

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

CLEARLAMP, LLC,
Plaintiff,
v. Case No.: 1:12-cv-02533
LKQ CORPORATION,
Defendant.

"CONFIDENTIAL" VIDEOTAPE DEPOSITION OF ROBERT SANDAU
Taken by the Plaintiff on the 24th day of October,
2012, at 5445 Corporate Drive, Suite 200, Troy,
Michigan, commencing at 1:07 p.m.

MATTHEW L. CUTLER
HARNESSE, DICKEY & PIERCE, PLC
7700 Bonhomme Ave., Suite 400
St. Louis, Missouri 63105
(314) 726-7500
Attorney for Plaintiff Clearlamp, LLC

BENJAMINE E. WEED
K&L Gates LLP
70 West Madison Street, Suite 3100
Chicago, Illinois 60602
(312) 372-1121
Attorney for Defendant LKQ Corporation

MICHAEL S. HALE
Michael S. Hale & Associates, PLC
39804 Rockcrest Circle
Northville, Michigan 48168
(248) 321-8941
Attorney for the Deponent, Robert Sandau

Present: Rocky Shatteck, Video Technician
REPORTED BY: Erin Stilman, CSR-3588, RPR-019261
31220 Berryhill Street
Farmington Hills, Michigan 48331

Page 2

1	TABLE OF CONTENTS	
2	ROBERT SANDAU	PAGE
3	Cross-examination by Mr. Cutler	4
4	Cross-examination by Mr. Weed	39
5	Recross-examination by Mr. Cutler	70
6		
7	EXHIBITS	
8	EXHIBIT DESCRIPTION	PAGE
9	#1 Subpoena	3
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

Page 3

1 Troy, Michigan
2 Wednesday, October 24, 2012
3 1:07 p.m.
4 - - -
5 (Deposition Exhibit No. 1 marked.)
6 VIDEO TECHNICIAN: We are now on the
7 record at 1:07 p.m. This is the videotape deposition
8 of Robert Sandau in the matter of Clearlamp, LLC,
9 versus LKQ Corporation, in the United States District
10 Court, Eastern District of Michigan. This deposition
11 is being held at 5445 Corporate Drive, Suite 200, Troy,
12 Michigan, 48098, on October 24th, 2012.
13 My name is Rocky Shatteck, and I am the
14 Videographer. I am present on behalf of Stratos Legal.
15 The Court Reporter is Erin Stilman, also present on
16 behalf of Stratos Legal.
17 Counsel will now state their appearance
18 and firm affiliation for the record.
19 MR. CUTLER: This is Matt Cutler from
20 Harness, Dickey and Pierce on behalf of Clearlamp, LLC.
21 MR. WEED: Ben Weed from K&L Gates on
22 behalf of LKQ Corp.
23 MR. CUTLER:
24 MR. HALE: Michael S. Hale of Michael
25 S. Hale and Associates, PLC, on behalf of the deponent,

Page 4

1 Robert Sandau.
2 VIDEO TECHNICIAN: Will the court
3 reporter please swear in the witness.
4 ROBERT SANDAU
5 was called as a witness and, having been duly sworn to
6 testify the truth, the whole truth and nothing but the
7 truth, was examined and testified as follows:
8 VIDEO TECHNICIAN: Please continue.
9 CROSS-EXAMINATION
10 BY MR. CUTLER:
11 Q. Good afternoon, Mr. Sandau. Have you had your
12 deposition taken before?
13 A. Probably 20 years or better.
14 Q. Okay. I'm going to go over a little bit of background
15 information just so you understand how the day's going
16 to go. I don't think we'll be here very long.
17 A. Okay.
18 Q. So we don't have to block off much more of your time.
19 But generally as you just know, just saw, the Court
20 Reporter swore you in. This proceeding here in this
21 conference room is intended to be the same as if you
22 were giving testimony in a court of law.
23 A. Okay.
24 Q. Do you understand that?
25 A. Yes.

Stratos Legal Services
800-971-1127

Clearlamp, LLC
Exhibit 2016

Redacted

Page 5	Page 6
<p>1 Q. And is there any physical condition or sickness or any 2 medication you might be taking today that would hamper 3 your ability to, to give truthful testimony today? 4 A. No. 5 Q. I'm going to ask you a number of questions today and 6 I'm going to be asking for your truthful answer. 7 Counsel, your attorney, and/or Mr. Weed might have the 8 a reason to interpose an objection to one of my 9 questions. 10 A. Okay. 11 Q. The objection doesn't mean, unless your attorney 12 instructs you not to answer, the objection doesn't mean 13 you shouldn't answer the question. It's just more of a 14 formality. We'll -- because we're doing this in a 15 conference room and not in front of the judge, we just 16 have to mark our objections and then let the judge rule 17 on those at some later date. 18 A. Correct. 19 Q. So the other thing too is I'll be asking you questions, 20 and I already talk fast enough, I'm going to try to 21 slow down for our Court Reporter, but another thing 22 that helps her out a bunch is if you could wait for me 23 to finish my question before you answer, and I will be 24 do my very best to make sure you've completed your 25 answer before I ask my next question.</p>	<p>1 A. (Nods head affirmatively.) 2 Q. With that background in mind do you have any questions 3 about what we're going to be doing today? 4 A. Nope. 5 Q. Okay. I'll do one other thing too, because you were 6 kind of shaking your head there, but then you did say 7 no, the other thing we need to have you to today if you 8 could is make your responses verbal in nature because 9 they don't show up on the transcript otherwise. 10 A. Okay. 11 Q. The video will get the head nods and whatnot, but for 12 the written transcript we need those. Okay. 13 MR. HALE: I just want to state for the 14 record that this deponent is under subpoena to be here, 15 although he had previously signed a settlement 16 agreement, which included a confidentiality with his 17 prior employer, LKQ Corporation, did contain that 18 covenant. He's obviously here by court order under 19 that subpoena, and I just want the record to properly 20 reflect that. 21 MR. CUTLER: And let me, as long as we 22 we're talking about that, let you know, Mike, we are 23 under a protective order in this case, so if anything 24 comes out from either side, and you guys want to 25 designate it as confidential in any way, shape, or</p>
Page 7	Page 8
<p>1 form, just let us know, that's fine. 2 MR. HALE: Thank you. 3 Q. (By Mr. Cutler): Mr. Sandau, I'm going to hand you 4 what has been marked as Exhibit No. 1 to this 5 deposition and ask you if you recognize that document. 6 A. Showing my age. 7 This is what the gentleman gave to me in 8 my driveway. 9 Q. Okay. Do you recognize that to be a subpoena 10 compelling your testimony here today? 11 A. Yes, I do. 12 Q. Okay. And you did receive this document? 13 A. Yes. 14 Q. Okay. Great. You can put that aside for now, I just 15 wanted to make that for the record. 16 I want to briefly, Mr. Sandau, walk 17 through your history, your work history, and I guess 18 we'd start with the last year of your schooling. What 19 is the last year you attended school? 20 A. 1974 Redford Union High School, senior. 21 Q. Okay. And that was 1974? 22 A. Correct. 23 Q. And what did you do when you graduated from Redford 24 Senior High? 25 A. I went to work.</p>	<p>1 Q. And that should have been more specific; where did you 2 go to work? 3 A. I worked in the automobile repair industry specifically 4 in body shops, mechanical, car dealers. 5 Q. What, what was your first, the first company you worked 6 for in, after you graduated in 1974? 7 A. Atlas Collision. 8 Q. Where is that located? 9 A. In Detroit, Michigan on Fenkell. 10 Q. Okay. 11 A. No longer in business. 12 Q. How long did you work for Atlas? 13 A. Probably three months. 14 Q. Okay. Do you recall who you worked for after you left 15 Atlas? 16 A. Yes. 17 Q. And what was that company? 18 A. Roger Peck Corporation, a Chevy dealer. 19 Q. And how long did you work Roger Peck Corporation? 20 A. Roger Peck, about four months, until I got into Penske. 21 Q. How long did you work with Penske? 22 A. About a year. 23 Q. Okay. So that takes us to approximately 1976 or so, is 24 that right? 25 A. In that area.</p>

Page 9	Page 10
<p>1 Q. Okay. What did you do after Penske? 2 A. Went to Glassman Olds right across the street. 3 Q. Was that Olds, O-I-d-s? 4 A. Oldsmobile, Glassman Oldsmobile. 5 Q. How long were you with Glassman? 6 A. I think about 18 months, in that area. 7 Q. And do you recall where you went after Glassman? 8 A. I went to Gene Hamilton Chevrolet. 9 Q. Do you recall how long you were at Gene Hamilton? 10 A. At Gene Hamilton, I think I was only with Gene Hamilton 11 about six months. 12 Q. If I'm doing my math right it sounds like we're about 13 in 1979 or so, does that sound about right? 14 A. No, it couldn't be because '76 Corvettes came out, '77; 15 it was in '77. 16 Q. Okay. 17 A. I can tell you by the year of cars and the cars I was 18 repairing. 19 Q. Okay. Very cool. Very cool. After Gene Hamilton 20 Chevy do you know where you were at? 21 A. James Martin Chevrolet. 22 Q. How long were you there? 23 A. James Martin Chevrolet; probably a year. 24 Q. And how about after James -- 25 A. A year and-a-half. Only reason I can tell you because</p>	<p>1 I'd ordered a 1978 Bronco, a brand new one, I had to 2 wait forever for it and I hadn't received it when I 3 left there. 4 Q. Gotcha. And how long -- I'm sorry where did you go 5 after James Martin Chevy? 6 A. At James Martin Chevrolet I went into business 7 refinishing commercial aircraft. 8 Q. Was that your own business? 9 A. I was a subcontractor to a stripping company called Ace 10 Aircraft. 11 Q. How long did you do that? 12 A. I did that for probably 18 months to two years. 13 Q. Do you know approximately what year we're in now? 14 A. We should be around 1979. 15 Q. Okay. 16 A. End of '79. 17 Q. After that job as a subcontractor refurbishing aircraft 18 what did you do? 19 A. I went back into automobile repair because I was 20 getting married and needed to stay home. 21 Q. Okay. 22 A. The company at that time was Morris Buick Company, 23 they're no longer in business. 24 Q. Do you recall how long you were with Morris Buick? 25 A. Not long.</p>
Page 11	Page 12
<p>1 Q. Okay. And who did you -- where did you go after Morris 2 Buick? 3 A. After Morris Buick I went to Stella Buick. 4 Q. And how long were you with Stella Buick? 5 A. Stella Buick was bought out by Bill Cook and it was 6 probably seven or eight years. 7 Q. Seven or eight years with that company? 8 A. Yeah. 9 Q. Okay. So are we in the 1988 timeframe then? 10 A. '87 or '88, yeah, it would be '88. 11 Q. Okay. What did you do after you left Bill Cook? 12 A. I went and ran a facility called Auto House in Royal 13 Oak, that would be Royal Oak. It's right at the border 14 of Royal Oak and Clawson. 15 Q. And how long were you with Auto House? 16 A. Four or five years. Honestly I don't recall. 17 Q. And after Auto House where did you go? 18 A. Mel Farr. 19 Q. Is that M-c-l F-a-r (sic)? 20 A. Yeah, Mel Farr. 21 Q. And what kind of company was that? 22 A. Mel Farr was an automobile dealer. 23 Q. How long were you with Mel Farr? 24 A. I was with Mel Farr for I believe seven years. 25 Q. Does that take us to the late 1990's?</p>	<p>1 A. Actually it would be 2000. 2 Q. 2000? 3 A. It went out of business in 2000. 4 Q. Okay. After Mel Farr where did you start working? 5 A. LKQ. 6 Q. LKQ. And LKQ is the defendant in this litigation 7 that's referenced on that subpoena, is that correct? 8 A. Correct. 9 Q. How long did you work for LKQ? 10 A. I believe it to be seven years. 11 Q. Until 2007? 12 A. Around there. 13 Q. And when you first started at LKQ what was your job 14 title? 15 A. I was operations manager. 16 Q. At what location? 17 A. Belleville. 18 Q. And what were, what were your job responsibilities as 19 operations manager? 20 A. In charge of inventory, the delivery, the shuttle 21 service which was our inter-company deliveries, 22 processing vehicles, the bumper repair facility, scrap 23 metals recovery. 24 Q. Anything else? 25 A. I could go on for days about the duties of an</p>

Page 13

1 operations manager but in general.
2 Q. Is it fair to say that you were the head person at that
3 Belleville facility?
4 A. I answered to Doug Cortelini who was the site manager.
5 Q. Would you spell Cortelini's last name if you can?
6 A. C-o-r-t-e-l-i-n-i, I believe it is. Douglas.
7 Q. So Doug Cortelini was the top LKQ employee at the
8 Belleville facility?
9 A. Yup.
10 Q. And did your job responsibilities at LKQ change at any
11 time between the time that you was, you were hired you
12 were hired there in 2000 to the time that you stopped
13 your employment?
14 A. Could you clarify that.
15 Q. Sure. Did you have -- let me ask a different question.
16 Did you have any other job titles at LKQ during your
17 tenure with LKQ?
18 A. No. Operations manager covers a very broad spectrum.
19 Q. And you were the operations manager the entire time you
20 worked for LKQ, correct?
21 A. Correct.
22 Q. How many facilities did LKQ have let's say starting in
23 2000?
24 MR. WEED: Objection, foundation.
25 Q. (By Mr. Cutler): Go ahead.

Page 15

1 want to be a one-faceted auto recycler that just dealt
2 with one thing. I mean there's so many things in the
3 industry that people have to buy and as a body shop
4 manager if you can make one call and get a majority of
5 the components you need to put a car, or a truck, or
6 whatever the vehicle may be, back together, well, it
7 simplifies things for the consumer obviously. And that
8 was LKQ's goal was to be able to provide for their
9 customers a one-stop shopping with a very high quality
10 product.
11 Q. When you started with LKQ in 2000, were headlamps a
12 product that LKQ offered?
13 A. No, they weren't -- well, yes. Let me rephrase that.
14 Headlights are one of the most highly requested items,
15 along with front bumper covers. Yes, we did, we sold
16 recycled.
17 Q. Headlamps or bumpers?
18 A. Headlamps and bumpers. We sold recycled everything.
19 Q. Gotcha. Now those headlamps that LKQ sold in 2000 that
20 you just referenced, were they refurbished in any way
21 before you resold them?
22 A. We would polish them, you know, on-site, polish them
23 with a buffing wheel if they had minor imperfections.
24 For the most part everything was inventoried
25 accurately. If it wasn't something that an insurance

Page 14

1 A. At that time, we were fairly small. We were called a
2 sick-pack of our region. We were broke up into
3 regions. I honestly don't know the exact number in
4 2000. We grew very rapidly as a corporation.
5 Q. And when did that rapid growth occur?
6 A. I mean from day one we were acquiring other facilities
7 before we went public, and after that we acquired a
8 significant amount more.
9 Q. When, if you recall, did LKQ become public?
10 A. 2002 or '03 would be my guess.
11 Q. And were you familiar with the strategy of growing that
12 LKQ had at that time?
13 MR. WEED: Objection, vague.
14 A. Do you want to rephrase it then?
15 Q. (By Mr. Cutler): No. Go ahead. Well, do you
16 understand, do you understand that question?
17 A. We obtained our growth through acquisitions and the
18 need to fill -- we recognized the need of the customer
19 to have one-stop shopping, you know. We wanted to get
20 the most for our, you know, constituents I guess, our
21 shareholders, as any business would.
22 Q. And what do you mean by "one-stop shopping"?
23 A. That if you called us for, for a fender, typically if
24 you need a fender you may need other components. You
25 may need a bumper. You may need an engine. We didn't

Page 16

1 company would buy. Our claim was, you know, an I.Q.,
2 not an insurance company so people looking up on-line
3 or calling would know or the sales rep told them
4 there's no sense in sending it to a dealership or a car
5 body shop if it's not of the quality that will be
6 expected or accepted in the industry. It's still a
7 good part but the expectation is that it would be
8 perfect in a used headlight component. It's nearly
9 impossible to be perfect unless it's a take-off.
10 Q. And what's a "take-off"?
11 A. A take-off would be an over-run, you know, where you
12 buy it directly from an O.E. manufacturer, maybe
13 they're an obsolete material for the current model
14 year or product line, so you would have good stuff like
15 that to sell.
16 Q. How did LKQ obtain automobiles to be, to -- let me ask
17 you this: Did LKQ obtain automobiles in the
18 2000 timeframe when you first started to harvest parts
19 off of them?
20 A. Yes.
21 Q. Okay. And how did they go about obtaining those
22 automobiles?
23 A. Through auction and through contract with O.E.
24 manufacturers.
25 Q. Okay. And is it fair to say, I'm trying to go back to

Page 17	Page 18
<p>1 your earlier testimony, is it fair to say that when 2 those cars came in if the headlamp was insurance 3 quality on that car, LKQ was able to take it off of the 4 car and resell it, is that correct? 5 A. That is correct. 6 Q. And if the headlamp came in and it was not insurance 7 quality, LKQ was unable to resell, it is that correct? 8 A. No. 9 Q. Okay. Tell me how we took -- 10 A. Everything is sellable. It truly depends on which 11 market that it would be sold in. 12 Q. Gotcha. 13 A. You know, we cater primarily to the late model market 14 which is a very much insurance-driven market. 15 Insurance-driven meaning that you're a consumer, you 16 have full coverage insurance on your car, it's being 17 repaired. The insurance company is dictating as to 18 what type of part will go on your car, whether it be a 19 quality or recycled component, an after-market 20 component, or a factory O.E. component. 21 Q. If the headlamp was not insurance quality where did LKQ 22 sell the headlamp? 23 A. Smaller body shops, people who were repairing the car 24 for themselves, you know, someone that, you know, a 25 secondary market so to speak.</p>	<p>1 Q. What were the, roughly the volumes of those types of 2 sales for LKQ? 3 MR. WEED: Objection, foundation. 4 A. I honestly couldn't give you that number. 5 Q. (By Mr. Cutler): Okay. How about as compared to 6 insurance quality parts that LKQ sold? 7 MR. WEED: Same objection. 8 A. The majority of the high demand insurance quality parts 9 that LKQ would sell would sell within 30 days -- 10 Q. (By Mr. Cutler): Okay. 11 A. -- at that time. 12 Q. Is it fair to say that the headlamps that came in that 13 were not insurance quality could not be sold to the 14 insurance companies, isn't that correct? 15 A. That would be a fair statement, yes. 16 Q. Did there come a point in time where you were presented 17 with a opportunity to take non-insurance quality 18 headlamps and have them refurbished for LKQ? 19 MR. WEED: Objection, vague. 20 Q. (By Mr. Cutler): Go ahead. 21 A. To answer your question, yes. 22 Q. Okay. And can you describe for me the circumstances 23 surrounding that opportunity? 24 A. We were doing them in-house, you know. Minor 25 imperfections I would sand down and polish them at my</p>
Page 19	Page 20
<p>1 location as will as other guys at other locations, you 2 know, the stuff that you could take care of and fix 3 like taillamps and headlamps. The non-coated headlamps 4 at that time were headlamps being produced that did not 5 have a scratch coating on them. So you could polish 6 that out, no different than polishing a scratch out on 7 your car at that point in time, and resell it. 8 Q. Would those be considered insurance quality headlamps? 9 A. At that point in time for, for that specific model, I 10 mean there are so many, so many variations of headlamps 11 and manufacturers and processes that one uses versus 12 another one. You know, the bare headlamps you could do 13 that with. 14 Q. Okay. And describe for me, if you will, the process 15 that you undertook from start to finish when you're 16 talking about this specific type of refurbishing you 17 were doing at that point in time? 18 A. First up would be to clean the part off, remove any 19 foreign matter from the service. Second step would be 20 to wet-sand it, you know, with a fine, very fine sand 21 paper, followed by buffing compound, usually Rouge and 22 Lindy, the, basically jeweler's metal polishing 23 compound works the same on plastic. We would do the 24 ones that we could because you had a sale for it I 25 mean.</p>	<p>1 Q. And is that, does that comprise all the steps of the 2 process that you undertook at that point in time? 3 A. For the most part, cleaning it, sanding it, polishing 4 it, you know, wiping it down and packaging it. 5 Q. Okay. Now I think you mentioned that the process you, 6 let me confirm, the process you're talking, you were 7 just talking about was for headlamps that had minor 8 imperfections, correct? 9 A. Correct. 10 Q. For headlamps that had major imperfections what did LKQ 11 do with those headlamps? 12 MR. WEED: Objection, foundation. 13 Q. (By Mr. Cutler): I'll rephrase. Were there, were 14 there headlamps that had major imperfections that you 15 would, would be brought into LKQ? 16 A. Yes. 17 Q. Okay. And with those -- those were not insurance 18 quality, correct? 19 A. If they had major imperfections they weren't sellable. 20 Q. Okay. And did there come a point in time where you 21 were presented with an opportunity to take headlamps 22 with more major imperfections and have them 23 refurbished? 24 A. Yes. 25 Q. And what was that opportunity?</p>

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.