

# Bus & Motorcoach NEWS

WHAT'S GOING ON IN THE BUS INDUSTRY

## MCI bus crash victim reportedly under investigation

LAS VEGAS — “Shocking new evidence” appeared on a Las Vegas television station as attorneys for Motor Coach Industries were preparing appeals of an \$18.7-million jury award following a bicyclist’s fatal collision with an MCI motorcoach.

KLAS-TV reporter George Knapp obtained a long-hidden audit of billing problems at the

University of Nevada-Reno medical school where the victim practiced hand surgery.

Kayvan Khiabani, 51, was killed on April 20, 2017, while riding his bike next to a bus. Witnesses said he bumped into the bus and was run over.

On the day of the accident, the reporter found, Khiabani had been told he was losing his job. Some of

Khiabani’s colleagues told Knapp they immediately were suspicious that the collision was not accidental.

This past March, a jury awarded Khiabani’s sons \$18.7 million in damages from MCI, which manufactured the bus involved in the accident. The jury said MCI failed to provide an adequate warning system that could have avoided the accident, but said bus

defects didn’t cause the accident.

MCI has since requested a new trial in the case.

The 2016 audit “uncovered widespread billing errors and serious lack of oversight” at the university’s medical clinics, the station reported.

The “blatant billing problems” included “overbilling of Medicare, Medicaid and private insurance...

A Sept. 2016 email mentioned the most serious compliance issue centered on someone identified as ‘Dr. K.’ Dr. K turns out to be Dr. Kayvan Khiabani, a hand surgeon who earned more than a million dollars from UNR in 2015.”

Administration of University of Nevada medical practices was being transferred from the Reno

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The theme of this year’s Spring Fling was a tribute to Trailways’ 80 years of service, and several vintage Trailways buses made the scene, including (left to right) a 1955 Flixible VL100, 1964 GM PD4106 and 956 GM PD4104.

## Spring Fling 2018 focused on history of Trailways system

HERSHEY, Pa. — Nearly 500 bus fans and industry veterans made the pilgrimage to Hershey last month for the Museum of Bus Transportation’s annual Spring Fling and were rewarded with sunshine and the opportunity to mingle with more than 60 antique and modern buses.

The vehicles on display ranged from a 1908 White to 2018 Prevost and Van Hool demonstrator coaches.

Two major highlights were a pristine 1945 Aerocoach and a rare 1951 Brill school bus.

The Aerocoach was restored mechanically by ABC Companies some time ago, but in the past year

Infanti Bus & Coach Upholstery, of Linden, N.J., lovingly refurbished the interior, creating the feel and appearance of a brand new coach, circa 1945 — a sort of transportation time machine.

Early in the 1950s, ACF Brill built a few school buses based on its C31 transit model. Krapf Coaches sponsored the restoration of this exceedingly rare bus.

The theme of this year’s Spring Fling was a tribute to Trailways’ 80 years of service, with Trailways Chairman Jonathan Berzas and President Eva Hotard on hand with several staff members.

Trailways has been a major

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## Temsa and U.S. distributor CH Bus Sales parting ways

WILMINGTON, Del. — Turkish bus maker Temsa and its U.S. distributor, CH Bus Sales, are undergoing a messy divorce.

Temsa recently told CH Bus it was terminating their eight-year-old distribution agreement and also filed a lawsuit against CH Bus requesting “declaratory relief” to protect “products and collateral” that are in the possession of the Las Vegas-based distributor.

CH Bus was delinquent on \$7.7 million in payments for motorcoaches and parts, Temsa alleged in a December 2017 letter, according to documents filed in U.S. District Court for Delaware.

Temsa notified CH Bus on March 20 that it was terminating their distribution agreement “because of CH’s material breaches and failure to cure the same during any applicable period.”

Temsa was planning to open Temsa North America in the U.S. on June 20 to distribute its own motorcoaches.

Michael Haggerty, chairman and majority owner of CH Bus Sales, said the company also has sued Temsa and that both parties agreed to mediate the matter. He said the issue would remain unresolved pending mediation.

“We have filed suit against each

other and we will remain the distributor until such time that we have resolution,” Haggerty said in an email.

However, industry officials familiar with the matter disputed that assertion. They insisted that while CH Bus can continue to sell any Temsa parts and vehicles it owns it can no longer do anything under the Temsa name.

On June 6, the parties filed a stipulation that they agreed to seek

referral to a federal magistrate judge for a mediation session within 60 days. They agreed to seek a private mediator if the judge is not available.

In the meantime, the parties stipulated that they would undertake settlement discussions over the financial issues.

In its March 20 notice to CH Bus, included in court filings,

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# THE DOCKET

## Former UMA Chair Krapf pushes reforms before Congress



*By Ryan Gray  
School Transportation News*

WASHINGTON — Dale Krapf, immediate past UMA board chair and former National School Transportation Association president, recommended that a congressional committee direct the Federal Motor Carrier Safety Administration not to move forward with implementing a hike in insurance limits for private school bus and motorcoach companies.

Krapf testified before the House Transportation and Infrastructure Committee's Highways and Transit Subcommittee on behalf of the UMA and NSTA.

Congress passed the Fixing America's Surface Transportation (FAST) Act in December 2015 to provide the first long-term funding of highway infrastructure in more than a decade.

The FAST Act authorized

\$305 billion over fiscal years 2016 through 2020 for various highway programs, including public transportation, motor vehicle safety, technology and statistics.

Under the FAST Act, Congress also directed FMCSA to halt its attempts to raise the insurance limits on private commercial passenger carriers that NSTA and the United Motorcoach Association said would have quadrupled costs for both the private school bus and motorcoach industries.

During his recent testimony before the subcommittee, Krapf said FMCSA seeks to raise the limits "despite the lack of compelling evidence demonstrating current minimum limits."

Krapf, chairman of the board for school bus and motorcoach company Krapf Group in West Chester, Pa., added that the Transportation Committee "wisely" foresaw that raising the limits

could be used as a barrier to new passenger carriers and could result in a burden to smaller fleets.

Congress responded in the FAST Act by directing FMCSA to conduct two comprehensive reports on the effects of raising the limits and provide the results to legislators before proceeding.

The first study, which was completed in March, investigated crashes, injuries and fatalities involving over-the-road buses and school buses. The study analyzed if companies of various sizes had adequate insurance to cover the claims.

It also analyzed if insurance affects the behavior and safety record of motor carriers, if insurance reduces the rate of crashes, and anticipated impacts of increasing insurance premiums.

A second study, which Krapf said to NSTA's and UMA's knowledge has yet to be completed,

CONTINUED ON PAGE 6 ►

Dale Krapf (left at table), immediate past UMA board chair and former National School Transportation Association president, testified before the House Transportation and Infrastructure Committee's Highways and Transit Subcommittee on behalf of the UMA and NSTA.

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# FMCSA employment screening program earns gold award

WASHINGTON — The Federal Motor Carrier Safety Administration's Pre-Employment Screening Program (PSP) earned a Gold Hermes Award in the Electronic Media/Social Media/Interactive Media category for its redesigned home page at [www.psp.fmcsa.dot.gov](http://www.psp.fmcsa.dot.gov).

The Hermes Creative Awards is an international competition for creative professionals involved in the concept, writing and design of traditional and emerging media.

Hermes Creative Awards recognizes outstanding work in the industry while promoting the philanthropic nature of marketing and communication professionals.

Approximately 6,500 entries were submitted from throughout the United States and 21 other countries. Judges are industry professionals who look for companies and individuals whose talent exceeds a high standard of excellence and whose work serves as a benchmark for the industry.

PSP provides immediate online access to commercial drivers' safety histories, with the drivers' written authorization, to assist motor carriers with the driver hiring process.

FMCSA contracts with NIC Federal LLC to develop and maintain PSP. FMCSA is responsible for all of the PSP data and general oversight, while NIC Federal handles daily operations, customer service and technology development and maintenance.

"The home page is the first stop for motor carriers and drivers to learn more about the program," said Laura Johnson, NIC Federal General Manager. "It's informative and inviting, which leads to more participation. Effective design supports FMCSA's goal to increase usage and awareness of this important program."

FMCSA and NIC Federal dedicate creative resources to encouraging PSP adoption because the program has proven safety

benefits.

According to a study released by FMCSA, motor carriers using PSP have, on average, decreased crash rates by 8 percent and driver out-of-service (OOS) rates by 17 percent.

It is estimated that in the 12 months studied, the motor carrier group using PSP prevented 863 crashes and more than 3,500 driver OOS incidents. The results of the study can be found at <https://rosap.ntl.bts.gov>.

# Head of state highway officials association retiring

WASHINGTON — The executive director of the American Association of State Highway and Transportation Officials has notified the association's board that he plans to retire at the end of 2018.

Frederick G. "Bud" Wright called AASHTO "a wonderful place to work" but said it was time to go.

"In my experience — and that experience working in transportation now spans more than 43 years — you will at some point feel the moment," Wright said.

"And I am feeling that moment

...This is very bittersweet for me, but I am proud of where we are as an association and I prefer the idea of leaving maybe too soon rather than too late."

Wright was appointed to be the seventh executive director of the nearly 104-year-old association in November 2012. He led AASHTO through the development of a new strategic plan that broadened the organizational focus to include all transportation modes.

AASHTO also is implementing a complete overhaul of its committee structure designed to

help it be more nimble and responsive to emerging technologies and transportation policies.

AASHTO President and Tennessee Department of Transportation Commissioner John Schroer told the board of directors that the association's executive committee would begin a search for a new executive director.

Prior to joining AASHTO, Wright was a consultant based in Alexandria, Va. He served as executive director of the Federal Highway Administration from 2001 to 2008, assisting the administrator in

establishing policies, programs and priorities for the \$40 billion annual federal-aid highway program.

As FHWA's chief operating officer, he was also responsible for a workforce of more than 2,000 transportation professionals and an annual operating budget of \$400 million. From 2001 to 2002, Wright was the FHWA program manager for safety.

Before that, he was director of the Office of Budget and Finance, where he worked extensively on the Transportation Equity Act for the 21st Century (TEA-21).

Wright began his career in 1975 as an economist in the FHWA Office of Planning. In 1986, he was selected for a congressional fellowship, serving with the Senate Appropriations Committee staff. In 1989-90, he was a member of the National Transportation Policy Team, which developed former Transportation Secretary Samuel Skinner's National Transportation Policy.

From 1990 to 1992, Wright served as a special assistant to FHWA's executive director, developing legislation.

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## Operation Safe Driver Week July 15-21

GREENBELT, Md. — The Commercial Vehicle Safety Alliance's 2018 Operation Safe Driver Week will take place July 15 to 21.

Traffic safety personnel will be on the lookout for unsafe driving behaviors by commercial motor vehicle drivers and passenger vehicle drivers as they work toward zero deaths on roadways.

Unsafe driver behaviors by CMV drivers and passenger vehicle drivers continue to be the leading cause of crashes. The Federal Motor Carrier Safety Administration's "Large Truck Crash Causation Study" cites driver be-

havior as the critical reason for more than 88 percent of large truck crashes and 93 percent of passenger vehicle crashes.

Examples of dangerous driver behaviors that enforcement personnel will be tracking throughout Operation Safe Driver Week are speeding, distracted driving, texting, failure to use a seatbelt while operating a CMV or in a passenger vehicle, following too closely, improper lane change, and failure to obey traffic control devices.

CVSA's Operation Safe Driver Program was created to help reduce the number of crashes, deaths

and injuries involving large trucks, buses and passenger vehicles due to unsafe driving behaviors. During Operation Safe Driver Week, there will be increased CMV and passenger vehicle traffic enforcement.

Operation Safe Driver Week is sponsored by CVSA, in partnership with FMCSA and with support from industry and transportation safety organizations.

It aims to help improve the behavior of all drivers operating in an unsafe manner through educational and traffic enforcement strategies to address high-risk driving behaviors.

## Dale Krapf

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analyzes the differences between state and federal insurance requirements; if minimum levels of insurance adequately cover medical care, compensation and other costs; and the frequency with which insurance claims exceed the current minimum levels.

Krapf told the subcommittee that the important motor carrier policies enacted in the FAST Act were just in a nick of time.

"The nation needs and de-

serves a thriving passenger carrier industry supported by rules and regulations that actually improve safety," he said.

Krapf added that NSTA and UMA support H.R. 2120, known as BUSREGS-21, which would return to Congress the ability to set financial responsibility, similar to the practice in all state legislatures.

Krapf also expressed frustration with how FMCSA records its crash statistics for motor carriers. He relayed an incident where a Krapf bus was stopped at a red light when a car struck it from behind at a high

speed. The crash killed the driver of the car, who investigators later determined was intoxicated.

While the crash was not the fault of the Krapf driver, FMCSA assigned the fatality to the company and posted it online for two years. The FAST Act established a procedure for removing crashes that were not preventable by the motor carrier.

"A large part of our identity and success stems from our reputation," Krapf said. "A blemish on our outstanding record of safety from the reporting of the accident

## Colorado approves \$451 million over two years for road projects

DENVER — Colorado Gov. John Hickenlooper signed into law legislation to fund \$451 million in state highway projects over the next two years.

The legislation calls for periodic transfers from the state's general fund to the state highway fund to provide a stable source of revenue dedicated entirely to roads.

"The state has significantly decreased its contribution of general state revenue available in recent years to fund critical priority transportation infrastructure needs, and

current transportation funding mechanisms do not provide adequate revenue to keep pace with the increasing demands on transportation infrastructure statewide," according to the text of the bill.

Colorado Department of Transportation spokeswoman Amy Ford said CDOT is sifting through a long list of transportation projects to address, including installation of passing lanes and guardrails on rural roads and highways, as well as expansion projects along Interstates 70 and 25.

Safety Improvement Category (BASIC) system for a variety of motor carrier safety violations.

"My own company has experienced a loss of business because of this unnecessary decision," he said. "UMA and NSTA seek this subcommittee's assistance to correct this injustice and remove information on passenger carriers from public view until all CSA reforms, as dictated by the FAST Act, are completed."

*This article was reprinted with permission from School Transportation News magazine.*

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## Spring Fling

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supporter of the museum and its mission of preserving the industry's history.

Spring Fling centers on showing off the evolution of buses, with coaches parked inside the facility as well as all around the museum's campus and at the George M. Sage

Memorial Annex.

There also were 38 vendor tables at the "flea market" offering an assortment of bus memorabilia. As they have for every Spring Fling, Wolfs Bus Line provided shuttle service between venues.

A parade of buses that was held for the first time in 2017 proved to be quite popular this year, with 38 buses driving past

camera-wielding spectators. Trophies were awarded for Best Conversion (Mike Middaugh's 2001 Prevost XLII), Best School Bus (Katrina Falk's 1988 Crown) and Best Historic Bus (Friends of the New Jersey Transportation Heritage Center's 1953 TD4512).

The trophy for greatest distance traveled went to Dan and Stan Holter's Richfield Bus Company

1973 MC7, based in Minnesota.

This year the museum offered a VIP package that included presentations on the history of the iconic Trailways Eagle coach and the opportunity to ride an antique bus in the parade.

"With the help of industry leaders like Trailways, Krapf, Fullington, Richfield and all the major bus builders, the Museum of Bus Trans-

portation is making great strides towards our goal of both representing our industry and preserving its heritage," said David Schmidt, chairman of the museum.

"Lakeland Bus Lines even lent us a group of mechanics to help get our fleet ready," Schmidt said. "Bernhard Bus Parts even auctioned some parts and donated the proceeds. We are very grateful."



Among the more than 60 antique and modern buses on display last month at the Museum of Bus Transportation's annual Spring Fling were (left to right) a 1945 Aerocoach, 1956 Scenicruiser and 1951 Brill school bus.



Several school buses also were on display during Spring Fling, including (left to right) a Thomas school bus, two Crown school buses and a restored International school bus.



An "Eaglet," a miniature version of an Eagle bus, driven by Angel Tollens, led the parade of buses during the 2018 Spring Fling.



The driver's area of this 1945 Aerocoach, as well as the seating in the bus, was restored by Infanti Bus & Coach Upholstery.

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# I've got a bridge to sell you, but the clearance is low

By Dave Millhouser



My new boss Jim and I were on a sales trip in western Pennsylvania. Jim only lasted a few months, and I don't remember his last name.

He had been a punt returner for University of Maryland, so it's likely he didn't remember it either.

We had driven a demo to a major bus line and were trying to convince the owners that Eagles were the best buses for them.

Jim was nonplussed when I insisted on pulling the bus into the garage, since it was clear that it was going to be a tight fit. The coach was well over 11 feet high, and the door that was originally 12 feet high had lost some of its majesty when the garage floor was resurfaced.

The bus squeezed in, and later Jim came to understand that bus operators were reluctant to buy coaches that wouldn't fit in their

garage. This customer eventually chose a competitor with lower clearance, in part because he figured out that even a twig or a bounce on a fast approach to his garage entrance might cause trouble.

In the aftermath of the April accident on a Long Island parkway, where a bus struck an overpass, it seemed useful (and perhaps entertaining) to revisit the subject of bus height. All of you who memorized my previous column on this topic are excused from the rest of this.

The driver in the Long Island incident made it all the way under the overpass, although the top of the bus arrived mangled and late. It takes a head of steam to pull that off (pun intended).

A couple of things can be learned from this. The driver was using a GPS that was programmed for automobiles.

Gee whiz, it had no idea that it was perched in a 12-foot-high motorcoach.

GPS routinely fibs anyway, so if you are going to use it, trust but verify. In this case that meant peeking out the windshield.

The coach driver was from another state, but the entrance to the parkway is clearly marked with regard to commercial vehicles.

Clearance signs aren't "suggestions" but rather signals that the law of physics stating "no two objects can occupy the same space at the same time" will be enforced.

In this case the bus roof and bridge battled to the death, and the bridge won.

It's possible that the driver didn't know the height of the coach. The height of modern buses is posted on a placard somewhere in the driver's area.

If you're driving an unfamiliar model of a coach, it's worth checking that jewel out before a questionable clearance looms in your windshield.

Modern motorcoaches vary in height from 11 feet 6 inches all the way up to 13 feet 2 inches. Although most current garage doors are 14 feet or higher, some of those antique 12-foot jobs still lurk.

Interstate highway overpasses are a minimum of 13 feet 6 inches, but beware construction zones,

building porticoes and sneaky underpasses when you transition to local roads.

As you motate down an unfamiliar road, it is best to read the WHOLE clearance sign.

Sometimes it gives you the height at the side of the roadway, other times in the middle of an arched overpass.

And occasionally signs lie. When in doubt, slow down, and even stop and look. If a road or driveway has been resurfaced or has snow buildup there may be less clearance than advertised.

Buses have been known to fib too. If yours has aftermarket equipment or antennas on top, trusting the manufacturer's placard may get you in doo-doo.

No two buses of the same model are EXACTLY the same height. Leveling valve adjustment isn't always precise, so take care.

Some coaches allow the driver to raise the bus for nasty angles of departure or lower it for special circumstances. It's a good idea to know which position that switch is in and how much difference it makes.

It can get hairy if you lower the coach and then turn off the engine. Some models return to normal height, and if you're parked under something low it can get ugly.

Boiled down, it's good to be familiar with your route and to look out the windshield. That seductive voice in your GPS is NOT your friend. In fact, trust nobody.

Bear in mind that the purveyor of this sage advice once had to back an Eagle demo all the way down the western approach to the Brooklyn Bridge.

Fortunately it was late at night and the police officers who gathered to watch the spectacle were all good sports (but there were LOTS of flashing blue lights to punctuate my folly).

I had made the mistake of trusting my "navigator," who was more adept at reading maps than the signs that clearly spelled out the impending low clearance.

We both looked up in the nick of time.

*Dave Millhouser is a bus industry marketing consultant and freelance writer. Contact him by email at Davemillhouser@gmail.com.*

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MCI crash

CONTINUED FROM PAGE 1

campus to Las Vegas. The television station obtained an email stating that “this doctor would not be hired by UNLV (University of Nevada-Las Vegas) and that his behavior should be reported to the medical board and federal government.”

On the day “Khiabani learned he was being fired, he died in a collision with a bus,” KLAS reported. “But the jury never heard that Khiabani had been fired or that he was under investigation.”

Hearings on some motions submitted by MCI since the jury award, including a motion for a limited new trial, are scheduled in Clark County District Court on July 6.

The jury delivered its verdict on March 23. In May, MCI filed several motions on technical grounds, including an appeal to the Nevada Supreme Court. The filings also addressed the new information regarding Khiabani’s professional status.

In “A Motion for a Limited New Trial,” one section is headed, “Newly Discovered Evidence and Its Relevance: The Channel 8 News Reports Uncovered Shocking New Evidence.”

Much of this section is redacted



MCI is asking for a new trial in the case of a Las Vegas accident involving a J4500 motorcoach like this one.

ed in the document available for public view but the headings remain visible:

- The New Evidence Casts Doubts on the Jury’s Determination of Damages and Even Liability
- If Plaintiffs or Plaintiffs’ Counsel Were Aware (redacted) then the Judgment Must Be Set Aside for Fraud on the Court
- A New Trial is Necessary Even if Plaintiffs Were Unaware

• Plaintiffs Had an Affirmative Duty to Obtain and Disclose the Information, and Their Disclosures and Answer to an Interrogatory Led MCI to Believe They Had Relayed All Relevant Information

• It Is Very Likely that MCI Could Not Have Discovered This New Evidence Before and Never Would Have But for it Being Leaked to the Press

After the accident occurred, the Las Vegas Review-Journal re-

ported that Khiabani “happened to be cycling parallel to a Motor Coach Industries bus about 10:30 a.m. when Khiabani appeared to accidentally veer left, witnesses told police. The quick move caused him to bump into the passenger side of the bus, then dip into the path of the vehicle. The 50-year-old driver of the tour bus stayed at the scene and did not show signs of impairment, police said. The coroner ruled Khiabani’s death an

accident.”

Ryan’s Express of Phoenix, Ariz., operated the bus.

In one of its motions before the court, MCI attached a transcript of trial testimony by the motorcoach’s driver, Edward Hubbard, who had been driving buses since 1997.

He testified that he saw Khiabani in the bicycle lane, five to seven feet to the right of the motorcoach. He believed he would pass the bicycle “without incident,” although he momentarily lost track of the rider due to blind spots on the right side of the coach.

Hubbard said he executed a “rocking and rolling” maneuver in his seat about every 50 feet to “eliminate blind the spots” in his view of the bicycle lane. After the nose of the bus had passed the rider, he testified that he saw, in his peripheral vision, the bicyclist drift toward the motorcoach.

“I proceeded to turn my steering wheel to the left to avoid hitting him, because he was that close ...he was coming in,” Hubbard said. “He wasn’t straight. He was coming in.”

The suit was pursued on behalf of Khiabani’s two sons. His wife, dentist Katayoun Barin, was diagnosed with cancer three months before the accident and died before

CONTINUED ON PAGE 11

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MCI crash

CONTINUED FROM PAGE 10

the case was tried.

Even without new evidence, the March 23 verdict was destined for appeal. The jury found no vehicle defects responsible for the fatal collision before awarding Khiabani's sons \$18.7 million in damages from MCI.

During the one-month trial before Judge Adriana Escobar, the family's attorneys alleged that the 2008 MCI J4500 motorcoach was defective in design because it had a right-side driver's blind spot; lacked proximity sensors to warn of the bicyclist's presence; lacked a rear-wheel protective barrier; and had an aerodynamic design that could cause a wind blast to destabilize and pull in bicyclists.

After deliberating for less than a day in Clark County District Court on March 23, the jurors returned a verdict finding none of those four defects "made the coach unreasonably dangerous and a legal cause of Dr. Khiabani's death."

Then, the jury answered "yes" to the fifth question on the verdict form, "Did MCI fail to provide an adequate warning that would have been acted upon?"

The jurors awarded actual damages but decided MCI was not liable for punitive damages.

A key point in MCI motions is the failure of the verdict form to ask jurors whether "the failure to warn" was in fact a cause of the accident. In a motion seeking "a judgment as a matter of law," MCI alleges:

"Plaintiffs did not meet their burden to demonstrate that a warning would have made a difference. Rather, the evidence conclusively demonstrates that, even if MCI had given a warning, (the driver) did not have time to heed it before the collision.

"Plaintiffs failed to meet their burden to establish causation because they did not propose a specific warning that should have been given or demonstrate that any such warning would have prevented Dr. Khiabani's death. Further, judgment as a matter of law is appropriate because MCI was not required to manufacture a motorcoach that could prevent injury to bicyclists."

Later in that motion, the attorneys add, "MCI was not required to make a motorcoach that does not create an air disturbance in the first place."

MCI concluded in the motion for judgment: "MCI does not argue that manufacturers of defective products can never be liable under the wrongful-death statute. But the plaintiffs in those cases

need to at least show a 'wrongful act or neglect' — conduct that negligently, recklessly or intentionally causes harm."

In a separate motion, MCI states, "The district court did not submit the failure-to-warn claim to the jury at all. Over the defense (MCI) objection, the district court submitted interrogatories on only some of the elements of a failure to warn case, leaving out causation...

the district court erred and a new trial is required."

Another MCI motion requests that pre-trial settlements made by other defendants offset the \$18.7 million awarded by the jury. While the dollar totals are redacted in this motion, it states that the Khiabani family agreed to settlements with Michelangelo Leasing, doing business as Ryan's Express, and motorcoach driver Hubbard; Bell

Sports, maker of the victim's bike helmet; and SevenPlus Bicycles, which sold the bicycle.

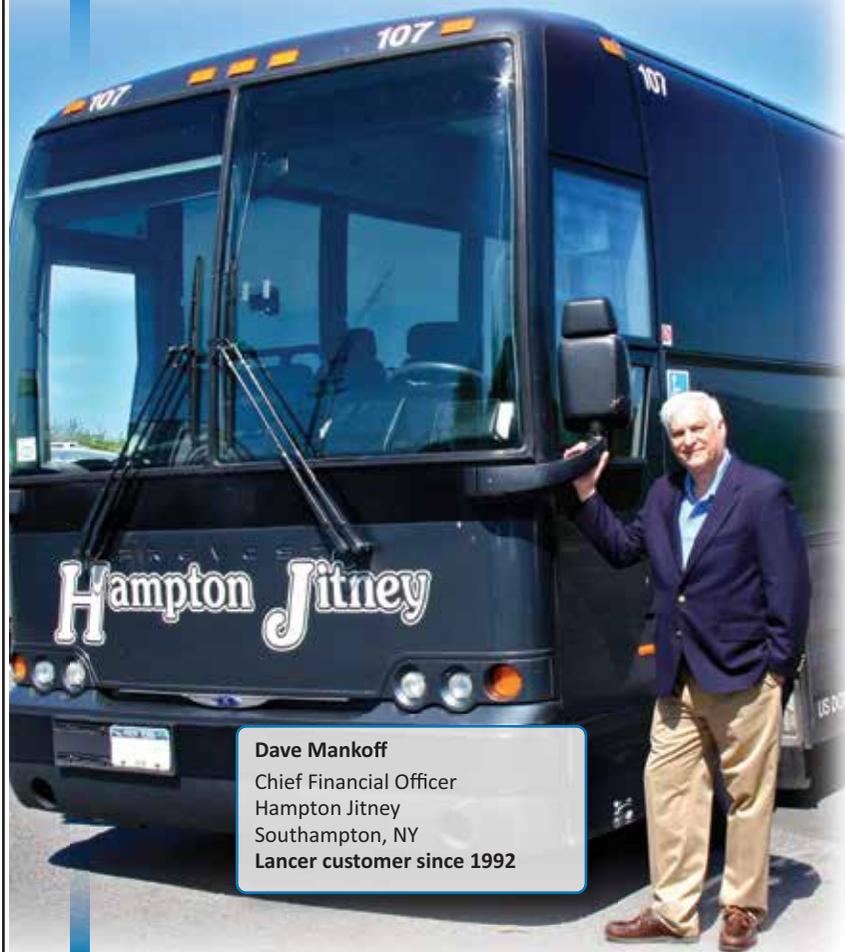
MCI also alleges that one of its expert witnesses was prohibited impermissibly from testifying about laws covering failure to warn. The expert would have testified that "unnecessary warnings mislead and are ineffective...too many warnings are distracting and unsuccessful."

The court also erred, MCI alleges, by excluding evidence about Khiabani's income tax payments from jury deliberations. Because Khiabani was in the highest tax bracket, this resulted in a difference of \$300,000 annually in projected support of his family.

Khiabani's salary and benefits for 2016 were listed at \$1,040,001.49 by the public service website *TransparentNevada.com*.

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# FirstGroup's CEO resigns; firm could sell Greyhound

ABERDEEN, Scotland — The CEO of FirstGroup, the corporate parent of Greyhound Lines, First Student and First Transit, resigned after the company suffered a fiscal-year loss of \$437 million.

The company also said it was exploring options for financially slumping Greyhound, including the possible sale of the U.S. bus company.

Tim O'Toole, who was appointed chief executive of the Aberdeen-based rail and coach operator in 2010, said, "The time is right for me to step aside. Today's results clear the way for the new ap-

proach sought by our chairman and the board."

FirstGroup's share price fell 11 percent in response to the company's financial prospects. The \$437 million loss follows a profit of \$204 million in the previous fiscal year that ended March 31, 2017.

FirstGroup's share price declined 66 percent under O'Toole's leadership.

Wolfhart Hauser, the company's executive chair, will run FirstGroup during the search for a new CEO.

"This year's results fell short of our ambitions — we are disappoint-

ed that we did not make the further progress we intended based on the trends we saw at the end of the previous financial year," Hauser said.

Hauser, 68, said that after eight years it was not such a surprise that O'Toole had left so abruptly.

"I think if you look at his age (62) it is not totally all of a sudden," he said. "The board thought at this time it is very important to have a fresh view in relation to strategy."

Matthew Gregory, FirstGroup's finance chief, said external consultants had been appointed to review all options for the Greyhound business, including a sale.

"We are not giving up the fight for this business," he said. "There is a root-and-branch review and all options are on the table. Our obligation is to maximize value for shareholders."

Profits at Greyhound declined 39 percent to \$34 million as the bus group's long-haul business took a battering amid increased competition from low-cost airlines in the U.S.

FirstGroup made a \$371 million non-cash write-down on Greyhound to take into account the change in value of the business resulting from the shift in how peo-

ple are choosing to travel.

The company rejected a takeover approach from U.S. private-equity group Apollo in April. In May, shareholder West Face Capital urged FirstGroup to sell the \$1.9 billion company, break it apart or spin off its North American operations.

A British newspaper said O'Toole, who was paid \$1.7 million in the previous financial year, has a contract that stipulates a 12-month notice period, so he will be negotiating a portion of his annual pay and pension because of his sudden departure.

# Colorado planning to test 'smart pavement' technology

DENVER — The Colorado Department of Transportation is partnering with a start-up company to test a stretch of "smart pavement."

Tim Sylvester, CEO of Kansas City, Mo.-based Integrated Roadways, said the company's smart pavement technology could be a lifesaver in accidents along remote highways.

The partnership stems, in part, from an accident along U.S. 285

involving a car that veered off the road and down an embankment into an aspen grove.

The driver was found five days later suspended upside-down in her car with her feet crushed and her ribs broken — barely clinging to life.

Sylvester said smart pavement, which includes sensors and the latest fiber-optic and wireless technology, would be able to summon

help within minutes of such crashes.

The smart pavement test will be conducted along a half-mile stretch of 285 where the crash occurred. It would be the first test of its kind in the United States.

"We're doing it at this location for safety and better response times," Sylvester said. "If we can reduce the response time of emergency services, that could spell the

difference between life and death."

The technology is part of the "Internet of Things" sector, which involves autonomous vehicles, so-called smart cities infrastructure and intelligent roads that can not only identify and warn drivers of hazardous conditions and sharp curves but also provide an interconnectedness that is increasingly widespread.

CDOT is readying a \$2.75 mil-

lion contract with Integrated Roadways to test the company's technology, which consists of precast and interlocking concrete slabs embedded with an array of sensors, processors and antennae. If a vehicle leaves the roadway, weight sensors in the pavement and sensors that track location and speed can alert Integrated Roadways' software that emergency personnel need to be dispatched to the scene.

## (2) 2007 MCI, E4500

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## (1) 2006 MCI, D4005 (2) 2007 MCI, D4005

### Low Mileage

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- Allison B500
- Jake Brake
- REI AM/FM, CD/DVD/PA, 6 Monitors
- Enclosed Overhead Racks
- Polished Alum Wheels & Tires
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## Temsa-CH Bus

CONTINUED FROM PAGE 1

Temsa declared, “The distribution agreement is hereby terminated effective 90 days from the date hereof,” or on June 20.

That notice stated that CH had breached the distribution agreement by failing to pay for motorcoaches and spare parts on time; selling third-party parts; improperly using demo coaches; failing to provide required financial statements and business plans; failing to promptly notify Temsa of customer complaints or claimed defects; and failing to service customers as required.

In addition, Temsa stated that CH Bus violated the agreement by failing to ensure “its solvency, equity and cash flow” and “Impermissibly providing Temsa with incorrect documents or information, with fraudulent intent.”

Temsa filed suit on April 9 in the Court of Chancery for Delaware. CH Bus filed a notice on May 8 to move the case to the U.S. District Court for Delaware. CH Bus stated that it is a limited liability company organized under the laws of Delaware but its ownership consists of five members who are citizens of other states — Nevada, Minnesota and California. The company also requested a jury if the dispute goes to trial.

Temsa’s December letter cited a CH Bus claim that it was owed money by Temsa as compensation for claimed defects in a shipped motorcoach.

The letter stated that Haggerty “wrote in an email to Temsa representatives wherein he stated that CH would be deducting \$250,000 from the sale” of a particular motorcoach “and indicated that CH will process the manufacturer certificate of origin (MCO) if the MCO is not immediately sent by Temsa. CH is not authorized to take either step.”

In addition, the letter stated, “CH believes that certain of Temsa’s products are substandard and that Temsa has not met its obligations with respect to those products, relieving CH of its obligation to pay Temsa.”

“The bulk of your letter focuses on claims that Temsa has provided substandard products to CH and has, thereby, damaged CH and become obligated to pay substantial sums. If Temsa’s products are as defective as CH claims, CH would not demand that additional buses be shipped... The fact of the matter is that Temsa’s products are not substandard... issues raised as to the products are transparent attempts to deflect and justify CH’s failure to meet its obligations and to gain leverage in negotiations with Temsa.”

The letter argued that CH Bus’ product claims were “extra contractual” because Temsa’s responsibilities are covered in the distribution agreement, “which is clear and unambiguous as to the parties’ rights and obligations.”

Temsa entered the U.S. market with CH Bus in 2010 and sold its 1,000th vehicle here early in 2017. CH Bus reported sales of 200 new motorcoaches last year.

Temsa sells three models in the U.S. — TS 30, TS 35E and TS 45 — that range from 30 to 56 seats. At the beginning of June, the CH Bus website listed more than 60 used motorcoaches, limousines and shuttle vans for sale.

For 2017, “We will probably sell 15- to 20-percent more new units than we did in 2016,” Duane Geiger, then-president and CEO of CH Bus, said in an interview last year with Bus & Motorcoach News. He anticipated continued growth that could bring a Temsa factory and electric motorcoach to the U.S. in coming years.

Geiger has since left CH Bus.

CH Bus operated sales and service centers in Orlando, Fla.; Pine

Brook, N.J.; Fort Worth, Texas; and Burlingame, Calif., although some of those reportedly have been closed. Authorized services were offered at 16 affiliates across the country, but it is unclear how many are still offering service.

Temsa’s manufacturing plant in Adana, Turkey, is equipped and staffed to produce 4,500 buses and

motorcoaches and 6,000 light trucks annually, company press materials state.

Temsa exports 40 percent of its bus and coach production. The company says it does business in 66 countries and “owns distributor and dealership networks in 30 countries.”

The Temsa website reports, “In

France alone, more than 5,000 Temsa-brand buses and coaches are on the road. Additionally, Temsa’s other major markets in Europe include Germany, Italy, Austria, Sweden, Lithuania and the Benelux countries. Thanks to its expanding product range, Temsa is also rapidly increasing its market share in the United States.”

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Turkish bus maker Temsa terminated its distribution agreement with CH Bus Sales and plans to distribute its own motorcoaches in the U.S.

# Longtime Martz Group chairman Frank Henry dies at 85

WILKES-BARRE, Pa. — Frank Henry, chairman emeritus of the Martz Group motorcoach company and a noted philanthropist, has died at age 85.

Henry served as chairman of the Martz Group, a fifth-generation family-owned transportation company headquartered in Wilkes-Barre, for more 41 years and as chairman emeritus for another 13 years.

Frank Martz Sr. founded the Martz Group, which provides

charters, sightseeing tours and line runs, in 1908. In the early years Martz provided transportation between small mining towns in Pennsylvania, mostly helping coal workers get to and from work.

Henry, Martz's grandson, took over as chairman of the company in 1964. He grew the business and was active in all of the Martz Group's companies: Gold Line, National Coach Works, First Class Coach and Martz Trailways.

The company now provides transportation services in Pennsylvania, New York, New Jersey, Maryland, Virginia, Florida and Washington, D.C.

Henry became chairman emeritus in 2005 and his son Scott took over as chairman of the company.

Henry and Martz received two major awards from the United Motorcoach Association during Motorcoach Expo 2005.

They won the Safety Leader of

the Year Award, the top safety honor in the over-the-road bus industry, and the Vision Award, which goes to an operator that has sound business practices and an excellent safety record and uses innovative approaches throughout its operation.

In accepting the Vision Award, Henry said he was proud to be surrounded at the Martz Group by people "you can be proud of." He said that by picking employees who are smarter than you are, "you'll

come out on top."

Henry was the longest-running active board member of the American Bus Association and was a former chairman.

Henry also had served as chairman of Trailways, the Pennsylvania Bus Association and Gray Line Worldwide.



Frank Henry

## People

WINTER GARDEN, Fla. — Thom Peebles has been named vice president of marketing at ABC Companies.

Ashley Cornell, who has served as marketing lead for the past three years, will transition to a new role as vice president of strategic accounts, where she will focus on supporting existing accounts and developing new employee-shuttle programs throughout the fast-growing northern California market.

Peebles joined ABC from JCB, a UK-based manufacturer of construction and agricultural heavy equipment, where he served as vice president of marketing, North America.

For more than 20 years, he has served in various marketing leadership roles, including director of brand management for Hyster-Yale Materials Handling, Inc., and director of business development and brand marketing director at Michelin North America.

Peebles, who has experience in data-driven marketing, loyalty strategy, digital advertising and branded customer experience, will oversee all aspects of ABC Companies' brand marketing and digital and media communications.

"I look forward to working with the entire ABC team and our valued customers utilizing my experience to better meet evolving customer needs, and continue to build on our brand as a recognized innovator and leader marketwide," Peebles said.

ST. CLOUD, Minn. — New Flyer of America Inc. and New Flyer Industries Canada ULC announced a series of transit bus leadership changes:

Kevin Wood, senior vice president for manufacturing and facilities, is retiring from New Flyer, effective July 2.

Margaret Lewis, senior vice president for quality assurance and continuous improvement, will assume Wood's role.

Jennifer McNeill becomes vice president, sales and marketing, directing the strategic sales and marketing functions to support the transit bus business and long-term strategies.

For more than nine years, Wood led the transformation of manufacturing operations and facilities through Operational Excellence. He oversaw the introduction of Xcelsior bus manufacturing in 2010 and the subsequent delivery of its 10,000th bus in May. He also



Thom Peebles



Kevin Wood



Margaret Lewis



Jennifer McNeill

led the development, building and expansion of multiple manufacturing and fabrication facilities across the continent.

Wood will support the organization during the transition, serving as business advisor to assist parent company NFI Group on operational and strategic matters.

Lewis has been with New Flyer for nine years, focusing on quality systems implementation and continuous improvement efforts. She joined with more than 15 years of automotive industry executive leadership experience in the U.S.

and India.

McNeill has been with New Flyer for six years, assuming progressive leadership roles in sales and business development. She has more than 20 years of experience leading teams, including her most recent role of vice president, sales and business development, with New Flyer, as well as various senior leadership roles in the aerospace industry.

She replaces Paul Smith, who retired earlier this year as executive vice president of sales and marketing.

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## Visitors from Canada hit record

DENVER — While the number of international visitors to the U.S. has dropped off during the past year, Canadians are heading to destinations south of the border in record numbers, according to Brand USA.

"It's our number one international market, with some 20 million visitors," Brand USA President and CEO Chris Thompson said during the U.S. Travel Association's recent IPW tourism trade show in Denver. "The good news is that in 2017...the Canadian numbers are actually up."

Brand USA, which works with the travel industry to maximize the economic and social benefits of

travel, is the premier sponsor of the IPW show.

U.S. government figures show that 20.2 million Canadians visited such popular American destinations as Orlando, San Francisco, New York City and Hawaii last year. That's up 4.8 percent from 2016, despite the Trump presidency sparking headlines of a "Trump slump."

"Most of my experience prior to Brand USA was with the state of Florida," Thompson said. "Of course, we love the Canadians in Florida and we have a great relationship with them."

Not only are tourists from Canada arriving in record numbers,

they spent \$19.4 billion on their visits in 2016, Brand USA said.

More than one out of four international arrivals to the U.S. in 2017 were Canadians. At the same time, overall international visits to the U.S. were down 3.8 percent, Brand USA said.

U.S. authorities are forecasting a 22 percent increase in Canadian visits between now and 2022.

Thompson said Brand USA has undertaken a number of significant marketing programs in an effort to boost visitation. In the last five years, Brand USA has boosted visits to the U.S. by more than 5.4 million, with incremental spending of \$17.7 billion, he said.

Coral, Fla. Info: [www.namo-coaches.org](http://www.namo-coaches.org)

### September 2018

**12 Maryland Motorcoach Association Annual Crab Fest,** Info: [www.marylandmotorcoach.org](http://www.marylandmotorcoach.org)

## Calendar

### July 2018

**22-26 AMA-SCMA-GMOA Regional Meeting,** Evergreen Marriott Conference Resort, Stone Mountain, Ga. Info: [www.gamotorcoachoperators.org](http://www.gamotorcoachoperators.org)

### August 2018

**7-10 International Motorcoach Group Strategic Alliance Meeting,** Doubletree Hilton, Sonoma, Calif. Info: [www.imgcoach.com](http://www.imgcoach.com)

**16-19 2018 NAMO Annual Conference,** Westin Cape Coral Resort at Marina Village, Cape



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**RELIABILITY RALLY SCHEDULE**

**July 10** Tuesday, Winter Garden, FL

**July 19** Thursday, Blackwood, NJ

**July 24** Tuesday, Des Plaines, IL

**August 6** Monday, San Francisco Bay Area Hayward, CA

**August 14** Tuesday, Los Alamitos, CA

**September 6** Thursday, Montreal, Canada

**September 13** Thursday, Dallas, TX



For full details and registration, visit [mcicoach.com/rally](http://mcicoach.com/rally)

