

The president of Trinity Highway Products, Gregory Mitchell, testified at trial that his company did not tell a single state about design changes when they were made in 2005. The testimony came on October 16, 2014 in a False Claims Act case against Trinity. The lawsuit alleged that the company defrauded the government because it reimbursed states for a product that was different from the one originally approved by the federal government for use on the nation's highways. Evidence revealed that Trinity reduced the width of a piece of metal from five inches to four in 2005, but did not inform states of that design change.

The design changes in question relate to a 175-pound steel mechanism that mounts onto the end of a guardrail and is meant to cushion the impact of a crashing car. Instead of acting like a shock absorber, the revised version of the mechanism locks up and can impale incoming vehicles.

The whistleblower lawsuit focused on claims that Trinity defrauded the U.S. government by selling states a different guardrail product than the one that was approved for use in 2000. Trinity asserted that paperwork that would have identified the design change that reduced the width of a piece of metal from five inches to four inches in 2005 was "inadvertently omitted" from documents submitted to the Federal Highway Administration. The company president, Gregory Mitchell, acknowledged that Trinity also did not tell any states about the design change. Confronted with a letter to Vermont officials in 2006 which proclaimed the design was "identical" to the approved version and a letter to Florida officials asserting the guardrail system had gone through no major design changes, Mitchell conceded that the company's statements were "not accurate." Her further acknowledged: "We had told no states about the modification in 2005 to my knowledge."

The same day Mitchell testified in the whistleblower trial, the Virginia Department of Transportation ordered its area engineers to stop installing the Trinity ET-Plus guardrail system. Virginia is the fourth state to take that measure in recent months, following Massachusetts, Missouri, and Nevada.

The whistleblower lawsuit began the second week of October. The lawsuit was brought by Joshua Harman, a competitor of Trinity, who asserts that Trinity defrauded the federal government of approximately \$175 million by not telling it about the 2005 design changes. The federal government reimburses states for certain highway spending and in connection with that program approves guardrails, which are available for reimbursement. The qui tam lawsuit

alleges that Trinity improperly profited when the federal government reimbursed states for a product that was different from the one originally approved by the federal government as safe and appropriate for use on the nation's highways.