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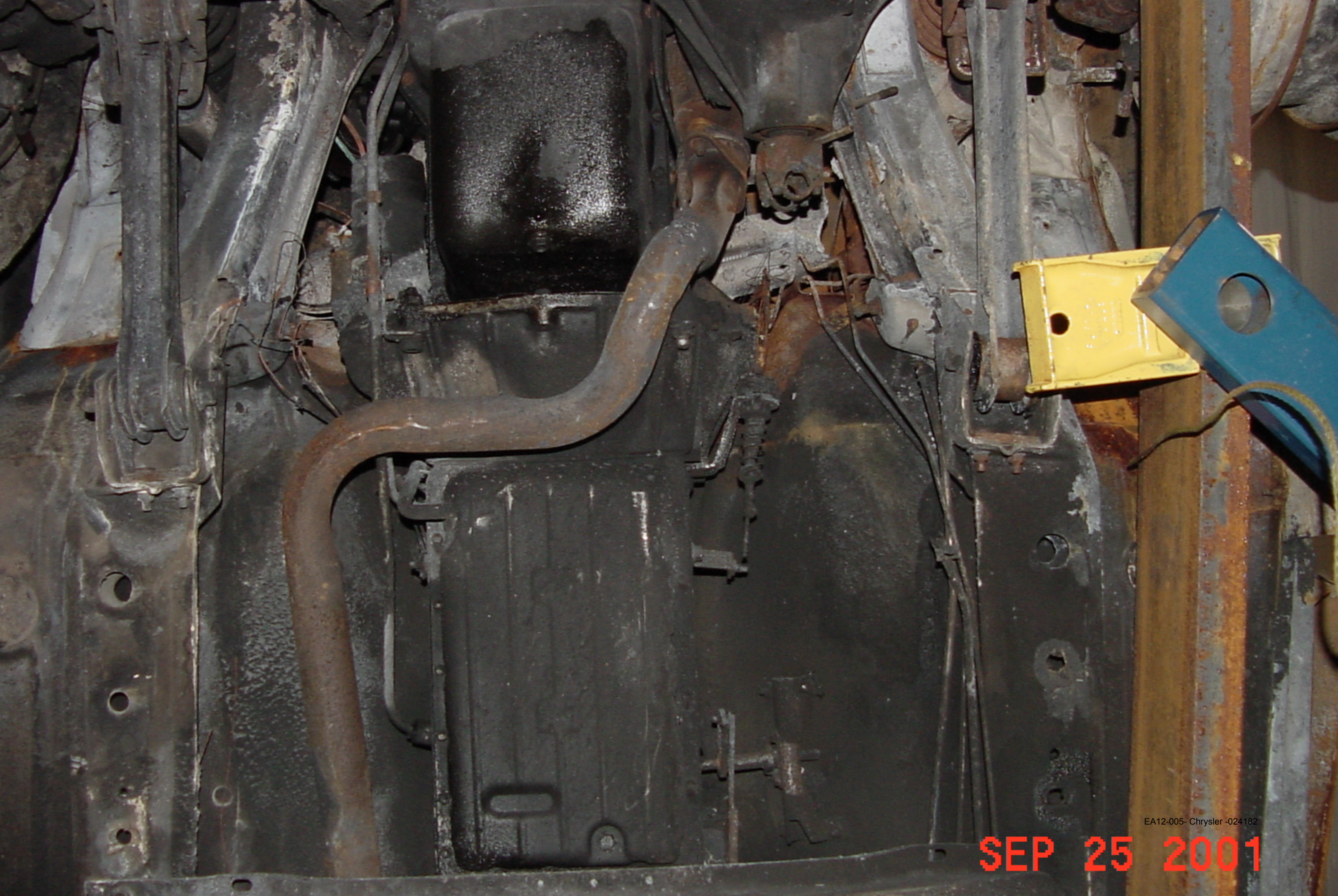
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17,706 KB

01114 Animation (Camera 2).m2v  
18,410 KB

[Calculations]

01114 Subject Vehicle Pitch Calculation.mcd  
16 KB

[Data]

11010\_Oct21.xls  
41 KB

Accident Scene Drawing with Aerial Photos.dwg

379 KB  
Aerial Photo Circa 1999 CR RO.jpg

630 KB  
Aerial Photo Circa 2001 CR RO.jpg

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APD Scene Measurements.dwg

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Description of Fire Propagation.jpg

220 KB  
Time History of Jeep Pitch Due to Principal Collision.xls

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[Models]

01114 1988 Ford Thunderbird.dwg  
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01114 1991 Jeep Cherokee Laredo 4x4 4DR.dwg  
18,700 KB

01114 1996 Toyota Camry.dwg  
639 KB

1988 Ford Thunderbird.dwg  
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1991 Jeep Cherokee Laredo 4x4 4DR.dwg  
28,270 KB

1996 Toyota Camry.dwg  
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Accident and Exemplar Vehicle Interaction.dwg  
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[Photos]

Accident Scene Aerial Photo 04-19-2001.jpg  
4,839 KB

Accident Scene Aerial Photo 12-07-1999.jpg  
5,452 KB

USGS Accident Scene Aerial Photo 01-27-93.jpg  
1,720 KB

IN THE STATE COURT FOR THE COUNTY OF FULTON  
STATE OF GEORGIA

ROY LOUIS BELLI, Individually and )	)
as Administrator of the Estate of )	)
JOHN NICOLAS BELLI; et al. )	)
	)
) Plaintiffs, )	)
vs. )	) CIVIL ACTION FILE
	) NO. 01VS018431G
DAIMLERCHRYSLER CORPORATION, )	)
a Delaware Corporation; ADRIAN )	)
CAMARILLO; NEBIYU DEMISSIE )	)
MULETA; and JOSEPH BRENNAN, )	)
	)
) Defendants. )	)

- - -

Deposition of RONALD E. KIRK taken on  
behalf of the Defendants pursuant to the  
stipulations agreed to herein, before  
Barbara Hilger, RPR, Certified Court Reporter,  
at 2719 Buford Highway, Atlanta, Georgia, on  
the 27th day of September, 2002, commencing at  
the hour of 11:00 a.m.

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24		Copies of the exhibits have been attached herewith. The original exhibits were retained by Mr. Kirk.	
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FAX 428-4684

Also Present: SHARMI LAWRENCE, Paralegal  
Butler, Wooten, Scherffius, Fryhoffer,  
Daughtery & Sullivan

- - -

1 MS. OWENS: This will be the  
2 deposition of Ronald E. Kirk taken by the  
3 defendants for purposes of cross-  
4 examination of an adverse party's expert.  
5 The deposition is being taken pursuant to  
6 an agreement, and also there was a notice  
7 and a subpoena. All objections except as  
8 to the form of the question and  
9 responsiveness of the answer shall be  
10 reserved until such time as the court may  
11 designate that they be made.

12 What would you like to do about  
13 signature, Mr. Kirk?

14 THE WITNESS: Well, unless Mr.  
15 Fryhofer has some specific request, I'll  
16 wait to the end and decide.

17 MR. FRYHOFER: Read and sign.  
18 And in terms of your stipulation, it's  
19 okay with the proviso that all objections  
20 except form of the question or  
21 responsiveness of the answer or any other  
22 matter that could have been cured had  
23 been raised at the time of the  
24 deposition, which is what the rule  
25 provides.

1 MS. OWENS: That's fine. And  
2 the witness will read and sign the  
3 deposition, and we'll stipulate that he  
4 can do so before any notary.

5 Is that stipulation agreeable with  
6 everyone?

7 MS. BRACCO: That's fine.

8 MR. FINE: Agreed.

9 RONALD E. KIRK,  
10 being first duly sworn, was examined and deposed as  
11 follows:

12 EXAMINATION

13 BY MS. OWENS:

14 Q Good morning, Mr. Kirk.

15 A Good morning.

16 Q Did you receive a copy of a subpoena to bring  
17 with you certain documents to your deposition today?

18 A A very short list of documents. I recall  
19 seeing something unusually short for a deposition. This  
20 is the one, I think.

21 Q Yes.

22 A Yes, I received that.

23 Q And have you brought with you today your  
24 entire file on this matter?

25 A I have.

1 Q And has anything been removed by anyone from  
2 your file before your deposition today?

3 A No.

4 Q And your file is before you here?

5 A It's all here on the table, yes.

6 Q Did you bring with you a CV, a current CV?

7 A I may have one. I didn't bring one for the  
8 purpose of the deposition, but I may have one. Nothing  
9 has changed recently.

10 To answer your question, yes, I did.

11 Q Great. We'll mark that as Exhibit 1 to your  
12 deposition.

13 Did you bring with you a Rule 26 testimony  
14 list, by any chance?

15 A I'm sure I have one. I don't know what the  
16 date is, but it may be current.

17 I don't have a current one. I've got one  
18 listing trials through July 2002 and depositions through  
19 at least part of July 2002. Yes, that's the most  
20 current I have. Do you want that one?

21 Q Yes, for right now, and then what I'd ask is  
22 that you furnish to Mr. Fryhofer or Ms. Lewis an  
23 up-to-date one and they can provide it to us.

24 MR. FRYHOFER: You mean

25 Lawrence, Sharmi Lawrence.



1 MS. OWENS: Sorry.

2 MR. FRYHOFER: That's okay.

3 MS. OWENS: And I did say  
4 earlier in this room I was very bad at  
5 names, did I not?

6 BY MS. OWENS:

7 Q We've marked as Exhibit 2 a trial testimony  
8 list, and also included is a deposition testimony list  
9 which it appears goes through at least some part of July  
10 of 2002; correct?

11 A Correct.

12 Q On the deposition list, there is a General  
13 Motors case here, Tony R. King versus General Motors.  
14 Is that a fuel tank case?

15 A Yes.

16 Q And it pends in, Kentucky?

17 A It settled.

18 Q Who defended it, what lawyer or firm?

19 A I don't know.

20 Q Who was the plaintiff's attorney?

21 A Kirk "Mayer" or "Myer," M-A-I-E-R, out of  
22 Bowling Green.

23 Q Mr. Kirk, have you ever testified in a  
24 DaimlerChrysler case which involved allegations of fuel  
25 system performance?

1           A     I have given a deposition, at least one  
2 deposition.

3           Q     Do you remember the case?

4           A     Butler.

5           Q     That's the only one that you can recall as we  
6 sit here today?

7           A     That's the only one I can recall, yes.

8           Q     Do you want your list back?

9           A     That may be helpful, yes, just so I wouldn't  
10 miss something that's obvious, but that list only goes  
11 back about four years.

12                     Thank you. And I may not be very helpful.  
13 For example, this is Thompson versus Chrysler, and I  
14 don't -- well, yes, I think that was a --

15           Q     That was a lift gate case. That was the last  
16 time you and I were together, I think.

17           A     Well, then what was Gillespie versus Chrysler?

18           Q     I have no clue. Where was that pending?

19           A     Shelby County, Tennessee.

20           Q     I don't do Tennessee.

21           A     Gillespie was a Jeep rollover. I remember  
22 now.

23                     I've looked through the testimony list which  
24 has been marked Exhibit 2. I don't see any other  
25 Chrysler fuel tank cases that I recognize as such, and I

1 don't recall any others that might not be listed on that  
2 list.

3 Q Have you worked on in any way any other case  
4 involving a fuel system post-collision fire in a Jeep  
5 Cherokee or Grand Cherokee vehicle?

6 A Not that I recall, but there is certainly a  
7 possibility, since I do work other than product  
8 liability work, that there has been a case, or an  
9 accident at least, in which I analyzed that involved  
10 such. I just don't remember that at this time.

11 Q Do you recall whether -- well, are you saying  
12 in your answer that you may have worked on  
13 reconstruction of such a case but it would not have been  
14 in a product liability context?

15 A I'm saying it's a possibility. There is also  
16 the possibility that there was one which predated the  
17 four-year list that I was involved in and I just don't  
18 remember now.

19 Q Okay. What are your fees in this matter?

20 A \$175 an hour up until now. The rate was  
21 increased to \$190 recently.

22 Q Effective what date?

23 A September 1st.

24 Q And do you know how much time that you have  
25 billed in this matter?

1 A No.

2 Q Did you bring with you any bills today?

3 A No.

4 Q Could you supply those to Mr. Fryhofer?

5 A I already have supplied them to Mr. Fryhofer.

6 MR. FRYHOFER: We'll get you

7 the bills.

8 MS. OWENS: Okay. Thank you.

9 Q You have been identified in this case as an  
10 expert who is going to testify regarding accident  
11 reconstruction and vehicle dynamics. Is that your  
12 understanding of the scope of your work in this case?

13 A Yes. I would think that vehicle dynamics  
14 would be part of accident reconstruction. It sounds a  
15 little redundant, but yes, it sounds like the scope of  
16 my work.

17 Q Have you completed all the work necessary to  
18 form your opinions in this matter?

19 A Yes, I have. Obviously, there has not been  
20 any depositions of any witnesses except the driver of  
21 the van, so I look forward to reviewing what other  
22 people might say about the way the accident occurred and  
23 to consider that, although I have some knowledge of that  
24 already because of some witness statement summaries I've  
25 gotten from this law firm as well as the police file.

1                   But to answer your question, obviously I'll  
2                   consider any additional information that comes forth  
3                   whether it's some witness statements and some crash test  
4                   results or whatever, but I've done the work that I need  
5                   to do to have reached the conclusions I have reached up  
6                   until this time.

7                   Q     If you do receive additional opinion which  
8                   either changes one of your opinions or you believe  
9                   provides additional support for your opinions, I would  
10                  appreciate if you would let Mr. Fryhofer know so that he  
11                  can let us know and we can decide whether we need to  
12                  come and ask you questions again. Is that agreeable to  
13                  you?

14                 A     Okay.

15                 Q     Have you prepared any written report of your  
16                  findings?

17                 A     No, ma'am.

18                 Q     Have you provided to any other expert in this  
19                  case any written notes or written account of your  
20                  opinions?

21                 A     No.

22                 Q     Have you met with any other experts in this  
23                  case?

24                 A     Yes.

25                 Q     Who have you met with?

1           A       Well, I was here at a meeting in which Fred  
2           Arndt, A-R-N-D-T, was involved. I can't recall any  
3           other experts being here.

4           Q       And when was that meeting?

5           A       The spring of this year.

6           Q       And what did you discuss with Mr. Arndt at the  
7           meeting?

8           A       Well, I didn't discuss much at all with him.  
9           There were some attorneys here that were discussing  
10          matters with him. There was one matter being discussed  
11          I wasn't involved in. I was just here. But I told him  
12          at least at that time what the reconstruction involved  
13          and basically what happened in the accident. I don't  
14          think there were any surprises. I'm sure I told him I  
15          was still working on the matter.

16          Q       Did he express any opinion about the fuel  
17          system performance at that meeting?

18          A       That was discussed but I don't recall any  
19          details.

20          Q       Did you take any notes?

21          A       No.

22          Q       Do you have any other memorialization of what  
23          occurred at the meeting, notes or dictation?

24          A       No.

25          Q       Anything else?

1 A No.

2 Q Whether you prepared it or whether it was  
3 provided to you.

4 A Correct, I do not.

5 Q Have you met with any other experts in the  
6 matter besides Mr. Arndt?

7 A No.

8 Q Have you spoken with any other experts in the  
9 matter?

10 A No, except Ken Brady in my office might be  
11 considered -- well, would be an expert, but nobody  
12 outside research engineers, no.

13 Q And what was the name?

14 A Ken Brady, B-R-A-D-Y.

15 Q And has he worked with you on this file?

16 A He has.

17 Q What sort of work has Mr. Brady done?

18 A Primarily the examination, measurement, and  
19 photography of exemplar vehicles, looking up  
20 manufacturers' specifications, and he did some computer  
21 runs which are in the analysis file; also made drawings  
22 of the exemplar, the three collision involved, and --  
23 well, those vehicles, and combined drawings of the  
24 exemplar and subject vehicles, which all of that is of  
25 course in the file.

1 Q Is he the only one from your firm that has  
2 assisted you on this case?

3 A Probably Chuck Midyette, M-I-D-Y-E-T-T-E,  
4 assisted Ken, which also assisted me. Chuck would have  
5 assisted Ken in procuring the vehicles and helping to  
6 measure the vehicles. That's probably the extent of  
7 what he's done.

8 Q And by securing the vehicles, you are meaning  
9 the exemplar vehicles?

10 A Yes, ma'am. And when I say securing, I mean  
11 locating them and getting some owners' permission to  
12 either go there and examine them or have them delivered  
13 to our lab in Raleigh to examine them.

14 Q Have you met with or talked with anyone that  
15 was doing a computer animation?

16 A That rings a bell. Perhaps that person was  
17 here the same date that Fred Arndt was here. His name  
18 may be Don Stephens, S-T-E-P-H-E-N-S, I think. He was  
19 probably here also.

20 Q Have you reviewed or had the chance to review  
21 Mr. Stephens' work product, his animation?

22 A I don't even know that there is one, but no, I  
23 have not.

24 Q Regarding your work in this case, am I correct  
25 that you do not intend to offer any opinion regarding



1 injury causation?

2 A You are correct.

3 Q Or occupant kinematics?

4 A Correct.

5 Q Or biomechanics?

6 A Correct.

7 Q Or opinions regarding the design or  
8 performance of the doors or door latches?

9 A Correct.

10 Q Or the fuel system design or performance?

11 A Correct. I don't intend to offer opinions in  
12 any of those fields.

13 Q Thank you. Have you visited the scene of this  
14 occurrence?

15 A Yes.

16 Q Can you provide me with your field notes and  
17 any photographs or videotape or other measurements or  
18 documentation of your visit to the scene?

19 A Yes. I don't have much. I was at the  
20 accident site with the police when they were doing their  
21 survey of the accident scene. I took a few notes, but  
22 since they were surveying it and I was assisting them  
23 somewhat in pointing out what to survey, although they  
24 were doing their own work, I'm relying upon their  
25 measurements, both the ones surveyed that day and

1 measurements which they had taken earlier. The only  
2 field notes I have regarding that day, which was 15 July  
3 2001, Sunday morning, is this one page of field notes.  
4 And I think I do have -- yes, I do have three rolls of  
5 photographs taken that day.

6 Q All right. Just because your handwriting may  
7 be on the level with mine, would you read those notes  
8 for us, please?

9 A Yes. They are dated Sunday, 15 July 2001.  
10 Examined site while I-85 southbound partially shut down  
11 by HERO units of Georgia DOT. I assisted Officer  
12 Hensal, H-E-N-S-A-L, in locating physical evidence he  
13 had previously, that is, on the day of the accident,  
14 marked with paint. We probably found all except most of  
15 those paint markings at rest positions, which most  
16 likely were washed away by fire department and had been  
17 placed on contaminated surface of pavement, period. I  
18 took photos documenting physical evidence. Total  
19 station survey by J.D. Beckham, B-E-C-K-H-A-M, of Fulton  
20 County Police Department. I sighted right and left  
21 pre-impact tire marks by the T Bird and directed  
22 placement of reflector pole. Right mark much more  
23 distinct than left. See photographs.

24 That's all the scene. I'll read the rest of  
25 this page, though. Next, to T Bird at Futo's in

1 Atlanta. That's a wrecker service, at least that's part  
2 of their business. It, meaning the T Bird, was loaded  
3 to bring to flat, paved area for measurement, et cetera,  
4 by R.E.K., which is me. Then it was decided to bring it  
5 to Birmingham, Weil Wrecker, for exam with Jeep tomorrow  
6 by police. And I've got a note here says see  
7 photographs. I must have taken some photographs that  
8 day at Futo's.

9 Q Is that the only date on which you examined  
10 the scene?

11 A Yes.

12 Q I'd like to mark the field notes -- you have  
13 them all together? This is all of your field notes  
14 regarding any vehicle or scene inspection?

15 A No. That's the field notes regarding the work  
16 done on the 15th and 16th of July.

17 Q Let me mark that as composite Exhibit 3.

18 Now, you also have given me three rolls of  
19 film. These are your photographs of the scene visit on  
20 July the 15th?

21 A They are marked as such. Let me make sure.  
22 Well, the third roll that is labeled C illustrates the  
23 T Bird at its storage location before it was loaded on a  
24 wrecker to bring to Weil Wrecker. It views the loading  
25 process and it views the vehicle after it was put upon a

1 flatbed wrecker, roll-back wrecker. That's all of roll  
2 C.

3 Q Do these photographs have any numbers on them  
4 that we could use to distinguish them when we are  
5 speaking of them?

6 A We could distinguish them by using the roll  
7 letter designation A and the negative number on the  
8 back. For example, that says number one rather faintly.  
9 But I have not added numbers to them. I don't have any  
10 numbers in the field notes to correspond to these  
11 photographs.

12 Q Okay. What I'm going to do is I am going to  
13 mark your three rolls of photographs from July the 15th  
14 and 16th --

15 A Let me say this. All these are July the 15th,  
16 these three rolls.

17 Q Okay -- as composite Exhibit 4. So I'm just  
18 going to put this on the outside.

19 MS. OWENS: And I bet you can  
20 tell me what Bates numbers they are for  
21 these other folks.

22 MS. LAWRENCE: If those are the  
23 scene photographs taken on July 15th,  
24 they are Bates numbers Belli 1128 through  
25 1200.

1 MS. OWENS: Thank you.

2 BY MS. OWENS:

3 Q All right. Now, you indicated that in  
4 addition to your own work you were present during the  
5 police work that day and you rely on the measurements  
6 and field survey that they did; correct?

7 A Yes, ma'am.

8 Q Do you have that with you today?

9 A I thought I had brought a disk -- well, I may  
10 have a disk in my suitcase. It may have fallen out. I  
11 thought I had a disk with the measurements. I do have a  
12 print, though, although it's quite small, containing all  
13 the data from that disk plus a drawing which Ken Brady  
14 made based upon that disk. I think there was a  
15 correction made, though. I think the police disk shows,  
16 for example, the Jeep oriented incorrectly at rest. Let  
17 me get for you what I do have.

18 This is rather hard to read but that  
19 supposedly is all the data taken from that disk, and I  
20 have drawings based upon that. I think maybe I've got  
21 one that you'll find much easier to read.

22 Q That's good, because I can't read it.

23 A This may not contain every point, may not show  
24 the rest positions drawn in. Well, yes, it does. But  
25 if you'll notice, this drawing has the -- I'm pointing

1 now to the location of the Jeep. It's pointing toward  
2 the north. I guess we call that northeast. The front  
3 of it, is that where my pen is?

4 Q Yes.

5 A Actually it's pointed more towards the  
6 southeast.

7 Q So it should be rotated --

8 A -- about 90 degrees clockwise. I say that  
9 because this is another drawing based upon the police  
10 data identifying the lettered points that you'll find in  
11 their measurement sheets, but Ken has corrected the  
12 placement of the Jeep.

13 Q All right. So this drawing, the larger one is  
14 Mr. Brady's work?

15 A Is Mr. Brady's work using the police  
16 measurements and making at least that one correction.

17 Q What I'd like to do is mark the police drawing  
18 that you have shown us as Exhibit 5. And if you have  
19 this on disk and can provide a disk to Mr. Fryhofer so  
20 we can have it, that would be very helpful. And then  
21 we'll mark Mr. Brady's work based on the police data as  
22 Exhibit 6.

23 A And for your information these are just  
24 identical prints to number six.

25 Q Okay. You have several copies of the same

1 thing?

2 A Number 6 I do, yes.

3 Q I noticed when I looked through your  
4 photographs briefly that you had documented some of the  
5 marks that are reflected on the drawing, so what I'd  
6 like to do is just sort of go through and see if we can  
7 match up the photographs and these letters and numbers  
8 on the drawing to see what's what. The first one I'm  
9 finding in your photographs is that you have a mark  
10 circled at point B?

11 A Yes.

12 Q And how would you describe that mark?

13 A As an arcing gouge, pavement gouge about --  
14 and this is just a round number -- about a foot long  
15 overall length and maybe an inch to 2 inches overall  
16 width.

17 Q And it was found in what lane?

18 A Should we number these lanes so we can keep up  
19 with it that way?

20 Q Sure.

21 A Do you prefer HOV to the right or --

22 Q Left to right, yes.

23 A HOV would be number 1?

24 Q Sure.

25 A All right. On Exhibit 6 then I will mark at

1 the right edge our numbering scheme for these lanes.  
2 HOV is 1. Then working from left to right, 2, 3, 4, 5.  
3 And this must be a paved shoulder because at the top  
4 these two narrow lines represent a concrete barrier, as  
5 the bottom lines represent a median barrier.

6 Q And there is a solid line to the right of what  
7 you've marked as lane number 5 which would seemingly be  
8 the fog line?

9 A Yes. And the red line here apparently is the  
10 solid yellow line or at least the line designating the  
11 left side of the HOV lane.

12 Q Okay. So which vehicle do you believe made  
13 the mark reflected in the photograph with the circled  
14 letter B?

15 A Well, let me tell you this: The first impact  
16 point is way up here.

17 Q Right.

18 A B was probably made, if it's part of this  
19 accident, was probably made by one of the other vehicles  
20 other than the three collision-involved vehicles, having  
21 run over the wheel that came off the van.

22 Q Okay. What is mark A? Just the beginning  
23 point?

24 A I don't remember, but I'm sure it's  
25 photographed. I think it's in the next roll of



1        photographs near the end. And using the police  
2        officer's notes I'll tell you that A marks the location  
3        of a grease cap from the Ford van's right front wheel  
4        hub. That's what the police concluded A was.

5            Q        We'll mark those police notes as Exhibit 7.

6                    Do you believe that the A mark is from this  
7        accident?

8            A        It's certainly consistent with the right front  
9        wheel of the van coming off. I have no way to  
10       personally identify the particular grease cap as coming  
11       from the van.

12           Q        Did you see the grease cap? Was it still  
13       there when you were there?

14           A        No, but the police photographs illustrate it.

15           Q        The next mark is C, which you took a picture  
16       of as well, and that is indicated as a wheel bearing?

17           A        Yes. Again, I think that's something that is  
18       illustrated by the police photographs. Not all these  
19       points are illustrated by the police photographs,  
20       specifically labeled. They probably aren't labeled at  
21       all, but I know what they are based upon what they  
22       illustrate.

23           Q        Okay. The next mark moving -- I guess is that  
24       north?

25           A        That's south towards Atlanta.

1 Q The next mark is D. What is that indicated to  
2 be?

3 A Fender part of Saturn, reading from Exhibit 7.  
4 I don't think there is a photograph showing that. I'm  
5 sorry. I took a photograph showing D, but I don't think  
6 the police have a photograph showing that part  
7 specifically.

8 Q It must be in this roll because I don't find  
9 it in here. This is the Jeep at the wrecker yard,  
10 right, the third roll?

11 A It's the Ford at the wrecker yard.

12 Q I'm sorry. There is a photograph of D and  
13 just a circled area. There is not a gouge; there is not  
14 anything other than an indication that's where that  
15 particular piece of car was found?

16 A Yes. And apparently that's true for D, E, F,  
17 G, H, I, and J.

18 Q Okay. What is E?

19 A Exhibit 7 lists it as another fender part of  
20 the Saturn.

21 Q So D through J are all indicated as fender  
22 parts of the Saturn?

23 A On Exhibit 7, yes.

24 Q And then the next mark is K, a gouge mark from  
25 wheel again, according to the police notes designated as

1 Exhibit 7. That's the wheel from the van?

2 A I think that's what they are indicating. As I  
3 recall, that certainly could be where a vehicle ran over  
4 that wheel. When the police observed them on the day of  
5 the accident, they were probably much fresher. Well,  
6 their photographs show that mark to be much fresher than  
7 when I examined it on July 15, 2001.

8 Q Then going down the list, the next one is L  
9 and it's indicated as a brake line?

10 A Yes. That's also shown in the police  
11 photographs. And what they did was to find very faint  
12 paint markings, and I guess they knew about where they  
13 were before based upon the measurements that they had  
14 and the photographs. So they simply repainted those  
15 markings for purposes of survey and purposes of  
16 photographs.

17 Q Okay. And then M1 and M2 are the beginning  
18 and end of a gouge mark that appears to go parallel to  
19 the lane?

20 A Yes.

21 Q Which lane is that in?

22 A Lane number 3.

23 Q Do you have an opinion as to which vehicle  
24 made that mark?

25 A It probably was not any of the three

1 collision-involved vehicles. And by three  
2 collision-involved vehicles, I mean the Ford  
3 Thunderbird, Jeep Cherokee, and Toyota Camry, the three  
4 vehicles which subsequently burned. M1 and M2 may have  
5 been made by a vehicle running over part of the van that  
6 came off the right front wheel position. I'm not sure  
7 of that, but it's not likely involved with the other  
8 three vehicles, that is, the three collision-involved  
9 vehicles.

10 Q The next mark is N, which is a scrape mark  
11 found in lane number 3?

12 A Yes.

13 Q I believe this is a photograph of N?

14 A It is.

15 Q Do you have any opinion about which vehicle  
16 made that mark and whether it was related to the  
17 accident?

18 A I don't know which vehicle made it. I don't  
19 know that it's related to the accident, but it may be  
20 one of those markings as the vehicles ran over parts of  
21 the van that were on the road.

22 Q Okay. Then we have some distance where there  
23 is apparently no marking. You have a scale, a 50-foot  
24 scale?

25 A Yes.

1 Q Is that one inch equals 50 foot?

2 A I think it's one inch equals 20 feet.

3 Q Okay. So what's the distance between N and  
4 the start of the next mark, which is I think designated  
5 as R? Or is that O? That's Q, isn't it?

6 A Your question again, please?

7 Q What's the distance between N and the  
8 beginning of the two marks shown in the lane number 2 as  
9 being marks parallel to the lane of travel? And I think  
10 they are designated R and Q.

11 A Actually, I think the marks are designated Q  
12 and P, although P does not show on this diagram. I'm  
13 sorry. Probably may be O. Q may be a gouge. Q is area  
14 of impact identified by police. I think this is O and  
15 P, O being the left mark and P being the right mark.  
16 These I concluded and the police concluded are  
17 pre-impact skid marks made by the T Bird. And your  
18 question was from the beginning of those tire marks,  
19 that is, the north end of those tire marks to the end?

20 Q Yes, sir.

21 A The approximate north-south dimension is  
22 approximately 130 feet.

23 Q And what's the length of the skid marks?

24 A Well, the length of the skid marks plot out  
25 here to be 66 feet overall length. And if you take

1 Exhibit 7, you'll find that the original measurements I  
2 assume made when this evidence was fresh was 67 feet for  
3 the left mark and 64 and a half feet for the right mark  
4 calculated by subtracting the beginning from the end.

5 Q All right. There is handwritten material on  
6 page 2 of Exhibit 7. Is that material you have added or  
7 is that police-added notations?

8 A That's Ken Brady's handwriting.

9 Q Okay. We do have photographs that are marked  
10 as O1 and P1, and then one that shows both of those.  
11 Were the skid marks still visible when you were there?

12 A Yes, partially.

13 Q And is it your opinion that those were braking  
14 marks of the Thunderbird?

15 A Yes, ma'am.

16 Q Continuing down the list, the next one is Q,  
17 which is notated on Exhibit 7 as the area of impact.

18 A Yes. I think specifically that was identified  
19 -- well, there would be a photograph of it. Q and R are  
20 probably the same photograph, yes.

21 Q Yes.

22 A That's a gouge approximately perpendicular to  
23 the way the lane runs, and it was made by the underside  
24 of the Ford Thunderbird.

25 Q Which of those? You said that is. Is it Q or

1 R or both?

2 A Probably both. Certainly Q was and probably R  
3 also.

4 Q And those are shown as being in about the  
5 middle of the HOV lane?

6 A About, yes.

7 Q The next we have is S, which is described as a  
8 gasket from the window of the Jeep.

9 A Yes. And I know that's shown in some of the  
10 police photographs.

11 Q It was not still there when you were there?

12 A It was not.

13 Q This photograph of mark S is a curved mark.  
14 Is that to depict how the gasket was at rest, as far as  
15 you know?

16 A I don't know. That's a reconstructed police  
17 mark. It certainly is there to indicate the approximate  
18 position of the gasket.

19 Q And then the final rest of vehicles is the  
20 next note. There is no letter. Did you take a  
21 photograph of what you believe to have been the rest  
22 area of the vehicles?

23 A Yes. Well, this T, for example, represents  
24 coincidentally the Thunderbird, I think, and then the  
25 burned area here is where the vehicles came to rest.

1       There is the Thunderbird nearer the camera; the Camry  
2       farther from the camera. And again, the police  
3       photographs provide overall views of those rest  
4       positions.

5               Q       And the T is in the HOV lane which we've  
6       marked as 1?

7               A       Yes.

8               Q       And the burned area straddles the lane marking  
9       the edge of the HOV lane and dividing that from the  
10      shoulder, the paved shoulder?

11              A       Yes. The burned area is both on the paved  
12      shoulder and in the HOV lane.

13              Q       And that burned area you believe represents  
14      which vehicle's point of rest?

15              A       Both.

16              Q       The Toyota and the Thunderbird?

17              A       Yes. It may coincidentally happen to be  
18      mostly the Thunderbird's rest position, but both of them  
19      came to rest in the same area. And the police did  
20      measure to each of the four tires for both vehicles, as  
21      well as the Jeep.

22              Q       What was the distance between where the Toyota  
23      and the Thunderbird came to rest and where the Jeep came  
24      to rest?

25              A       Measuring on Exhibit 6, the near point of the



1 Jeep to the near point of the Camry appears to be about  
2 12 feet, 11 or 12 feet. And the near point of the Jeep,  
3 again looking at Exhibit 6, to the near point of the  
4 Thunderbird measured out to be about 23 feet.

5 Q Let me show you this photograph, and I'll rely  
6 on you to be able to read the designation off the back  
7 of it, if you would for us, please.

8 A It's negative 11A.

9 Q From roll B, apparently?

10 A Okay.

11 Q But it may be -- no. It's roll B. Is that  
12 the point of rest of the Jeep?

13 A It is.

14 Q And then there is on the police notes we've  
15 marked as Exhibit 7 an indication that the police  
16 documented positions of all four tires for the Camry and  
17 all four tires for the Jeep. Did they do it for the T  
18 Bird as well?

19 A Yes.

20 Q On the previous page?

21 A Yes, ma'am.

22 Q So under the designation T is the Thunderbird  
23 documentation, U is the Camry, and V is the Jeep;  
24 correct?

25 A Correct.

1 Q And then we come back to AC, which is the tire  
2 off the van?

3 A Yes. Apparently the tire was separated from  
4 the rim and the tire; at least in the police  
5 photographs, is shown leaning against the west face of  
6 the median barrier. Whether it was placed there by  
7 somebody or whether that's where it actually came to  
8 rest, I don't know. It again is shown in the police  
9 photographs.

10 Q Photograph AB is designated as underbody part  
11 of vehicle. Do you know which vehicle?

12 A You said photograph AB. It's location.

13 Q I'm sorry. Location AB.

14 A I don't know which part it is, no. I don't  
15 know that it shows in the photograph, but it might.

16 Q The next page appears to be lane depictions?

17 A Appears to be. In Exhibit 7 apparently it's  
18 the police drawing of some lanes and maybe some physical  
19 evidence.

20 Q It's indicated on the bottom of the page as  
21 5-1-4?

22 A Yes.

23 Q Do you have a better copy of that?

24 A I may, although we didn't use it. You'll see  
25 that -- well, I'll answer your first question first

1 before I answer a question you didn't ask.

2 Q Sometimes it works out better if you just  
3 answer the question I haven't asked.

4 A I'm reminded of that sometimes.

5 No. If I have anything better, it's  
6 marginally better, I think.

7 Q So whatever the police did to copy that  
8 information, it didn't turn out so well?

9 A Apparently so, yes.

10 Q Now, there is a heading of debris field on  
11 page 5-2-4; correct?

12 A Yes.

13 Q Were these measurements made at the same time  
14 of your July 15th visit or were these earlier  
15 documentation of the scene?

16 A I think this is earlier, at the time of the  
17 accident, actually. I'm not sure but I think that's  
18 true.

19 Q Do you rely on any of these measurements or  
20 markings in forming your opinion in this matter?

21 A No, ma'am. What I relied upon is a survey by  
22 the police and the tabular data that the police have  
23 provided, that is, the typed data. I think it's quite a  
24 bit of overlap between the handwritten and the typed.

25 Q What is the distance between the end of the

1 skid marks of the Thunderbird and its point of rest?

2 A Let me take out another drawing, because I  
3 think I might be better able to answer that question  
4 using it. This is a drawing I took out of my analysis  
5 subfile. It's twice the scale. One inch equals 10  
6 feet. And because not all the tire marks were visible  
7 -- let me say this first: Exhibit 8 is the same as  
8 Exhibit 6 but shows a more, a smaller, a shorter length  
9 of highway. It shows the area that I have primary  
10 interest in. That's where the collision occurred and  
11 where the vehicles came to rest. But I used the police  
12 tabular data to establish the end of the tire marks by  
13 the Ford, 155 feet 6 inches. That's taken from the  
14 typed data.

15 Q What is that 155 feet 6 inches from?

16 A Measured from their reference line down here,  
17 which is on the diagram. And so I would measure from --  
18 perhaps the best way to describe it is the distance  
19 between the CG at the end of the tire marks and the CG  
20 where the Ford came to rest. And I'll tell you that's  
21 right at 90 feet.

22 Q And what is the distance between the CG of the  
23 Jeep at the area of impact to its final point of rest?

24 A Approximately 102 feet.

25 Q And the Camry is from -- I guess let's take it

1 from the CG of the Jeep to its point of rest.

2 A All right. I don't have the CG marked on any  
3 of these rest positions, so this is within a foot or  
4 two. From the position of the Jeep shown on Exhibit 8  
5 and the CG of the Jeep at that point to the CG of the  
6 Camry at rest is approximately 86, 87, 87 feet to the  
7 nearest foot.

8 Q Okay. Do you have any other documentation,  
9 whether it's yours or anybody else's, about the scene of  
10 the accident?

11 A Lots of police photographs.

12 Q You have those as part of your file?

13 A Yes, the police photographs taken, yes. I  
14 think there are 46 of them. The other documentation  
15 would be in the news videotapes. It's not particularly  
16 useful from a reconstruction standpoint, but there are  
17 lots of aerial views and some ground-level views taken  
18 the day of the accident with the vehicles at rest, and  
19 some views I think of the accident scene after the  
20 vehicles had been moved. Mostly aerial views, some  
21 ground-level views. A lot of them show the fire in  
22 progress, or I guess I should say fires because there  
23 were three vehicles burning.

24 Q Could you pull out your police photographs for  
25 me so I can make a quick scan through them?

1           A       Yes. I have all these labeled as police  
2 photographs. I think that they are. There were 46  
3 photographs taken, and this agrees with some police note  
4 somewhere in the police file, not on one of these  
5 exhibits already marked, in which it does say there were  
6 46 photographs taken and describes each of the  
7 photographs. Those are the prints. I also have in the  
8 same subfile color photocopies of those same  
9 photographs.

10           Q       What is your understanding of what the  
11 lighting conditions were at the time that this accident  
12 occurred?

13           A       I think it was dark at the time of the  
14 accident.

15           Q       What else do you have from the police?

16           A       I have two subfiles, one entitled Police, one  
17 entitled Police Analysis. And I have some additional  
18 photographs which are probably police photographs, at  
19 least some of them are.

20           A       I'm going to mark the file that you've labeled  
21 as Police as Exhibit 9. And this contains accident  
22 reports as well as what appear to be officer narratives  
23 about their work at the scene?

24           A       That's my recollection. There are certainly  
25 some witness statements there too, a number of witness

1 statements. I mean, I might call it all -- a lot of it  
2 is supplementary reports, supplementary observations,  
3 supplementary forms pertaining to this accident.

4 Q All right. Have you spoken directly to anyone  
5 who was a witness to the accident?

6 A No.

7 Q Have you seen any statement from any of those  
8 witnesses other than what is contained in the police  
9 file?

10 A Only I guess I might refer to these as  
11 summaries of those statements. This is from this law  
12 firm.

13 Q Okay. We'll get to those in a minute then.  
14 Have you spoken directly to any of the fire department  
15 or other emergency workers who responded to the scene of  
16 this accident?

17 A No.

18 Q I know you were with the police on the 15th of  
19 July as they did their supplemental work at the scene.  
20 Did you talk to any of them about what they had seen or  
21 what they thought about the accident?

22 A I don't recall talking to them about that. I  
23 spoke to them about what they were doing and may have  
24 had some police documents such as these measurements on  
25 Exhibit 7. I don't recall that specifically, but I

1 talked to Office Hensal and also I think --

2 Q Is it Beckham?

3 A Sergeant. Well, I-N-V, it must be  
4 Investigator James Beckham. I also have a card here  
5 from John E. Caveness, C-A-V-E-N-E-S-S, Investigator,  
6 Major Case Division, Atlanta Judicial District, Office  
7 of the Fulton County District Attorney. I don't  
8 remember him being there, but I've got his card so maybe  
9 he was.

10 Q Do you rely on anything that you were told by  
11 those three people in support or as a basis of any  
12 opinions that you have in this matter?

13 A No, not specifically what they told me. I'm  
14 relying upon the documents the police, including  
15 Beckham, produced.

16 Q You've marked with red flags several of the  
17 witness statements in this police file that we've marked  
18 as Exhibit 9. The first mark is of Joe Baulieu, his  
19 witness statement?

20 A Yes, and I'll tell you they are not marked  
21 with any particular significance. I just was reading  
22 through that the other day, and there were so many of  
23 them I started marking the various witness statements.  
24 There are some I didn't mark that may be just as  
25 significant. There are some I did mark which aren't



1 particularly significant. On every witness statement I  
2 probably, at least if they said something which is  
3 potentially significant, I probably marked in the margin  
4 a vertical pencil line just to draw my attention to that  
5 so I wouldn't have to review the entire document.

6 Q And you've also handed me a file that is  
7 listed as -- I think that says Police Analysis?

8 A You are correct.

9 Q I wouldn't swear to it.

10 A I will. That's what it says.

11 Q I'm going to mark that as Exhibit 10. And did  
12 Exhibits 7 and 5 come from this subfile of Police  
13 Analysis?

14 A It could have come from either subfile, but  
15 that's where I probably would put them. When I say  
16 either subfile, either of the two police subfiles, but  
17 probably they belong in the analysis subfile.

18 Q One of the documents in the file we've marked  
19 as Exhibit 10 appears to be an additional copy of the  
20 police measurements, the first page of which is marked  
21 as 6-1-3?

22 A Yes.

23 Q And there is handwriting in pencil underneath  
24 the police measurements which are typed; correct?

25 A Yes, ma'am.

1 Q Is that Mr. Brady's handwriting again?

2 A It is.

3 Q There is a -- actually, there appear to be  
4 three drawings of the accident scene specifically it  
5 would appear depicting the point of impact and the  
6 points of rest; correct?

7 A Yes. Apparently Ken has added for whatever  
8 reason -- first of all, these are apparently three  
9 identical police drawings, and then on the top one Ken  
10 has apparently added a facsimile or, that is, a plastic  
11 template of the Ford at some point prior to the end of  
12 those tire marks.

13 Q There is also a handwritten notation here.  
14 What does that say?

15 A That's obviously my handwriting. It says  
16 gasket.

17 Q And then is it also your handwriting which  
18 labels the three vehicles at their points of rest?

19 A No. That's probably Ken's writing. I can  
20 read it.

21 Q Okay. Vehicle number 2 is identified as the  
22 Jeep; correct?

23 A Yes.

24 Q Does that show the correct point of rest or  
25 angle of rest?

1           A     Approximately. I don't think this is to  
2     scale, but, yes, it shows it approximately.

3           Q     Then there is Officer Fessell's drawing?

4           A     I think it's Hensal.

5           Q     Hensal, sorry, which lists various points.  
6     These points are all designated by numbers; correct?

7           A     Yes.

8           Q     Do you have any disagreement with anything  
9     that's in this drawing?

10          A     First of all, it's not to scale, so there will  
11     be some differences because of that. I don't know -- I  
12     cannot verify that number 1 is the location in which the  
13     van lost its right front tire. I can't verify that  
14     number 2 is where the van came to rest, although the  
15     photographs indicate that is approximately correct. And  
16     then number 3 is a very general statement. It's the  
17     area where the Subaru, Saturn, and Camry struck the tire  
18     lying in the roadway. He probably means wheel, which I  
19     define as being the rim plus the tire. That's just a  
20     general area which I can't verify.

21                 Same thing about the locations at which the  
22     Subaru and Saturn came to a stop, 4 and 5. Number 6 is  
23     the rest position of the Camry. That looks generally --  
24     I'm sorry. Number 6 states Camry comes to stop in HOV  
25     lane. Well, in that it shows it between the area of

1 impact between the Ford and the Jeep and the rest  
2 position of all three vehicles, I have no disagreement  
3 with that, but it's not precise, I'm certain, in terms  
4 of its location. Number 7 is the area of the Jeep-  
5 Thunderbird impact. That appears to be represented okay  
6 for a drawing not to scale. Same thing about the three  
7 rest positions. Those appear to be okay with respect to  
8 the photographs which show the vehicles and the more  
9 accurate survey drawing.

10 Q Do you rely on that in any way in support of  
11 any of your opinions in this matter?

12 A Only to generally describe what happened. I  
13 don't rely upon the specific locations because I have  
14 better data.

15 Q The next document in this particular file is  
16 Fulton County Police Department Accident Reconstruction  
17 Unit, South Special Services set of materials; correct?

18 A Yes.

19 Q There is handwriting on it on the first page.  
20 Is that yours or Mr. Brady's?

21 A Mine.

22 Q And there is a circle on the page which is  
23 headed as item number 1, 1988 Ford T Bird. Is that your  
24 circle?

25 A It is.

1 Q Why did you circle that?

2 A Two reasons: First of all, the width of crush  
3 he has is only about 3 feet. I don't know the basis of  
4 that. There is obviously, at least to me, more width of  
5 crush than that. Perhaps this is only the width he was  
6 considering in his analysis for some reason. It also  
7 circles the 12, which is the PDOF angle. You'll find  
8 that he varies that 12 to zero to 20 on this page and  
9 the two following pages, although the width is constant.  
10 But I circled them because that's the variation in those  
11 three pages and also because the width of crush is  
12 something I don't understand.

13 Q The next is a handwritten sheet. Is this the  
14 work of Officer Hensal or someone else, as far as you  
15 know, if you know?

16 A It's Fulton County, so I think it would not be  
17 Hensal. It's probably Beckham's. I'm guessing. He may  
18 have had somebody helping him.

19 Q All right. The next page is again headed in  
20 handwriting 1988 Ford T Bird, and you've circled an item  
21 there, again the crush width?

22 A Yes.

23 Q Do you find that that measurement or  
24 calculation is inconsistent with your own inspection of  
25 the vehicle?

1           A     Well, if he's describing the same crush width  
2           that I'm describing, that is, the actual crush width of  
3           the vehicle, I think it should be more than that, but  
4           I'm not sure of the method of his analysis. I haven't  
5           discussed his analysis with him. I would describe and  
6           define the crush width as being almost the total width  
7           of the vehicle.

8           Q     And that's your understanding of -- when you  
9           say crush width, you mean the area from left to right on  
10          the vehicle, so-called maybe track width type  
11          measurement, as opposed to from front to back?

12          A     Yes, as opposed to crush depth, since we are  
13          talking about a collision involving the frontal  
14          components being pushed generally to the rear.

15          Q     The next page would appear to me to be again  
16          related to the T Bird, and does it appear this is  
17          measurement of crush?

18          A     That's part of it. I was at Weil, W-E-I-L,  
19          Wrecker in Birmingham when this was done. They actually  
20          set up a total survey system to survey the noncrush,  
21          some of the noncrush components, but primarily it was to  
22          define the frontal crush.

23          Q     Do you have the data output from the total  
24          station survey other than as depicted on this diagram?

25          A     No, ma'am.

1 Q Did you do your own total station survey?

2 A Not total station, but I measured the crush  
3 and produced diagrams which will illustrate that.

4 Q Okay. Then the next series of documents  
5 relate to the Jeep Cherokee; correct?

6 A Yes.

7 Q And you circled the PDOF of 12 degrees on that  
8 file?

9 A Yes.

10 Q On that document, rather.

11 A Yes.

12 Q Again, do you question it?

13 A Well, he uses 12, zero, and 20.

14 Q Again?

15 A Yes. I'm not sure -- I don't know the basis  
16 of that. I think the PDOF is approximately 180 degrees,  
17 that is, from 6 o'clock.

18 Q Say that again?

19 A From 6 o'clock forward, from the rear. This  
20 is the Jeep, is it not?

21 Q Yes.

22 A Yes.

23 Q And then there are calculations included in  
24 this part of the file, and one of those appears to be an  
25 attempt to determine speed. Is this your handwriting on

1 the page that's designated 1988 Ford T Bird Item Number  
2 1 Linear Momentum?

3 A Yes.

4 Q What does that say?

5 A It says assumes Jeep zero miles per hour at  
6 time of impact, separation velocity 41.49 miles per  
7 hour.

8 Q Do you disagree with that assumption and  
9 conclusion?

10 A I think that the Jeep probably was not stopped  
11 at impact, based upon what the witnesses say, and I  
12 think that the separation speed is probably a little low  
13 he's got there. But again, I'm not sure what his  
14 purpose was. I just made the observation. That's some  
15 data I pulled from those sheets.

16 Q Under the results section that's in the middle  
17 of this page, there is an indication that one of the  
18 results is the speed of vehicle 1 in miles per hour?

19 A Yes.

20 Q And they've got 81.51 miles per hour; correct?

21 A Yes.

22 Q Is it your understanding that that's intended  
23 to be a calculation at the incident's pre-impact?

24 A I don't remember. It's been a while since I  
25 looked over this. It's probably -- since it's momentum,



1           it's probably the impact speed.

2           Q     Okay.

3           A     I think that's what he's done. Just a minute  
4 please.

5                     That appears to be his linear momentum  
6 calculation of the impact speed of the Ford.

7           Q     Is linear momentum the same analysis as  
8 conservation of momentum?

9           A     Yes.

10          Q     Did you use that type of analysis in your  
11 examination of this?

12          A     Yes, to some extent, yes. I've got that in my  
13 analysis folder.

14          Q     Do you rely on any of this data, that is, the  
15 Fulton County Police Department packet of information  
16 contained in Exhibit 10, to support any opinions that  
17 you hold in this matter?

18          A     Are you speaking of this excerpt from that  
19 packet?

20          Q     That particular excerpt that appears to be the  
21 Fulton County work, yes.

22          A     The Fulton County accident reconstruction  
23 work?

24          Q     Yes.

25          A     No.

1           Q     And we've discussed some of the questions or  
2     disagreements that you have with it. Is there anything  
3     else that you disagree with or question in that file  
4     that we've not talked about?

5           A     I don't remember. I didn't rely upon it.  
6     I've got a note here on the next-to-the-last page headed  
7     Pre-impact Skid Marks Left by Ford T Bird. Apparently  
8     for the post-impact travel he's doing something which I  
9     don't fully understand but I think is probably not  
10    correct, but I didn't rely upon it anyway. I'm not  
11    relying upon any of his work. I'm not relying upon any  
12    of the analysis by the police.

13          Q     Just the factual documentation that they have  
14    prepared with regard to what was found at the scene?

15          A     Yes, just the data.

16          Q     Not their data regarding their vehicle  
17    inspections?

18          A     That's correct. I'm not relying upon any of  
19    their crush measurements.

20          Q     Okay. I think the way that we started that  
21    discussion was what you had from the police. Is there  
22    anything else you have from the police other than those  
23    two files and the photographs and the diagram we've  
24    marked as Exhibit 5?

25          A     I think that's all. I'm sure we'll discover

1       it if there's anything else. I think that's all. Well,  
2       I do have a disk apparently back at the office, but it  
3       should be fully illustrated although difficult to read  
4       by Exhibit 5.

5                   And where are the police photographs?

6           Q       I believe they are at that end of the table.

7           A       I don't need them now. I just wanted to put  
8       them back in this file. I'll show you these. These are  
9       just the duplicates, photocopies.

10          Q       What's the yellow page in front of it?

11          A       It's just a check. I went back and looked at  
12       the negative numbers on each of these photographs,  
13       trying to make sure that there wasn't anything which had  
14       been left out when they were sent to us. Apparently  
15       there was not. They were consecutive negative numbers,  
16       two separate rolls.

17                   The other possible police information would be  
18       the photographs. I don't know -- and maybe it's  
19       indicated in some cover letter. I don't know who took  
20       all these photographs but I'm sure many of them were  
21       taken by the police, and they are in a subfile labeled  
22       Photos Others. All of those may have been taken by the  
23       police. I'm not certain.

24          Q       Do you rely upon these photographs in support  
25       of any opinion that you hold in the matter?

1           A     No. I don't need those specifically. They  
2           are redundant. I don't think they'd answer any question  
3           that some other photograph, including my own, wouldn't  
4           also answer. I rely upon them to the extent to show  
5           there have been no significant changes, at least  
6           significant with respect to the reconstruction, from the  
7           time they were taken to the time I have examined the  
8           vehicles.

9           Q     Is there any additional information that you  
10          have about the scene that we haven't now discussed?

11          A     Well, there is the witness statements which  
12          talk about some of the things going on at the accident  
13          scene.

14          Q     Can we pull those out, please?

15          A     Also, there is the deposition included in this  
16          same witness file of Mr. Brennan, the driver of the van.

17          Q     Is Mr. Brennan's the only deposition that  
18          you've reviewed in this case?

19          A     I've reviewed very quickly the deposition of  
20          Dr. Kiesel, K-I-E-S-E-L, but I did that very quickly,  
21          didn't review it in detail.

22          Q     I'm going to mark as Exhibit 11 the file that  
23          you have labeled as Witnesses. And within file 11 I'm  
24          going to use subheadings, so to speak. 11A is the  
25          summary of witness statements that was provided to you

1 by the law firm?

2 A By this law firm, yes.

3 Q Did you rely on any of this information from  
4 this document, rather than from the witness statements  
5 themselves, in support of any of your opinions?

6 A No. I don't have statements except in the  
7 police file.

8 Q Correct.

9 A I'm sure that document contains some of the  
10 same information as well as different information.  
11 There is another -- there is a duplication of that  
12 document in that same subfile in which I've highlighted  
13 some of the statements which are potentially significant  
14 with respect to reconstruction.

15 Q There is a second copy of the document that's  
16 got red markings on it. Are those the highlights you  
17 are talking about?

18 A Yes, and it's labeled Extra/REK at the top  
19 right.

20 Q I'm going to mark that second copy is 11B.

21 The next document in this appears to be a hand  
22 drawing of the scene?

23 A Yes, by Mr. Brady, in which he locates some of  
24 these witness positions.

25 Q So the indication -- for example, there is one

1 labeled Baulieu?

2 A B-A-U-L-I-E-U, yes. Apparently he was near  
3 the Camry at the time of the impacts.

4 Q Your understanding is what Mr. Brady has done  
5 is labeled where the witnesses were?

6 A In a general sense, yes.

7 Q I'm going to mark that as 11C.

8 The next information is the deposition of Mr.  
9 Brennan, and there is a handwritten page on the top of  
10 that. Is that your notes of the deposition?

11 A Those are Mr. Brady's notes, except I've got  
12 an additional note at the left margin.

13 Q So the only mark that's yours is the left  
14 margin note?

15 A Yes, ma'am.

16 Q Can you read your left margin note, please?

17 A Yes. Page 64, not asked specifically if he  
18 heard any brakes, slash, squeal.

19 Q Okay. I am going to mark only the first page  
20 as 11D. Have you personally read the deposition of Mr.  
21 Brennan?

22 A Yes. I read the next copy of it in the file.  
23 You'll see my typical vertical pencil markings in the  
24 margins.

25 Q Again, all you do is go through and put a

1 vertical line beside what you think you might need to  
2 review later?

3 A Yes, when that's my method. Frequently I take  
4 handwritten notes. Frequently I dictate notes. But  
5 that's the method I used in that particular review.

6 Q Okay. So what I'm going to do is mark that as  
7 11E so that we can know what you marked.

8 Do you have any other information about  
9 witnesses or witness information?

10 A I have newspaper articles, a couple of  
11 newspaper articles that might contain some information.  
12 I certainly would not rely upon that, but I do have a  
13 subfile labeled Newspaper. I believe we've now  
14 discussed all such documents.

15 Q Have you reviewed any documents produced by  
16 Chrysler, DaimlerChrysler in this case?

17 A No.

18 Q Have you reviewed any articles or technical  
19 publications in connection with your work in this case?

20 A Only if they are here. For example, there are  
21 motor vehicle manufacturers' specifications. I think  
22 that would be all.

23 Q Can you pull those out?

24 A Certainly. I have two subfiles, one labeled  
25 Vehicles Specs, the other labeled more specifically MVMA

1 Specs.

2 Q I'm going to mark the file that's labeled  
3 Vehicles Specs as Exhibit 12, composite Exhibit 12, and  
4 the file that's labeled MVMA Specs as composite Exhibit  
5 13.

6 This information appears to be in Mr. Brady's  
7 handwriting again?

8 A Except for that weight information at the  
9 right and that at the right.

10 Q All right. And this contains information  
11 about the wheel base and the gross vehicle weight and so  
12 forth?

13 A That type of information, yes.

14 Q And it appears to have been pulled from a  
15 document or a service, ESI Data Solutions?

16 A I think that's probably just for the vehicle  
17 identification number breakdown. Also, from Mitchell  
18 Repair Information. And then there are specifications  
19 from which this yellow page which covers this  
20 information was pulled, Canadian Vehicle Specifications,  
21 and the light-duty truck specifications in the  
22 Automotive News. And then from Neptune there is the  
23 Jeep Cherokee, there is a crash test listed for an '84  
24 Jeep Cherokee which provides stiffness coefficients, as  
25 well as Expert Auto Stats which provides more



1 dimensional and weight data.

2 Q Have you reviewed that crash test report?

3 A Not specifically, no.

4 Q Did Mr. Brady?

5 A I don't know. We probably have it on disk at  
6 the office, but I didn't ask him to. I don't know why  
7 he would have.

8 Q And the next document is a packet that is  
9 labeled as 1988 Ford Thunderbird. Again, Mr. Brady's  
10 writing appears to be on the left and you've added a  
11 note on the right?

12 A Yes.

13 Q Your note regarding the Cherokee about weight,  
14 what does that say?

15 A It says 3359 pounds, which is taken from Mr.  
16 Brady's calculation above, plus et cetera. I know that  
17 this family was going out of town, and even Mr. Brady  
18 indicates that there should be added baggage and perhaps  
19 other cargo. So what I did was to take the 3359 pounds  
20 and, in recognition that they had luggage and perhaps  
21 other items in the vehicle, I rounded it upward to 3500  
22 pounds, which I think is more accurate than 3359.

23 Q Does the 3379 include weight of the occupants?

24 A 3359 does, yes.

25 Q Sorry. It does?

1 A Yes, the estimated weights.

2 Q What were the estimated weights for the  
3 occupants?

4 A These are probably 50th percentile male and  
5 female adults, 169 pounds and 138 pounds, and then Ken  
6 apparently used 20 pounds for the infant.

7 Q And now returning again to the Thunderbird  
8 information, it's the same sort of summary information  
9 prepared by Mr. Brady on the handwritten sheet with the  
10 backup source documents included; correct?

11 A Yes, ma'am.

12 Q And there is a crash test apparently  
13 highlighted here?

14 A That's just a line of specifications,  
15 actually. The crash test is probably in there  
16 somewhere, yes.

17 Q What crash test is noted there?

18 A Well, there is the resultant stiffness  
19 coefficients primarily, 200 for these, coefficient of 54  
20 for the B.

21 Q There is a yellow sticky note on there. Is  
22 that Mr. Brady's handwriting or yours?

23 A His.

24 Q What does that say?

25 A It says same wheel base but different overall

1 length compared to 1987.

2 Q And what does your handwritten note say?

3 A It says MVMA specs page 25, curb weight is  
4 3408 pounds. And what I did was more specifically look  
5 up this vehicle in the MVMA specs than what Ken had  
6 done. I've got a note here that says plus options.  
7 There are some options which raise that weight slightly.  
8 But not knowing specifically what the options were here,  
9 I didn't add anything to that. I used that curb weight  
10 3408 pounds, assumed the 50th percentile male for the  
11 two occupants of 169 pounds each, gave me a total weight  
12 of 3746 pounds which I rounded to 3750 pounds.

13 Q And that is slightly higher than what Mr.  
14 Brady had calculated, which if I'm reading correctly was  
15 3553?

16 A Yes.

17 Q There is a Consumer Guide document here  
18 regarding a Jeep Cherokee. Is there any information in  
19 this that you used in any of your calculations?

20 A I didn't use it specifically. Ken may have  
21 derived some data from it. It may have been just  
22 another source to check, because frequently if you take  
23 one source of data, for example, weight, you may find  
24 later that it was a mistake and somebody may have made  
25 an error. So we try to check the data with at least one

1 or two or three other sources.

2 Q There appears to be one of these pages -- I  
3 believe it might be the fifth page in this packet --  
4 that has some handwritten notations on it. Is that  
5 yours?

6 A No.

7 Q Mr. Brady's?

8 A Yes.

9 Q And it simply says too low?

10 A Yes. And the last page is blank, in case  
11 there is some later confusion about that.

12 Q Okay. Then finally there is a packet relating  
13 to the Camry. Again, Mr. Brady's summary of  
14 information, the backup, is attached; correct?

15 A Yes, ma'am.

16 Q And what weight did you come up with for the  
17 Camry?

18 A 3101 pounds.

19 Q And you have not any notes on that page or in  
20 that packet; correct?

21 A Correct.

22 MS. OWENS: All right. Why  
23 don't we break for lunch.

24 (Lunch Recess)

25

1 BY MS. OWENS:

2 Q Just a couple follow-up questions on things we  
3 covered this morning, Mr. Kirk. I want to make sure I  
4 understand. Was July 15th the only visit you've made to  
5 the scene?

6 A Yes, ma'am.

7 Q And did you do any sort of drive-through of  
8 the scene?

9 A I've driven through there a number of times  
10 but not for any learning about this case.

11 Q Not to any purpose except to go from wherever  
12 you were to wherever you needed to be?

13 A Yes.

14 Q Okay. And when were you retained in this  
15 matter?

16 A On or about April 18, 2001, because that's the  
17 date the file was opened. First telephone was 18 April  
18 2001.

19 Q And who was it from?

20 A Jim Butler.

21 Q Is that your correspondence file?

22 A It is.

23 Q Could I take a look?

24 A Certainly.

25 Q Thank you.

1                   We are going to mark the correspondence file  
2 as Exhibit 14, composite Exhibit 14. There is a few  
3 handwritten notes in here. Let me ask you first that  
4 appears to be the note of the initial conversation with  
5 Mr. Butler; correct?

6                   A     Yes.

7                   Q     Can you read it for me, please?

8                   A     It says an attorney, Columbus, Georgia,  
9 telephone number, telephone with Jim Butler Wednesday  
10 April 18, 2001. 1991 Jeep Cherokee. Fire, hyphen,  
11 parents and child killed. Belli, hyphen,  
12 DaimlerChrysler. Weil, Birmingham, Alabama is the  
13 location of the vehicle. Next line just says parents.  
14 Next line location of accident Atlanta, Georgia. And  
15 finally it says will send file materials.

16                  Q     Then there is a second page of handwritten  
17 notes, and can you tell me what that says, please?

18                  A     Telephone with Nick Giles, G-I-L-E-S, 7:00  
19 a.m. at Zone 2 Precinct near J.W. Marriott and site.  
20 Immediately after examine T Bird. Atlanta Police relies  
21 upon others for reconstruction equipment. I have  
22 photographs. And then there are listed pager and cell  
23 telephone numbers.

24                  Q     Who is Mr. Giles?

25                  A     He is an investigator with this law firm. I

1 think his title is investigator.

2 Q And those notes appear to be related to your  
3 visit on July 15th to the scene with the police  
4 department?

5 A They must be.

6 Q And there is one other page of handwritten  
7 notes. Can you tell us what that says, please?

8 A Well, our file number is at the top, 11010.  
9 Sometimes you'll see that as B11010.

10 Q Does that mean anything in particular? Does  
11 it tell you what year you got it or --

12 A No. It just tells us it's approximately the  
13 11,010th file we've had.

14 Q Okay.

15 A Officer Hensal, Atlanta Police Department,  
16 investigating police officer from day one. Telephone  
17 numbers are listed. Officer Lincoln equals  
18 reconstruction. Fulton County Police. Look at T Bird  
19 in Atlanta on 15 -- that may say and; it may say or --  
20 16 look at Jeep. Owner has third vehicle repaired,  
21 question mark. Must be referring to the Camry. I'm not  
22 sure. Shoot total station. Telephone with Sharmi July  
23 16, 2001. They will handle. Will let me know. I don't  
24 know what that means.

25 Q What is the top part in reference to? Is

1           there a phone conversation with someone?

2           A       No. I think somebody is just giving me his  
3           telephone, that is, Officer Hensal's telephone numbers.

4           Q       The next thing I want to ask you about is  
5           whether you rely on any other expert's photographs or do  
6           you have copies -- strike that.

7                     Do you have copies of any photographs by any  
8           of the other experts in this case?

9           A       I don't, and I don't think I've even seen  
10          them.

11          Q       Mr. Arndt didn't bring any photographs that  
12          you looked at to the meeting that you had?

13          A       I don't remember. I don't think so. He  
14          probably had photographs but I didn't see them.

15          Q       Have you done any testing in this case?

16          A       No, nothing I would label as testing.

17          Q       That's a little bit ambiguous. What do you  
18          mean by that?

19          A       Well, you might say running a computer run is  
20          a test. They are frequently referred to as tests by  
21          others. I've not done any vehicle performance test or  
22          vehicle dynamics test or tested any materials, nothing I  
23          would have described as a test.

24          Q       Have you reviewed any dynamic or performance  
25          testing on any of these vehicles in connection with your



1 work on this matter?

2 A Only to the extent of looking at a couple of  
3 crash test reports of Ford's and deciding they weren't  
4 usable, some documents we have on disk back at the  
5 office. I looked at some results of crash tests in  
6 order to pull the stiffness coefficients. I think that  
7 would be all.

8 Q Have you examined each of the vehicles, the  
9 three vehicles that were primarily involved in this  
10 accident?

11 A I have.

12 Q When did you do that? I know you went to Weil  
13 on July the 16th?

14 A Yes. And on that date I examined both the T  
15 Bird, that is -- first of all, on the 15th I know I  
16 examined the Ford because there are photographs I took.

17 Q And just very quickly, your photographs that  
18 are depicted as roll C are your photographs of the  
19 Thunderbird examination on the 15th of July?

20 A Yes. And on the 16th of July at Weil Wrecker  
21 in Birmingham I examined in detail both the Thunderbird  
22 and the Jeep.

23 Q Have you seen either the Thunderbird or the  
24 Jeep since July the 16th?

25 A You know, I was at Weil. I don't think the

1 last time I was there but maybe the time before I saw  
2 the Jeep just sitting there. I recognized it but I  
3 didn't examine it. Maybe the Thunderbird also. I just  
4 don't remember for sure.

5 Q So it's fair to say all of the work you have  
6 done in terms of measuring and photographically  
7 documenting the Jeep and the Thunderbird, that work was  
8 done on July 16th of 2001?

9 A That is correct, except for the exception of  
10 what I did with the Thunderbird on the 15th.

11 Q And what about the Camry? When did you look  
12 at that?

13 A That was this year, 26 April.

14 Q Do you have notes respecting that visit?

15 A I do.

16 Q We are going to mark those as Exhibit 15.

17 Page 3 of Exhibit 3 is documentation regarding  
18 your examination of the Thunderbird on I believe July  
19 the 15th?

20 A I was confused by the number. Yes, it is  
21 Exhibit 3. That is the first page of my Thunderbird  
22 examination, yes.

23 Q Near the bottom there is a couple of lines  
24 that I think are trying to document the wheel base?

25 A Yes.

1 Q There is an indication on the first line of 88  
2 plus 16, and is that a quarter or --

3 A Three. Excuse me. One and a quarter, yes.

4 Q Equals 104?

5 A And one-quarter equals the left wheel base.

6 Q At the front or the rear? I'm sorry. Left  
7 wheel base would be from the front to the rear?

8 A Centerlines of wheel position, yes.

9 Q And what is this note in the parenthetical?

10 A Left steer angle approximately zero degrees.  
11 I'm sorry. Left front steer angle approximately zero  
12 degrees.

13 Q And the second line says 82 plus 15?

14 A 15 and a half equals 97 and a half inches  
15 equals right wheel base, and then parenthetically right  
16 front steer angle approximately 10 degrees right.

17 Q And then there is a note about the drive shaft  
18 at the very end of that. Tell me what that says,  
19 please.

20 A Drive shaft is rubbing at two locations. See  
21 photographs. Parenthetically I state tailpipe plus  
22 catalytic converter.

23 Q Are the two locations where it was rubbing?

24 A Yes.

25 Q Was the drive shaft intact or was it

1 fractured?

2 A Intact.

3 Q Was the four-wheel drive shaft still in the  
4 vehicle?

5 A Not on the T Bird.

6 Q I'm sorry. Never mind.

7 The next page is crush measurements. Can you  
8 tell me what was the crush measurements that you found  
9 on the -- I guess it would be the front of the T Bird?

10 A Well, a lot of points were measured.

11 Q Those are noted on the following pages?

12 A Yes. They are measured with respect to the X  
13 and Y coordinate system which I show on the overall  
14 schematic of the vehicle with the four tapes placed  
15 around it.

16 Q What was the maximum of crush you found at any  
17 one particular point on the front of the Thunderbird?

18 A I couldn't tell you from this. I'd have to  
19 look at one of the drawings which show the exemplar  
20 overlaid on the crushed T Bird. What we do, what I did  
21 was to measure in the field the locations of various  
22 points on the damaged vehicle. And then having measured  
23 identical points on the exemplar vehicle and overlaying  
24 the two drawings, which are based upon those  
25 measurements, one can determine displacements of

1 individual components. But all those points are  
2 plotted.

3 Q In part of your file that I presume is  
4 contained in the analysis section?

5 A Yes. And there are some more general diagrams  
6 not in the analysis section.

7 Q Okay. Also contained within Exhibit 3 are  
8 notes that are headed Exam of Jeep at Weil. And I was  
9 particularly interested on this page as to the note at  
10 the bottom. Could you read that for me?

11 A Yes. Nick Giles informs me that real axle  
12 fell from vehicle when it was being lifted by a forklift  
13 at an earlier date. It may have been not completely  
14 separated. If not, held loosely by something at left  
15 rear wheel area. Photos in coroner's office show that  
16 today's positions, referring probably to the right rear  
17 and left rear tires and probably the axle, are  
18 considerably forward of positions illustrated by  
19 photographs at coroner's office. And then  
20 parenthetically I state I informed J.P. Beckham of this  
21 change.

22 Q Do you recall where the vehicle was when it  
23 was dropped by the forklift?

24 MR. FRYHOFER: Objection.

25 Q Is that what it said?

1 A No.

2 Q What did it say?

3 A It says Nick Giles informs me that rear axle  
4 fell from vehicle when it was being lifted by a forklift  
5 at an earlier date.

6 Q Do you know where the vehicle was when this  
7 forklift lifted it and the rear axle fell?

8 A No.

9 Q Do you know whether it was in Atlanta or  
10 Birmingham?

11 A I'm sorry, I don't know. I don't know whether  
12 Giles witnessed it or somebody told Giles that. I just  
13 don't know.

14 Q And again, there are a good many measurements,  
15 which I think from what you've told me before, I can  
16 conclude are plotted somewhere?

17 A Yes, all those points are plotted.

18 Q And then turning to Exhibit 15, this is your  
19 field notes regarding the examination of the Camry?

20 A Yes, ma'am.

21 Q Did you find any discrepancy between the  
22 condition you found it in and the condition of it  
23 depicted in any earlier photographs?

24 A I'm not sure. There is damage at the front of  
25 the left side, that is, in the left front fender of the

1 Camry. There is damage at the rear of the left side,  
2 that is, the left rear quarter panel of the Camry at the  
3 time I examined it. I tried to locate in earlier  
4 photographs illustrations of those same two areas, that  
5 is, the front and rear of the left side, in order to  
6 make a determination as to whether those damages were  
7 caused in the accident, but there weren't any  
8 photographs taken, at least I haven't seen any  
9 photographs taken that would illustrate those areas  
10 adequately.

11 In reviewing the news videotape, I think tape  
12 B I have labeled, there were some ground-level views  
13 which indicated that the damage at the left rear quarter  
14 panel had probably been -- was probably existing just  
15 after the accident occurred because it's on the accident  
16 scene. I couldn't see the left front fender well enough  
17 but I wouldn't be surprised to learn that the Ford made  
18 contact, that is, the right side of the Ford made  
19 contact with both those two areas during the spin-out  
20 trajectories on the day of the accident, but there is  
21 some question about that still. There was, for example,  
22 in the left rear quarter panel some fresh paint  
23 transfers, but those appear to be the normal salvage  
24 yard type transfers and scratches that occur without a  
25 lot of other damage occurring while the vehicles are

1       being stored and moved about. I don't recall whether I  
2       mentioned this in my field notes or not. Apparently  
3       not.

4               Q       Let me show you the fourth page of Exhibit 15.  
5       There is I think a notation here about -- does it say  
6       disparity?

7               A       No. Diagonally.

8               Q       There you go. I need an interpreter. So that  
9       is not a note about the discrepancy or the possible  
10       discrepancy?

11              A       Correct.

12              Q       And as I understand what you said -- correct  
13       me if I'm wrong -- it's not that there are photographs  
14       that show no damage and then some damage; it's that  
15       there are no photographs that adequately show the left  
16       side of the vehicle so that you can make that  
17       conclusion?

18              A       Yes. Again, the videotape, although it is not  
19       a very good view, does show that the damage probably was  
20       existing on the accident scene at the rear of the left  
21       side. It's just sheet metal damage anyway. It's not  
22       really important probably, except it's a reconstruction  
23       detail that one likes to have resolved.

24              Q       In your examination of the Jeep did you note  
25       whether or not the drive shaft was broken?



1           A     I've got a lot of photographs that should show  
2     it. I have no independent recollection. Let me look at  
3     my notes. Which drive shaft are we talking about? The  
4     front wheel drive shaft of the rear wheels?

5           Q     Yes.

6           A     I don't have a note. I probably have a  
7     photograph or photographs.

8           Q     Would you see if you could find one of those  
9     for me?

10          A     Yes.

11          Q     I'm looking at my copies of your photographs  
12     in the meantime, if I find it first.

13                 Here we go. Let me show you a photograph  
14     that's labeled Bates stamp 1357. Does that show the  
15     drive shaft?

16          A     It shows that it's still connected at the  
17     transmission but apparently not at the differential.

18          Q     And if you look at the following photograph,  
19     which is marked as Bates number 1358, does it also show  
20     that there is a rather prominent displacement at the end  
21     nearest the rear axle?

22          A     It appears from this photograph that the drive  
23     shaft is bent and that the connection to the rear axle  
24     has become separated.

25          Q     Okay. And then I think the second part of my

1 question related to -- or my earlier question related to  
2 whether the shaft that allows the vehicle to be put in  
3 the four-wheel drive mode is still present.

4 Let me show you, Mr. Kirk, Bates labeled  
5 photograph 1338. Does that depict the underside of the  
6 Jeep?

7 A It does.

8 Q And the front end?

9 A Well, yes, it's looking toward the front end.

10 Q Does the transfer case appear in that  
11 photograph?

12 A Yes. Looks like the drive shaft is not there.

13 Q Okay. Thank you.

14 A That is, the drive shaft for the front wheels.

15 Q The four-wheel drive enabling shaft, in other  
16 words?

17 A Yes.

18 Q I saw a moment ago when you were pulling out  
19 Exhibit 15 that you have additional notes?

20 A Yes. I have three sets of field or lab notes  
21 regarding the REI examinations of the three exemplar  
22 vehicles, the Ford, the Jeep, and the Camry, in that  
23 order.

24 Q We'll mark the Ford exemplar notes as Exhibit  
25 16, the Jeep as 17, and the Camry as 18.

1                   And did you personally examine each of these  
2                   exemplar vehicles?

3                   A       I did not measure them.  More than likely I  
4                   saw one or two of them when they happened to be there,  
5                   but I don't recall that.

6                   Q       So the documentation of those exemplar  
7                   vehicles was done by Mr. Brady?

8                   A       Mr. Brady, yes.

9                   Q       And what was the purpose of the exemplar  
10                  examination?

11                  A       Primarily to compute displacements of various  
12                  components.

13                  Q       In other words, to give you a reference  
14                  to compare the damaged vehicles to so you could  
15                  determine --

16                  A       The crush.

17                  Q       Any other reason that you examined the  
18                  exemplars or any other information you gleaned from  
19                  your examination of the exemplars?

20                  A       Well, one other purpose would be just to have  
21                  photographs of undamaged vehicles for whatever  
22                  comparison one might want to make, but I can't recall  
23                  any other reasons I would have had and I don't think Ken  
24                  had any.  I don't know of any other reasons.

25                  Q       Turning to your photographs which have been

1 produced to us, I want to just go through if I can and  
2 get a designation of -- there is a packet here that  
3 contains rolls D, E, and F, and what are those of?

4 A Well, they weren't rubber-banded together  
5 except for the reason of helping to facilitate  
6 transporting them.

7 Q So we'll do them individually, then. What is  
8 D?

9 A D is the Jeep in Birmingham.

10 Q On the 16th of July?

11 A Yes. The date here is the date they were  
12 received from the processor, 23rd of July. E also is  
13 the Jeep. F is both the Jeep and the Ford.

14 Q We'll mark those three as composite Exhibit  
15 19. And what's the next -- what are we up to? F?

16 A We are.

17 Q What is that?

18 A F was the last roll of number 19.

19 Q So we are up to G. Sorry. I can't count or  
20 remember the alphabet.

21 A G we have Ford photographs, as is H.

22 Q So all these five sets relate to vehicle  
23 examinations of the Thunderbird or the Jeep?

24 A Yes.

25 Q I'm going to include them as part of 19 and

1 say there are now five packets that are composite 19.

2 A Here are two more. I and J are both the Ford  
3 and the Jeep.

4 Q Okay. They also will be included as a part of  
5 composite Exhibit 19. What about J? Is that additional  
6 Jeep or Ford photographs as well?

7 A Jeep.

8 Q So we are up to K.

9 A There is no K, but we can label these as K.  
10 I've got the next three labeled double A, double B and  
11 double C.

12 Q What do those pertain to?

13 A All of those pertain to my examination of the  
14 Camry.

15 Q We are going to mark those as composite  
16 Exhibit 20. What is the next set labeled as?

17 A Well, we have an exemplar Jeep, an exemplar T  
18 Bird, one roll each, and exemplar Toyota two rolls. For  
19 some reason both Mr. Midyette and Mr. Brady took  
20 photographs of the Toyota.

21 Q Okay. We'll mark the exemplar photographs  
22 then as composite Exhibit 21.

23 A Four rolls, four packets.

24 Q Correct. Okay. What else have you got in  
25 your file?

1           A     I've got the two what I refer to as news  
2     tapes, A and B.

3           Q     Right. The first is labeled as being from  
4     WSB. That's marked as B by you?

5           A     Yes. I'm not sure it's just WSB but it may  
6     be.

7           Q     And then there is a tape marked as A that is  
8     fatal auto accident, family killed?

9           A     Yes.

10                   MS. OWENS: I think we produced  
11     WSB to you. And I'm not sure about that  
12     one but I know you'll know.

13           A     There is a detailed listing, a detailed label  
14     on A which may be some help.

15           Q     It indicates it's from WAGA, WXIA, WKIR, WGCL  
16     and WAGA, WXIA, WAGR.

17                   MS. OWENS: I don't think there  
18     is any need to mark these because I think  
19     everybody has probably got them. I'm  
20     looking at other defense counsel.

21                   MR. FINE: Yes, I believe we  
22     do. If we don't, we can certainly ask  
23     for them.

24           A     You asked what else I had in my file.

25           Q     Yes.

1           A     I've got a newspaper subfile, an autopsies  
2     subfile.

3           Q     Did you review the autopsy reports?

4           A     Very quickly. They have nothing to do with my  
5     opinions.

6           Q     Did you make any notations in any of these?

7           A     Unlikely. Then I have site diagrams which  
8     we've had out earlier, and they are identical to Exhibit  
9     6 and Exhibit 8 except the larger diagrams like Exhibit  
10    8 do not have the additional two vehicles, that is, the  
11    Ford and Jeep showing approximately their positions at  
12    impact. 8 has the two plastic templates, but the ones  
13    like 8 in this subfile do not have those templates.

14          Q     So those are just duplicates?

15          A     Yes.

16          Q     Except for the template locations?

17          A     On number 8, correct.

18          Q     What's next?

19          A     Next are the vehicle diagrams, and for each of  
20    the three vehicles examined there is a diagram of the  
21    subject vehicle, there is a diagram of the damaged  
22    vehicle, and a diagram of the damaged plus the subject  
23    together on one diagram overlaid. And there are three  
24    of each of those. So there are three, times three,  
25    times three, 27 drawings, but a full set would consist

1 of only nine drawings.

2 Q All right.

3 A And they are clipped together in groups of  
4 identical drawings.

5 Q I'm going to come over here, Mr. Kirk, so you  
6 can try and tell me is there any way that you've  
7 designated each of these diagrams? Is there page  
8 numbering or marking?

9 A No, there is not, but I can do it very easily.  
10 For example, the Jeep Cherokee, what will henceforth be  
11 typed, at least my instructions are that we'll put on  
12 there whether it's the exemplar or the subject or the  
13 combined. For example, these first three are all the  
14 same. They are all of the combined drawing of the Jeep,  
15 the solid lines being the subject vehicle, the dashed  
16 lines being the exemplar vehicle. And there are also  
17 points designated with circles and cross hairs for the  
18 subject, and squares and cross hairs for the exemplar.

19 Q Let's look at this one which we'll mark as  
20 Exhibit 22, and just sort of, if you would, take me  
21 through. Let's move from left to right. The first  
22 thing on the left is the box that contains the scale  
23 information, the color information, so forth?

24 A Title block, yes, and also legend.

25 Q And then the next line is a line that is



1 vertical to the page, and there is a circle and a cross  
2 in red just to the right of that?

3 A Yes. First of all, the vertical line is what  
4 you would expect with no significant frontal damage.  
5 The damaged, that is, subject vehicle, is a solid line  
6 and it happens to overlay almost precisely the undamaged  
7 bumper line. That black is the bumper.

8 Q And then you can see there is a broken dotted  
9 line visible at the left or the bottom edge of that.

10 A That's the exemplar vehicle.

11 Q Right.

12 A And individual points are also shown, again  
13 the squares with the cross hairs being exemplar, circles  
14 with the cross hairs being the damaged vehicle.

15 Q Do those overlay again those two points as to  
16 the subject and the exemplar?

17 A Yes. And these are probably some reference  
18 points I had in the front just to help us to index the  
19 vehicles as we overlay them, these red indications with  
20 cross hairs.

21 Q Then the next depictions are of the left and  
22 right front tires?

23 A Yes, wheels.

24 Q There are two crosses. Looks like they might  
25 even be in pencil.

1           A     No. Well, I'm not saying they don't look like  
2     it. They are in ink by the printer.

3           Q     What are those marks on here to depict?

4           A     They depict not something measured directly in  
5     the field. That's just the center of the box which Ken  
6     has drawn for the tire, and not surprisingly don't  
7     exactly line up. Even if you measure two identical  
8     undamaged vehicles, that is, two other Jeeps that  
9     haven't been damaged, you'll find frequently a little  
10    bit of difference in the position of the wheels.

11          Q     Do you believe that there is any damage from  
12    the accident in question that is reflected in the slight  
13    difference between the exemplar and the accident vehicle  
14    front tires?

15          A     I hadn't thought about that. I wouldn't  
16    expect there to be, but nothing significant to me as an  
17    accident reconstructionist.

18          Q     And then there are a couple of marks behind  
19    the front tires. What are those? Rocker panels?

20          A     I'd have to check the field notes, but they  
21    very well may be. The field notes will list those.

22          Q     I think we put all those back in here.

23          A     Just to make sure you understand, front  
24    bumper, those are the X and Y measurements of the front  
25    bumper there. Forward reference points are here, and I

1 probably described those reference points over here.

2 Q And what you are looking at is Exhibit 3  
3 again?

4 A Yes. I do describe what those forward  
5 reference points are.

6 Q On the page headed Crush MSMTS?

7 A Measurements, yes.

8 You asked specifically about these points.

9 Q Yes.

10 A Yes. Those would be -- it's the last entry on  
11 Exhibit 3, rocker panel at A post, hinge pillar, left  
12 and right. And I probably have a photograph showing  
13 those points.

14 Q There is some discrepancy on what would be the  
15 right side of the vehicle between the exemplar and the  
16 accident vehicle; correct?

17 A Yes.

18 Q Do you think that that is an indication of  
19 damage from this accident?

20 A It could be. Actually, since there was damage  
21 in the left side, perhaps those points on the right side  
22 could be matched up and the points on the left side  
23 should be further apart. But it could be, yes. Again,  
24 in terms of measuring crush, it's not significant, but  
25 those are just some other points that we could use to

1 help align the vehicle when we put them together like  
2 this.

3 Q Did you make any notation of the B pillar  
4 locations?

5 A No.

6 Q Does the exemplar compare to the accident  
7 vehicle?

8 A No, not on the notations. I've certainly got  
9 photographs but those were not measured.

10 Q And the next item depicted I presume is the  
11 rear wheels?

12 A Yes.

13 Q Left and right?

14 A Yes. Those wheels are in a position forward  
15 of the location I had seen them in earlier photographs,  
16 and they are fixed there because the vehicle has been  
17 placed upon a steel frame.

18 Q And by those, you are just talking about the  
19 accident?

20 A Accident vehicle, yes.

21 Q And so the unbroken line is the accident  
22 vehicle; the broken dotted line is the exemplar vehicle?

23 A Yes.

24 Q What is this line here?

25 A That's the rear bumper, the metal bumper.

1 Q The solid line going from the left and ending  
2 before it gets to the right is the bumper line on the  
3 accident vehicle as you measured it after this accident?

4 A Yes, as you indicated when you were pointing  
5 to it.

6 Q What is this red and yellow line that's in the  
7 left rear exemplar tire box?

8 A Yellow are some points on the quarter panel  
9 which I probably show in some photographs. And the  
10 rusty line is the location of the fuel filler door; in  
11 other words, it's been pushed that far forward.

12 Q And the comparison marks are the rusty dotted  
13 line was the original location of the fuel filler door?

14 A As measured on the exemplar vehicle, yes.

15 Q What's the blue line? The roof?

16 A Roof edge, rear roof edge.

17 Q And we can compare that to the unbroken black  
18 line?

19 A No. These two are the bumper. This solid  
20 line is the subject roof. Broken line, same color blue,  
21 is the exemplar, which shows the roof was pushed forward  
22 residually a very short distance, that being on the left  
23 end.

24 Q All right. So that is the combination  
25 drawing, and you have additional drawings that show just

1 the exemplar and just the accident vehicle?

2 A Yes, I do.

3 Q Let's move to the next combination drawing for  
4 the -- I'll tell you what I'm going to do, if it's okay  
5 with you. These three are all the same; correct?

6 A They are the same, yes.

7 Q And there is another heading that is --

8 A I don't want to run your deposition, but I was  
9 thinking you might take -- why would you want all three?

10 Q I don't.

11 A Do you want any of them?

12 Q Yes.

13 A Why don't you leave that one out then, but  
14 I've got an extra here if for any reason you need an  
15 extra one also.

16 Q We'll leave that one out and just take one of  
17 each.

18 A Okay. That's your exemplar Jeep.

19 Q Now, we've got to find the exhibit mark to  
20 make sure the one you gave me is the one we labeled.

21 It is. Okay.

22 And then the next one is the accident vehicle?

23 A Should be. It is the accident vehicle.

24 Q We are going to make those three then as  
25 composite Exhibit 22.

1           A     There is a set of the Ford. That's subject,  
2 combined, and exemplar.

3           Q     Let's look at the combined one. We are going  
4 to mark these three as composite Exhibit 23, so I will  
5 put that underneath the title block of the combined  
6 drawing.

7                     Starting at the left side next to the title  
8 block, the broken black line depicts the exemplar  
9 bumper?

10          A     The vinyl cover of the bumper. The actual  
11 metal bumper is the broken -- no, it's not. There is no  
12 metal bumper on that. It's fiberglass.

13          Q     What does the broken green line represent?

14          A     Upper radiator support forward edge.

15          Q     And then the solid green line is for the  
16 accident vehicle?

17          A     Yes.

18          Q     And what is the yellow dotted line?  
19 Represents the radiator?

20          A     Yes.

21          Q     And then the solid yellow line is the matching  
22 point on the --

23          A     Points on the --

24          Q     -- accident vehicle?

25          A     Yes, ma'am.

1 Q And then what's the blue? Skid plate?

2 A Skid plate. That would be shown in some  
3 photographs also. All these points I measure are shown  
4 in specific photographs so there is no question about  
5 what is being drawn.

6 Q Is there any indication of damage on your  
7 diagram to either the left side or the right side of the  
8 Thunderbird?

9 A Not on the diagram, no. If there was some, it  
10 would be in some photographs. But knowing the purpose  
11 this was going to be serving, I didn't measure  
12 incidental damages.

13 Q At the rear wheels there is a slight  
14 discrepancy between the exemplar and the subject  
15 vehicle.

16 A Yes.

17 Q Do you believe that is the result of damage or  
18 just some usual tolerance that you could expect from  
19 this kind of vehicle?

20 A It could be tolerance. It also could be  
21 because those entire rectangles are based upon the  
22 measurement of the central line of the axle. At the  
23 hubcap, for example, if there is a hubcap still on the  
24 vehicle, or at the wheel plane, or at the end of the  
25 axle, that could also account for some left to right



1 differential placement. By differential I don't mean  
2 rear axle. I mean difference.

3 Q And again, there is some slight, very slight  
4 discrepancy between the rear bumpers. Do you believe  
5 that that is accident damage or simply tolerance,  
6 manufactured tolerance?

7 A There has been a fire also. Could be related  
8 to the accident, but again, nothing significant from a  
9 reconstruction standpoint.

10 Q And now the last one is the Camry set. We are  
11 going to mark this set as composite Exhibit 24 showing  
12 the Camry. And there is a slight differential noted  
13 between the bumper reinforcement bar for the exemplar  
14 and accident vehicles. Do you believe that that is  
15 simply a tolerance situation or accident damage?

16 A Probably not. There was damage to the right  
17 front area of the Camry, and I think I read somewhere in  
18 the file that it was believed that the Camry damage in  
19 that area was produced by running over the wheel or some  
20 other debris on the roadway.

21 Q And then there is damage that is visible on  
22 the rear of the Camry at the comparison of the trunk  
23 lid.

24 A Blue is the trunk lid. Yes.

25 Q Blue is the subject vehicle, and dotted blue