

EA02-025

FORD 10/27/03

APPENDIX M

BOOK 21 OF 22

PART A-D

PART A

CP

471611

SNORTON1
AZ

CP/03

8902-025 10121

Document 28 of 31

1st cont w/ [REDACTED] Ins 04-01-2002 Rec

Created By: MICLOW 04-01-2002 15:10 Cln#: 702933171007

Insured: [REDACTED]

1st cont w/ [REDACTED] Ins.

Veh Is 1993 Crown Victoria.

She was driving her veh around town during the day of 03/29/02. Got home around 7:30 pm. Went inside to change clothes. Her neighbor started yelling her veh was on fire. She ran outside - then called 911. Fire dept responded promptly - put the fire out where it did not harm any other vehs or property or persons. Mary did not notice any problems with her veh before this happened. She had brake job with new rotors about 3 or 4 months ago. No other maintenance work. No smell of smoke or warning lights come on.

The fire started above the driver side tire. Her entire engine burned up. Her interior was unharmed.

She does not have lien on the veh. Advised her to find the title to speed the process up.

The FR will be out in the morning to inspect. Veh is still located at her house.

Explained the claim process. She is aware of \$100 CPR and 22/650.

Advised her to be on the look out for replacement veh. Also she will be allowed rental two days after she recs the check.

Gave her claim info.

No further questions at this time.

E002-025 10122

Document 30 of 31

■■■■■ ■■■■ ■■■■ ■■■■ ■■■■

Insd-winfeld-aci 03-29-2002 Roc

Created By: TERA VA 03-29-2002 18:23 Clm#: 702933171007

Insured: WINFIELD, MARY ANN

Insd: ■■■■■

Insd calling to adv that she had parked veh in driveway and approx 30mins later, engine had started smoking, fire proceeded.

Insd contacted fire dept to put out flames.

I adv of clm #, LOU, 800#, CR and one business day contact.

Veh is currently at insd's home. She may have it towed elsewhere. If so, she will call to advise.

■■■■■ ■■■■ ■■■■ ■■■■ ■■■■

05/2002 11:36 2856537024

PYRTECH INC

PAGE 08

In my opinion, this fire originated in the left side of the engine compartment and was most likely caused by an electrical malfunction of components and/or wiring in this area. The fire patterns and the inability to locate the deactivation switch connector and wiring tends to indicate it was probably the cause. Due to the possibility of subrogation, no destructive testing was performed. I consider this fire to be accidental in nature.

At this time I have completed all assigned investigation. Should you desire further investigation or if you have any questions please do not hesitate to call.

L. Gary Coggins, CFI
Automotive Division, Manager
Senior Investigator

Reviewed by:
Richard J. Keith, CFI, CFPO, CFEL, CET
President

E902-025 18124

Document 29 of 32

1st cont w/ [REDACTED] Ins 04-01-2002 Roc

Created By: MICLOW 04-01-2002 15:10 Cln#: 702933171007

Insured: [REDACTED]

1st cont w/ [REDACTED] Ins.

Veh is 1993 Crown Victoria.

She was driving her veh around town during the day of 03/29/02. Got home around

7:30 pm. Went inside to change clothes. Her neighbor started yelling her veh was on fire. She ran outside - then called 911. Fire dept responded promptly - put the fire out where it did not harm any other vehs or property or persons. Mary did not notice any problems with her veh before this happened. She had brake job with new rotors about 3 or 4 months ago. No other maintenance work. No smell of smoke or warning lights come on.

The fire started above the driver side tire. Her entire engine burned up. Her interior was unharmed.

She does not have lien on the veh. Advised her to find the title to speed the process up.

The FR will be out in the morning to inspect. Veh is still located at her house.

Explained the claim process. She is aware of \$100 CPR and 22/660.

Advised her to be on the look out for replacement veh. Also she will be allowed rental two days after she recs the check.

Gave her claim info.

No further questions at this time.

Ford Motor Company

Office of the General Counsel

Ford Motor Company
3 Parklane Boulevard
Parklane Towers West, Suite 360
Dearborn, Michigan 48126-2858

December 20, 2002

Stuart Allan & Associates
5447 East 5th St., Suite 110
Tucson, AZ 85711-2345
ATTENTION: ELIZABETH KYLE

Re: Claimant: [REDACTED]
D/O/E: 03-29-2002
Your Claim #: [REDACTED]

Dear Ms. Kyle,

Following a review of the facts and circumstances surrounding this event, Ford Motor Company finds no evidence of a manufacturing or design defect; therefore, we must deny liability for this claim. Additionally, we believe that the Economic Loss Doctrine would prohibit you from any recovery under these circumstances.

Please be advised that all necessary steps must be taken to ensure that the subject vehicle and all of its component parts are maintained and preserved in the event you elect to litigate this matter. Ford Motor Company has the right to inspect the vehicle and remove and test any component part that you claim to be defective, and to be presented with the vehicle and the subject component part(s) at the time of trial, should litigation ensue from this informal claim.

If you propose to repair the vehicle for continued usage, such repairs may not be performed until after Ford Motor Company has inspected the vehicle and removed and tested any component part you claim to be defective or advised you in writing that it does not intend to perform such inspection and/or testing at this time. But even in that event, Ford Motor Company will insist that all components claimed to be defective are maintained and preserved for trial.

Sincerely,

Shawn Norton
Claims Analyst

ENC2-825 10128

Created By: MICLOW 06-05-2002 15:31 Clm#: 702933171007

REC report from Pyrotech regarding inspection of cause of fire. According to Gary Coggins w/ Pyrotech - "In my opinion, this fire originated in the left side of the engine compartment and was most likely caused by an electrical malfunction of components and/or wiring in this area. The fire patterns and the inability to locate the deactivation switch connector and wiring tends to indicate it was probably the cause."

Transfer file to CVOREC.

Year	1999	2000	2001	2002	2003
1999	100	100	100	100	100
2000	100	100	100	100	100
2001	100	100	100	100	100
2002	100	100	100	100	100
2003	100	100	100	100	100

Document 30 of 31

[REDACTED]

Insd-winfeld-aci 03-29-2002 Roc

Created By: TERA VA 03-29-2002 18:23 Clm#: 702933171007

Insured: [REDACTED]

Insd: [REDACTED]

Insd calling to adv that she had parked veh in driveway and approx 30mins later, engine had started smoking, fire proceeded.

Insd contacted fire dept to put out flames.

I adv of clm #, LOU, 800#, CR and one business day contact.

Veh is currently at insd's home. She may have it towed elsewhere. If so, she will call to advise.

[REDACTED]





ED02-02E 19133



First report 04-08-2002 Intercom

Created By: MICLOW 04-08-2002 12:38 Cln#: 702933171007

Insured: [REDACTED]

First Report

Ins' veh is 1993 Crown Victoria.

Coverage's:

CPR \$100

LOU 22/660

Named Ins.

Named Veh.

CPR - peril.

No exclusions.

All conditions met.

Policy is in force.

Facts: Ins used her car during the day to run errands. She came home around 7:30 pm and did not notice anything wrong with her veh. She went inside and changed clothes. She heard her neighbor yelling that her veh was on fire. She went outside and saw her veh on fire around the driver front wheel.

Liability: Rep inspected and sent email to PYRTECH to inspect b/c of recall out. Rep settled TL with Ins.

Damage: Ins' veh is TL.

Reserves: N/A.

Subro: None at this time.

Salvage: Wait for Ins' salvage sell.

Plan:

- 1) Wait for PYRTECH's report regarding recall and fire. See if related.
- 2) If related, send file to subro.
- 3) Wait for Ins' salvage sell.

NRD: 05/01/02



SAFECO PROPERTY & CASUALTY INSURANCE COMPANIES

Recovery Management Dept. - Pacific Zone
17570 Brookhurst Street
Fountain Valley, CA 92705-4792

Phone: (800) 594-0783
Fax: (714) 965-6503
www.safeco.com

Mailing Address:
PO Box 25150
San Jose, CA 95199-0150

June 14, 2002

FORD MOTOR CORP
P O BOX 7151
SPRINGFIELD, OH 45501

Re: Our Insured: [REDACTED]
Claim No.: [REDACTED]
Loss Date: 3/29/02

Dear Ford Motor Corp:

Our investigation to date indicates that you were the proximate cause of this loss. Under the terms of our insured's policy with us, we have become legally subrogated to the right to our insured to recover our damages. As such, we are seeking reimbursement from you for the damages we paid out on behalf of our insured.

At this time, we are seeking reimbursement in the amount of \$4,877.62. It is our desire to resolve this matter in an amicable fashion. If you were insured at the time of this loss, please refer this matter to your insurance company so the claims adjuster can contact me directly. If you were uninsured at the time of the loss, please mail your payment with the remittance form below (please remember to put the claim number on your check).

If you are unable to pay the above amount within the next 14 days, please contact me immediately at the number below so that we can establish a reasonable repayment plan.

Sincerely,
SAFECO Insurance Company of America

Michelle Shane

cc: Michelle Shane - Recovery Management
a: (714) 965-6178
Fax: (714) 965-6503
e: micsha@safeco.com

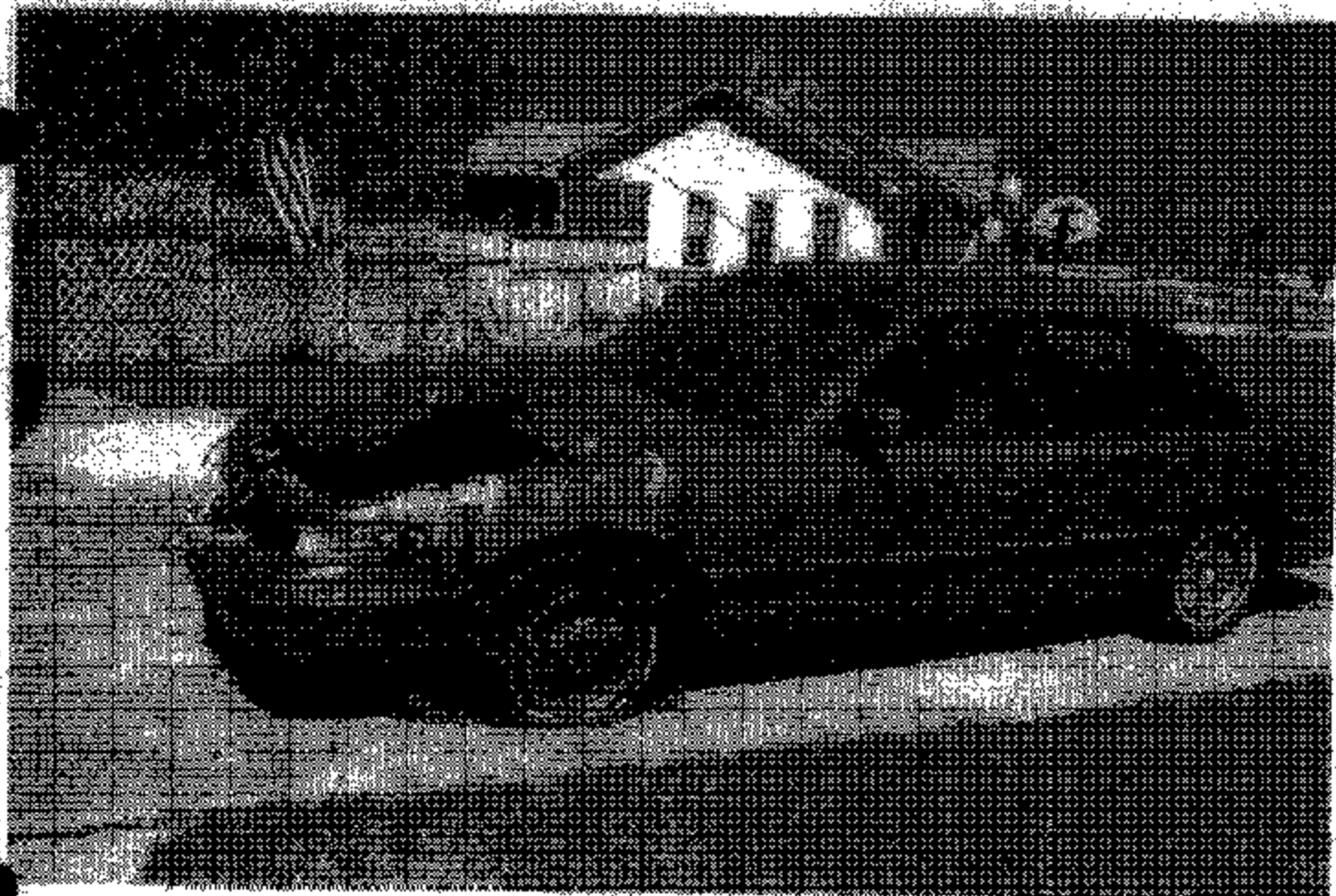
(cut on dotted line)

Insured:
Claim No:
Amount Enclosed: \$ _____
(Include claim number on check)

Remit to:
SAFECO Insurance Companies
St. Louis Branch Cashier (Subrogation)
PO Box 461
St. Louis, MO 63166-0070



8902-025 19139



EP02-023 19146



HR02-025 10141





EP02-025 10143

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Plaintiff,

v. vs.

FORD MOTOR COMPANY,
Defendant.

C.A. No. 96-624126 CX

Hon. Kaye Tertzag

ICMS#950320

9602-025 20022

STATE OF MICHIGAN
IN THE CIRCUIT FOR THE COUNTY OF WAYNE

Plaintiff,

vs.

NO. 96-624126 CK

FORD MOTOR COMPANY,
a Delaware corporation,

Defendant.

The Deposition of

taken pursuant to Notice in the above-entitled
cause at 150 Parklane Towers West, in the City of
Dearborn, Michigan, on Thursday, October 2, 1997,
commencing at or about 9:00 a.m., before Christina A. Peak,
CSR-6214, a Notary Public in and for the County of Jackson.

1 APPEARANCES:

2
3 MR. EDWARD L. JOHNSON
4 Kewson & Van Hallemont, P.C.
5 1200 Buhl Building
6 Detroit, Michigan 48226
7 (313) 961-2061

8
9 APPEARING ON BEHALF OF THE PLAINTIFF

10 MR. TIMOTHY A. DEVINE
11 Office of the General Counsel
12 Three Parklane Boulevard
13 1500 Parklane Towers West
14 Dearborn, Michigan 48126
15 (313) 594-1966

16
17 APPEARING ON BEHALF OF THE DEFENDANT
18
19
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21
22
23
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I N D E X

WITNESS

PAGE

4

EXAMINATION

BY MR. JOHNSON

4

* * *

E X H I B I T S

* * *

NUMBER

PAGE

Plaintiff's Deposition Exhibit-1

71

Dearborn, Michigan

Thursday, October 2, 1997

At or about 9:00 a.m.

* * *

a witness herein, was first duly sworn by the Notary Public to tell the truth, the whole truth, and nothing but the truth, testified as follows:

* * *

EXAMINATION

* * *

BY MR. JOHNSON:

Q. Let the record reflect that this is the time, place, and date of the scheduled deposition of [REDACTED] taken pursuant to notice and shall be used for all purposes set forth in the Michigan Court Rules and the rules of evidence.

[REDACTED] my name is Edward Johnson and I represent the Auto Club regarding this matter. Just a couple of preliminary things. Have you had your deposition taken before?

A. Yes, I have.

Q. So you know that we can't talk at the same time, your responses must be verbal because she can only take down verbal responses, so if the questions calls for

- 1 a yes, please say yes and don't nod your head.
- 2 A. I understand.
- 3 Q. You know all of that good stuff?
- 4 A. Yes.
- 5 Q. Great. Can you state your full and complete name for
- 6 the record, sir?
- 7 A. [REDACTED]
- 8 Q. And that's [REDACTED]
- 9 A. Yes.
- 10 Q. And you're currently employed by?
- 11 A. Ford Motor Company.
- 12 Q. And how long have you been employed by Ford Motor
- 13 Company, sir?
- 14 A. Twenty-nine years and one day.
- 15 Q. Prior to working for Ford?
- 16 A. I worked for Goodyear Tire and Rubber Company.
- 17 Q. Were you an engineer at that time?
- 18 A. Yes.
- 19 Q. How long did you work for Goodyear?
- 20 A. I have my personal history here that you can refer
- 21 to, if you would like.
- 22 Q. Is this a copy I can keep?
- 23 A. Yes.
- 24 Q. Ford experience is here, is this Goodyear right
- 25 here?

- 1 A. Yes. June of '66.
- 2 Q. To September of '68. And at the Goodyear Company,
- 3 what was your position?
- 4 A. I was a plant and manufacturing engineer.
- 5 Q. And what was your job duties?
- 6 A. My job duties there were basically within the plant,
- 7 supporting the production. It was a hose plant, in
- 8 that particular incident a lot of it was construction
- 9 and adding onto the plant power house operation.
- 10 Q. Was it a supervisory position?
- 11 A. No, engineer.
- 12 Q. I understand it was an engineer position, but were
- 13 you ahead of other engineers? Did you have engineers
- 14 below you?
- 15 A. No.
- 16 Q. Were you the sole plant manufacturing engineer?
- 17 A. No.
- 18 Q. How many manufacturing engineers were there?
- 19 A. In my department there were three engineers plus the
- 20 manager.
- 21 Q. And prior to working for Goodyear, you worked at
- 22 Boley Metal Fabricating.
- 23 A. That was while I was going to college, and also prior
- 24 to going to college.
- 25 Q. And what degrees do you hold, sir?

- 1 A. I have a Bachelor of Science Degree in Mechanical
2 Engineering from Michigan Technological University.
- 3 Q. Any other degrees?
- 4 A. No.
- 5 Q. No master's or doctorate's?
- 6 A. No.
- 7 Q. Are you published, are have you published?
- 8 A. No.
- 9 Q. Are you a member of any professional organization?
- 10 A. No.
- 11 Q. Any societies?
- 12 A. No.
- 13 Q. Any unions?
- 14 A. No.
- 15 Q. During your educational background, can you describe
16 for me the types of courses you took pursuant to your
17 design and engineering capacity?
- 18 A. You mean with respect to my college courses and so
19 on?
- 20 Q. We can start there, then I would like you to go on.
- 21 A. During my college education, my option at that time
22 was machine design.
- 23 Q. Yes.
- 24 A. And I also took the general courses that are required
25 by mechanical engineering, and then a little

1 electrical thermodynamics, machine design courses,
2 advanced machine design courses, statics dynamics,
3 advanced dynamics, and of course you got your basic
4 courses of physics and chemistry.

5 Q. Any safety engineering courses?

6 A. Safety engineering is kind of -- none that is
7 specifically called a safety engineering course, but
8 safety is usually an integral part of many courses.

9 Q. And what course would that be an integral part of?

10 A. I believe that would be from some of the
11 thermodynamics courses, machine design courses, even
12 courses related to production that I took time and
13 motion studies, that type of thing. I think, I don't
14 know all those courses, there is a certain amount of
15 safety input.

16 Q. Were you schooled in the philosophy of human factor
17 engineering?

18 A. Like I said, I believe I took a course in time and
19 motion type studies, if that's what you mean?

20 Q. Could you describe, just for the jury, what is time
21 and motion?

22 A. Time and motion is related to production and how you
23 divide a person's time up in what kind of repetitive
24 motions they take to assemble parts or do machine
25 operation, do a function.

1 Q. Now, after you've successfully completed your courses
2 at the Michigan Technological University, did you
3 take any higher level training or courses during the
4 29 years, or the two years at Goodyear, and Ford?

5 A. Yes, there is a list of under other data courses and
6 seminars that I have attended. I don't know if over
7 the years if that's a totally complete list, but it
8 represents many subjects that I have, courses that I
9 have taken and seminars I have attended.

10 Q. Media and deposition workshop, what does that
11 entail.

12 A. The media and deposition workshop was an information
13 workshop for video depositions.

14 Q. Exclusively video depositions?

15 A. Yes, exclusively video depositions, what to expect in
16 a video. You know, if you've never been in one,
17 which I haven't been in at that time, so we wouldn't
18 be surprised.

19 Q. We wouldn't surprise you.

20 A. Right.

21 Q. GPIA Fire Investigation?

22 A. Yes.

23 Q. GPIA stands for what?

24 A. Georgia Fire Investigator's Association, I believe.

25 Q. What was the substance of those seminars?

- 1 A. Those seminars were all related to fire
2 investigation. They included areas of arson, vehicle
3 and building arson cases, actual vehicle fires where
4 vehicles were burned and we tried to determine what
5 the causes were, or what the cause was, for the
6 fire. There was portions of it where it was a
7 general, most of them were general fire
8 investigations of what to look for, what evidence
9 that may be not necessarily obvious that you should
10 look for. It involved everything from electrical
11 fires to, like I said, arson in both the vehicles and
12 buildings, and combinations.
- 13 Q. And when did you take these seminars?
- 14 A. Since 1990 I have been involved, I believe in three,
15 I believe in four of them. Two of them would have
16 been in '90 or '91, '92, in that time frame. Two
17 just recently, within the last year.
- 18 Q. How long did these seminars last?
- 19 A. Anywhere from three to five days.
- 20 Q. And do they speak in terms of cause and origin?
- 21 A. Yes.
- 22 Q. And what do they teach you, if anything, regarding
23 the idea of cause and origin?
- 24 A. Basically how to determine to try to find the
25 location where the fire started, V-patterns, things

1 not to be fooled by.

2 Q. You stated the term V-pattern?

3 A. Yes.

4 Q. Can you describe for the jury what you mean by a
5 V-pattern?

6 A. A V-pattern is, basically, in most fires, you will
7 find an actual pattern from where the fire is
8 initiated. It's usually initiated at the bottom of
9 the V and it will spread upward and outward as it
10 goes, as it burns more and more.

11 Q. When you say initiated, what do you mean by that?

12 A. Well, that's where it ignited.

13 Q. The ignition spot?

14 A. The ignition spot, generally speaking, you will have
15 that V-pattern. You can be, especially in automotive
16 type things where things are compact, you have many
17 different fluids and that V-pattern can be well
18 distorted.

19 Q. Any other scientific or technical knowledge you gain
20 from the seminars?

21 A. Materials that you, just general fire investigation
22 as far as materials that are, you watch for materials
23 that have been consumed and materials that haven't
24 been consumed, at what temperature they will ignite,
25 that general information. You watch for, you know,

1 patterns even wind patterns, just different things to
2 watch for when you're investigating the fire.

3 Q. The Automotive Fire Theft School, Michigan State
4 Police, when did you take that course.

5 A. I believe that would have been in '92, I believe.

6 Q. Was that also a seminar?

7 A. Yes, and actual burning of vehicles, a number of
8 vehicles.

9 Q. Sponsored by the Michigan State Police?

10 A. I believe it was.

11 Q. And, as you described for the jury, the things you
12 learned at the Georgia Fire Investigation Seminars,
13 did you also go through that for the Michigan State
14 Police seminar?

15 A. The Michigan State Police seminar, the basic
16 knowledge there was vehicles were started on fire on
17 a number of locations on various vehicles and they
18 gave us an idea of how fire spreads in a vehicle.
19 And also how, in some cases, how difficult it is to
20 start a fire, in other cases how fast it will advance
21 through a vehicle and in what directions it advances.

22 Q. Did this particular course focus at all on the cause
23 and origin aspects of fire?

24 A. Yes.

25 Q. And how did it focus on that?

1 A. Well, there was not necessarily a cause, but more of
2 an origin type location was defined as where the fire
3 had started. And, like I said, you would follow the
4 actual burning of the vehicle and follow the path of
5 the flame front, or how the fire traveled through the
6 vehicle. So it gave you some idea of what to look
7 for when you see various patterns on the vehicle.

8 Q. Can you give me a definition to the jury of cause and
9 origin, and break it down between the two terms?

10 A. Origin is the point where the fire has started.
11 Cause is what actually caused the fire. Was it
12 initiated by a spark or by excessive heat,
13 spontaneous combustion, electrical failure, anything
14 of that nature. What had actually caused the fire to
15 initiate.

16 Q. Using this V-point technology, is it difficult to
17 ascertain the origin of the fire?

18 MR. DEVINE: Objection as to the form. Do you
19 mean in general or do you mean in this case?

20 BY MR. JOHNSON, CONTINUING:

21 Q. Right now I'm speaking in generalities.

22 A. In generalities, the V-pattern is a tool. It's
23 something that you look for to help define where the
24 origin of the fire was.

25 Q. What other tools do you use, then?

1 A. As I mentioned before, you also use tools such as
2 what was consumed and what wasn't consumed. What
3 those materials are, what kind of temperatures you
4 may had in that location, different various
5 locations. You use things such as wind patterns,
6 whether you are in the case of a vehicle and whether
7 the glass on the side doors ended up inside the door
8 or on the seat. Same thing with windshields, whether
9 the material, a windshield is located, it broke and
10 fell down on the floor of the vehicle or if it's up
11 on top of the debris. You look for where materials
12 are located after the fire, and they all give you
13 hints as to at what time during the fire that
14 particular component either was distorted or
15 destroyed. There is a whole series, and for each
16 case.

17 Q. Well, let's go through some of the series.

18 A. Well, I did, I think. If you look in a vehicle on
19 the floorboard and you determine that the glass from
20 the windshield is laying on the floor, that would
21 give you indications that the fire was external of
22 the passenger compartment and worked its way into the
23 passenger compartment. If the glass was up on top
24 and there was burnt debris underneath, it would
25 indicate that the fire was started, it was in the

1 passenger compartment before it got into the engine
2 compartment.

3 Q. Now, I'm not sure if you answered my question or not.
4 If you have, forgive me, but using the V-technology,
5 how precise is that technology?

6 A. It varies from case to case, from incident to
7 incident. In some cases it can be masked by fluids
8 that are within the vicinity that may give you a
9 hotter fire.

10 Q. Yes.

11 A. But generally speaking, it is a very good tool to
12 start your investigation with.

13 Q. Okay. Then going back to your personal history,
14 introductions to WIN 3.1, is that introductions to
15 Windows 3.1?

16 A. I believe so, yes.

17 Q. Design for assembly. Is that a seminar or was it a
18 course?

19 A. That was like a workshop and that was in design
20 activity.

21 Q. Okay. What was entailed in this workshop?

22 A. Basically, when you're designing components for
23 vehicles.

24 Q. Yes.

25 A. To keep in mind the assembly aspect of it and how you

1 can simplify assembly procedures through your design.

2 Q. And what is the purpose of doing that?

3 A. Basically it's to increase the efficiency of the
4 design as far as the amount of time it takes to
5 assemble parts.

6 Q. Would another function of this workshop would be to
7 lessen the degree of the manufacturing defects?

8 A. Anytime that you can simplify a design, or anytime
9 you can simplify a design or minimize the number of
10 components within a design, you tend to increase its
11 reliability and its performance aspects.

12 Q. Have you ever heard of the theory that the only human
13 error is design error?

14 A. No.

15 Q. You've never heard of that?

16 A. No.

17 Q. Now, how many times have you been called upon to give
18 your testimony on behalf of Ford Motor Company?

19 A. By testimony, you mean depositions or trials?

20 Q. Yes, depositions and trials?

21 A. I'd estimate I've been deposed, or given trial
22 testimony, about 15 to 20 times.

23 Q. And each of those testimonies were on behalf of Ford?

24 A. Yes.

25 Q. Never against Ford's position?

1 A. Never against Ford's position. Basically,
2 I believe --

3 Q. That's it, thank you. Now, you've brought some
4 documents with you today, is that correct?

5 A. I've brought my file that I have kept on the Wright
6 matter.

7 Q. Do you mind if I review that?

8 A. No, no problem.

9 MR. JOHNSON: For the record, I'm going to make
10 a formal request and Tim, pursuant to court rules,
11 you have 28 days to produce.

12 MR. DEVINE: Sure.

13 MR. JOHNSON: Thank you.

14 MR. DEVINE: You might have it. When we
15 photocopy it, we photocopy it like this.

16 MR. JOHNSON: I know, and I don't have the
17 complete one. I went through it last night and there
18 are some pages missing.

19 MR. DEVINE: Okay.

20 BY MR. JOHNSON, CONTINUING:

21 Q. [REDACTED] are you a manager?

22 A. No.

23 Q. Okay.

24 A. I'm the case manager for this particular concern, I
25 am what we call a case manager.

- 1 Q. And what is a case manager?
- 2 A. I am the design analysis engineer that has been
- 3 assigned to --
- 4 Q. Assist Mr. Devine?
- 5 A. Assist in technical matters.
- 6 Q. If Mr. Devine has any technical questions, you would
- 7 be the person that he would immediately ask for a
- 8 response?
- 9 A. I believe I would be one of them, if not the person.
- 10 Q. Who else?
- 11 A. As far as I know, I'm the primary one that he would
- 12 ask. If I'm not available, he would go to my
- 13 manager, [REDACTED]
- 14 Q. Spell his last name, please.
- 15 A. [REDACTED]
- 16 Q. [REDACTED]
- 17 A. Yes.
- 18 Q. First name?
- 19 A. [REDACTED]
- 20 Q. And he is your manager?
- 21 A. Yes.
- 22 Q. Did he have any impact upon your decision making
- 23 regarding this particular matter?
- 24 A. I don't think so, not that I'm aware of.
- 25 Q. We need to clarify just a little bit, either he did

1 or he didn't?

2 A. As far as I know, he did not.

3 Q. Okay. LC?

4 A. Local Counsel. Originally I believe he was involved
5 in the case before Mr. Devine was.

6 Q. Okay. So you consider this incident an electrical
7 fire from a malfunction or overheating?

8 A. That's information that was supplied to me when the
9 case file came to me.

10 Q. So what's the significance of that being put down --

11 A. I believe that's the allegation --

12 Q. Let me finish the question. What is the significance
13 of an electrical fire from malfunction or overheating
14 being placed in the column for accident description?

15 A. I believe that is from the paperwork that OGC
16 received.

17 Q. And OGC is?

18 A. Office of General Counsel. That is the description
19 that they believe the plaintiff alleges is the cause
20 of the problem.

21 Q. Okay. Under comment from work request order,
22 February 10, 1997, states, "Need part number for
23 wiring harness that is located behind -- ." What
24 does that mean?

25 A. That is, I believe, a request came through either

1 through the discovery, I believe, for a part number
2 of the wiring harness that's in front of the
3 vehicle. I think there is a work order in here that
4 speaks to that.

5 Q. You can grab that.

6 A. The full statement is, "Need part number for wiring
7 harness that is located behind the front bumper of a
8 1994 Grand Marquis with a 4.6 liter engine." I
9 believe that was in response to discovery request.

10 Q. Can you tell me an exhaustive list of the items and
11 documents you used in coming to your conclusion?

12 A. What you have in the file that I brought today on my
13 file.

14 Q. Absolutely nothing else?

15 A. Other than my past experiences.

16 Q. Other than your past experience, we will get to
17 that. Right now, I'm speaking of the documentation
18 that you've used.

19 A. What's in the file.

20 Q. Okay. So you have not been provided a copy of our
21 design engineer's analysis on this particular matter?

22 A. I got a mechanical evaluation.

23 Q. Okay. But that's not our design engineer.

24 MR. DEVINE: Who is the design engineer on this
25 one?

1 MR. JOHNSON: That's Kravowski.

2 BY MR. JOHNSON, CONTINUING:

3 Q. Well?

4 A. No, I have not received anything else, I don't
5 believe.

6 Q. Would that be helpful in coming to your analysis or
7 your conclusions?

8 A. All information is helpful, yes.

9 Q. Especially given the fact that you have never
10 inspected this vehicle, have you?

11 A. I've never had an opportunity to inspect this
12 vehicle.

13 Q. So the only information that you're going upon, and
14 I'm speaking of the documentation, the second hand
15 information, apart from your 29 years or 33 years of
16 experience?

17 A. I'm basically going on the information that was
18 supplied by the plaintiff.

19 Q. Actually, you're not, because I've supplied a copy of
20 our design engineer and you have not reviewed that.
21 So you're not going on that.

22 A. On the information that I have received that the
23 plaintiff has supplied.

24 Q. Actually, you still have not. You're going upon,
25 based on your own testimony, you're going upon the

1 information that you have been provided by the
2 defendant. You're not going upon the information
3 that's been provided by plaintiff because plaintiff
4 has provided its design engineer's report and you've
5 stated for the record that you've never reviewed that
6 document.

7 A. I don't believe I've reviewed that document.

8 Q. It's not in here.

9 A. Then I have not reviewed it.

10 Q. The question was, do you think that would have
11 assisted you given the fact that you have never
12 inspected this vehicle?

13 MR. DEVINE: Objection. That's been asked and
14 answered. All information was helpful was the
15 answer.

16 MR. JOHNSON: For the record, my question has
17 not been answered.

18 MR. DEVINE: What was your question?

19 MR. JOHNSON: I just posed it, I can pose it
20 again.

21 MR. DEVINE: Pose it again, but it's been asked
22 and answered.

23 BY MR. JOHNSON, CONTINUING:

24 Q. Would that document assist you in coming to your
25 conclusions and analysis?

1 MR. DEVINE: Same objection. Asked and
2 answered, but --

3 BY MR. JOHNSON, CONTINUING:

4 Q. You can answer.

5 A. All information is helpful in an investigation.

6 Q. Next question. The engineer who actually inspected
7 the vehicle, would he be in a better position to
8 assist in the analysis of the cause of this
9 particular fire?

10 MR. DEVINE: Objection. There has been no
11 foundation laid as to the background of the engineer,
12 whether he has any design knowledge, what his
13 familiarity is with this 1994 Ford vehicle is,
14 whether he has any training in Ford manufacturing,
15 whether he has any experience with Ford production,
16 Ford design, Ford components, whether he has any
17 familiarity with electrical add ons which were after
18 this vehicle. Objection. Total lack of foundation.

19 MR. JOHNSON: I don't believe so, but let's lay
20 the foundation.

21 BY MR. JOHNSON, CONTINUING:

22 Q. Given the facts that this engineer, independent
23 engineer, had design engineering background, is a
24 design, had all information regarding what was added
25 to this vehicle, what was not added to this vehicle,

1 the time the vehicle was purchased, the mileage on
2 the vehicle, the uses of the vehicle, together with
3 proficient knowledge in Ford engineering. Would that
4 person be in a better position to give an analysis of
5 the cause of this particular fire?

6 MR. DEVINE: Same objection. No foundation.
7 The statements of an opposing attorney do not serve
8 to lay a foundation with regard to the expertise of a
9 witness who is not, we don't have his CV, we don't
10 have an opportunity to cross-examine him with regard
11 to the nature of his or extent, if any, of his
12 knowledge of Ford manufacturing, Ford design
13 processes, what he reviewed before coming to his
14 conclusion, what his experience in investigating
15 fires is, whether he has any experience with 1994
16 Grand Marquis, what his familiarity was with the
17 alarm system, with the electrical componentry of the
18 vehicle. It's the same objection, there is no
19 foundation for it.

20 MR. JOHNSON: Fine. Hypothetically, if our
21 design engineer, or the engineer who actually
22 inspected this vehicle, had all those things that
23 Mr. Devine just stated that he would need to come to
24 a conclusion, would that person be in a better
25 position, this is hypothetical Tim, I believe it is a

1 fair question.

2 MR. DEVINE: Let me work with you to set a
3 fair --

4 MR. JOHNSON: Well, let's go off the record.

5 MR. DEVINE: Okay.

6 (Off the off at 9:43 a.m.)

7 (On the record at 9:45 a.m.)

8 BY MR. JOHNSON, CONTINUING:

9 Q. The initial hypothetical was that this particular
10 engineer had all your same qualifications, maybe five
11 years less than actual experience, but all the
12 training, courses, seminars, he has all that. Would
13 that person be in a better position than you to come
14 to 1) an analysis of what caused the fire and
15 2) what was the cause of the fire?

16 MR. DEVINE: For the record --

17 MR. JOHNSON: You have a standing objection for
18 that.

19 MR. DEVINE: Standing objection.

20 MR. JOHNSON: You have a standing objection.

21 MR. DEVINE: If it is possible for the witness
22 to answer that hypothetical, he can answer it.

23 BY MR. JOHNSON, CONTINUING:

24 Q. Go ahead.

25 A. I hate to do this, but could you repeat the question?

1 Q. Okay. The problem with us young attorneys, sometimes
2 we convolute things when we really don't have to. An
3 engineer with your background, your training, maybe
4 five years less experience who actually inspected the
5 vehicle, would that engineer, given all the other
6 facts, be in a better position to come to 1) an
7 analysis of what caused the fire and 2) what actually
8 caused the fire?

9 MR. DEVINE: Same objection.

10 MR. JOHNSON: You have a standing objection.

11 BY MR. JOHNSON, CONTINUING:

12 Q. Go ahead.

13 A. He would have had a better opportunity, whether he
14 would have come to the correct conclusion, I cannot
15 answer.

16 Q. But he would have had a better opportunity?

17 A. Of course. The more information you have, the better
18 the opportunity of coming up with an opinion that is
19 possibly more correct.

20 Q. This is not to discredit your opinion, it's just that
21 the person who is actually out there --

22 A. Whether he did or not, I don't know.

23 Q. Given that, this is hypothetical right now, given
24 that he was out there, hypothetically given that he
25 has all your background, he has all your experience,

1 based on that, hypothetically that person would be in
2 a better position, have a better opportunity, in your
3 own words, to come to a conclusion regarding this
4 matter?

5 A. He has an opportunity, not necessarily did he come up
6 with a good investigative --

7 Q. He might have been out there, he might have botched
8 the investigation?

9 A. He might have botched it, he might have been sitting
10 out there drinking coffee. I don't know.

11 Q. You weren't there?

12 A. All I'm saying is he has an opportunity.

13 Q. But it's fair to say that he has a better opportunity
14 than you?

15 A. If he has seen the vehicle and the installation of
16 the components, yes, he had a better opportunity.
17 What he did with that opportunity, I don't know.

18 Q. Okay. Would you have liked to see his report?

19 A. Any information is helpful in an investigation, yes.

20 Q. Would his report possibly change some of your
21 conclusions, or some of your thinking regarding this
22 matter?

23 MR. DEVINE: Objection.

24 A. I do not know what's in his report, so I can't
25 respond.

1 Q. Well, the question is, would you have just liked to
2 seen the report?

3 MR. DEVINE: That question was asked and
4 answered.

5 BY MR. JOHNSON, CONTINUING:

6 Q. So you would have liked to seen the report?

7 A. Any information is helpful in an investigation, if
8 that report pertains to that.

9 MR. JOHNSON: Do you want to provide him with
10 the report, or do you want me to give it to him right
11 now?

12 MR. DEVINE: If you have it, sure.

13 MR. JOHNSON: We're trying to get to the facts.
14 This is our design engineer and this is his report
15 that has already been provided to the defendant's,
16 correct?

17 MR. DEVINE: I believe it has, yes.

18 MR. JOHNSON: Take some time to review that.

19 MR. DEVINE: In fact, while we're on the record,
20 if you would agree to give us 15 minutes and Paul
21 could review this and have at least a sense of how to
22 respond to it.

23 MR. JOHNSON: That's fine.

24 (Off the record at 9:49 a.m.)

25 (On the record at 10:00 a.m.)

1 MR. JOHNSON: Just let the record reflect that
2 we went off the record for 15 minutes to give
3 Mr. Laskowski an opportunity to review the report
4 that was submitted to Auto Club by its design
5 engineer. Mr. Laskowski has stated that he has had
6 the opportunity to review it and he is prepared to go
7 back on the record. If Mr. Devine would like to
8 state anything for the record.

9 MR. DEVINE: Covered.

10 BY MR. JOHNSON, CONTINUING:

11 Q. After reviewing that document, can you give us
12 anything, any insight into whether it assisted you or
13 bolstered your initial conclusions?

14 A. I believe those conclusions were in some of the
15 paperwork that I had in my file.

16 Q. Which conclusions?

17 A. That he had in the back of his report.

18 Q. Okay. And specifically?

19 A. If I can see the report?

20 Q. Sure.

21 A. And my file?

22 Q. Sure.

23 A. Page three of the report, the expert's report, he has
24 four conclusions: Fire originated in the grill area
25 of the vehicle, the right side of the

1 radiator/condenser coil. My recollection may have
2 been it was in the complaint.

3 Q. Yes.

4 MR. DEVINE: What's the question?

5 MR. JOHNSON: He was giving me an answer that
6 was in our engineer's analysis was also in the
7 documentation that he has. For the past five minutes
8 he has been looking for that.

9 MR. DEVINE: What was the question?

10 MR. JOHNSON: The question was whether or not
11 the engineer's report assisted him. His answer was
12 that the preclusions found in the engineer's report
13 was also in some of the documentations that he
14 reviewed, and for the past five minutes he has been
15 looking for that.

16 BY MR. JOHNSON, CONTINUING:

17 Q. All set?

18 A. Yes.

19 Q. Go ahead, sir.

20 A. I was mistaken in that those conclusions were in the
21 paperwork that was in my file.

22 Q. So they were not?

23 A. That's correct.

24 Q. So once again, does the engineer's conclusions assist
25 you, bolster your conclusion, cause you to think

1 about or rethink your conclusions?

2 A. This is additional information.

3 Q. Yes.

4 A. Yes, it's helpful. I don't know how much.

5 Q. Well, let's focus on page two where he rules out
6 certain things as the cause of the fire?

7 A. Okay.

8 MR. DEVINE: What's the question?

9 MR. JOHNSON: Let's focus on page two where he
10 rules out certain causes of the fire. Once he finds
11 that, then I want him to give us his opinion on
12 those.

13 BY MR. JOHNSON, CONTINUING:

14 Q. I know what's in here.

15 A. Well, point to me what you want.

16 Q. Bottom half?

17 A. Excuse me?

18 Q. Bottom.

19 A. Additional evidence?

20 Q. Yes.

21 A. Of electrical short circuiting was found in the
22 vicinity of the horns as shown in Figure 18 and 19.

23 Q. Okay. Does that assist you at all?

24 A. To me that indicates there was a shorting in those
25 circuits. Whether it was during the fire, or prior

1 to the fire, I don't think you can tell from the
2 photos.

3 Q. Can you describe for the jury the term short
4 circuiting? What does that entail?

5 A. Short circuiting means the conductor that has an
6 electrical current going through it was, the current
7 was in this case leaving the wire and jumping to some
8 other component.

9 Q. And what is a conductor?

10 A. Anything that will carry on like a current.

11 Q. What is the current purpose of a conductor?

12 A. To transfer electrical power.

13 Q. Now, what was your conclusion regarding the cause and
14 origin of this particular fire?

15 A. I have not come to a conclusion because I do not have
16 all the information on the modifications to the
17 vehicle.

18 Q. Okay. What information don't you have?

19 A. I don't have any information on the alarm system that
20 was, my understanding, added to this vehicle.

21 Q. Okay. And have you attempted to gain access to that
22 information?

23 A. I believe I have.

24 Q. What steps?

25 A. I need to talk to Mr. Devine, I said that information

1 be needed for me to, it's one of the items I would
2 need is the all the information available on the
3 alarm system including how it was installed, how it
4 was integrated into the Ford system, electrical
5 system, or any other system it was integrated into,
6 what powered it, any schematic diagrams. Anything
7 that will give me any information as to how and what
8 techniques were used to install the alarm system.

9 Q. Okay. Go ahead.

10 A. And what circuits it was installed in.

11 Q. One of our experts has given a report that the alarm
12 system had nothing to do with this particular fire.
13 Have you reviewed that?

14 MR. DEVINE: Reviewed the conclusion or the
15 document?

16 BY MR. JOHNSON, CONTINUING:

17 Q. The document.

18 A. Could you tell me which document that is?

19 Q. I believe it's in that one.

20 A. That's an opinion expressed by what you call your
21 expert. On page 3 of Mr. Ray's report, first
22 paragraph says that further, during the course of the
23 inspection, operative observed that the vehicle was
24 equipped with an alarm system and that there had been
25 a siren attached to the left fire wall in the engine

1 compartment. The horn with a siren had been heavily
2 damaged during the course of the fire. However,
3 inspection of the wiring connecting to the siren horn
4 then entering the passenger compartment and showing
5 no evidence of shortages. Insulation was all
6 present. I don't think he says that he has found
7 that it was -- your question was I believe that it
8 didn't have anything to do with the fire where he
9 ruled it out. I don't think that he has stated that
10 he has ruled it out in that paragraph.

11 Q. Can you give the jury your opinion of that particular
12 paragraph?

13 A. The last one?

14 Q. The second to the last one.

15 MR. DEVINE: Page 2 of the January 16, 1995,
16 narrative report by Richard Kravowski, second to last
17 paragraph on page two.

18 A. There were 344 miles on this vehicle at the time of
19 the fire. With such limited mileage on the vehicle,
20 it is my opinion that the short circuiting that
21 caused this fire represents a latent manufacturing
22 defect in the wiring harness.

23 MR. DEVINE: What's the question, is that
24 opinion supported by any evidence?

25 MR. JOHNSON: No.

1 BY MR. JOHNSON, CONTINUING:

2 Q. The question is, what's your opinion of that
3 statement?

4 A. That statement can't stand by itself.

5 Q. Why can't it stand by itself?

6 A. Because I don't know why he is saying that the short
7 circuiting caused this fire because nowhere in this
8 report does he express an opinion of how it short
9 circuited, why it short circuited, or whether it had
10 anything to do with the alarm system that was
11 installed. I believe he doesn't make any mention of
12 the alarm in his report.

13 Q. He does. He mentions the horn.

14 A. He mentions the horn, he does not mention any
15 investigation, I believe, of any connection of that.

16 Q. But he does.

17 A. Where does he do that?

18 Q. Right in the same paragraph of where he talks about
19 the horn.

20 MR. DEVINE: Where is that at?

21 THE WITNESS: Could you point that out to me?

22 MR. JOHNSON: We've already reviewed that in
23 this paragraph.

24 MR. DEVINE: I scanned it looking for the word
25 alarm, I didn't see alarm

1 BY MR. JOHNSON, CONTINUING:

2 Q. The horn?

3 A. No, wait a minute. Where does he say the horn? Oh,
4 right here. That, I believe, is the horn on the
5 vehicle, that comes with the vehicle.

6 Q. No.

7 A. Additional evidence of electrical short circuit was
8 found in the vicinity of the horn.

9 Q. Yes.

10 A. Figure 18 and 19. I believe he is speaking of the
11 horn that comes with the vehicle.

12 Q. No, I believe he is speaking of the siren horn that
13 came with it.

14 A. In that case, he is indicating that there was
15 electrical shorting in that area that could have
16 caused this fire, and that could have been due to the
17 installation of that alarm system.

18 Q. So then he is speaking of the horn that came with the
19 car then?

20 A. You just told me no.

21 Q. Well, you're the engineer, you tell me. What is
22 this?

23 A. I cannot.

24 Q. What is Figure 18?

25 A. Let me see the rest of my file. Figure 18 is

1 similar, I have a schematic diagram.

2 Q. Yes.

3 MR. JOHNSON: For the record, Tim, I'm going to
4 want a copy of this.

5 MR. DEVINE: You do have that, I think. If you
6 don't, we'll surely get it to you.

7 MR. JOHNSON: Thank you.

8 BY MR. JOHNSON, CONTINUING:

9 Q. Go ahead.

10 A. It shows locations of various components of wiring
11 harnesses connecting the engine compartment. It's
12 page 151-1, and I believe that is from the Electrical
13 Troubleshooting Manual for the 1994 Grand Marquis.

14 Q. Yes.

15 A. And the page that we're referring to 151-1, above
16 they show --

17 Q. So that's the horn for the vehicle?

18 A. A horn for the vehicle. And I believe that is the
19 similar location to what he is showing you.

20 Q. So there's no short circuiting going on there?

21 A. I believe he indicates in his report that there is.

22 Q. So, in indicating that the horn that was to the
23 vehicle had short circuited?

24 A. That sometime during the course of this fire, there
25 was short circuiting. If there is beading, I would

- 1 assume that he is saying there is beading in the
2 wiring in that area. I do not see it at this present
3 time.
- 4 Q. But that's the horn to the vehicle?
- 5 A. Yes.
- 6 Q. So it's not the siren horn?
- 7 A. Figure 19 does show some beading.
- 8 Q. And Figure 19, is this a close-up of the horn to the
9 vehicle?
- 10 A. It shows some wires going past the horn. Whether
11 those wires are wires that were installed by Ford
12 Motor Company or by someone that started the alarm
13 system, I do not know.
- 14 Q. You just told me these are the horns for the vehicle?
- 15 A. I believe this is the horn for the vehicle, yes.
- 16 Q. Okay.
- 17 A. These two round cylinders back here --
- 18 Q. So there's no horns --
- 19 MR. DEVINE: There is an answer being made,
20 you're interrupting an answer.
- 21 MR. JOHNSON: I understand that, I will try not
22 to.
- 23 BY MR. JOHNSON, CONTINUING:
- 24 Q. Go ahead, sir.
- 25 A. In Figure 19 of this report, there are two round

- 1 cylinder type images. I believe those are portions
2 of the horn.
- 3 Q. What looks like the same two round images on your
4 151-1 component location view which is a Ford
5 document?
- 6 A. Correct.
- 7 Q. So these are the horns to the vehicle?
- 8 A. I believe so.
- 9 Q. And there was short circuiting going on there?
- 10 A. There was short circuiting in some wiring of that
11 after the fire was located somewhere above those
12 horns, yes.
- 13 Q. Well, can you --
- 14 A. From what I can tell from this picture and from
15 Figure 18 of this report.
- 16 Q. Well, do you have schematics?
- 17 A. It just says here view of wiring in vicinity of
18 horns.
- 19 Q. Okay.
- 20 A. Whether that wiring was part of the vehicle as
21 supplied by Ford Motor Company, I do not know.
- 22 Q. That was my next question. Do you have schematics of
23 the wiring system for this vehicle?
- 24 A. With me, no.
- 25 Q. Can you get a hold of them?

1 A. This is a schematic. This shows that wiring harness,
2 page 151-1, shows the harness going across the front
3 of the vehicle.

4 Q. This is the only --

5 A. That is the only harness that is located in this
6 area. Whether all these wires that are shown here
7 are part of that harness, I can't tell you without
8 having that harness available to me. I do not know
9 if, when they added this alarm system, if they added
10 to this wiring. I do not know if they spliced into
11 this wiring at some point, other than in the front of
12 the vehicle, whether they spliced into it where it
13 goes up into the passenger compartment or along the
14 left-hand fender. I do not know how that alarm
15 system was installed; therefore, I cannot come to any
16 conclusions as to the cause of this fire as far as
17 being based on an electrical malfunction.

18 Q. Have you seen alarm systems prior to this particular
19 matter?

20 A. I'm aware of alarm systems, yes. I have seen alarm
21 systems, yes.

22 Q. Are you aware of how they are, in general terms,
23 connected to automobiles?

24 A. No. Because I don't think any two suppliers could
25 necessarily connect in the same way and then the

- 1 installer himself has a large amount of freedom to do
2 what he pleases and what he feels like doing.
- 3 Q. Where is this located in the engine compartment?
- 4 A. Where is what located?
- 5 Q. The two automobile horns?
- 6 A. They are not in the engine compartment.
- 7 Q. Okay. Where are they?
- 8 A. They're forward to the radiator, towards the left of
9 the center line of the vehicle. Basically as
10 depicted on page 151-1 that we referred to earlier.
- 11 Q. I'm not an engineer and I don't think any jury would
12 be able to understand where this area is in
13 relationship to the engine compartment. Is this
14 entire area inside the engine compartment?
- 15 A. This basic area is the engine compartment. This
16 would be the front radiator support, here would be
17 the radiator itself, this is the engine, here is the
18 alternator, this would be the dash panel that
19 separates it from the passenger compartment.
- 20 Q. So, for purposes of the jury?
- 21 A. Yes.
- 22 Q. This section right here would be in front of the
23 radiator which is generally this area right here. We
24 are looking at Figure 6 from the Mechanical
25 Evaluation. Just for the purposes of the jury so

- 1 they know what we are talking about.
- 2 A. One second. There may be a better picture.
- 3 Q. Okay.
- 4 A. Your question was where this wiring harness runs in
- 5 front of the vehicle.
- 6 Q. Yes.
- 7 A. Towards along the front.
- 8 Q. Right here?
- 9 A. Yes, it would be basically behind the --
- 10 Q. Just for the record, so they know what we are talking
- 11 about, we are looking at Figure 33 from the Conley
- 12 Ray Mechanical Evaluation?
- 13 A. Basically that harness is running, I believe, just
- 14 above the bumper and rearward of the bumper.
- 15 Q. Okay.
- 16 A. And forward of the structural member that the horns
- 17 are mounted to.
- 18 Q. Okay.
- 19 A. Or above it.
- 20 Q. Okay. For purposes of the jury, this horn is on what
- 21 side of the vehicle as we are, this is the front of
- 22 the vehicle, so is this the left side of the vehicle?
- 23 A. That is what I refer to left side of the vehicle.
- 24 And when I say left side, I mean as if you are in the
- 25 driver's seat.

1 Q. Okay. So that's the driver side?

2 A. Driver's side.

3 Q. Okay.

4 A. All of my references to left and right will be as if
5 you were a driver.

6 Q. Okay.

7 A. In the driver's seat.

8 Q. Now, you stated earlier that you believe this, I'm
9 pointing at Figure 151-1, the schematic for this
10 particular vehicle, and I'm pointing at the harness.
11 You believe that depicts this particular harness and
12 now I'm pointing at Figure 18 of the Rich Kravowski
13 report?

14 MR. DEVINE: I object. It's been asked and
15 answered and the answer was not conclusive that this
16 representation in Figure 18 is the wiring harness.

17 MR. JOHNSON: That's all I'm trying to get to.
18 I'm just trying to figure out what that is.

19 BY MR. JOHNSON, CONTINUING:

20 Q. Now, you think it could be the same wiring harness?

21 A. It could be the same wiring harness, and it could be
22 the same wiring harness with circuits added to it, or
23 modifications made to it.

24 Q. Okay. Now, please tell the jury why do you think it
25 cannot be the wiring harness?

- 1 A. Because I do not have enough evidence to hear that
2 shows I did not have an opportunity to inspect the
3 vehicle.
- 4 Q. Yes.
- 5 A. I don't believe any of these pictures give me a full
6 view as to that wiring harness. It's very difficult
7 to determine whether --
- 8 Q. From the picture?
- 9 A. A burnt wiring harness, one that's been involved in a
10 fire, is actually the wiring harness supplied by
11 Ford.
- 12 Q. What if, hypothetically, what if the evidence is that
13 if nothing additional has been added to this
14 particular vehicle except the alarm system?
- 15 A. Excuse me, I'm sorry.
- 16 Q. Hypothetically?
- 17 A. Yes.
- 18 Q. What if the evidence was established that absolutely
19 nothing else has been added to this particular Ford
20 product except an alarm system?
- 21 A. If that's the case, what is your question then?
- 22 Q. If that's the case, then that would have to be the
23 Ford harness. And we are speaking hypothetically.
- 24 A. Hypothetically, that is if there is nothing added to
25 this vehicle.

1 Q. Yes.

2 A. If the vehicle is in the same state that it was --

3 Q. Same condition?

4 A. Same condition it was when it left the assembly
5 plant, yes, that's true.

6 Q. And that's not answering our question of whether or
7 not someone tapped something onto the harness. I did
8 ask you that question?

9 A. Right.

10 MR. DEVINE: I think we got off track with the
11 hypothetical.

12 MR. JOHNSON: I don't think we did. Let's go
13 off the record and answer the question.

14 MR. DEVINE: I will do it in my terms and it
15 will be totally incomprehensible.

16 MR. JOHNSON: If you want to do an objection,
17 state an objection. But if you just want to ask the
18 question --

19 MR. DEVINE: If you don't want to let me ask a
20 question, I won't. But it will be a lot clearer for
21 the record if I did.

22 MR. JOHNSON: Go ahead.

23 MR. DEVINE: Just to clarify Mr. Johnson's
24 hypothetical to make sure you were answering the
25 question he was asking. If nothing had been added to

1 the vehicle, or if nothing had been added except for
2 an alarm system?

3 BY MR. JOHNSON, CONTINUING:

4 Q. Except for the alarm system.

5 A. Excuse me, wait a minute. You said nothing was added
6 to the vehicle, I understand that.

7 Q. Except for the alarm.

8 A. I can't make any judgment. If there is a
9 modification to the vehicle, I can't make any
10 judgment on that circuit or on those wires based on
11 the information that's given to me.

12 Q. Your answer is this then. Someone who is putting
13 just an alarm system in would change this entire
14 harness?

15 A. Not necessarily. He may have added something to this
16 harness, he may have added a circuit.

17 Q. That's --

18 A. Let me answer the question.

19 Q. Sorry, go ahead.

20 A. He may have relocated this harness.

21 Q. Let's stop there for a second. What do you mean he
22 may have relocated the harness?

23 A. I don't know what he did to install that alarm.

24 Q. I understand that.

25 A. Okay. He may have taken it out of its locators and

1 its fasteners that locate it within the vehicle. He
2 may have disturbed that, I don't know.

3 Q. Let's stop right there. So your testimony is that in
4 order to install this particular alarm system,
5 whoever installed it may have moved this entire
6 harness?

7 A. That's a possibility, yes, or a portion of that
8 harness.

9 Q. Or a portion of that harness. Based on your
10 experience, would that be necessary?

11 A. I don't know anything about this alarm system.

12 Q. Well, based on your experience?

13 A. Based on my experience.

14 Q. Yes.

15 A. That is a possibility, depending on how this alarm
16 system was integrated into the vehicle system.

17 Q. Well, please describe for the jury how that would be
18 a possibility?

19 A. I don't know where he located the equipment, I don't
20 know where he tapped into this circuit or any
21 circuit, I don't know how he or she installed this
22 alarm system. I don't know anything about this alarm
23 system other than I believe someplace it may have
24 said there is a horn involved.

25 Q. Yes.

1 A. That horn could be the horn that was supplied by
2 Ford, they may have tapped into that horn.

3 Q. Okay.

4 A. I don't know. I don't have any schematics even as to
5 how the manufacturer suggests that you install this
6 alarm system, let alone how it was installed.

7 Q. Let's stop there. When you say you don't have any
8 schematics, that's not to say that Ford, the company,
9 does not have a schematic on that?

10 A. As far as I know, Ford does not have a schematic on
11 alarm systems that are aftermarket alarm systems.

12 Q. No, no, not alarm systems. Schematics on the wiring
13 harness?

14 A. There are schematics on the wiring harness.

15 MR. JOHNSON: Tim, I'm going to want that.

16 MR. DEVINE: This is it.

17 MR. JOHNSON: That is everything?

18 MR. DEVINE: Well, ask the expert, but I think
19 that's everything.

20 BY MR. JOHNSON, CONTINUING:

21 Q. Okay.

22 A. There may be some other representations of it that we
23 can locate, yes.

24 Q. Because I would think that this is kind of a general
25 type picture, and just given my general background,

1 there is schematics on specific parts?

2 A. I don't know that.

3 Q. And you're the engineer?

4 MR. DEVINE: Will you work with me, Paul?

5 THE WITNESS: I will work with that, you know,
6 whether there may be schematics that go with the
7 process sheets. I will look for that.

8 MR. DEVINE: I will put that on my list.

9 MR. JOHNSON: That was a formal request, same 28
10 days.

11 MR. DEVINE: Schematics on the harness?

12 MR. JOHNSON: On the harness and the horn.

13 MR. DEVINE: Okay.

14 BY MR. JOHNSON, CONTINUING:

15 Q. We have a view from the Mechanical Evaluation Report
16 of the location of the alarm system, and I'm going to
17 show that to you. You're looking at Figure 21, this
18 is where they say the alarm system was located.

19 MR. DEVINE: This is Figure 21 of the Mechanical
20 Evaluation Form.

21 MR. DEVINE: We are interchangeably referring to
22 the Mechanical Evaluation Report and the Conley Ray
23 Report.

24 MR. JOHNSON: They are interchangeable.

25 BY MR. JOHNSON, CONTINUING:

1 Q. Now, have you seen these pictures?

2 A. I believe I had a copy of that picture, yes. I do in
3 the file.

4 Q. Okay. Now, this particular harness, does this wrap
5 all the way around to this area?

6 A. Yes.

7 Q. Okay. Where does it do that?

8 MR. DEVINE: When you say this area?

9 MR. JOHNSON: We are speaking of the area where
10 Mr. Conley Ray has said the location of the alarm
11 system. Specifically, we are talking about the
12 system located on the left fire wall.

13 MR. DEVINE: And he's indicated that that's
14 where a bracket for a siren to an alarm system was
15 located.

16 MR. JOHNSON: Yes.

17 BY MR. JOHNSON, CONTINUING:

18 Q. Okay.

19 A. Yes, the wiring harness that we have been referring
20 to, that does go along the left-hand side of the
21 vehicle back to the back of the engine compartment.

22 Q. Yes.

23 A. And is in the vicinity of what I believe is the, I
24 think is the bracket that he's speaking of, that's
25 part of the alarm system.

1 Q. Okay. When you say vicinity, we need to pinpoint a
2 little better than that.

3 A. I believe, excuse me, I believe that wiring harness
4 passes directly, or a branch of it, passes directly
5 below what I think is what they are speaking of as
6 the bracket for the alarm system.

7 Q. So that bracket is, from this picture, is not
8 attached at all to the harness system?

9 A. The bracket?

10 Q. Yes.

11 A. I don't know.

12 Q. Can you tell?

13 A. I can't tell from that picture. That picture does
14 not give you all that information.

15 Q. It looks like the bracket is attached to the fire
16 wall and that's it. And I don't see any wires or
17 anything?

18 A. You cannot see the back of that bracket.

19 Q. Okay.

20 A. I do not know how things were installed.

21 Q. Would someone attach a bracket to the harness? What
22 would be the purpose of doing that?

23 A. I don't know. Yes, that's a possibility, ease of
24 installation, I don't know. I'm not saying the
25 bracket was necessarily installed, secured to the

1 wiring harness.

2 Q. The bracket is supposed to secure something, is that
3 correct?

4 A. That can be used for a bracket, yes.

5 Q. Do you know any other uses for brackets?

6 A. Anything from decorative, to be used as a guard, to
7 be used for a number of things.

8 Q. Okay. If you're using it to secure an item, is it
9 reasonably sound to have that secured to a wiring
10 harness?

11 MR. DEVINE: The bracket?

12 MR. JOHNSON: Yes.

13 BY MR. JOHNSON, CONTINUING:

14 Q. Okay.

15 A. No, it isn't reasonable, in my judgement.

16 Q. In your judgement?

17 A. In my judgement. That doesn't mean that when they
18 installed this that it was not secured to a wiring
19 harness, if you want to get into that, or that it was
20 not in such a close proximity to the wiring harness
21 that it rubbed on the wiring harness and caused a
22 fault in the circuit, or that it was, or that the
23 component that this bracket held, did not use
24 electrical, was not tapped into that electrical
25 circuit.

1 Q. But that bracket, it wouldn't be reasonable to attach
2 that bracket to the harness? That was my question.

3 A. In my judgement, it would not be a good installation,
4 yes.

5 Q. Thank you.

6 A. It would be a faulty installation.

7 Q. Hypothetically, if an engineer testifies that when he
8 inspected the vehicle and there appeared to be no
9 alteration to this wiring harness, would that assist
10 you in coming to your conclusions? Because you
11 stated for the record that you couldn't tell, based
12 on the limited aspects of the pictures provided to
13 you.

14 A. I don't know, I can't answer that question. I don't
15 know.

16 Q. Okay. Assist me in trying to form a hypothetical
17 that you can answer.

18 A. You ask a question, I will try to answer it.

19 Q. Well, you're the expert, so the jury and I need your
20 assistance. My hypothetical is that another
21 engineer, who actually inspected the vehicle, went
22 out to the site, looked at this particular harness
23 and will testify that it has been undisturbed since
24 the time it left Ford manufacturing. Would that
25 analysis assist you in coming to your conclusions?

- 1 A. If he has reviewed the total wiring harness and all
2 its connections from one end to the other, and he is
3 familiar with all those connections.
- 4 Q. Yes.
- 5 A. And Ford's routing of that circuit.
- 6 Q. Yes.
- 7 A. And if he knows where it is connected into fuses and
8 if he knows that the alarm system is not in contact
9 with that circuit, has not been tapped into that
10 circuit, has not been spliced into that circuit or
11 any other circuit.
- 12 Q. Yes.
- 13 A. There is a possibility, yes, that it would be
14 helpful.
- 15 Q. And in terms of being helpful, would you think that
16 it was not that particular item that caused the fire?
- 17 A. Hypothetically, we are still talk hypothetically?
- 18 Q. Yes.
- 19 A. If all we're talking is hypothetical and everything
20 that I have answered here.
- 21 Q. So far.
- 22 A. The last couple of questions.
- 23 Q. So far.
- 24 A. Any time something is added to the vehicle --
- 25 Q. Please answer the hypothetical.

1 A. I got to be suspicious of that component.

2 Q. Please answer the hypothetical.

3 MR. DEVINE: That is the answer.

4 MR. JOHNSON: He did not answer that question,
5 Tim.

6 BY MR. JOHNSON, CONTINUING:

7 Q. Go ahead.

8 A. If it does not in any way effect that harness, I
9 believe that information would be helpful.

10 Q. Thank you.

11 A. And that includes the electrical loading that it
12 carries.

13 Q. Thank you, sir. In picture 1 from the Conley Ray
14 report, I would like you to describe for me the parts
15 that you see, if you can, and I want to go through
16 each and every part. That right there, I'm pointing
17 at the square item located at the left corner of the
18 picture. Let's, for a second, let's just not use the
19 schematic. I want you to just to focus on this, I
20 don't want you to look at the schematic.

21 A. Without referring to Ford documents, I would only be,
22 I can't answer those questions.

23 Q. Well, sir, you're an expert. Now, if I bring an
24 expert in here and show them a picture of the
25 vehicle, they are going to be able to give me some

1 kind of an idea of what the products are. Are you
2 testifying, that as an expert, you can't even tell me
3 what these parts look like?

4 MR. DEVINE: Objection. That is a hostile and
5 argumentative question. The tone and tanner of this
6 deposition to this moment has been cooperative, it
7 has been considerate on both sides. The witness was
8 asked a question to identify components in a burned
9 out vehicle from 1994, one of dozens of Ford vehicles
10 in that year, and one of several iterations of that
11 Marquis over the life of its production. He, at that
12 time, requested to look at the component diagram
13 151-1, which we've been referring to on both sides
14 throughout the course of this deposition. He
15 attempted to view the component diagram in order to
16 helpfully answer the question. Stripped of his
17 ability to look at that, he answered truthfully that
18 he would not feel comfortable responding. That's
19 where we stand. And I'm going to object to the
20 question as argumentative and as not in tanner with
21 the deposition.

22 MR. JOHNSON: For the record, this is
23 cross-examination. This particular witness has
24 testified that he is proficient in the inner workings
25 of the design and assembly of Ford products for the

1 past 29 years. My question was simple and direct. I
2 asked him to look at a picture of a Ford product that
3 he's stated for the record that he's been working for
4 29 years and to give me his estimation of what those
5 particular parts are. As an expert, I think the
6 question is fair. Sir, if you're telling me as an
7 expert you can't look at this picture and tell me,
8 give me some idea of what these particular items is,
9 then we may have to have some kind of motion to limit
10 your qualifications.

11 MR. DEVINE: Objection. First of all,
12 argumentative. Do what you have to do Ed, that's
13 totally unreasonable that because he can't look in
14 the middle of a burned out vehicle on a photograph he
15 didn't take from a 1994 Marquis and stand here and
16 say this is this part, this is that part. The
17 vehicle was modified, there is evidence it was
18 modified.

19 MR. JOHNSON: Tim, he is unable to testify
20 because his entire testimony is based on pictures.

21 MR. DEVINE: That's bologna.

22 MR. JOHNSON: If he can't look at this and tell
23 me --

24 MR. DEVINE: Why can't he look at the diagram?

25 MR. JOHNSON: Because I want him to look at the

1 picture. He based his entire --

2 MR. DEVINE: And he answered your question.

3 MR. JOHNSON: Let me finish Tim, I let you
4 speak.

5 MR. DEVINE: Go ahead, sorry.

6 MR. JOHNSON: He's basing his entire, part of
7 his entire testimony here today, his evaluations, his
8 conclusion, based on photographs that Auto Club has
9 provided him. Now, I'm asking him to tell me what's
10 in the photographs and he's going to tell me he
11 doesn't know what's in the photographs. Then how did
12 he come to his conclusions?

13 MR. DEVINE: Okay.

14 MR. JOHNSON: Because he's never looked at the
15 vehicle.

16 MR. DEVINE: Understood.

17 MR. JOHNSON: So he had to use the photographs.

18 MR. DEVINE: He looked at the photographs, and
19 he didn't off the top of his head start opining. An
20 effective and thorough fire investigation will
21 include reference to available documents.

22 MR. JOHNSON: That's great.

23 MR. DEVINE: He attempted to refer to the
24 available document, and you didn't want him to do
25 that.

1 MR. JOHNSON: Because I didn't want to do that
2 because you're not going to sit here and tell me that
3 this expert, in 29 years of experience, had to look
4 at every single part and go back to the schematic in
5 order to decide what part that was. You cannot, that
6 can't be your testimony here today.

7 MR. DEVINE: We're wasting time.

8 MR. JOHNSON: Because if that's the testimony,
9 then he may not even be qualified to give testimony.

10 MR. DEVINE: You can make that motion, Ed. It's
11 going to fail before it starts.

12 MR. JOHNSON: Who knows it's going to fail?

13 MR. DEVINE: That this man is not qualified to
14 testify about Ford design and engineer. You bring
15 that motion, Ed, you go ahead.

16 MR. JOHNSON: No, this is the motion.

17 MR. DEVINE: Okay.

18 MR. JOHNSON: He's basing his testimony on the
19 photographs that we've provided him.

20 MR. DEVINE: And schematics, knowledge,
21 background, reference, experience.

22 MR. JOHNSON: Yes, yes, yes. However, he is
23 basing part of his conclusions, part of his analysis,
24 on viewing these photos. All I'm asking him is to
25 tell me in one photo, what does he see. And he's

1 telling me he can't do that. So how could he come to
2 the conclusion?

3 MR. DEVINE: Like a pop quiz, you want him to be
4 able --

5 MR. JOHNSON: It's not a pop quiz, he's been
6 looking at these photographs for the past year now.

7 MR. DEVINE: Do you want him to refer to this
8 now?

9 MR. JOHNSON: Right now, I don't. I would like
10 him to try to give me a testimony on what's in this
11 picture just from looking at the picture. I believe,
12 I would have to be reasonable in my belief, that at
13 some time he did just look at the photos and did come
14 to some kind of conclusion of what was in the
15 photograph, what part it was, how that particular
16 part relates to his conclusion on what caused the
17 fire, how that particular part might have been
18 manipulated after it left Ford control. I do think
19 it's reasonable for me to ask him what's in the
20 picture.

21 MR. DEVINE: Okay. Lets's ask.

22 BY MR. JOHNSON, CONTINUING:

23 Q. Go ahead.

24 A. Through my investigation of -- I do not rely on my
25 memory.

1 Q. Granted.

2 A. Okay. I rely on Ford documents, such as page 151-1
3 for component descriptions and locations, there is
4 more than just that document. There is a number of
5 documents that I use and, in some cases, it may even
6 be the detailed drawing.

7 Q. Okay. Let's stop right there. You stated at the
8 outset of this deposition that you rely on all
9 information?

10 A. I try.

11 Q. Now, you're telling me you only rely on the Ford
12 information?

13 A. In this particular situation when it comes to
14 components, I rely on Ford information.

15 Q. So in coming to your analysis --

16 A. I have not come to a conclusion as to the cause of
17 this fire because there is not sufficient information
18 for me to determine what caused this fire.

19 Q. Before you get upset, just hear my question. In
20 coming to your analysis and in coming to your
21 conclusions, did you use these photographs?

22 A. I have reviewed those photographs.

23 Q. Please answer the question.

24 A. I have reviewed those photographs and tried to glean
25 information from them, even though they are not high

1 quality photos and do not give you overall conditions
2 of the vehicle.

3 Q. You would have preferred to go out there and had an
4 opportunity to view the vehicle?

5 A. That would be very helpful, yes.

6 Q. So it's not your fault that you're now supposed to
7 rely on photographs that may not be high quality?
8 That's not your fault as an expert? Is that a yes or
9 a no?

10 A. Repeat that question, please.

11 Q. It's not your fault that you have to now rely on what
12 you perceive to be less than quality photographs?

13 A. Yes. These less than quality, I believe, are the
14 same photographs that --

15 Q. Please answer the question, sir.

16 A. -- that your expert based his conclusions on.

17 Q. No, no. My expert went out and actually put his
18 hands on the vehicle. He did not rely on
19 photographs, he took the photographs.

20 A. Do you mean that he moved components in this
21 vehicle? You said he put his hands on it.

22 Q. That's an aphorism, sir. I'm just saying he was out
23 there at the scene, took the photographs, looked at
24 the vehicle. He did not, in any way, spoil this
25 particular product for someone else to come back and

1 inspect. Now, my initial question that you still
2 have not answered, is that it is not your fault that
3 you are now relying on the secondhand information?

4 MR. DEVINE: Objection. That's totally
5 irrelevant, but if you can answer maybe we can get
6 back on track.

7 MR. JOHNSON: This is a discovery deposition.
8 BY MR. JOHNSON, CONTINUING:

9 Q. Go ahead.

10 A. I was not aware, when I was made aware of this
11 litigation it was my understanding that the vehicle
12 was no longer available.

13 Q. Are you going to answer the question?

14 A. The vehicle was no longer available when I was aware
15 of this litigation.

16 Q. Okay.

17 A. That's my understanding.

18 Q. Okay. Then you may not be aware that Ford Motor
19 Company was given the opportunity, a year before this
20 suit was even filed, to inspect the vehicle and they
21 chose not to send any of their engineers out to the
22 site. Were you aware of that?

23 MR. DEVINE: Objection. Lack of foundation.
24 How could he be aware of what Ford Motor Company was
25 or was not aware of. You ask him questions within

1 his personal knowledge.

2 MR. JOHNSON: That is within his personal
3 knowledge. Whether he is aware of it, it is within
4 his personal knowledge.

5 THE WITNESS: I was not aware of this, one
6 second, please.

7 MR. JOHNSON: Take your time.

8 MR. DEVINE: Objection that I should have made
9 to that last question was lack of foundation.

10 MR. JOHNSON: Noted.

11 BY MR. JOHNSON, CONTINUING:

12 Q. Go ahead.

13 A. I became aware of the [REDACTED] case, this situation.

14 Q. Yes.

15 A. Sometime after 05/29/96.

16 Q. Okay.

17 A. And more than likely it would have been a month to
18 two months after that date.

19 Q. Did anyone provide you with information that Ford
20 Motor Company had been given the opportunity, at the
21 plaintiff's expense, to come out and inspect the
22 vehicle and they chose not to?

23 A. Unless it's in my file no, I'm not aware of it.

24 Q. Thank you, sir. Now, let's get back to my original
25 question. You used these photographs in coming to

1 your analysis and conclusions. You already stated --
2 A. I have reviewed those, yes. They are information
3 that I have tried to, they are items that I have
4 tried to glean information from.
5 Q. So your testimony today is not that you cannot
6 describe what's in the photographs?
7 A. In some situations I may not be.
8 Q. What situations?
9 A. Without referring to other Ford documents.
10 Q. Tell the jury why you can't describe what's in
11 Photograph 21 of the Conley Ray report?
12 A. I can describe that.
13 Q. Please describe it.
14 A. That is the left-rear corner of the engine.
15 Q. Other than reading the title.
16 A. That has a number of electrical components, brake
17 booster.
18 Q. What's the brake booster?
19 A. The brake booster is, we are referring to Figure 21,
20 the brake booster is the rounded component on the
21 left-upper corner.
22 Q. Yes. And what other components can you describe for
23 the jury, please. If you can't describe it, you
24 can't describe it. But if there's other components
25 in this photograph --

- 1 A. Electrical wiring, I believe this is a lifter for the
2 hood.
- 3 Q. And you're pointing out a long?
- 4 A. Cylinder object.
- 5 Q. Cylinder object on the right-hand corner of the
6 photograph. It looks like it is butting the quarter
7 panel to center of the vehicle.
- 8 A. Yes. And there are a number of hoses and electric
9 circuits.
- 10 Q. Do you know what this item is right here? And I'm
11 pointing at the large square item in the left corner
12 of the photograph.
- 13 A. It has an electrical connection to it. Whether that
14 electrical connection is part of the electrical
15 circuit that we have been speaking to the harness,
16 I'm not sure without referring to Ford documents.
17 I'm not sure what that component is.
- 18 Q. Let's refer to Ford documents.
- 19 A. You want me to refer to 151-1?
- 20 Q. I want you to refer to any Ford document that assists
21 you in telling the jury what that component is.
- 22 A. I believe that is the speed control assembly, speed
23 control assembly.
- 24 Q. Could you circle it for me?
- 25 A. Circle it on page 151-1?

1 Q. Yes, please. This item right there.

2 A. Based on that picture and based on the information
3 that we have in the room right now, I don't know.

4 Q. Can you get information somewhere else located on the
5 premises of Ford Motor Company that will assist you
6 in determining what that particular component is?

7 MR. DEVINE: Objection as to foundation. He
8 doesn't know, off the top of his head, what it is.
9 There's been evidence that the vehicle has been
10 modified, he can't, there's no foundation laid that
11 that part was a Ford part.

12 MR. JOHNSON: Well, Tim, for the record, I don't
13 believe that's a proper objection. My only question
14 was, would some additional documentation from Ford
15 assist him in telling whether it is a Ford product.
16 That's my sole question.

17 MR. DEVINE: That's a better question.

18 MR. JOHNSON: But that was the original
19 question.

20 BY MR. JOHNSON, CONTINUING:

21 Q. Go ahead.

22 A. I'm not aware of that being a Ford component. At
23 this time, I can't tell you if it is a Ford component
24 or not.

25 Q. Okay. What will you need to assist you in coming to

- 1 that determination?
- 2 A. I will have to do an investigation to include maybe
- 3 looking at an exemplar vehicle to determine if that
- 4 is a Ford component.
- 5 Q. I guess Ford has a few exemplar vehicles that you can
- 6 gain access to?
- 7 A. No.
- 8 Q. Ford Motor Company has no exemplar vehicles that you
- 9 can gain access to?
- 10 A. I'm not aware of Ford having any 1994 Grand Marquis
- 11 with the same equipment that this vehicle has.
- 12 Q. Okay. Does it have any schematics for the vehicle
- 13 that might be able to assist you?
- 14 A. Schematics?
- 15 Q. Or whatever you call them.
- 16 A. There may be various documents that you may be able
- 17 to find, if that is a Ford component, you may find it
- 18 in various Ford documents. If it is not a Ford
- 19 component, you're not going to find it there.
- 20 Q. Is there any kind of documents that Ford has that
- 21 will tell us what exactly belongs in this specific
- 22 area and what is not a Ford product?
- 23 A. That depends on the equipment on the vehicle, and I
- 24 believe you'd have to look at an exemplar to
- 25 determine that.

1 Q. Exemplar vehicle?

2 A. That would be the most efficient way of doing it.

3 Q. If we don't have an exemplar vehicle and you
4 testified Ford does not have an exemplar vehicle, and
5 clearly Auto Club doesn't have an exemplar vehicle,
6 are there any documents that Ford has in its
7 possession that will assist us in telling the jury
8 what Ford products were originally in this particular
9 vehicle in that location?

10 A. If I had that part, I believe I could identify it
11 whether it's a Ford component or not. Or, if I was
12 inspecting the vehicle, if I had an opportunity to
13 inspect the vehicle, I think I could answer your
14 question, yes.

15 Q. Well, you don't have an opportunity to inspect the
16 vehicle. Is there any secondhand way that you would
17 be able to tell?

18 A. There would be a considerable search, a search to see
19 if that is, you know, if anything within the Ford
20 system represents is similar, or looks like that.

21 MR. JOHNSON: I'm going to make a formal request
22 that you do that search.

23 MR. DEVINE: And I'm going to pose a request to
24 admit.

25 THE WITNESS: If it is not a Ford part, we are

1 going to have a very difficult time finding it. If
2 it is part of the alarm system, is there any
3 opportunity to have an exemplar alarm system so we
4 can rule that out.

5 MR. JOHNSON: I'm going to pose it for a request
6 right now. I'm also going to do a formal request to
7 admit and if Ford does not supply us with the
8 information on the respond for the request to admit,
9 we will go from there.

10 THE WITNESS: If it is a Ford component, we
11 should be able to come up with what it is. If it is
12 not a Ford component, we are not going to have any
13 record of it.

14 MR. JOHNSON: That's fine. Tim, can we make a
15 copy of this because I want to use this as a
16 deposition exhibit.

17 MR. DEVINE: Yes.

18 MR. JOHNSON: Let's go off the record for a
19 second.

20 (Off the record at 10:59 a.m.)

21 (On the record at 11:05 a.m.)

22 MR. JOHNSON: Back on the record. Tim, I'm
23 going move for the admittance of this document 151-1,
24 the components location view.

25 MR. DEVINE: As an exhibit for the deposition?

1 MR. JOHNSON: As Plaintiff's Deposition
2 Exhibit-1.

3 MR. DEVINE: Sure.

4 BY MR. JOHNSON, CONTINUING:

5 Q. Do you believe that an alarm system that was put on
6 by Ford dealership was the cause of this particular
7 fire?

8 MR. DEVINE: Objection. Foundation, there's
9 been no foundation about the nature, ownership, or
10 relationship to Ford of the entity that put this
11 alarm into the vehicle.

12 BY MR. JOHNSON, CONTINUING:

13 Q. My question was is what is Ford's theory? And the
14 theory I suppose would come from their expert, being
15 you, so is it your theory that the cause of the fire
16 was this outside alarm system that was placed on the
17 vehicle?

18 A. Depending on how it was integrated into the Ford
19 vehicle. Yes, that is a possibility.

20 Q. So --

21 A. And what was done to get it into the vehicle.

22 Q. So if we take the testimony of the individual who
23 actually installed the alarm that he in no way, form,
24 or fashion ever touched the harness, never integrated
25 this alarm system into the harness system, how would

1 that affect your analysis or conclusion as to the
2 cause and origin of this particular fire?

3 MR. DEVINE: The objection is as to foundation
4 because there's been no evidence that the individual
5 who installed it has been identified, or that the
6 individual who installed it will or will not remember
7 installing it, or that the individual who installed
8 it will or will not tell the truth if he or she does
9 remember what he or she did to install it. So, if
10 the question is as to the reality of the
11 installation, there's the lack of foundation.

12 BY MR. JOHNSON, CONTINUING:

13 Q. As the majority of our questioning today has been,
14 because we do not have the other individuals here,
15 that is a hypothetical. Hypothetically, if the
16 person testifies that he did not integrate this alarm
17 system into the harness system, in installing the
18 alarm system that he had no contact, the particular
19 alarm system had no contact with this harness system,
20 how would that affect your analysis and conclusion as
21 to cause and origin of this particular fire?

22 A. Number 1, I got to know what his definitions of those
23 terms you just used are. Number 2, is that although
24 he did not directly contact this alarm system, did he
25 integrate this into the Ford system, electrical

1 system, in such a manner that it could have caused an
2 overload in that particular harness, I don't know.

3 Q. Yes.

4 A. He may have done this inadvertently. He may not have
5 known enough about the vehicle.

6 Q. Well, hypothetically?

7 A. Hypothetically, he may not have known enough
8 about this vehicle to properly install that alarm
9 system.

10 Q. Hypothetically, what if we determined that he does
11 know enough and he does have enough information
12 concerning the inner workings of this Ford product to
13 properly install this alarm without causing an
14 overload to the electrical system of this particular
15 vehicle. Then, how would that affect your
16 conclusions?

17 A. As long as I do not know.

18 Q. No, this is hypothetical. Hypothetically, we are
19 saying we are in the best of all worlds. This guy
20 knows everything about Ford products and did it the
21 most proper way that any engineer or mechanic would
22 have done, did everything right, everything by the
23 book, everything by standards. And, if that's the
24 testimony, how would that affect your analysis?

25 MR. DEVINE: Objection as to foundation.

1 MR. JOHNSON: It's a hypothetical, so there's no
2 need for foundation.

3 MR. DEVINE: The foundation is that in terms of
4 the hypothetical there's too much undefined in the
5 hypothetical with regard to, even leaving aside
6 what's left.

7 MR. JOHNSON: You define hypothetical.

8 MR. DEVINE: Let me just point out, and maybe
9 you can find one that works. But this one is
10 deficient because even leaving aside the fellow, and
11 you've done a job of trying to say this is the
12 world's greatest autoalarm installer, there has been
13 no evidence, so we are definitely in the range of
14 hypothetical, but furthermore, there's been no even
15 fleshing out of the hypothetical with regard to the
16 alarm itself, in possible defects in the alarm
17 itself.

18 MR. JOHNSON: Fine. There's no defect in the
19 installation of the alarm, there's no defect in the
20 alarm, the hypothetical is that there has been
21 nothing else added to this vehicle other than the
22 alarm, and everything else.

23 MR. DEVINE: Same objection, but if you can
24 answer Paul, you go ahead, please.

25 BY MR. JOHNSON, CONTINUING:

- 1 Q. Go ahead.
- 2 A. There's no such thing as a perfect world, and that's
- 3 what you're describing. In a perfect world, yes, but
- 4 if he knows everything there is always those
- 5 potentials that when you install something in a
- 6 vehicle, there is something you do not know.
- 7 Q. Yes.
- 8 A. Or that there can be a --
- 9 Q. So then why?
- 10 A. And it could be it just --
- 11 Q. Let me ask the questions.
- 12 A. It could be just the --
- 13 Q. Please stop there, sir.
- 14 A. Let me answer your question.
- 15 Q. You have, and now you're going on to other areas that
- 16 I don't want to get into right now.
- 17 A. No.
- 18 Q. Sir?
- 19 A. Not only knowing all the theoretical about this, but
- 20 the installation of the part itself, and the
- 21 bracketry, did it come in contact with other things,
- 22 I don't know if this man knows that stuff.
- 23 Q. Fine.
- 24 A. Okay. And what the vehicle goes through when it is
- 25 in motion.

1 Q. Fine.

2 A. Or being used.

3 Q. Fine. Now we're in another area. Then why does
4 Ford instruct their customers when they want things
5 added to the vehicle, take it back to the Ford
6 dealership and have those people install the
7 particular part?

8 MR. DEVINE: Objection as to foundation. No
9 evidence at all that Ford instructed anybody to take
10 this thing anywhere.

11 BY MR. JOHNSON, CONTINUING:

12 Q. The Ford warranty for this particular vehicle tells
13 the consumer, if you have a problem, take it back to
14 the dealership and have them work on them. That's
15 the evidence.

16 A. On original equipment. I don't believe it says
17 anything about aftermarket equipment.

18 Q. So on original equipment. So now you're telling me
19 that Ford tells that customer to take that car back
20 to the dealership to have original equipment put on
21 there, but please --

22 A. Original equipment comes with the vehicle.

23 Q. Let me finish. Take the car back to have original
24 equipment put on it, but don't take the car back to
25 have aftermarket equipment put on it because those

1 guys are incompetent to do that. Is that Ford's
2 position?

3 A. Ford's position, as far as I'm aware, is that we
4 service the car in the condition that it leaves Ford
5 property, or Ford ownership, and accepts
6 responsibilities for its components and its design
7 and its manufacturing. It does not accept design and
8 installation and repair work for, generally speaking,
9 for aftermarket installation.

10 Q. Okay. So I'm Joe Consumer. Ford tells me to take my
11 car back to Ford dealership to put their parts on,
12 but I'm left all on my own if I'm asking that same
13 dealership to put another part on?

14 MR. DEVINE: Objection, it requires a legal
15 conclusion. Objection, for lack of foundation.

16 BY MR. JOHNSON, CONTINUING:

17 Q. Strike the question. Can you describe for the jury
18 what is a wiring harness and what is its purpose?

19 A. A wiring harness is one of thousands of components
20 that make up a given vehicle.

21 Q. Yes.

22 A. It's basic use is to distribute electric current at
23 proper voltages and amperage to the various
24 components within the vehicle that require electrical
25 power at various times.

1 Q. Okay. So if there is nothing wrong with the wiring
2 system, that should never be a problem?

3 A. I don't understand your question.

4 Q. You've just told me what the purpose of a wiring
5 harness is. And my question is this, if the wiring
6 harness is manufactured properly, there shouldn't be
7 a problem with that particular wiring harness?

8 A. If it is properly installed and it is receiving
9 currents and voltages that it is designed to and
10 properly manufactured, there should not be issues.
11 But, you understand, there are recalls within the
12 automotive industry, throughout the industry. Not
13 only automotive industry but coffee makers and
14 everyone else.

15 Q. And Ford actually has more recalls a year, more parts
16 recalled, than they actually manufacture in a year
17 basis?

18 A. I'm not aware of that.

19 Q. Okay. What is a module?

20 A. Excuse me?

21 Q. A module?

22 A. A module could be, it's an assembly of components.

23 Q. Of any specific type of component?

24 A. No.

25 Q. Could you give the jury some examples of modules?

- 1 A. Modules. You could have a fuel delivery module, you
2 could have an electrical module, you could have a
3 vacuum module, a radiator could be considered a
4 module.
- 5 Q. Because it has a lot of components and parts?
- 6 A. Sure.
- 7 Q. What is the significance of beaded copper being found
8 at the end of a conductor?
- 9 A. It indicates that there was possibly shorting in that
10 conductor at some time.
- 11 Q. Okay. Can you define for the jury a fused panel?
12 What is a fused panel and what is it's purpose?
- 13 A. A fused panel, generally speaking, is a means of
14 protecting the circuits in an electrical system.
- 15 Q. Protecting the circuits from what?
- 16 A. Experience in an overload condition.
- 17 Q. And what, if you have an overload, what does that
18 cause? What kind of condition does that cause?
- 19 A. An overload could cause a fuse to blow, protect the
20 circuit.
- 21 Q. The end effect of a fuse blowing could be what?
- 22 A. Well, once a fuse blows, that circuit should be dead.
- 23 Q. Okay.
- 24 A. You should not be receiving electrical current unless
25 something has been spliced into that circuit that

- 1 causes it to receive current from another direction.
- 2 Q. But if nothing has been spliced into that circuit?
- 3 A. Yes.
- 4 Q. Once the fuse blows, you should have no additional
- 5 problems? If it's working, if it's functioning fine?
- 6 A. Yes. If the fuse is blown, it will not receive any
- 7 electrical current.
- 8 Q. So if the fuse is functioning as it was designed?
- 9 A. It would be a dead circuit.
- 10 Q. It would be just dead, nothing else would occur?
- 11 A. That's correct, if the fuse was blown.
- 12 Q. What are fuse links?
- 13 A. Fuse links are very similar to a fuse. What they are
- 14 is a certain gauge of wire for a certain length
- 15 within a wiring circuit that protects that circuit.
- 16 Q. Protects it from what?
- 17 A. Overload.
- 18 Q. And overloading can cause what?
- 19 A. Overload can cause?
- 20 Q. Yes.
- 21 A. It can cause anything from light bulbs to burn out to
- 22 experience in a shock.
- 23 Q. Could it cause a fire?
- 24 A. Possibly, yes.
- 25 Q. Okay. But if this fuse, if the fuse is working

1 properly, if the fuse links are working properly,
2 then a fire shouldn't result.

3 MR. DEVINE: Objection to foundation. That's
4 impossible to answer without a description of what
5 you are talking about.

6 MR. JOHNSON: If the fuse is working properly,
7 and even if it blows, it shouldn't result in a fire?

8 MR. DEVINE: On a hypothetical circuit?

9 MR. JOHNSON: No, on a circuit that's
10 manufactured and designed properly, and the
11 manufacturing products have not broken down, if that
12 fuse blows, it should not result in any fire or any
13 other occurring incident. It should just cease to
14 exist.

15 MR. DEVINE: Same objection. No foundation.
16 You're talking about a hypothetical circuit,
17 uninterrupted, unmouthed, unmodified, unaltered, you
18 got a circuit.

19 BY MR. JOHNSON, CONTINUING:

20 Q. If you can answer the question, please answer it.

21 A. I need more specifics on your question.

22 Q. Such as?

23 A. I need to know the condition of that circuit prior to
24 the fuse blowing.

25 Q. The condition is that it just came off the assembly

1 line, it blows. It just leaves the assembly line and
2 it blows, a fire should not occur?

3 A. A fire should not occur, yes.

4 Q. If the fuse was manufactured properly?

5 A. An improper manufactured fuse could possibly not blow
6 at its required amperage.

7 Q. Okay. What are high current fuses?

8 A. High current fuses are basically, as far as the
9 automotive industry, as far as Ford, our use of that
10 word, I believe, are the ones that are in the
11 distribution box within the engine compartment.

12 Q. And what are their purposes?

13 A. To protect the circuits.

14 Q. From what?

15 A. Overload condition.

16 Q. So if the high current fuses are manufactured
17 properly and they blow, they still should not be
18 overloading?

19 A. I imagine you could come up with certain situations
20 where any fuse would not necessarily blow at its
21 rated capacity, even though it is correctly
22 manufactured and it is within its classification.
23 There are conditions, I believe, where you could get
24 a situation where it would not necessarily blow. And
25 including, you know, tapping into or splicing into a

1 circuit of other equipment.

2 Q. Well, the idea of failure, the theory of failure mode
3 and effect analysis, isn't that supposed to have
4 taken all those things you've just stated at the
5 design level?

6 MR. DEVINE: Lack of foundation. There's been
7 no evidence or testimony regarding what the analysis
8 mode that you just described

9 BY MR. JOHNSON, CONTINUING:

10 Q. Can you describe for the jury what is failure mode
11 and effect analysis?

12 A. It's a tool used by engineers to examine failure
13 modes and the effects of those failure modes.

14 Q. What's the purpose of the tool?

15 A. To try to eliminate as many potential failure modes
16 as possible that can reasonably be foreseen.

17 Q. Isn't it correct to state that its purpose is to
18 anticipate how design can possibly fail?

19 A. Reasonably.

20 Q. Under all conditions?

21 A. Reasonably.

22 Q. Please answer the question.

23 A. Reasonably foreseeable.

24 Q. Reasonably foreseeable failures. Okay. Now,
25 reasonably foreseeable failures of what type?

1 A. Basically, the ones that the engineers and the
2 engineering community, through their past history and
3 knowledge of their components find that could
4 reasonably occur.

5 Q. Isn't negligence one of those reasonably foreseeable
6 occurrences?

7 MR. DEVINE: Objection. Calls for legal
8 conclusion.

9 MR. JOHNSON: No, it does not.

10 MR. DEVINE: Objection as to foundation.

11 MR. JOHNSON: This is an engineering analysis.
12 It has nothing to do with the legal conclusion.

13 MR. DEVINE: Objection. Lack of foundation.
14 There's been no foundation laid as to what negligence
15 is or means.

16 MR. JOHNSON: Under the failure mode and effect
17 analysis, is the negligence of the consumer of an end
18 user taken into consideration?

19 MR. DEVINE: Same objection.

20 BY MR. JOHNSON, CONTINUING:

21 Q. But answer it if you can.

22 A. In some circumstances, yes, I believe so.

23 Q. Okay.

24 A. I'm speaking in general FMEA's.

25 Q. What are FMEA's?

1 A. Failure mode and effect analysis.

2 Q. Listen to this statement and tell me if you agree
3 with it or not. In trying to anticipate how design
4 could possibly fail all conditions the design must
5 tolerate such as overload, contamination by weather,
6 manufacturing variations, negligence, and others,
7 must be considered. Do you agree with that
8 statement?

9 A. Could you repeat that?

10 Q. Sure. Under the failure mode and effect analysis, in
11 trying to anticipate how the design could possibly
12 fail all conditions the design must tolerate such as
13 overload, contamination, weather, manufacturing
14 variations, negligence, and others, must be
15 considered?

16 A. Do I agree with that statement?

17 Q. Yes.

18 A. Without knowing the definition of negligence that it
19 refers to.

20 Q. You've been an engineer for 29 years, you've heard of
21 failure mode and effect analysis. You know what they
22 mean by negligence.

23 MR. DEVINE: Is that a question?

24 MR. JOHNSON: Yes, it is.

25 BY MR. JOHNSON, CONTINUING:

1 Q. Well?

2 A. Do I know it? I have a personal opinion of what they
3 mean by negligence.

4 Q. That's all I want.

5 A. Me not doing my job.

6 Q. That's all I want.

7 A. To me, that's what negligence is.

8 Q. So do you agree with the statement?

9 A. I agree with the statement if negligence is defined
10 as the design engineer, for the design FMEA, is not
11 doing his job, that's negligence.

12 Q. That's negligence. But also under this analysis, the
13 design engineer at the very initial stages is
14 designing the particular part in anticipation of
15 other's negligence.

16 MR. DEVINE: Is that a question?

17 MR. JOHNSON: Yes.

18 MR. DEVINE: There's no foundation, but if you
19 can, answer it.

20 BY MR. JOHNSON, CONTINUING:

21 Q. Okay.

22 A. The design engineer will take into account trying to
23 make the system safe, and whatever system he is
24 working on.

25 Q. Yes.

1 A. And he will try to, he will investigate all, try to
2 investigate all reasonably foreseeable issues that
3 could come up with his system.

4 Q. You're not answering my question.

5 A. Yes, I am. That's what he is going to do.

6 Q. You're not answering it to my liking, sir.

7 A. I'm sorry you don't like the answer.

8 Q. That's fine. I didn't say I didn't like your answer,
9 I don't think you're answering it. My question is
10 this, under the failure mode and effect analysis, the
11 design engineer considers negligence as being
12 reasonably foreseeable. Meaning, the question is, he
13 considers another person's negligent use of his
14 particular product as something that is foreseeable
15 and he tries to design that product to ensure that if
16 that other person is negligent, it won't cause his
17 product to fail or won't cause the product to cause
18 someone injury or damage?

19 MR. DEVINE: Objection. One, no foundation.
20 Two, asked and answered. The witness has answered
21 that question, and he's answered it in three
22 different ways and added nuances and exceptions.

23 BY MR. JOHNSON, CONTINUING:

24 Q. Please answer the question, if you can.

25 A. The design engineer is going to take into account all

1 foreseeable situations that he is aware of, that he
2 will also request input from other people. He is
3 looking at this from a design aspect and his
4 customers, whoever his customers are, which could be
5 the assembly plant.

6 Q. Yes.

7 A. Or it could be another supplier.

8 Q. Yes. Now, does a design engineer consider the
9 negligence of a third party as something that's
10 reasonably foreseeable.

11 MR. DEVINE: Objection. Asked and answered.

12 BY MR. JOHNSON, CONTINUING:

13 Q. You have not answered that question.

14 A. I can't speak for all engineers.

15 Q. Do you?

16 A. Personally, I will investigate all issues that I
17 think are foreseeable.

18 Q. Yes.

19 A. And try to determine their failure modes and their
20 effect analysis, and provide effect analysis and try
21 to give a severity to that to try to determine if I
22 think it's reasonably foreseeable.

23 Q. Yes.

24 A. I think that's what generally engineers do, okay.
25 And I'm speaking of a design engineer.

1 Q. This is design?

2 A. Just design.

3 Q. Speaking of design engineering.

4 A. Okay.

5 Q. Now, listen to this next statement and tell me if you
6 agree with it or you don't agree with it. The
7 importance of this step is to list every possible
8 occurrence to ensure that a potential failure mode is
9 not overlooked.

10 A. Excuse me. Read that again, please.

11 Q. The importance of this step is to list every possible
12 occurrence to ensure that a potential failure mode is
13 not overlooked?

14 A. Yes, and I believe that by our warnings within the
15 owner's manual and other Ford publications if there
16 are situations that are not foreseeable.

17 Q. Yes.

18 A. There are statements and warnings within the owner's
19 manual itself to the owner, and also in shop manuals
20 that the dealers have. There are warnings, if you
21 cannot solve the issue in itself, you got how many
22 miles of wiring in a given vehicle, how can you
23 possibly, how can you possibly take into account
24 every infinite number of variations of failure modes
25 that you could have.

1 Q. But isn't that --

2 A. If you take the foreseeable ones, and the ones that
3 are and even the ones that are not foreseeable, you
4 issue warnings to the customer, to the owner, and
5 also to the repair services, and also to the
6 aftermarket people.

7 Q. The failure mode and effect analysis is something
8 that you do at the design stage?

9 A. No, I do one portion of it.

10 Q. Let me finish. The failure mode and effect analysis
11 is a tool that the design engineer uses?

12 A. It's a discipline that he uses, yes.

13 Q. A discipline that he uses at the design stage?

14 A. That he uses at the design stage? Yes, that he uses
15 at the design stage.

16 Q. So, at the design stage, under this mechanism or
17 tool, whatever you use, he is supposed to look into
18 the future and foresee each and every possible --

19 A. Reasonable --

20 Q. Let me finish. Each and every possible failure mode,
21 is that correct?

22 A. I think I've answered that question.

23 Q. Could you answer it again?

24 MR. DEVINE: Ed, that's it. Come on.

25 MR. JOHNSON: He has not answered it to my

1 satisfaction. If he doesn't want to answer it again,
2 I'll move on. However, he has not answered it to my
3 satisfaction.

4 MR. DEVINE: Fair enough. We've got to move on.
5 I mean, if that's the answer --

6 MR. JOHNSON: We will go at my pace.

7 BY MR. JOHNSON, CONTINUING:

8 Q. If you don't want to answer that question again, if
9 you think you've answered it, that's fine.

10 A. I believe I answered that question.

11 Q. Okay.

12 A. There are some things that are not foreseeable that
13 we, you know, and with the miles of wiring and the
14 number, you know, there are thousands of components
15 in this vehicle, and you cannot come up with every
16 possible failure mode. And besides that, these
17 failure modes in when you do your effect analysis.

18 Q. Yes.

19 A. And if you do a formal FMBA, you will put a severity
20 number to that.

21 Q. Yes, you will. From 1 to 10, is that correct?

22 A. I believe those are the numbers.

23 Q. Yes, they are. Listen to this statement.

24 A. Go ahead.

25 Q. Did you want to add something?

1 A. I would like to know who the author of those
2 statements are.

3 Q. That's irrelevant at this point.

4 A. Whether that's the engineering community or what.

5 Q. This the engineering community.

6 A. By who?

7 Q. This is the engineering community. I'm going to pose
8 my question, these are my questions.

9 A. Okay.

10 Q. You know exactly who --

11 MR. DEVINE: Wait a minute. For the record
12 here, the witness is attempting to respond to
13 apparent quotations from what may or may not be --

14 MR. JOHNSON: Who said they're quotations. They
15 are questions, they are statements.

16 MR. DEVINE: All right.

17 MR. JOHNSON: That's all they are. Who said
18 they were quotations, they are statements that I'm
19 asking him to either affirm or deny.

20 MR. DEVINE: Okay. The witness has asked where
21 they come from.

22 MR. JOHNSON: For right now they come from this
23 attorney.

24 MR. DEVINE: But what is the attorney's source
25 is the witness's question.

1 MR. JOHNSON: At this stage, the attorney's
2 source is the attorney.

3 MR. DEVINE: But, I mean, where did the attorney
4 come up with these questions?

5 MR. JOHNSON: Are you going to place some kind
6 of an objection?

7 MR. DEVINE: Yes.

8 MR. JOHNSON: Place an object and I'm going to
9 go on.

10 MR. DEVINE: I object. This is a deposition of
11 an expert. We've been here for what, what time did
12 we start?

13 MR. JOHNSON: We've been here two and half
14 hours.

15 MR. DEVINE: We're now getting into an
16 opportunity for the opposing counsel to educate
17 himself about engineering principals and practices.
18 It has not been our practice to charge for
19 depositions to date, if this line of questioning,
20 which is totally irrelevant to the case at hand,
21 continues, we are going on the meter as of about half
22 an hour ago and we are going to charge at industry
23 rates for the rest of this deposition, number one.
24 Number two, it's irrelevant and if it continues to be
25 irrelevant, we will pretty much end the deposition

1 unless there is any relevance shown.

2 MR. JOHNSON: Well, that would be an interesting
3 thing for the counsel to tell his expert not to
4 answer a question of the plaintiff that he believes
5 is relevant. If you want to take that to the judge,
6 that would be fine.

7 MR. DEVINE: Okay. What's the relevance?

8 MR. JOHNSON: The relevance is I'm trying to
9 find out what this guy goes through. He says he is a
10 design engineer. I want to know what his processes
11 are in going through and designing these products and
12 if he is qualified to testify.

13 MR. DEVINE: Okay. There's no relevance.
14 That's a lack of foundation.

15 MR. JOHNSON: Are you done with your objections?

16 MR. DEVINE: Yes. And I'm going to tell you what
17 the relevance is, ask the man if --

18 MR. JOHNSON: Tim, this is a discovery
19 deposition.

20 MR. DEVINE: It's an expert deposition.

21 MR. JOHNSON: An objection based on irrelevance
22 is not a proper objection.

23 MR. DEVINE: Ask him if he designed this vehicle
24 or this component.

25 MR. JOHNSON: Tim, you have your chance of

1 asking him anything you want to ask him. I'm going
2 to hold my deposition the way I want to hold it.

3 MR. DEVINE: If he did not design this component
4 of this vehicle, then this is totally irrelevant.

5 MR. JOHNSON: No.

6 MR. DEVINE: Who cares?

7 MR. JOHNSON: He is an expert you hired, Ford
8 Motor Company hired this gentleman or brought this
9 gentleman in to give expert opinion. That expert
10 opinion is supposed to educate the jury. I want to
11 find out what exactly is his expertise and what is
12 the level of that expertise and I believe my
13 questions are proper. Now, if you're done objecting,
14 I'm going to continue the deposition.

15 MR. DEVINE: Okay. We are on the clock.

16 MR. JOHNSON: You bring a motion that says that.
17 Tim, you're wasting time right now.

18 MR. DEVINE: Okay. I'm telling you that from
19 ten minutes ago at 11:30 a.m., we're on the clock and
20 your client will pay the industry rate for his
21 expertise from this point forward.

22 MR. JOHNSON: You have to bring a motion to do
23 that.

24 MR. DEVINE: Ed, I'm telling you that I will
25 bill you for that.

1 MR. JOHNSON: You're going to have to bring a
2 motion.

3 MR. DEVINE: If you're telling me that you're
4 not going to pay for that, then we will end the
5 deposition.

6 MR. JOHNSON: Are you instructing your witness
7 not to answer anymore questions?

8 MR. DEVINE: This is what I'm going to tell you,
9 Ed.

10 MR. JOHNSON: No. Well, you do whatever you
11 want to do.

12 MR. DEVINE: I've asked for you to give us a
13 sense for the relevance of this line of questioning.
14 You haven't done it, you haven't told him where it
15 comes from, from all looks and appearances, it's
16 background material that you can get from a source
17 readily available to you. I'm saying that this guy
18 will continue to sit here, but you're going to pay
19 for it. And if you don't agree to pay for it, then
20 we're not going to do it anymore.

21 MR. JOHNSON: I don't think it's appropriate.
22 You're instructing a witness not to answer questions,
23 say that for the record.

24 MR. DEVINE: Here's for the record, Ed. If your
25 client will pay for this man's time to give you a

1 background education in engineering, we will go
2 forward from this point on.

3 MR. JOHNSON: Let's go off the record.

4 (Off the record at 11:41 a.m.)

5 (On the record at 11:45 a.m.)

6 MR. DEVINE: Back on the record. Off the
7 record, Counsel agreed that from this point
8 forward --

9 MR. JOHNSON: No, Counsel has not agreed to
10 anything. Counsel for Ford is unilaterally stating
11 that he is going to start charging Auto Club.
12 Counsel for Auto Club has not agreed to that.

13 MR. DEVINE: And the terms of this deposition
14 going forward are that Auto Club will pay, or the
15 deposition won't go forward.

16 MR. JOHNSON: Are you going to end the
17 deposition?

18 MR. DEVINE: Unless you go to a different line
19 of questioning or agree to pay for this line.

20 MR. JOHNSON: I see Ford, at this stage, kind of
21 running away from the facts of the case and trying to
22 intimidate Counsel for Auto Club by saying that now,
23 all of sudden when the questions start to get
24 relevant, they are going to start charging Auto Club.
25 I believe that is inappropriate, however, for these

1 particular proceedings, Auto Club is more than
2 willing to pay for this gentleman's time.

3 MR. DEVINE: Understood.

4 BY MR. JOHNSON, CONTINUING:

5 Q. The next statement. The engineer anticipates what
6 could cause the failure, causes such as manufacturing
7 variances, consumer uses or abuses, and others are
8 listed. Do you agree with that statement?

9 A. Not totally.

10 Q. What part don't you agree with?

11 A. I think it's foreseeable, that should be added.

12 Q. What part do you agree with?

13 A. If you add foreseeable to most of those. Read it
14 again, please.

15 Q. The engineer anticipates what could cause the
16 failure--

17 A. Foreseeable failure.

18 Q. Causes such as manufacturing variations--

19 A. Foreseeable manufacturing variations.

20 Q. Consumer uses or abuses --

21 A. Foreseeable.

22 Q. And others are listed?

23 A. Foreseeable others.

24 Q. So then, you're telling me --

25 A. If they're not foreseeable, I'm not going to think of

1 them, right?

2 Q. You define --

3 A. And if those that are not foreseeable, I think we
4 make a very good effort to cover those with warnings,
5 owner's manuals.

6 Q. Yes.

7 A. Shop manuals, and manuals that go to the aftermarket
8 places. I believe there is, at least in trucks for
9 body shops and other manuals that go to the
10 aftermarket.

11 Q. Okay.

12 A. I don't think Ford should be held responsible for,
13 can be held responsible for aftermarket activities.

14 Q. Fine. You're an engineer. I'm going to make a
15 statement, tell me if I'm right or wrong. My
16 understanding of the failure mode and effect analysis
17 is that the design engineer, at that initial design
18 process, considers consumer uses or abuses as
19 something that is foreseeable and they try to design
20 the product to avoid?

21 A. What is considered foreseeable to him and severity
22 index, as you stated you're aware of.

23 Q. Yes.

24 A. Are sufficiently high enough that they look like you
25 need some corrective action, yes. Foreseeable things

1 we are going to try, we are going to react to.

2 Q. Yes.

3 A. And if they're foreseeable and potentially can
4 happen. Those that are not foreseeable, you're going
5 to try to cover in other ways to inform the public.

6 Q. Well, one of those foreseeable things are misuses and
7 abuses by the consumers?

8 A. They are potential, yes, you know.

9 Q. Is that a yes or a no?

10 A. There are a number of --

11 Q. Is that a yes or a no?

12 A. There are a number of foreseeable negligent actions
13 that I believe the consumer, that we try to protect
14 from. Including crash worthiness, FMVSS 301, 208,
15 302, all the FMVSS requirements. We live up to
16 those, and some of that is because of customer abuse.

17 Q. That's right and you have to --

18 A. You have to take some of that into consideration.
19 But, even at that, not everything that you consider
20 foreseeable is foreseeable to the next person. And
21 most of that we try to cover with additional
22 information to the public and to the dealerships, and
23 to the repair activities, and to the aftermarket
24 activities.

25 Q. Next statement. In describing what happens,

1 secondary effects which will occur, or which could
2 occur, in extreme circumstances are listed?

3 A. Listed where?

4 Q. You tell me.

5 A. You tell me. What do you mean listed?

6 Q. Listed by you, the design engineer, as something that
7 could have caused and that I'm going to look out for?

8 A. I just said.

9 Q. Well, this --

10 A. My understanding that the design activity, if they're
11 foreseeable, and those that are not foreseeable.

12 Q. So you disagree with this statement?

13 A. I'm making a statement that if they're foreseeable,
14 we will investigate them.

15 Q. So then you disagree with this statement?

16 A. And if they're not foreseeable.

17 Q. Question.

18 A. If they're not foreseeable, they're not going to show
19 up on that analysis.

20 Q. Fine. I understand that's what you believe this
21 thing is all about. My question is whether or not
22 you agree or disagree with this statement?

23 MR. DEVINE: Objection. Foundation impossible.

24 MR. JOHNSON: It's a straightforward statement,
25 it's not out of context.

1 MR. DEVINE: It's totally out of context.

2 MR. JOHNSON: I'm going to state the statement
3 one more time and you tell me whether you agree or
4 disagree.

5 MR. DEVINE: If you can.

6 MR. JOHNSON: You were an engineer for the last
7 35 years, this is an engineering principal. If you
8 can't understand that, then --

9 MR. DEVINE: Where does it come from?

10 BY MR. JOHNSON, CONTINUING:

11 Q. In describing what happens, secondary effects which
12 will occur, or which could occur, in extreme
13 circumstances are listed. Either you agree or
14 disagree?

15 A. How many years have you been an attorney?

16 Q. Either you agree or disagree?

17 A. How many years have you been an attorney?

18 Q. See, the way this works --

19 A. You just said I was an engineer for 35 years. Now,
20 I've answered your question a number of times.

21 Q. See, the way it works is I ask the questions and you
22 answer them.

23 A. I believe I've answered your question.

24 Q. So you don't want to answer that last question?

25 A. I believe I've answered your question.

1 Q. So you don't want to answer the last question?

2 A. I believe I've answered your question.

3 MR. DEVINE: Paul, thanks. Ed, if you don't
4 like the answer, move to compel.

5 MR. JOHNSON: I will move on.

6 BY MR. JOHNSON, CONTINUING:

7 Q. Tell me if you agree or disagree with this
8 statement?

9 MR. DEVINE: This statement is out of context.

10 BY MR. JOHNSON, CONTINUING:

11 Q. The engineer must estimate the probability that a
12 given failure mode will occur?

13 MR. DEVINE: Objection. Out of context, no
14 foundation, no identification of the source. It's
15 being put forward as something that is an engineering
16 principal in Counsel's own terms, Counsel has failed
17 repeatedly to identify the source and is playing
18 games, now, with the witness.

19 MR. JOHNSON: Counsel's not playing games. When
20 Counsel goes back to his office and writes down what
21 the source is, he will provide that to the
22 defendants. Counsel is not trying to hide anything.
23 This is an engineer who has been practicing as a
24 design engineer for the last 35 years or so, that he
25 has stated for the record, he knows what the failure

1 mode and effect analysis is all about. He knows who
2 is the author of the failure mode and effect
3 analysis. If he doesn't know it, then that's another
4 issue.

5 MR. DEVINE: All right. Maybe the logical thing
6 then, is for this deposition to reconvene after the
7 source is identified.

8 MR. JOHNSON: If you want to waste your time,
9 that's fine, Tim. I believe this gentleman knows
10 what I'm talking about and we don't need to waste
11 anymore of our effort or time or resources. The
12 statement was this. If you either agree or disagree
13 with the statement.

14 MR. DEVINE: Wait, hold on. Those are not his
15 only options.

16 MR. JOHNSON: His options are --

17 MR. DEVINE: His only options are not to agree
18 or disagree, he has every option available to him in
19 responding to your question.

20 MR. JOHNSON: Fine. Thank you Tim, that is
21 correct.

22 BY MR. JOHNSON, CONTINUING:

23 Q. You respond in a way you want to respond to it, sir.
24 We will take it for whatever it is worth. The
25 engineer must estimate the probability of the given

1 failure mode will occur. The likelihood of the
2 occurrence is based on an evaluation scale of 1 to
3 10. Where one indicates a very remote possibility of
4 the occurrence and a ten would indicate the certainty
5 of an occurrence. Do you agree with that statement
6 or not, or do you have some other kind of answer?

7 A. I might have to go back and review whether it is 1 to
8 10 or 10 to 1.

9 Q. Okay. I believe it is 1 to 10.

10 A. All items that are within an FMEA, I believe, are the
11 ones that that particular design engineer, or that
12 one responsible for that component and other people
13 that he has contacted are the ones that are
14 foreseeable.

15 Q. Okay. So you would always add foreseeable?

16 A. If it's not foreseeable, you're not going to think of
17 it, right?

18 Q. Well, negligence of a consumer is foreseeable.

19 MR. DEVINE: That's been asked and answered.
20 And it has been answered in a nuanced way, not a yes
21 or a no. It's not in black or white, it is
22 unsatisfactory to you but it is not a black and white
23 answer.

24 MR. JOHNSON: Tim, if you want to testify, you
25 can take off the lawyer cloak and become a witness in

1 this trial, but I think you want to still be a lawyer
2 for Ford. I think that is what you want to do.

3 MR. DEVINE: See if I can do both, it will save
4 time.

5 BY MR. JOHNSON, CONTINUING:

6 Q. Next statement. The consequences of a failure are
7 weighed on the same 1 to 10 evaluation scale. A one
8 would indicate a minor nuisance where a ten would
9 indicate a severe consequence which is costly and
10 hazardous.

11 A. I believe there is a 1 to 10 scale if you're doing a
12 formal FMEA. Whether that's 1 to 10 or 10 to 1, from
13 worst to best, I don't know. I don't recall.

14 Q. But you think that statement is --

15 A. Read it again, please.

16 Q. The consequences of a failure are weighed on the same
17 1 to 10 evaluation scale. A one would indicate a
18 minor nuisance where a ten would indicate a severe
19 consequence which is costly and hazardous?

20 A. I believe that's correct.

21 Q. Thank you.

22 A. As I recall it.

23 Q. Next statement. The engineer estimates the
24 probability of detecting and correcting a failure
25 before it reaches the consumer?

1 A. Read that again, please.

2 Q. Certainly. The engineer estimates the probability of
3 detecting and correction of a failure before it
4 reaches the consumer?

5 A. I believe that's the same as your previous question
6 about the scale of 1 to 10 on the probability of it
7 occurring, right?

8 Q. Well, it is a little different because it is asking
9 whether or not you are supposed to detect it before
10 it actually reaches the consumer?

11 A. Your effect analysis in a failure mode, you try to
12 look at all foreseeable failure modes, yes.

13 Q. Okay.

14 A. And those that you cannot improve on to your
15 satisfaction, you try to, you know, negligence as
16 you've talked, the customer negligence, share that by
17 use of warnings. That's basically the only, in some
18 cases, that's the only way you can do it. Air bags,
19 there are warnings now for certain applications of
20 air bags.

21 Q. Okay. Now, let's use this failure mode and effect
22 analysis that we just went through in the context of
23 this case. Even given someone tapping into this wire
24 harness with another source, would that be failure
25 mode?

- 1 A. Tapping into any wiring harness, or any wiring
2 circuit, has a potential of causing a failure mode,
3 yes.
- 4 Q. As a design engineer, do you design your products to
5 try to, design a product, even if someone does that,
6 there will be no extreme injury to the product or to
7 the end user?
- 8 A. If it is a foreseeable, and it is.
- 9 Q. Well, you just stated that someone tapping into a
10 wiring harness is foreseeable?
- 11 A. Into a wiring harness, yes. Into a wiring harness,
12 yes, it's possible. It is possible they can leave a
13 fuse out, it's possible they can bypass a fuse.
- 14 Q. Yes.
- 15 A. In those situations, if a person bypasses a fuse or
16 incorrectly -- there are situations that you cannot,
17 like I said, there's so many miles of wire in there,
18 how can you possibly expect an engineer to consider
19 all situations? How many miles of wire is there in a
20 vehicle, and how many different ways you could
21 integrate something into that circuit.
- 22 Q. Well, isn't that the purpose of a failure mode and
23 effect analysis?
- 24 A. It's foreseeable and it's good engineering practices.
- 25 Q. It's foreseeable for someone to be negligent under

1 this analysis?

2 A. If people weren't negligent, you wouldn't be working
3 for AAA.

4 Q. I agree with you.

5 A. Okay. So should we pay their premiums?

6 Q. We are talking about this failure mode and effect
7 analysis. Under that analysis, it's foreseeable that
8 a third party consumer, someone working on the
9 vehicle, could be negligent?

10 A. Yes, that's possible.

11 Q. That's foreseeable?

12 A. Sure.

13 Q. That's all I'm trying to get to.

14 A. In my opinion, it could be negligence.

15 Q. And it is foreseeable?

16 A. Sometimes it is foreseeable.

17 Q. Okay.

18 MR. JOHNSON: I have no further questions.

19 MR. DEVINE: Let me just make a quick run
20 through to make sure we don't have to clear anything
21 up. Thank you for coming down today.

22 MR. JOHNSON: Tim, I really don't think I have
23 this whole package here, I really don't think I have
24 it.

25 MR. DEVINE: You might not. If you want it, we

1 can make copies for you.

2 MR. JOHNSON: Yes, I want this. Just for the
3 record, thank you for coming down today.

4 THE WITNESS: Thank you, thank you for pulling
5 my teeth.

6 MR. DEVINE: I don't have any questions.

7 (The deposition was concluded at 11:58 a.m.)
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1 STATE OF MICHIGAN)
2 COUNTY OF JACKSON)

3 I, CHRISTINA A. PEEK, CSR NO. 6214, Certified
4 Shorthand Reporter and Notary Public within and for the
5 County of Jackson, State of Michigan, duly commissioned
6 and qualified, do hereby certify that the witness whose
7 attached deposition was taken before me in the before
8 entitled cause on Thursday, October 2, 1997, was by me
9 first duly sworn to testify the truth, the whole truth,
10 and nothing but the truth in the cause aforesaid; that
11 the testimony contained in said deposition was by me
12 reduced to writing in the presence of said witness by
13 means of Stenography; afterwards transcribed upon a
14 computer under my personal supervision; and that the
15 said deposition is a true and correct transcript of
16 the whole of the testimony then given by the witness
17 to the best of my ability.

18 I further certify that I am not connected by
19 blood or marriage with any of the parties, or their
20 attorney or agents; that I am not an employee of either of
21 them, nor interested, directly or indirectly, in the matter
22 in controversy, either as counsel, agent, attorney, or
23 otherwise.
24
25

1 IN WITNESS WHEREOF, I have hereunto set my hand
2 and affixed my Notarial Seal in Jackson, County of Jackson,
3 State of Michigan, this 9th day of October, 1997.
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Christina A. Peek
CHRISTINA A. PEEK, CSR 6214
NOTARY PUBLIC
6550 Riverside Rd.
Brooklyn, Michigan 49230
(517) 592-8785

My Commission Expires: 07/05/01