

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Senior District Judge Richard P. Matsch**

Date: September 1, 2009  
Courtroom Deputy: J. Chris Smith  
FTR Technician: Kathy Terasaki

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Civil Action No. 05-cv-00086-RPM

CCC GROUP, INC.,

Plaintiff,

v.

MARTIN ENGINEERING COMPANY,

Defendant.

Ted D. Lee  
Richard K. Kornfeld  
Peter Gergely

Mark A. Hagedorn  
Peter A. Gergely  
Robert McRae

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**COURTROOM MINUTES**

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**Trial to Court on Defendant's Counterclaim Day One**

**8:59 a.m. Court in session.**

Court instructs counsel that all pleadings to be filed will be done in open court during the course of the trial pursuant to its trial practices.

Court's remarks regarding parties' filed written opening statements.

Argument by Mr. Lee and Mr. Hagedorn regarding defendant's motion to compel [394].

9:09 a.m. Defendant's witness, Todd Swinderman, sworn.

Direct examination of Mr. Swinderman by Mr. Hagedorn.

Reference to Plaintiff's Exhibits 4 and 7.

**Plaintiff's Exhibit 2 identified, offered, stipulated and received.**

Reference to Defendant's Exhibits A-23, D-62, D-63, G-42, A-83, H-9 and H-6.

**Defendant's Exhibit G-97 identified, offered, stipulated and received.**

**10:35 a.m. Court in recess.**

**10:44 a.m. Court in session.**

10:45 a.m. Continued direct examination of Mr. Swinderman by Mr. Hagedorn.

Reference to Plaintiff's Exhibits 4 and 7.

Reference to Defendant's Exhibits G-97, C-18, E-5, C-26, C-88 and A-31.

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**Defendant's Exhibit A-28 received.**  
**Defendant's Exhibit L-78 identified, offered and received.**

11:54 a.m. Cross examination of Mr. Swinderman by Mr. Lee.

Discussion regarding scheduling.

**12:05 p.m. Court in recess.**  
**1:30 p.m. Court in session.**

Court's statements regarding its review of privileged documents.

1:32 p.m. Continued cross examination of Mr. Swinderman by Mr. Lee.

Reference to Plaintiff's Exhibits 7, 102, 62, 134, 76, 84, 130, 102, 137 and 135.

**Plaintiff's Exhibit 2005 identified, offered and received.**  
Reference to Defendant's Exhibits B-79 and B-94.

2:18 p.m. Redirect examination of Mr. Swinderman by Mr. Hagedorn.

Reference to Plaintiff's Exhibit 7.

2:25 p.m. Defendant's witness, John Fischer, sworn.

Direct examination of Mr. Fischer by Mr. Hagedorn.

Reference to Defendant's Exhibits A-83 and A-31.

**Defendant's Exhibits L-1 and B-33 identified, stipulated, offered and received.**  
Reference to Plaintiff's Exhibit 30.

**3:14 p.m. Court in recess.**  
**3:29 p.m. Court in session.**

3:30 p.m. Continued direct examination of Mr. Fischer by Mr. Hagedorn.

**Defendant's Exhibits L-12, L-44, B-85, I-60, K-38, K-39 and L-16 identified, offered and received.**

**Plaintiff's Exhibit 42 identified, offered, stipulated and received.**  
Reference to Defendant's Exhibits A-41 and C-47.

Discussion regarding scheduling.

Argument by counsel regarding privilege documents [394].

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**Court rules on privilege documents as stated on record.**

**ORDERED: Defendant Martin Engineering Company's Motion to Compel, or in the Alternative, Motion To Sanction by Exclusion or Negative Inferences, filed August 28, 2009 [394], resolved pursuant to Court's rulings as stated on record. Counsel to produce documents as instructed (Docs. 184, 190, 194, 195, 436, 72, 94, 132, 150, 171, 172, 198, 258 and 376).**

**5:04 p.m. Court in recess.**

Trial continued. Total time: 6 hrs. 10 min.