all.

8 **Q** Well, had Carlos used this kind of scissor lift equipment
9 before?

10 **A** Yes, he did, and the job -- he started working with me on
11 the church, and we had -- we had two, three -- I think at
12 one point we had three of those machines.

13 **Q** Now, does it take two hands to go -- to raise the lift; do
14 you have to your right hand and your left hand at the same
15 time to engage it?

16 **A** I think so. I think one button, and then you push one
17 button, and you can push to get it all -- that's what --
18 Josue, I think, was driving it and -- I'm not quite sure. I
19 can't remember if Josue was driving and Carlos was holding
20 it. I don't know. I'm not quite sure. I don't know that
21 or how exactly it happened.

22 **Q** But your best recollection is that Carlos was driving the
23 scissor lift with both hands, raising it, and Carlos was
24 holding the metal studs?

25 MR. NOVASKY: Object to the form. Go

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1 ahead and answer.

2 THE WITNESS: I don't remember. I think
3 they both were in the scissor lift, Josue and Carlos. One
4 was driving and one was holding the material. If I'm
5 mistaken, I don't know.

6 Q (By Mr. Shaffer) But what -- your best recollection is
7 Carlos was holding the material, Josue was driving it?

8 A I think so. I think so. You are making me down now, but I
9 think so.

10 Q Okay, and by driving it, you mean raising the scissor lift?

11 A Yeah, raising the scissor lift.

12 Q When you park it, do you block the wheels or something to
13 keep it in one place?

14 A Those machine -- it kind of has the own brake in a way that
15 it doesn't roll. Even if you down the hill, I don't think
16 it doesn't roll. It has the own -- brakes, and it has also
17 a safety device when you park it and you go up. It has this
18 metal that sits on the ground, so it kind of like stabilize
19 it or something.

20 Q Even the 30-inchers and the three-foot wide ones, they have
21 a stabilizer on it?

22 A Yeah, some kind of that. When you start going down, that
23 thing locks down.

24 Q Do you know who Shane Beamus is? (Phonetic.)

25 A No. I know the name, but I don't know people's names

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1 unless -- you know, they -- like unless they work with me or
2 the superintendent or foreman and stuff like that.

3 Q Okay. He is president of Finishers Corporation, but it
4 looks like he lives down by --

5 A Oh, what's the name again?

6 Q Shane Beamus?

7 A No. Probably if I seen it -- but that name is new to me.
8 Like I said, I always ask the questions to Gustavo, and the
9 only person that I met before is Chris.

10 Q Troxel?

11 A Troxel. I don't know his last name, but I don't answer
12 question to him, either. Once in a while I get to see him,
13 but very rare, and the other person you just named, I don't
14 think I have ever seen him.

15 Q How are you at reading?

16 Your English is very good; do you read English, read
17 and write okay in English?

18 A Thank you. Yeah, you know, currently I'm taking classes in
19 Shoreline Community College.

20 Q To improve reading?

21 A No, in engineering, taking courses already.

22 Q Do you have any trouble reading English?

23 A Sometimes, yes. When it comes to, like formal, like laws
24 and things like that, I have some kinds of problem.

25 MR. NOVASKY: That's not English.