

Worker said he hurt back installing loo Argument in toilet case doesn't flush with jury

The porcelain commode was introduced as evidence and placed in front of the jury, where it sat for the better part of a week.

By LAURENCE HAMMACK
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How much torque does it take to tip a toilet?

That was the \$1.7 million question that led to two years of litigation, five days of courtroom testimony and three hours of deliberation by a jury in Roanoke Circuit Court.

The case was about Bobby Combs' back, how he hurt it, and whether it was the fault of Norfolk Southern Corp.

Combs, at the time a sheet-metal worker for the railroad, claimed in a lawsuit against Norfolk Southern that he ruptured a

disc while turning a porcelain commode on its side. He and another worker had been assigned to build a template for the bottom of the new commode, which was to be installed in the railroad's executive car. (The only Norfolk Southern car with a toilet, his lawyer noted.)

When his co-worker was switched to another job, Combs testified, he was forced to go it alone and wrenched his back while moving the toilet as it sat on a workbench.

It sounded simple, but that was before the lawyers got involved.

Richard Cranwell, a Vinton legislator and Combs' lawyer, called an expert witness who used a complicated formula to show that the way Combs tipped the 62-pound commode, it exerted 1,400

Toilet

pounds of torque — turning or twisting force — on his back.

No way, said the railroad's own expert witness.

Daniel Schneck testified that 1,400 pounds of force is more than what astronauts endure during blastoff. "If someone told me that turning a commode on its side generates more force on someone's spine than blasting them off the surface of the earth, I would have to raise my eyebrows and wonder if their calculations were correct," said Schneck, a biomechanical engineer at Virginia Tech.

Cranwell sought to discredit Schneck with sarcasm, calling him "the smartest man in the world."

"I bet he could figure out how to spin that commode 15 times, flip it up in the air and catch it in

his hip pocket," Cranwell told the jury.

But the damage had been done. Combs, who wanted \$1.7 million for lost wages and pain and suffering, went home with nothing. Friday night, the jury ruled that Norfolk Southern was not negligent.

William Poff, who represented the railroad, had argued that Combs contributed to his own injury by handling the toilet in an unsafe way. Poff apologized to the jury for having to spend all week listening to mind-numbing testimony about something that seemed so simple at first.

"Because someone unfortunately got hurt doing something that was not smart, we have made this into something of great complexity," he said.

Laurence Hammack can be reached at 981-3239 or laurenceh@roanoke.com