

## Failure to Interview All Witnesses or Review Product Design Documents Does not Warrant Exclusion - Products Liability

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In *Kechi Township v. Freightliner, LLC*, Nos. 12-3118, 12-3134, 2014 WL 5906561 (10th Cir., Nov. 13, 2014), a Kansas Township and property insurer filed a products liability suit against a truck manufacturer claiming that a dump truck was defectively designed causing a fire that destroyed the Township's machine shop and its contents. Defendant argued that the expert testimony (fire caused by a loose connection) should have been excluded because the experts failed to: (1) exclude other possible causes of the fire; (2) analyze the manufacturer's designs; (3) speak with two Township employees; and (4) take into account that the dump truck could have been altered after the truck was placed into commerce.

The court of appeals affirmed the district court's rulings allowing the experts to testify because: (1) the experts employed the methodology in NFPA 921 and (2) were well qualified. The court rejected the argument that the expert's failure to speak with two employees rendered his opinion unreliable.

The court also rejected defendant's argument that the expert's opinion was unreliable because he did not consult, review, or analyze any drawings from the manufacturer related to the truck. Because that expert relied on another expert for origin and cause, his methodology was sufficient. The court determined that the law did not require the expert to consult design drawings to offer his opinions on the cause of the fire, given that he based his opinions on a plausible alternative methodology; namely, extensive study of the subject truck's engine and comparison of that engine with an exemplar truck. The expert also testified that he did not need to consult design drawings because the physical evidence was sufficient to determine how the truck's systems were designed.

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