



## STATE OF GEORGIA

DEPOSITION OF: STEPHEN J. FENTON, P.E. - July 28, 2014

V.

Defendants.

PURSUANT TO NOTICE AND AGREEMENT, the deposition of STEPHEN J. FENTON, P.E. was taken on behalf of the Plaintiffs at 1900 Grant Street, Suite 1025, Denver, Colorado 80203, on July 28, 2014, at 9:50 a.m., before Gail Obermeyer, Registered Professional Reporter and Notary Public within Colorado.

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<div> <div>Page 7</div> <div> <div>1</div> <div>2</div> <div>3</div> <div>4WHEREUPON, the following proceedings</div> <div>5were taken pursuant to the Georgia Rules of Civil</div> <div>6Procedure.</div> <div>7* * * * *</div> <div>8STEPHEN J. FENTON, P.E.,</div> <div>9having been first duly sworn to state the whole truth,</div> <div>10testified as follows:</div> <div>11MR. JEB BUTLER: All right. This will be</div> <div>12the deposition of Stephen Fenton, taken pursuant to</div> <div>13agreement and notice in [REDACTED] against Chrysler, taken</div> <div>14pursuant to the Civil Practice Act of Georgia for all</div> <div>15purposes permitted by that act.</div> <div>16EXAMINATION</div> <div>17BY MR. JEB BUTLER:</div> <div>18Q. Would you state your full name for the</div> <div>19record, please.</div> <div>20A. Stephen Fenton.</div> <div>21Q. If you don't understand a question that I</div> <div>22ask, please let me know, and I'll try to rephrase it.</div> <div>23Is that agreeable?</div> <div>24A. Yes.</div> <div>25Q. If you do answer a question, I'll presume</div> </div> </div>	<div> <div>Page 9</div> <div> <div>1A. I believe so, yes.</div> <div>2Q. Are there any publications or</div> <div>3presentations that you've made professionally that do</div> <div>4not appear on here?</div> <div>5A. I don't believe so.</div> <div>6Q. Is there anything that used to be on your</div> <div>7CV that has now been taken off?</div> <div>8A. Not that I'm aware of.</div> <div>9Q. Do you have any -- have you done any</div> <div>10papers or conducted any research that was funded by</div> <div>11Chrysler or DaimlerChrysler or Fiat or any related</div> <div>12entity?</div> <div>13A. I don't believe so, no.</div> <div>14Q. How about by other auto makers?</div> <div>15A. Yes.</div> <div>16Q. Okay. What are those?</div> <div>17A. Ford.</div> <div>18Q. Okay. Where would I find them on your CV,</div> <div>19or do they appear here?</div> <div>20A. Page 3, right here, where it says, "Grants</div> <div>21and Funded Research," 1 and 2, Ford Motor Company.</div> <div>22Q. All right. Take a look. Okay. Have you</div> <div>23attended or spoken at any presentations or seminars or</div> <div>24classes where the audience consisted mostly of lawyers?</div> <div>25A. Yes.</div> </div> </div>

<div>Page 10</div> <p>1 Q. Tell me about those, please.</p> <p>2 <b>A. I think the most recent time that I did</b></p> <p>3 <b>that was at the ABA conference down in Phoenix,</b></p> <p>4 <b>Arizona.</b></p> <p>5 Q. When was that?</p> <p>6 <b>A. It was the spring.</b></p> <p>7 Q. All right. What did you do there? Did</p> <p>8 you speak, or did you just attend?</p> <p>9 <b>A. I was a speaker.</b></p> <p>10 Q. Who invited you to speak?</p> <p>11 <b>A. I don't know. Members of the -- of the</b></p> <p>12 <b>conference. I believe it was the organizers. I don't</b></p> <p>13 <b>know who exactly who that was.</b></p> <p>14 Q. Do you remember who originally contacted</p> <p>15 you?</p> <p>16 <b>A. I don't.</b></p> <p>17 Q. Okay. Do you have your presentation</p> <p>18 materials --</p> <p>19 <b>A. No.</b></p> <p>20 Q. -- from that?</p> <p>21 <b>A. No.</b></p> <p>22 Q. Do you still have them anywhere, or are</p> <p>23 they just not here with you today?</p> <p>24 <b>A. I don't believe I have them.</b></p> <p>25 Q. Okay. I asked you earlier if you'd done a</p>	<div>Page 12</div> <p>1 Q. So what does her job description include,</p> <p>2 in terms of doing her marketing for your company? What</p> <p>3 does she do?</p> <p>4 <b>A. She does sales and marketing. She tries</b></p> <p>5 <b>to develop business in the industry, tries to get in</b></p> <p>6 <b>front of our clients.</b></p> <p>7 Q. Specifically, who is she trying to get in</p> <p>8 front of?</p> <p>9 <b>A. Attorneys throughout the industry.</b></p> <p>10 Q. Which attorneys?</p> <p>11 <b>A. Typically, attorneys that would attend a</b></p> <p>12 <b>conference like the American Bar Association.</b></p> <p>13 Q. Does she do any advertising?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Does Kineticcorp do any advertising?</p> <p>16 <b>A. I would say no. Part of going to a</b></p> <p>17 <b>conference like that is they'll put your logo and some</b></p> <p>18 <b>information about your company in their -- in their</b></p> <p>19 <b>brochure. So aside from that, that's basically all</b></p> <p>20 <b>that -- all that's really done on the side of</b></p> <p>21 <b>advertising or marketing.</b></p> <p>22 Q. Do you know what attorneys specifically</p> <p>23 she's tried to reach out to? By "she," I mean your</p> <p>24 director of marketing.</p> <p>25 <b>A. Well, I know that one of the reasons why</b></p>
<div>Page 11</div> <p>1 presentation or attended a conference with audiences</p> <p>2 mostly lawyers, and you mentioned this most recent ABA</p> <p>3 meeting in the spring of 2014, I think?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Are there any others?</p> <p>6 <b>A. I've presented, I believe maybe three or</b></p> <p>7 <b>four times, at that same conference.</b></p> <p>8 Q. What conference is it?</p> <p>9 <b>A. I believe it's the automotive product</b></p> <p>10 <b>liabilities conference sponsored by the American Bar</b></p> <p>11 <b>Association.</b></p> <p>12 Q. Okay. Do you remember on any of those</p> <p>13 occasions who it was that contacted you and asked you</p> <p>14 to speak?</p> <p>15 <b>A. Not specifically. The organizers of the</b></p> <p>16 <b>conference usually contact either myself or the</b></p> <p>17 <b>director of marketing for our company.</b></p> <p>18 Q. Who is the director of marketing for your</p> <p>19 company?</p> <p>20 <b>A. Today, it's Dorothy Kelly.</b></p> <p>21 Q. What does she do?</p> <p>22 <b>A. She's the director of marketing.</b></p> <p>23 Q. My understanding is that you're the</p> <p>24 president of Kineticcorp. Is that your company?</p> <p>25 <b>A. Yes.</b></p>	<div>Page 13</div> <p>1 <b>we go to the ABA conference is we get a list of</b></p> <p>2 <b>attendees, so we send out materials to all the</b></p> <p>3 <b>attendees at that conference.</b></p> <p>4 Q. Do you have any of those materials with</p> <p>5 you here today?</p> <p>6 <b>A. The list of attendees?</b></p> <p>7 Q. The materials that Kineticcorp sends out to</p> <p>8 the list of attendees.</p> <p>9 <b>A. I think she just sends out e-mails. We</b></p> <p>10 <b>have a brochure, an electronic brochure, that goes out.</b></p> <p>11 <b>So I could send you an e-mail with my heading, and it</b></p> <p>12 <b>has an electronic brochure attached to the e-mail.</b></p> <p>13 Q. I'll take you up on that. Thank you.</p> <p>14 <b>A. Sure.</b></p> <p>15 Q. We may need to conduct that through</p> <p>16 Chrysler's counsel.</p> <p>17 MR. JAMES BUTLER: Mark it as an exhibit.</p> <p>18 MR. BRANTLEY: What we've been doing is an</p> <p>19 agreement that following the deposition, you'll provide</p> <p>20 me with a letter of materials that we've discussed at</p> <p>21 the deposition that you'd like for Mr. Fenton to</p> <p>22 provide.</p> <p>23 MR. JAMES BUTLER: Mark it as an exhibit,</p> <p>24 fill in the exhibit with the court reporter.</p> <p>25 MR. JEB BUTLER: That's a good idea.</p>

<div>Page 14</div> <p>1 Q. (BY MR. JEB BUTLER) I'll just write,</p> <p>2 "List of Things to Provide." And I'll write on there,</p> <p>3 "electronic brochure." If I do that, will you-all know</p> <p>4 what I'm talking about?</p> <p>5 A. Yes.</p> <p>6 Q. All right. Good. And I'll mark this</p> <p>7 list, which will probably grow throughout the</p> <p>8 deposition, as Plaintiffs' Exhibit 3.</p> <p>9 (Deposition Exhibit 3 was marked.)</p> <p>10 Q. Have I now done that?</p> <p>11 A. Yes.</p> <p>12 Q. In terms of your -- I think you said you'd</p> <p>13 spoken at three or four ABA conferences?</p> <p>14 A. Yes.</p> <p>15 Q. Do you have your presentation materials</p> <p>16 from any of them?</p> <p>17 A. No.</p> <p>18 Q. Would anyone at Kineticorp have them?</p> <p>19 A. Doubtful.</p> <p>20 Q. Would you mind looking to check after this</p> <p>21 deposition?</p> <p>22 A. I don't mind, no.</p> <p>23 Q. I'll put that on Plaintiffs' 3. I'm</p> <p>24 writing, "presentation materials at ABA conventions."</p> <p>25 We've now spoken about several -- three to four ABA</p>	<div>Page 16</div> <p>1 Q. Yes, sure. Take a glance through.</p> <p>2 A. So you want me to list every one of these?</p> <p>3 Q. I just want to know the ones where you've</p> <p>4 made presentations to groups consisting largely of</p> <p>5 lawyers.</p> <p>6 A. Okay.</p> <p>7 Q. If you want to, you can just star them,</p> <p>8 instead of reading them on the record.</p> <p>9 A. Well, they're all listed right here,</p> <p>10 "Presentations and Courses Taught." So you want me to</p> <p>11 star all the ones where it's mostly attorneys?</p> <p>12 Q. Yes, please do. You're doing that on</p> <p>13 Plaintiffs' Exhibit 2 under the subheading of what?</p> <p>14 A. "Presentations and Courses Taught."</p> <p>15 Q. Okay.</p> <p>16 A. I'm just going to put a check mark instead</p> <p>17 of a star. That's a little easier for me.</p> <p>18 Q. Fine with me.</p> <p>19 A. Okay.</p> <p>20 Q. All right. Thank you much.</p> <p>21 A. You're welcome.</p> <p>22 Q. I see on here some presentations by which</p> <p>23 you've just placed checkmarks that are numbered 4, 5,</p> <p>24 and 6. I want to ask you some details about those. It</p> <p>25 looks like they're in far-off places and they have an</p>
<div>Page 15</div> <p>1 conventions where you addressed audience consisting</p> <p>2 largely of lawyers. Have there been any others,</p> <p>3 besides the ones we've talked about?</p> <p>4 A. I'm sure there have been. I've presented</p> <p>5 here in Colorado at both the Trial Lawyers Association</p> <p>6 and Defense Lawyers Association, so for both the</p> <p>7 plaintiffs' bar and the defense bar here in Colorado.</p> <p>8 Q. All right. We'll make a list and we'll go</p> <p>9 back through. That's CTLA and CDLA, I guess?</p> <p>10 A. I believe so.</p> <p>11 Q. Any others?</p> <p>12 A. I believe I've spoken at the DRI</p> <p>13 conference in the past.</p> <p>14 Q. Is that Defense Research Initiative, or</p> <p>15 something like that?</p> <p>16 A. I think the "I" is Institute, but I'm not</p> <p>17 sure.</p> <p>18 Q. Institute. All right. We got CTLA, CDLA,</p> <p>19 DRI. Anything else to add for presentations to</p> <p>20 audiences consisting largely of lawyers?</p> <p>21 A. Let me take a look at that, if you don't</p> <p>22 mind.</p> <p>23 Q. Sure.</p> <p>24 A. Because I could just read through the</p> <p>25 resume, if you'd like for me to be thorough.</p>	<div>Page 17</div> <p>1 auto maker's name there. Tell me what that's about;</p> <p>2 who asked you to speak there, and what you talked</p> <p>3 about, and that kind of thing.</p> <p>4 A. Well, 5 and 6 were in far-off places, as</p> <p>5 you had mentioned; one in Tokyo, one in Seoul. And I</p> <p>6 had a case for Chrysler in Tokyo District Court. And</p> <p>7 so when I was out there doing my investigation, I</p> <p>8 stayed to make a presentation to representatives from</p> <p>9 Chrysler and Mercedes in Tokyo. And because we were in</p> <p>10 that part of the world, I then went to Seoul and made a</p> <p>11 presentation to engineers and attorneys in Seoul.</p> <p>12 Q. All right. What -- were these engineers</p> <p>13 and attorneys working for or affiliated with</p> <p>14 DaimlerChrysler?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Who asked you to present those</p> <p>17 things? I infer it was someone from DaimlerChrysler;</p> <p>18 is that right?</p> <p>19 A. Yes.</p> <p>20 Q. What did you talk about, specifically?</p> <p>21 A. Specifically, I talked about information</p> <p>22 that was helpful in reconstruction -- in reconstructing</p> <p>23 car crashes, the information that we utilize and the</p> <p>24 processes that we utilize to reconstruct car crashes.</p> <p>25 Specifically, we focused on photogrammetry, use of</p>

1 photographs to document car crashes, and how it's very  
2 helpful to have photographs of the scene and/or the  
3 vehicles. And even if the vehicles are preserved, we  
4 can still do a lot with just photographs of the  
5 vehicles.

6 Q. So with respect to the appearances  
7 enumerated 5 and 6 on your CV, I assume that  
8 DaimlerChrysler paid for your expenses to travel to  
9 those locations; is that right?

10 A. Yes.

11 Q. I assume they paid for your lodging?

12 A. Yes.

13 Q. And your meals?

14 A. Yes.

15 Q. Do they pay you otherwise to attend and  
16 speak at those events?

17 A. They pay for the time that I spend doing  
18 it, yes.

19 Q. Okay. And what rate do they pay you for  
20 your time?

21 A. Whatever my rate was back in 2007.

22 Q. Do you have an estimate of what that would  
23 have been? You may not remember exactly.

24 A. I'd say probably in the \$250 range.

25 Q. Okay. Can we pass back Plaintiffs' 2?

1 A. (Deponent complied.)

2 Q. My understanding was that there was a time  
3 when you worked on behalf of a good number of  
4 plaintiffs, and that lately it's been more defense; is  
5 that right?

6 A. Yes.

7 Q. When did that change start to occur?

8 A. I'd say in early 2000, like 2001 -- yeah,  
9 2000, 2001 is when things started to shift from defense  
10 to -- I'm sorry, from plaintiffs to defense.

11 Q. Why?

12 A. Those were the clients that were  
13 contacting me.

14 Q. Plaintiff's lawyers just stopped calling?

15 A. Yes.

16 Q. All right. Let's see. You mentioned a  
17 presentation to the Colorado Trial Lawyers Association.  
18 When was that, if you remember? I don't think I've run  
19 into it on your CV here.

20 A. I think it's on the second page, the  
21 second one that I checked. I think there are  
22 checkmarks on two pages; is that correct?

23 Q. That's true.

24 A. Okay. So on the second page that's  
25 checked, I believe there's some Colorado trial lawyers,

1 Nebraska trial lawyers, AIEG.

2 Q. I see Wyoming trial lawyers.

3 A. Wyoming trial lawyers, yes.

4 Q. Okay. When was the last time you spoke at  
5 a Trial Lawyers Association, whether Colorado,  
6 Nebraska, Wyoming, or AIEG?

7 A. I don't know.

8 Q. Would there be any that aren't listed on  
9 your CV?

10 A. I don't believe so, no.

11 Q. All right. Put this in your exhibit file.

12 Have you or Kineticcorp sponsored any presentations or  
13 seminars where the audience consisted largely of  
14 lawyers?

15 A. I guess I don't understand what you mean  
16 by "sponsor." Oftentimes, they ask for us to pay a fee  
17 to have a -- have a booth. So is that what you mean by  
18 "sponsorship," if you have a booth?

19 Q. Well, that would constitute sponsorship, I  
20 guess, yes. I imagine it would be supplying any  
21 funding to the organizing entity or doing anything that  
22 would cause you to be listed as a sponsor for the  
23 event.

24 A. I don't know if they list you as a  
25 sponsor, but as an exhibitor. I don't know the -- it

1 might be different between the ways they list it. They  
2 might list you as a sponsor if you are an exhibitor, or  
3 they may just list you as an exhibitor. I don't know.

4 Q. Let's include both, times when you or  
5 Kineticcorp have been an exhibitor at a seminar or  
6 meeting or presentation where the audience was largely  
7 lawyers.

8 A. I think all those are listed there and  
9 checked off.

10 Q. Okay. So you had a booth or were an  
11 exhibitor at all or many of the things you just checked  
12 on your resume?

13 A. Yes, at least I tried to have an exhibit  
14 at each one of those presentations.

15 Q. Okay. Were there any where you were  
16 listed as a sponsor?

17 A. I don't know how they list it, whether  
18 it's listed as a sponsor or an exhibitor. But if  
19 exhibitor is a sponsor, then all those would be listed  
20 as sponsors. I don't know how they define it.

21 Q. Got it. What is -- there's something I  
22 think you're involved in called CIREN, C-I-R-E-N?

23 A. Yes.

24 Q. What is that?

25 A. That's an acronym for Crash Injury

<div>Page 22</div> <p>1 <b>Research and Engineering Network, an organization</b>  2 <b>established by NHTSA, National Highway Traffic Safety</b>  3 <b>Administration. And the group was put together to</b>  4 <b>research real world crashes. And it teamed engineers</b>  5 <b>with doctors to try to figure out how occupants inside</b>  6 <b>of the vehicles become injured.</b>  7 Q. Are you still involved with CIREN?  8 <b>A. Loosely involved. I still get their</b>  9 <b>monthly updates, but I haven't attended one of their</b>  10 <b>sessions in a number of years.</b>  11 Q. So how does it work? Is there a team of  12 engineers and doctors that go out to a crash site, or  13 do you-all meet every now and again for meetings? What  14 does the organization actually do, I guess, is my  15 question?  16 <b>A. They collect data on real world crashes.</b>  17 <b>So when I was intimately involved with the CIREN</b>  18 <b>program, which was in the early 2000s, we would get a</b>  19 <b>call to go to an accident scene and reconstruct the car</b>  20 <b>crash; take a look at the accident vehicles, go to the</b>  21 <b>accident scene, document the scene, and then determine</b>  22 <b>the speeds of the accident, changes of velocities that</b>  23 <b>the vehicles experienced, collect all that data, input</b>  24 <b>all that data into a database.</b>  25 <b>And then we would meet with doctors after</b></p>	<div>Page 24</div> <p>1 appears to be your expert disclosure in this case?  2 <b>A. Yes. I don't remember reviewing it, but I</b>  3 <b>may have.</b>  4 Q. Okay. I take it you did not participate  5 in drafting it?  6 <b>A. Not that I recall, no.</b>  7 Q. Take a minute and glance over it, and then  8 I'll ask you a couple questions about it.  9 <b>A. Okay.</b>  10 Q. Does it accurately reflect your areas of  11 expertise?  12 <b>A. I believe so.</b>  13 Q. Are there any areas of expertise listed on  14 Plaintiffs' Exhibit 4 for you that are appearing for  15 the first time where you've never been designated as an  16 expert before?  17 <b>A. I don't believe so.</b>  18 Q. Are there any areas of expertise that you  19 have that are not listed in Plaintiffs' Exhibit 4 for  20 you?  21 <b>A. I don't believe so.</b>  22 Q. Does it accurately reflect the areas in  23 which you expect to give expert testimony in this case?  24 <b>A. Yes.</b>  25 Q. Do you expect to address accident</p>
<div>Page 23</div> <p>1 <b>the injured parties were treated and determine how the</b>  2 <b>occupants were injured; whether they were wearing</b>  3 <b>seatbelts, whether the airbags deployed, whether there</b>  4 <b>were any injuries associated with -- with, say, an</b>  5 <b>airbag deployment or a use or misuse of the seatbelt</b>  6 <b>system. Those types of issues were explored for a</b>  7 <b>number of years when I was involved with the CIREN</b>  8 <b>program.</b>  9 Q. Who, if anyone, was paying you for your  10 time involved in CIREN?  11 <b>A. The federal government paid us for that</b>  12 <b>work that we were doing for CIREN.</b>  13 Q. Okay. I brought a copy of your expert  14 designation in this case, which I'm going to now mark  15 as Plaintiffs' 4. I think I have just the front first  16 pages and your pages, so it's not a complete copy, but  17 I've got one for Mr. Brantley.  18 (Deposition Exhibit 4 was marked.)  19 Q. Let's see. Yes, that's what I've done.  20 I've got the first page and the fifth and sixth page.  21 Is this an accurate copy of your expert disclosure?  22 <b>A. I don't know; never saw the original.</b>  23 Q. Okay.  24 <b>A. At least I don't believe I have.</b>  25 Q. Is this your first time reviewing what</p>	<div>Page 25</div> <p>1 reconstruction, occupant kinematics, and other similar  2 instances?  3 <b>A. Yes.</b>  4 Q. All right. I want to go back to your CV  5 for a second here. When was the first time you were  6 asked by anyone to consult and possibly testify in a  7 court case?  8 <b>A. I think it was somewhere back in 1997.</b>  9 Q. Who was it that contacted you?  10 <b>A. If my recollection is right, I think the</b>  11 <b>first time I testified in a court case was for Bill</b>  12 <b>Keating. It was a semi accident here in Denver.</b>  13 Q. How do you spell that last name?  14 <b>A. K-e-a-t-i-n-g.</b>  15 Q. Got it. All right. Why did they tell you  16 they picked you to testify in that case?  17 <b>A. I believe it was because I had expertise</b>  18 <b>in photogrammetry and had just been doing research and</b>  19 <b>publishing in the area of photogrammetry.</b>  20 Q. What's a short definition of  21 photogrammetry?  22 <b>A. Ability to get dimensions from</b>  23 <b>photographs.</b>  24 Q. Okay. What side did you testify for in  25 that 1997 case where you worked for Bill Keating?</p>



<div>Page 26</div> <p>1       <b>A. Plaintiffs.</b></p> <p>2       Q. I think you received some grants,</p> <p>3 somewhere in your resume it says, related to</p> <p>4 photogrammetric documentation. Does that sound right?</p> <p>5       <b>A. Yes.</b></p> <p>6       Q. Who do those grants come from?</p> <p>7       <b>A. One of the grants was from the Colorado</b></p> <p>8 <b>Historical Society.</b></p> <p>9       Q. What other entities have you received</p> <p>10 grants from? I don't mean to pop quiz you. There's</p> <p>11 your resume. So the question is, who else have you</p> <p>12 received grants from?</p> <p>13       <b>A. Just Ford and the Colorado Historical</b></p> <p>14 <b>Society.</b></p> <p>15       Q. Ford is Ford Motor Company?</p> <p>16       <b>A. Yes.</b></p> <p>17       Q. What about the Princess Diana crash? Who</p> <p>18 paid you to reconstruct that one?</p> <p>19       <b>A. I believe we were paid by the Discovery</b></p> <p>20 <b>Channel.</b></p> <p>21       Q. Why did you do it? Was it for marketing</p> <p>22 purposes?</p> <p>23       <b>A. Well, it first started off as a project</b></p> <p>24 <b>that we were doing for a class that we were teaching</b></p> <p>25 <b>down at the University of Colorado at Denver. So when</b></p>	<div>Page 28</div> <p>1 <b>think it helped grow the company when I was at Knott</b></p> <p>2 <b>Laboratory. So I think there was certainly a marketing</b></p> <p>3 <b>side to that; meaning, that it certainly got us greater</b></p> <p>4 <b>visibility in our industry. And a lot of people were</b></p> <p>5 <b>interested, and attorneys across the country were</b></p> <p>6 <b>calling us wanting to know more about the</b></p> <p>7 <b>photogrammetry technology.</b></p> <p>8       Q. So although it didn't originally start</p> <p>9 that way, there was a marketing side to the Princess</p> <p>10 Diana crash, as you continued to work on it. Is that</p> <p>11 fair?</p> <p>12       <b>A. Yes.</b></p> <p>13       Q. Let's see what else I had here. On the --</p> <p>14 we've talked some about Nos. 5 and 6, which were your</p> <p>15 presentations in other countries relating to</p> <p>16 DaimlerChrysler. And I think what it says is that you</p> <p>17 were describing accident investigations and methods; is</p> <p>18 that right? I mean, I'm trying to quote your resume.</p> <p>19 I just may have it wrong.</p> <p>20       <b>A. It says accident investigation methods,</b></p> <p>21 <b>yes.</b></p> <p>22       Q. Were you describing the accident</p> <p>23 investigation methods of Mercedes and DaimlerChrysler?</p> <p>24       <b>A. I guess I don't understand that question.</b></p> <p>25       Q. Well, in those talks were you describing</p>
<div>Page 27</div> <p>1 <b>the crash occurred, the class -- the forensic</b></p> <p>2 <b>engineering class or engineering class at University of</b></p> <p>3 <b>Colorado Denver was interested in trying to use some of</b></p> <p>4 <b>the techniques that we were teaching in the class to</b></p> <p>5 <b>figure out how fast that vehicle was going.</b></p> <p>6       <b>So as a project in the class, the</b></p> <p>7 <b>engineers at Knott Laboratory, which was the company</b></p> <p>8 <b>that I was with previously, worked with the students at</b></p> <p>9 <b>University of Denver -- University of Colorado at</b></p> <p>10 <b>Denver to reconstruct that crash. And then newspapers</b></p> <p>11 <b>found out about the fact that we were doing that with</b></p> <p>12 <b>the university, and it was -- it was published in the</b></p> <p>13 <b>local newspaper. And then other entities caught wind</b></p> <p>14 <b>of that, and before you knew, we had Discovery Channel</b></p> <p>15 <b>calling us within, you know, a couple months of that</b></p> <p>16 <b>article being published in the paper here in Denver.</b></p> <p>17       <b>So then we explained to the Discovery</b></p> <p>18 <b>Channel what capabilities we had and the unique process</b></p> <p>19 <b>of photogrammetry to explain how the accident happened,</b></p> <p>20 <b>and they wanted us to -- to work up the case. And they</b></p> <p>21 <b>wanted to present the case as one of their feature</b></p> <p>22 <b>stories.</b></p> <p>23       Q. Was marketing part of your reason for</p> <p>24 continuing to pursue the Princess Diana case?</p> <p>25       <b>A. Well, originally, no; but certainly I</b></p>	<div>Page 29</div> <p>1 the accident investigation methods of DaimlerChrysler</p> <p>2 or teaching accident investigation methods to</p> <p>3 DaimlerChrysler?</p> <p>4       <b>A. I think it was probably a little bit of</b></p> <p>5 <b>both. I think the point that I was trying to get</b></p> <p>6 <b>across to Chrysler and Mercedes was that we had a</b></p> <p>7 <b>technology of photogrammetry that would allow us to get</b></p> <p>8 <b>a lot of information from photographs from the scene</b></p> <p>9 <b>and the accident vehicles that were involved. So we</b></p> <p>10 <b>were teaching them that even if the vehicles weren't</b></p> <p>11 <b>preserved, we could still help determine how the</b></p> <p>12 <b>accident happened if photographs were taken.</b></p> <p>13       <b>So in some of their cases they may not</b></p> <p>14 <b>have the vehicles available to them. So a lot of</b></p> <p>15 <b>engineers and attorneys don't understand that if the</b></p> <p>16 <b>vehicles aren't available, you can still determine</b></p> <p>17 <b>impact speeds and changes of velocities for the</b></p> <p>18 <b>vehicles, if we have photographs, not to kind of give</b></p> <p>19 <b>up on trying to reconstruct the accidents if the</b></p> <p>20 <b>vehicles aren't available.</b></p> <p>21       <b>So that was communicated to them, as well</b></p> <p>22 <b>as talking about the importance of documenting, say, an</b></p> <p>23 <b>accident scene. So if they know that there's a bad</b></p> <p>24 <b>accident and they can get to the scene and photograph</b></p> <p>25 <b>the accident, they don't necessarily have to go out</b></p>

<div>Page 30</div> <p>1 <b>there and, say, measure it by hand or measure it with,</b></p> <p>2 <b>say, survey equipment. Photographs often can provide</b></p> <p>3 <b>enough information for us to be able to reconstruct the</b></p> <p>4 <b>crash, purely from the photographs.</b></p> <p>5 Q. Do you remember specifically anyone who</p> <p>6 was in the audience at either the presentation in Seoul</p> <p>7 or Tokyo?</p> <p>8 <b>A. Well, it was a combination of engineers</b></p> <p>9 <b>and attorneys.</b></p> <p>10 Q. All related to DaimlerChrysler?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Did you know any of the engineers or</p> <p>13 attorneys, personally?</p> <p>14 <b>A. Yes. There were two attorneys that</b></p> <p>15 <b>were --</b></p> <p>16 MR. JAMES BUTLER: Who were the attorneys</p> <p>17 for?</p> <p>18 Q. (BY MR. JEB BUTLER) Okay. Proceed.</p> <p>19 <b>A. Yes. I believe that counsel for Chrysler</b></p> <p>20 <b>and counsel for Mercedes were present.</b></p> <p>21 Q. Were these in-house counsel for Chrysler</p> <p>22 or DaimlerChrysler or Mercedes, or outside counsel?</p> <p>23 <b>A. I believe both.</b></p> <p>24 Q. Both. And which of the people present did</p> <p>25 you know personally, the names of the individuals?</p>	<div>Page 32</div> <p>1 Q. Did you found Kineticcorp?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. When?</p> <p>4 <b>A. 2005.</b></p> <p>5 Q. Do you own the company?</p> <p>6 <b>A. I own part of the company. And there are,</b></p> <p>7 <b>I think, seven other owners.</b></p> <p>8 Q. What percentage do you own?</p> <p>9 <b>A. A majority.</b></p> <p>10 Q. How much of that?</p> <p>11 <b>A. I'd rather not say. Just a little over</b></p> <p>12 <b>50 percent.</b></p> <p>13 Q. Is it between 50 and 60 percent?</p> <p>14 <b>A. I'd rather not say.</b></p> <p>15 Q. All right. Is it between 50 and</p> <p>16 70 percent?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. How many people work at Kineticcorp?</p> <p>19 <b>A. I think it's closer to 25.</b></p> <p>20 Q. How many assisted you on your work in this</p> <p>21 case?</p> <p>22 <b>A. I'd say probably half a dozen.</b></p> <p>23 Q. When we get into your billing records,</p> <p>24 will all those people's names appear?</p> <p>25 <b>A. Yes.</b></p>
<div>Page 31</div> <p>1 <b>A. Luanne VanderWeele and Paul Hecht.</b></p> <p>2 Q. What does Paul Hecht do?</p> <p>3 <b>A. He's an attorney.</b></p> <p>4 Q. For what entity? Is he in-house, outside?</p> <p>5 <b>A. In-house.</b></p> <p>6 Q. For what entity?</p> <p>7 <b>A. Mercedes, I believe.</b></p> <p>8 Q. I think Ms. VanderWeele is the highest-up</p> <p>9 lawyer for Chrysler. Is that your understanding?</p> <p>10 <b>A. I don't know where she fits in the pecking</b></p> <p>11 <b>order.</b></p> <p>12 Q. What about Hecht? Do you know where he</p> <p>13 fits in the pecking order at Mercedes?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Do you have copies of the materials you</p> <p>16 presented at those presentations?</p> <p>17 <b>A. No.</b></p> <p>18 Q. Have you ever testified that an accident</p> <p>19 could not reliably be reconstructed because one or more</p> <p>20 vehicles were not available?</p> <p>21 <b>A. Not that I recall.</b></p> <p>22 Q. We've established that you work for</p> <p>23 Kineticcorp and are the president, I think; is that</p> <p>24 right?</p> <p>25 <b>A. Yes.</b></p>	<div>Page 33</div> <p>1 Q. I'll talk more about it then. Have you</p> <p>2 brought a case list or a testimony list with you today?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Where would we find it? Pull it out, if</p> <p>5 you don't mind. Thanks.</p> <p>6 (Deposition Exhibit 5 was marked.)</p> <p>7 Q. I've now marked your testimony list as</p> <p>8 Plaintiffs' Exhibit 5; is that right?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. This goes, it looks like, back to March of</p> <p>11 2009; is that right?</p> <p>12 <b>A. I don't know.</b></p> <p>13 MR. JAMES BUTLER: Do you have another</p> <p>14 copy?</p> <p>15 THE DEPONENT: I only brought one copy.</p> <p>16 MR. JAMES BUTLER: Let's take a break and</p> <p>17 make some copies. You want to talk about it, I guess,</p> <p>18 right?</p> <p>19 MR. JEB BUTLER: Yes. Let's go off the</p> <p>20 record and take a break.</p> <p>21 (Recess taken, 10:28 a.m. to 10:32 a.m.)</p> <p>22 Q. (BY MR. JEB BUTLER) We're now looking at</p> <p>23 Plaintiffs' 5, which is your testimony list. I'd like</p> <p>24 you to go through, if you will, and read out and put a</p> <p>25 star by the ones that involved post-collision fuel-fed</p>

<p style="text-align: right;">Page 34</p> <p>1 fires, if you will.</p> <p>2 <b>A. I don't think I can go back five years.</b></p> <p>3 Q. The ones that you can recall involving</p> <p>4 post-collision fuel-fed fires.</p> <p>5 <b>A. Well, this is with the understanding that</b></p> <p>6 <b>they're -- the ones that I check, I'm thinking they</b></p> <p>7 <b>might be, but I'm not certain. And the ones I don't</b></p> <p>8 <b>check, might be, but I'm not certain.</b></p> <p>9 Q. To the best of your recollection.</p> <p>10 <b>A. Right. I mean, this is -- I didn't</b></p> <p>11 <b>prepare for this.</b></p> <p>12 Q. I know.</p> <p>13 <b>A. So I don't know how the results are going</b></p> <p>14 <b>to turn out.</b></p> <p>15 Q. Tell me which ones you're checking so I</p> <p>16 can mimic you over here. Is that Kerr that you just</p> <p>17 checked?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. All right. Thanks.</p> <p>20 <b>A. That's the first page.</b></p> <p>21 Q. All right. Thank you. I want to figure</p> <p>22 out the vehicles that were involved in these, to the</p> <p>23 extent that you can remember. Kerr against Chrysler,</p> <p>24 do you remember what sort of vehicle caught on fire in</p> <p>25 that case?</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. All right. What was going on in Royal &amp;</p> <p>2 Sun versus UPS Supply Chain? What kind of case was</p> <p>3 that?</p> <p>4 <b>A. I don't -- I don't remember the specifics,</b></p> <p>5 <b>but I know that a semi was involved in the crash, and</b></p> <p>6 <b>it caught fire, and all the cargo inside caught fire.</b></p> <p>7 Q. Okay. On the next page was Linert, a case</p> <p>8 in which a Crown Victoria caught fire?</p> <p>9 <b>A. I believe so.</b></p> <p>10 Q. And then what about Keffer? Scratch that.</p> <p>11 You didn't check that. What about Brentar?</p> <p>12 <b>A. I can't remember what kind of vehicle that</b></p> <p>13 <b>was.</b></p> <p>14 Q. It looks like we have a reappearance of</p> <p>15 Royal &amp; Sun.</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. The Dick versus Dodge World, what kind of</p> <p>18 vehicle was involved there?</p> <p>19 <b>A. Some reason I think it was a minivan.</b></p> <p>20 Q. Okay. Jones against Ahearn Rentals?</p> <p>21 <b>A. I can't remember the specifics of that.</b></p> <p>22 <b>That's why I put a question mark for the next two.</b></p> <p>23 Q. Do you remember what kind of vehicle</p> <p>24 caught on fire in Sperry?</p> <p>25 <b>A. No.</b></p>
<p style="text-align: right;">Page 35</p> <p>1 <b>A. I think that was a Dodge Neon.</b></p> <p>2 Q. All right. Bowman against Ford, do you</p> <p>3 remember what kind of car caught on fire in that case?</p> <p>4 <b>A. I think it was a pickup truck.</b></p> <p>5 Q. All right. You've got Freeto here. Would</p> <p>6 that have been a 2005 Crown Victoria?</p> <p>7 <b>A. I don't see where it says that.</b></p> <p>8 Q. It doesn't say that on here. Do you see</p> <p>9 the Freeto line?</p> <p>10 <b>A. I do.</b></p> <p>11 Q. Do you recall that case as having involved</p> <p>12 a 2005 Crown Victoria?</p> <p>13 <b>A. I don't recall the model year, no, but I</b></p> <p>14 <b>believe it was a Crown Victoria.</b></p> <p>15 Q. Okay. What kind of vehicle was involved</p> <p>16 in the Ansa, right below Freeto?</p> <p>17 <b>A. I think it was a Nissan passenger car, to</b></p> <p>18 <b>the best of my recollection.</b></p> <p>19 Q. Wilson?</p> <p>20 <b>A. I put a question mark there, because I,</b></p> <p>21 <b>for some reason, think that was a fire case, but I</b></p> <p>22 <b>don't recall the specifics.</b></p> <p>23 Q. Vaughn against Ford?</p> <p>24 <b>A. I think that might be a Crown Victoria</b></p> <p>25 <b>police interceptor.</b></p>	<p style="text-align: right;">Page 37</p> <p>1 Q. Nolte, that would have been a Crown</p> <p>2 Victoria?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Then going on down to Durbin?</p> <p>5 <b>A. I can't remember what kind of vehicle that</b></p> <p>6 <b>was.</b></p> <p>7 Q. How about Kayser or Kayser (pronouncing)?</p> <p>8 <b>A. I believe that was a GM vehicle. And I</b></p> <p>9 <b>think it might have been an SUV or suburban or</b></p> <p>10 <b>something like that. I can't recall, exactly.</b></p> <p>11 Q. Kelly/Johnston/McKeen?</p> <p>12 <b>A. That was a bunch of cars. I can't</b></p> <p>13 <b>remember all the cars that were involved. But a U-Haul</b></p> <p>14 <b>went across the centerline and hit four or five cars</b></p> <p>15 <b>coming the other direction. Several of them caught</b></p> <p>16 <b>fire.</b></p> <p>17 Q. Okay. Got you. On the third page, what</p> <p>18 about Guise?</p> <p>19 <b>A. Guise (pronouncing)?</b></p> <p>20 Q. That will work, too.</p> <p>21 <b>A. G-u-i-s-e. I can't recall the exact</b></p> <p>22 <b>vehicle. I think it may be a CVPI.</b></p> <p>23 Q. That would be a Crown Victoria police</p> <p>24 interceptor?</p> <p>25 <b>A. Yes.</b></p>

<div>Page 38</div> <p>1 Q. Gunther?</p> <p>2 <b>A. That was a motorcycle hitting the side of</b></p> <p>3 <b>a UPS package car.</b></p> <p>4 Q. Okay. This next one here,</p> <p>5 H-a-i-m-o-v-i-c-i, what kind of --</p> <p>6 <b>A. Haimovici.</b></p> <p>7 Q. Gilchrist. What was that?</p> <p>8 <b>A. Haimovici.</b></p> <p>9 Q. That's what I said.</p> <p>10 <b>A. I thought you did.</b></p> <p>11 Q. What kind of vehicle was involved in that</p> <p>12 one?</p> <p>13 <b>A. I think that was a Nissan passenger car.</b></p> <p>14 Q. It looks like it's against Ford Motor</p> <p>15 Company. Do you still think it was a Nissan?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Okay. And then it's the same case again.</p> <p>18 What does "Job Name" mean?</p> <p>19 <b>A. Those are the attorneys that either called</b></p> <p>20 <b>us or are working up the case. So we refer to the case</b></p> <p>21 <b>by the attorney name for convenience purposes. So if</b></p> <p>22 <b>somebody says Haimovici called, I'll recognize that it</b></p> <p>23 <b>was probably one of his cases.</b></p> <p>24 Q. I see. You're also involved in a</p> <p>25 post-collision fuel-fed fire case called Howell against</p>	<div>Page 40</div> <p>1 Q. Okay. Does Jeep Cherokee sound right?</p> <p>2 <b>A. I don't think so.</b></p> <p>3 Q. Let me see if I can --</p> <p>4 (Deposition Exhibit 6 was marked.)</p> <p>5 Q. I'm going to show you what's been marked</p> <p>6 as Plaintiffs' 6. Tell me what, if anything, that</p> <p>7 tells you about the vehicle that caught on fire in the</p> <p>8 Kline case.</p> <p>9 <b>A. A 1996 Jeep Cherokee and a Subaru.</b></p> <p>10 Q. Okay. Have you been involved in any other</p> <p>11 fire cases involving Jeep Grand Cherokees, Cherokees,</p> <p>12 Liberties, other than Kline?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Which ones? How many others, first?</p> <p>15 <b>A. Well, we just went over my CV here. Some</b></p> <p>16 <b>of those were Chrysler cases. You want me to count</b></p> <p>17 <b>them?</b></p> <p>18 Q. I thought we went over all the ones you</p> <p>19 recalled were fire cases, and none of the vehicles that</p> <p>20 you listed were Jeeps.</p> <p>21 <b>A. That Kerr case could have been a Jeep.</b></p> <p>22 Q. Okay. What page is that on?</p> <p>23 <b>A. 2009.</b></p> <p>24 Q. Okay. What kind of Jeep, do you think?</p> <p>25 <b>A. I don't know.</b></p>
<div>Page 39</div> <p>1 Ford involving a Lincoln Towncar that had been</p> <p>2 stretched into a limousine. Does that sound right?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. You were involved in a case called Chavez</p> <p>5 against Ford that involved a 1989 Ford Mustang catching</p> <p>6 on fire?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. And then you were involved in a case</p> <p>9 called Gonzales against Ford that involved a 1999</p> <p>10 Mustang catching on fire. Does that sound right?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Have you been involved in any cases</p> <p>13 involving -- well, strike that.</p> <p>14 Do you know the platform designations in</p> <p>15 this case; WJ, KJ, and ZJ?</p> <p>16 <b>A. Roughly.</b></p> <p>17 Q. Have you been involved in any fire cases</p> <p>18 involving Jeep Grand Cherokees, Cherokees, or</p> <p>19 Liberties?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Tell me about those, please.</p> <p>22 <b>A. Well, I don't know the exact types of</b></p> <p>23 <b>vehicles in some of these cases, but I'm involved in a</b></p> <p>24 <b>case called Kline. I can't remember the type of</b></p> <p>25 <b>vehicle involved in that case.</b></p>	<div>Page 41</div> <p>1 Q. All right. Any other cases involving</p> <p>2 fires and Jeep vehicles that you've worked on?</p> <p>3 <b>A. I'm sure there are others.</b></p> <p>4 Q. Are there any that you can recall right</p> <p>5 now?</p> <p>6 <b>A. I don't know the names of any others, no.</b></p> <p>7 Q. How many others do you think that there</p> <p>8 are? And by "others," I mean other cases you've worked</p> <p>9 on involving a Jeep that caught fire.</p> <p>10 <b>A. Well, I'd say a handful.</b></p> <p>11 Q. Is that five?</p> <p>12 <b>A. Close to five, yes.</b></p> <p>13 Q. Okay. Do you know where the fuel tank is</p> <p>14 located on the 1999 Jeep Grand Cherokee that we're here</p> <p>15 about in this case?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. All right. You're aware it's behind the</p> <p>18 rear axle, I guess?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Have you ever been involved in a Jeep fire</p> <p>21 case where the fuel tank was located forward of the</p> <p>22 rear axle?</p> <p>23 <b>A. I don't know.</b></p> <p>24 Q. Can you think of any such case as you sit</p> <p>25 here today?</p>

<div>Page 42</div> <p>1       <b>A. I can think of a lot of cases where</b>  2 <b>there's fires where the fuel tank is in a different</b>  3 <b>location on a vehicle than between the -- behind the</b>  4 <b>rear axle. But you're saying specifically a Jeep</b>  5 <b>Cherokee?</b>  6       Q. Yes. The question is, can you think of  7 any case where you've been involved with a Jeep vehicle  8 that caught fire and the fuel tank was ahead of the  9 rear axle?  10      <b>A. I don't think.</b>  11      Q. Can you think of any such case as you sit  12 here today?  13      <b>A. I'd have to think about that.</b>  14      Q. Well, continue to think about it, and if  15 you think of one, let me know. I'll put that on our  16 list here that's Plaintiffs' Exhibit 3. And this is --  17 what do we say? -- cases worked on involving Jeep fires  18 where fuel tank located forward of rear axle? Have I  19 written that?  20      <b>A. You did write that.</b>  21      Q. I take it, as we sit here right now, you  22 can't think of any case you've been involved in where  23 there was a Jeep that caught on fire and the fuel tank  24 was forward of the rear axle; is that correct?  25      <b>A. Well, I can think of a lot of cases where</b></p>	<div>Page 44</div> <p>1 <b>Again, I apologize that I don't have the recollection</b>  2 <b>that -- for all these questions, because what I did is</b>  3 <b>I focused on this case. I didn't focus on the other</b>  4 <b>cases I worked on in the last 20 years.</b>  5      Q. Sure. As you sit here today, can you  6 think of any case you've worked on involving a Jeep  7 Grand Cherokee Model 2005 or later?  8      <b>A. I'd have to think about that. I'm drawing</b>  9 <b>a blank right now. Again, I'm focused on this case.</b>  10 <b>So the fact that I can't recall any, doesn't mean I</b>  11 <b>haven't worked on any.</b>  12      Q. How many cases have you worked on in the  13 last 20 years?  14      <b>A. Well, I know I've testified over 200</b>  15 <b>times. But we bring in, on an average, say, 15 to 20</b>  16 <b>cases per month. So let me do the math for you. And</b>  17 <b>at Knott Laboratory, we -- at times we had a bigger</b>  18 <b>staff, so we would bring in 30 to 40 cases. So let's</b>  19 <b>just say 30 cases, on average, for the last 20 years.</b>  20      Q. Is that per month?  21      <b>A. Per month, yes.</b>  22      MR. JAMES BUTLER: How many did you say,  23 30? I just wasn't listening. Sorry.  24      THE DEPONENT: Yes, 30.  25      <b>A. The number I come up with is somewhere</b></p>
<div>Page 43</div> <p>1 <b>there were fires, but I don't know about a Jeep. Like</b>  2 <b>that Neon, it hit the side of a semi that had saddle</b>  3 <b>tanks. And the claim was that the fuel rail was</b>  4 <b>knocked off. But that wasn't a Jeep; that was a Neon.</b>  5      Q. Right. So the question is, I take it that  6 you cannot think, as you sit here right now, of any  7 cases you've worked on where a Jeep caught on fire and  8 the Jeep's fuel tank was located forward of the rear  9 axle; is that correct?  10      <b>A. Again, I'd have to think about that. But</b>  11 <b>right now, I cannot think of any.</b>  12      Q. Thank you. Have you ever testified in a  13 case involving a Jeep Grand Cherokee Model 2005 or  14 later?  15      <b>A. Is this a memory test?</b>  16      Q. If you can't think of any, that's all  17 right. You can just say, "I can't think of any."  18      <b>A. Again, I didn't study my list of cases and</b>  19 <b>go through all the cases that I've ever worked on to</b>  20 <b>try to recall the types of makes and models of where</b>  21 <b>the fuel tanks were. So had I known that this was my</b>  22 <b>role, was to study all the cases that I have and to</b>  23 <b>recall all these, I probably would have studied</b>  24 <b>different materials for this deposition.</b>  25      <b>But why don't you ask that question again.</b></p>	<div>Page 45</div> <p>1 <b>around 7,000.</b>  2      Q. (BY MR. JEB BUTLER) So 7,000 cases over  3 the last 20 years?  4      <b>A. But that would be for the whole company.</b>  5 <b>So I don't think I work on every case that comes in.</b>  6 <b>So it would be a fraction of the 7,000.</b>  7      <b>A. I meant to ask you this earlier. Is Rick</b>  8 <b>Kerr one of the owners of Kineticorp? And Kerr,</b>  9 <b>K-e-r-r.</b>  10      <b>A. No, he's not.</b>  11      Q. Did he used to be? What happened to him?  12      <b>A. Yes. And he's working for a construction</b>  13 <b>claims engineering company.</b>  14      Q. I see in your testimony list, Plaintiffs'  15 Exhibit 5, you've got 90 times you've testified since  16 2009. How many times do you think you've testified,  17 total, in your career?  18      <b>A. Over 200.</b>  19      Q. How many cases do you think you've  20 investigated?  21      <b>A. Thousands.</b>  22      Q. Do you think 1,000, 2,000, 6,000? What's  23 your ballpark?  24      <b>A. Closer to the 1- to 2,000 than the 6,000.</b>  25      Q. How many times do you think you've</p>

<div>Page 46</div> <p>1 testified on behalf of a person who is in litigation 2 against an auto manufacturer? 3 <b>A. I can think of a few cases.</b> 4 Q. When was the last? 5 <b>A. I don't recall.</b> 6 Q. Have you -- if we -- on your testimony 7 list, are there -- is there anything since 2009 where 8 you've testified on behalf of a person in litigation 9 against an auto maker? 10 <b>A. I don't believe so.</b> 11 Q. I think you said earlier that your 12 practice sort of shifted from doing some plaintiff's 13 work to not doing some plaintiff's work around 2000 and 14 2001. 15 <b>A. Yes.</b> 16 Q. Is that fair? 17 <b>A. Yes.</b> 18 Q. Since say, 2002, do you think you've 19 testified on behalf of a person in litigation against 20 an auto maker? 21 <b>A. I don't know.</b> 22 Q. When -- I mean, do you think the last time 23 you did that was around 2005? We know it was before 24 2009 and sometime after 2001. Can you be any more 25 specific than that?</p>	<div>Page 48</div> <p>1 from the photogrammetry work that we did on the 2 Princess Diana crash. And then I became an expert in 3 photogrammetry, largely due to a lot of the 4 publications that I had authored for the Society of 5 Auto Engineers, and then I became the chairman of the 6 photogrammetry committee, and because of that 7 expertise, clients across the country, both plaintiff 8 and defense, and outside of automotive product 9 liability, were interested in that technology and 10 wanted to know more. So I think largely because of the 11 expertise in photogrammetry is why such companies as 12 Mercedes and Ford and Chrysler were interested in me 13 and that technology. 14 Q. Who are your biggest auto maker clients? 15 You mentioned just then Mercedes, Ford, and Chrysler -- 16 or maybe you said DaimlerChrysler? 17 <b>A. Well, it shifts from year to year. When</b> 18 <b>Chrysler and GM filed for bankruptcy, they were no</b> 19 <b>longer a very big client, because they didn't have any</b> 20 <b>cases for a number of years. So it shifts, depending</b> 21 <b>on the economy.</b> 22 Q. I see. Would you consider it a conflict 23 of interest to testify on behalf of a person in 24 litigation against an auto manufacturer? 25 <b>A. Oh, no. I think it would be on a</b></p>
<div>Page 47</div> <p>1 <b>A. No.</b> 2 Q. I guess what that tells us is that in 3 every automotive product liability case, the type that 4 this case fits into, listed on Plaintiffs' Exhibit 5, 5 you were testifying on behalf of the auto maker; is 6 that right? 7 <b>A. No.</b> 8 Q. Why is that wrong? 9 <b>A. Well, some of the ones that I listed on</b> 10 <b>here I testified not on behalf of the auto</b> 11 <b>manufacturer; sometimes it was for UPS, sometimes it</b> 12 <b>was for other entities other than the auto</b> 13 <b>manufacturer.</b> 14 Q. Okay. How did you -- how did you -- when 15 did you first testify on behalf of an auto maker? 16 <b>A. I can't recall. But one of the cases that</b> 17 <b>you listed, which was Chavez, I think it was a Mustang</b> 18 <b>case.</b> 19 Q. I think that's right. 20 <b>A. Yes. I think that would probably be one</b> 21 <b>of the first.</b> 22 Q. How did you get started working on behalf 23 of auto makers? 24 <b>A. Well, again, I think that it's a</b> 25 <b>combination of the fact that we got a lot of publicity</b></p>	<div>Page 49</div> <p>1 case-by-case basis that I would consider those issues. 2 It could potentially or it might not. I've been 3 retained on cases where the plaintiffs had settled with 4 the auto manufacturer and wanted to continue to retain 5 me because of my opinions as an accident 6 reconstructionist. 7 And, typically, my opinions as an accident 8 reconstructionist don't involve any issues of product 9 defect. It's just a plain reconstruction; what are the 10 speeds of the vehicles, Delta Vs, the severity of the 11 crash. And a lot of times that's helpful for both the 12 plaintiffs and defense in the case. And if my client, 13 who might be an automotive manufacturer, settles out, 14 the plaintiffs will then continue to retain me if they 15 continue with the case. So that's happened several 16 times. 17 Q. What if the auto maker is still in the 18 case? Would it, in that circumstance, be a conflict of 19 interest for you to testify on behalf of a person in 20 litigation against the auto maker? 21 MR. BRANTLEY: Object to the form of the 22 question. Subject to it, you can answer. 23 <b>A. I guess I don't understand. If an auto</b> 24 <b>manufacturer is part of the case already and a</b> 25 <b>plaintiff wants to hire me?</b></p>

<div>Page 50</div> <p>1 Q. (BY MR. JEB BUTLER) What I mean is, in</p> <p>2 your answer just a second ago you said, well, if an</p> <p>3 auto maker has settled out, then I might work on behalf</p> <p>4 of the person who was originally litigating against the</p> <p>5 auto maker.</p> <p>6 A. Yes.</p> <p>7 Q. So my question now is, if there's an auto</p> <p>8 maker still involved in a case, would you consider it a</p> <p>9 conflict of interest to testify on behalf of the person</p> <p>10 litigating against that auto maker?</p> <p>11 A. Well, if it's the auto maker that hired</p> <p>12 me, yes, it would be a conflict, because you would have</p> <p>13 the automotive manufacturer hiring me.</p> <p>14 Q. Well, sure. You couldn't testify.</p> <p>15 A. I think if they hire me, I'm supposed to</p> <p>16 testify for them. But I don't know. Legally, I think</p> <p>17 if the plaintiff wants to call me in the case in chief,</p> <p>18 then I think I'm bound by law to testify.</p> <p>19 Q. Suppose -- I mean, what about if there's a</p> <p>20 case where you haven't been hired by either party yet,</p> <p>21 and it's a case against an auto manufacturer, and the</p> <p>22 person who's litigating against the auto manufacturer</p> <p>23 seeks to retain you, even though you haven't been</p> <p>24 contacted by that auto maker in that case?</p> <p>25 A. I had or had not?</p>	<div>Page 52</div> <p>1 behalf of an auto manufacturer and refused?</p> <p>2 A. I think there's been times when there's</p> <p>3 been a conflict where they needed work done right away,</p> <p>4 and I was not available.</p> <p>5 Q. Would you call that a scheduling conflict?</p> <p>6 A. Yes.</p> <p>7 Q. Apart from scheduling conflicts, have you</p> <p>8 ever been asked to testify on behalf of an auto maker</p> <p>9 and refused?</p> <p>10 A. Not that I recall.</p> <p>11 Q. Has your testimony ever been excluded or</p> <p>12 limited in any manner in any case?</p> <p>13 A. Yes.</p> <p>14 Q. Tell me how many times, first.</p> <p>15 A. I can only think of one time.</p> <p>16 Q. Okay. Tell me about that, please.</p> <p>17 A. It was a case here in Colorado. It was</p> <p>18 involving two vehicles on a dirt road that collided</p> <p>19 head-on. They were approaching each other from</p> <p>20 opposite directions. And the police officer determined</p> <p>21 where the point of impact was on the roadway, and based</p> <p>22 on that impact location, I offered opinions with</p> <p>23 regards to who was at fault, who basically crossed the</p> <p>24 centerline and caused the accident.</p> <p>25 And the judge determined that the police</p>
<div>Page 51</div> <p>1 Q. Had not. Would that be a conflict of</p> <p>2 interest, in your mind?</p> <p>3 MR. BRANTLEY: Object to the form of the</p> <p>4 question as incomplete hypothetical and to the extent</p> <p>5 that it's being asked and has been asked and answered.</p> <p>6 Subject to it, you can answer, if you can.</p> <p>7 Q. I think I answered that. I'd have to take</p> <p>8 that on a case-by-case basis and determine whether</p> <p>9 there would be a conflict or not.</p> <p>10 Q. What would it depend on?</p> <p>11 A. I don't know.</p> <p>12 Q. What percentage of your professional time</p> <p>13 do you spend doing work related to litigation?</p> <p>14 A. Well, I'm trying to shift that as I get</p> <p>15 older and try to spend more time managing the company</p> <p>16 than actually doing all the work. But I would say</p> <p>17 that, oh, 75 percent of my time is involved in</p> <p>18 litigation, and the other 25 percent is involved in</p> <p>19 management of the company.</p> <p>20 Q. Of your income, what percentage comes from</p> <p>21 work related to litigation?</p> <p>22 A. Well, I think the firm's income, which is</p> <p>23 directly related to my income, is almost entirely</p> <p>24 involving litigation.</p> <p>25 Q. Have you ever been asked to testify on</p>	<div>Page 53</div> <p>1 officer wasn't qualified to determine the location of</p> <p>2 the point of impact; and, therefore, those opinions</p> <p>3 that I offered regarding liability or who was at fault,</p> <p>4 based on the police officer's location, were limited.</p> <p>5 So some opinions were limited, others were not limited.</p> <p>6 Only those opinions based on the police officer's</p> <p>7 opinions were limited. And my opinions that weren't</p> <p>8 based on his determination were not limited.</p> <p>9 Q. Have you made a determination as to who's</p> <p>10 at fault in this case?</p> <p>11 A. Yes.</p> <p>12 Q. What is that determination?</p> <p>13 A. That [REDACTED] was at fault for this</p> <p>14 accident.</p> <p>15 Q. Is there any fault, in your mind, on [REDACTED]</p> <p>16 [REDACTED] or [REDACTED] [REDACTED]?</p> <p>17 A. No.</p> <p>18 Q. We'll go through the list of auto makers</p> <p>19 and ask you which of these you have worked on behalf</p> <p>20 of, and you can just answer yes or no. I understand</p> <p>21 ahead of time that you may not remember all of them.</p> <p>22 A. Thank you.</p> <p>23 Q. Audi?</p> <p>24 A. I don't believe I have, no. Our company</p> <p>25 may have, but I'm not sure. I can't recall any.</p>

- 1 Q. Okay. BMW?
- 2 **A. I believe my company has, but I don't**
- 3 **think I have.**
- 4 Q. When I go through this list, if I name a
- 5 company that owns another, I mean them both. So
- 6 General Motors would include Chevrolet, Fiat would
- 7 include Chrysler. Does that make sense?
- 8 **A. Okay.**
- 9 Q. General Motors?
- 10 **A. Yes.**
- 11 Q. Chrysler?
- 12 **A. Yes.**
- 13 Q. Daihatsu?
- 14 **A. Who is that?**
- 15 Q. If you don't know, the answer is probably
- 16 no. It's under my thumb there.
- 17 **A. I don't think so.**
- 18 Q. How about a Dodge vehicle, Dodge-branded
- 19 vehicle?
- 20 **A. Yes.**
- 21 Q. A Fiat-branded vehicle?
- 22 **A. That includes Chrysler?**
- 23 Q. Well, just Fiat. You already -- I already
- 24 asked you Chrysler. I know that answer.
- 25 **A. I don't think Fiat. But, I mean, if**

- 1 **Chrysler is under Fiat, then, yes. I mean, it's a**
- 2 **little confusing, the way you prefaced that earlier.**
- 3 Q. Sure. Ford?
- 4 **A. Yes.**
- 5 Q. Honda?
- 6 **A. Yes.**
- 7 Q. What about a Hummer-branded vehicle?
- 8 **A. I know I've worked on a case involving a**
- 9 **Hummer. I don't know if it was for the auto**
- 10 **manufacturer, though.**
- 11 Q. Hyundai?
- 12 **A. Yes, I believe so.**
- 13 Q. Isuzu?
- 14 **A. Yes, I believe so.**
- 15 Q. Jaguar?
- 16 **A. I don't believe so, no.**
- 17 Q. Kia?
- 18 **A. Yes.**
- 19 Q. Mazda?
- 20 **A. Is this worked on or testified?**
- 21 Q. Worked on.
- 22 **A. Okay. Yes.**
- 23 Q. Mitsubishi?
- 24 **A. Yes.**
- 25 Q. Nissan?

- 1 **A. Yes.**
- 2 Q. Peugeot?
- 3 **A. No.**
- 4 Q. Porsche?
- 5 **A. I don't think so.**
- 6 Q. Renault?
- 7 **A. I don't think so.**
- 8 Q. Rolls-Royce?
- 9 **A. I don't think so.**
- 10 Q. Saab?
- 11 **A. I don't recall any.**
- 12 Q. Saturn?
- 13 **A. Yes.**
- 14 Q. Smart?
- 15 **A. I don't believe so.**
- 16 Q. Subaru?
- 17 **A. I don't believe so.**
- 18 Q. Suzuki?
- 19 **A. Yes.**
- 20 Q. Toyota?
- 21 **A. Yes.**
- 22 Q. Volkswagen?
- 23 **A. I don't believe so.**
- 24 Q. Volvo?
- 25 **A. I can't think of any.**

- 1 Q. They don't get sued much.
- 2 When you've testified before on behalf of
- 3 Chrysler, what lawyers do you usually work with?
- 4 **A. I don't think there's a group that I work**
- 5 **with more than another.**
- 6 Q. Last time you testified at trial for
- 7 Chrysler, who conducted your direct examination?
- 8 **A. I can't recall testifying in trial for**
- 9 **Chrysler. Was there a case on here that I testified at**
- 10 **trial?**
- 11 Q. I don't know.
- 12 **A. I can't recall any.**
- 13 Q. Okay. How many times in the past have you
- 14 worked with Diane Owens, Mr. Terry Brantley, who's here
- 15 with you today, or their firm, Swift Currie?
- 16 **A. I'd say a handful of cases.**
- 17 Q. Is that around five?
- 18 **A. Yes.**
- 19 Q. How about Sheila Jeffrey?
- 20 **A. I don't know who that is.**
- 21 Q. Brian Westenberg?
- 22 **A. He sounds familiar, but I don't know who**
- 23 **he's with.**
- 24 Q. I think it's Miller Canfield, up in
- 25 Detroit.



<div>Page 58</div> <p>1     <b>A. Okay. I don't know.</b></p> <p>2     Q. Jim Feeney?</p> <p>3     <b>A. Two handfuls of times.</b></p> <p>4     Q. Around ten?</p> <p>5     <b>A. Yes.</b></p> <p>6     Q. How about Callahan and Fusco, which would</p> <p>7 include a fellow named Matthew Stockwell?</p> <p>8     <b>A. Once, that I can recall.</b></p> <p>9     Q. How about Bowman and Brooke, the law firm?</p> <p>10    <b>A. Just on any case?</b></p> <p>11    Q. Yes.</p> <p>12    <b>A. Probably 20 times.</b></p> <p>13    Q. Erika Jones?</p> <p>14    <b>A. She sounds familiar. Is she with Bowman</b></p> <p>15 <b>and Brooke?</b></p> <p>16    Q. No. I forget her outfit. She's up in</p> <p>17 D.C. She's involved in this case. But if you don't</p> <p>18 know her, the answer to the question doesn't really</p> <p>19 matter.</p> <p>20    <b>A. She sounds familiar. I don't want to</b></p> <p>21 <b>just . . .</b></p> <p>22    Q. How did you first get to know -- first,</p> <p>23 over at Swift Currie, who have you worked with most?</p> <p>24 Is it Mr. Brantley or Diane Owens?</p> <p>25    <b>A. Diane Owens.</b></p>	<div>Page 60</div> <p>1 case?</p> <p>2     <b>A. Yes.</b></p> <p>3     Q. Okay. What?</p> <p>4     <b>A. I believe that Mr. Arndt was going to be</b></p> <p>5 <b>deposed again.</b></p> <p>6     Q. Okay. So what does that mean? Does that</p> <p>7 mean you want to review a transcript of Mr. Arndt's</p> <p>8 deposition to occur? I think we're now clear it will</p> <p>9 occur, I think. I don't know. I'm making a</p> <p>10 representation about that. But if it does, I presume</p> <p>11 you want to review that deposition. Aside from</p> <p>12 reviewing any further deposition transcripts from</p> <p>13 Mr. Fred Arndt, is there any other work that you feel</p> <p>14 like you need to do in this case?</p> <p>15    <b>A. I don't believe so -- well, trial</b></p> <p>16 <b>exhibits.</b></p> <p>17    Q. What kind of trial exhibits do you</p> <p>18 anticipate preparing?</p> <p>19    <b>A. I don't know yet, but certainly some trial</b></p> <p>20 <b>exhibits, perhaps to address any issues that Mr. Arndt</b></p> <p>21 <b>brings up during his deposition or any materials that</b></p> <p>22 <b>he provides.</b></p> <p>23    Q. Let's refer to this either actual or</p> <p>24 hypothetical second deposition of Mr. Arndt as the</p> <p>25 Arndt second deposition, without me taking a position</p>
<div>Page 59</div> <p>1     Q. How did you get to know her?</p> <p>2     <b>A. I believe through the Chrysler cases.</b></p> <p>3     Q. When was the first time you-all worked</p> <p>4 together, to the best of your recollection?</p> <p>5     <b>A. Maybe ten years ago, five to ten years</b></p> <p>6 <b>ago; probably closer to ten years ago.</b></p> <p>7     Q. What about Jim Feeney? When did you first</p> <p>8 meet Feeney?</p> <p>9     <b>A. I don't recall, probably 10 to 15 years</b></p> <p>10 <b>ago. Before Diane.</b></p> <p>11    Q. Do you ever see Diane Owens outside your</p> <p>12 work directly on Chrysler cases?</p> <p>13    <b>A. No. She lives in Atlanta.</b></p> <p>14    Q. Do you see her at seminars, things like</p> <p>15 that?</p> <p>16    <b>A. Like at the Society of Automotive</b></p> <p>17 <b>Engineers?</b></p> <p>18    Q. Or ABA, or any of them.</p> <p>19    <b>A. She may have attended those. I can't</b></p> <p>20 <b>think of any times when I have seen her there, but she</b></p> <p>21 <b>possibly could have been there.</b></p> <p>22    Q. Are you ready to testify in this case?</p> <p>23    <b>A. Yes.</b></p> <p>24    Q. Is there any additional work that you feel</p> <p>25 like you need to do before you can testify in this</p>	<div>Page 61</div> <p>1 as to whether it's going to occur.</p> <p>2     MR. JAMES BUTLER: I can help you. Terry</p> <p>3 is going to re-depose him.</p> <p>4     THE DEPONENT: I didn't want to trap you.</p> <p>5     MR. JEB BUTLER: I didn't want to trap</p> <p>6 him, is the real thing.</p> <p>7     Q. (BY MR. JEB BUTLER) Let's see. Aside</p> <p>8 from preparing trial exhibits to address what comes up</p> <p>9 in Mr. Arndt's second deposition, are there any other</p> <p>10 trial exhibits that you anticipate preparing?</p> <p>11    <b>A. Not that I recall. I don't want to limit</b></p> <p>12 <b>myself, but there's been some mistakes made by</b></p> <p>13 <b>Mr. Buchner in the case. And I think we've done a</b></p> <p>14 <b>pretty good job highlighting them, but I might create a</b></p> <p>15 <b>few more, just to explain those differences between the</b></p> <p>16 <b>work that he's done, and the work that we've done, and</b></p> <p>17 <b>the mistakes that he's made.</b></p> <p>18    Q. When you say, "a few more," what kinds of</p> <p>19 exhibits are you referring to? Are we talking -- go</p> <p>20 ahead.</p> <p>21    <b>A. I think they would be mostly graphical in</b></p> <p>22 <b>nature.</b></p> <p>23    Q. All right. As we sit here today, have you</p> <p>24 prepared any computer-aided demonstratives, to include</p> <p>25 animations or simulations?</p>

<div>Page 62</div> <p>1       <b>A. No.</b></p> <p>2       Q. Do you anticipate doing that?</p> <p>3       <b>A. Well, I haven't discussed it with my</b></p> <p>4 <b>client, so I don't know if that's what they'd like for</b></p> <p>5 <b>us to do. But right now, I don't think it's necessary;</b></p> <p>6 <b>but that's not to say that it wouldn't be helpful, but</b></p> <p>7 <b>I have to leave it up to my client.</b></p> <p>8       MR. JEB BUTLER: Mr. Brantley, do you</p> <p>9 have any position on whether subsequent animations or</p> <p>10 simulations or computer-aided demonstratives will be</p> <p>11 created?</p> <p>12       MR. BRANTLEY: We have no position on</p> <p>13 that.</p> <p>14       MR. JEB BUTLER: All right.</p> <p>15       Q. (BY MR. JEB BUTLER) Is there any work you</p> <p>16 wanted to do in this case, but Chrysler or Chrysler's</p> <p>17 lawyers suggested that you not do?</p> <p>18       <b>A. No.</b></p> <p>19       Q. Is there anything you wanted to do --</p> <p>20 strike that.</p> <p>21       If this trial were to start tomorrow,</p> <p>22 then, subject to addressing anything that comes up in</p> <p>23 Mr. Arndt's second deposition, would you be ready to</p> <p>24 go?</p> <p>25       MR. BRANTLEY: Object to the form of the</p>	<div>Page 64</div> <p>1 <b>right now, see that it would be helpful for the jury.</b></p> <p>2 <b>But again, it's something that I'd have to discuss with</b></p> <p>3 <b>the client, to see if they believe that anything</b></p> <p>4 <b>animated or anything moving would be helpful in</b></p> <p>5 <b>identifying the differences that I have with</b></p> <p>6 <b>Mr. Buchner or Mr. Arndt.</b></p> <p>7       Q. I think you just referred to a different</p> <p>8 type of presentation. Can I call that a</p> <p>9 3D presentation? Is that fair?</p> <p>10       <b>A. Yes.</b></p> <p>11       Q. It sounds like your view now is that an</p> <p>12 animation or simulation or a 3D presentation would be</p> <p>13 unnecessary; is that right?</p> <p>14       <b>A. That's the general feel that I have right</b></p> <p>15 <b>now. But again, Mr. Arndt hasn't finished with his</b></p> <p>16 <b>opinions and --</b></p> <p>17       MR. BRANTLEY: Jeb, I'll just say on the</p> <p>18 record that at this time we don't anticipate those</p> <p>19 types of items being created by Mr. Fenton.</p> <p>20       MR. JEB BUTLER: That's great. As you</p> <p>21 know, what I'm driving at is a time to test the</p> <p>22 accuracy of those exhibits, if they do exist. And I</p> <p>23 hate to keep doing multiple depositions in this case.</p> <p>24       MR. BRANTLEY: I understand. And that is</p> <p>25 why at this time we do not anticipate that work being</p>
<div>Page 63</div> <p>1 question.</p> <p>2       <b>A. I think I'd be 90 percent of the way</b></p> <p>3 <b>there.</b></p> <p>4       Q. (BY MR. JEB BUTLER) What does that extra</p> <p>5 10 percent consist of?</p> <p>6       <b>A. I'd have to put together a trial</b></p> <p>7 <b>presentation. That's going to take some time.</b></p> <p>8       Q. What kind of trial presentation do you</p> <p>9 think you'd put together?</p> <p>10       <b>A. I don't know.</b></p> <p>11       Q. Okay. Do you normally use PowerPoints?</p> <p>12       <b>A. Yes.</b></p> <p>13       Q. All right. When you testify at trial, do</p> <p>14 you normally present animations or simulations?</p> <p>15       <b>A. I'd say about half of the time I have -- I</b></p> <p>16 <b>don't want to call them animations or simulations, I</b></p> <p>17 <b>have what's called an interactive file where I show the</b></p> <p>18 <b>motion of the vehicles in 3D, in three dimensions. So</b></p> <p>19 <b>it is somewhat animated, where you can take the scroll</b></p> <p>20 <b>bar and move the vehicles through their positions. But</b></p> <p>21 <b>I'm not quite sure that would be helpful in this case,</b></p> <p>22 <b>because I think that the speeds and dynamics of the</b></p> <p>23 <b>collision are fairly agreed upon in this case.</b></p> <p>24       <b>I don't think there's a lot of difference</b></p> <p>25 <b>of opinion with regards to those issues. So I don't,</b></p>	<div>Page 65</div> <p>1 performed. And that's why it's not a part of his file</p> <p>2 here today.</p> <p>3       MR. JEB BUTLER: Okay. Sounds good.</p> <p>4       THE DEPONENT: Good. Thanks for the</p> <p>5 clarity, because I didn't ask him if he wanted any of</p> <p>6 that done, so . . .</p> <p>7       Q. (BY MR. JEB BUTLER) Let's go to your</p> <p>8 billing records. Where would we find those?</p> <p>9       (Deposition Exhibit 7 was marked.)</p> <p>10       Q. You've now handed me your billing records,</p> <p>11 and I've clipped them together and marked them as</p> <p>12 Plaintiffs' Exhibit 7; is that right?</p> <p>13       <b>A. Yes.</b></p> <p>14       Q. What's your hourly rate in this case?</p> <p>15       <b>A. I can't recall. I think it's -- I think</b></p> <p>16 <b>it's 340.</b></p> <p>17       Q. Does your hourly rate vary from case to</p> <p>18 case?</p> <p>19       <b>A. No.</b></p> <p>20       Q. All right. Is your hourly rate always the</p> <p>21 same no matter what you're doing, or does it vary</p> <p>22 depending upon whether you're testifying or preparing</p> <p>23 or doing something else?</p> <p>24       <b>A. My rate does not change.</b></p> <p>25       Q. Do you bill door to door? That is, if</p>

<div>Page 66</div> <p>1 you're required to travel for someplace, like you had</p> <p>2 to travel to this deposition today, does the clock</p> <p>3 begin running when you step out the door of your home</p> <p>4 and then end when you return back?</p> <p>5 <b>A. Not always.</b></p> <p>6 Q. Tell me how you do it, then.</p> <p>7 <b>A. If I'm traveling for work, then, yes, I'll</b></p> <p>8 <b>bill. But say during the day when I was preparing, say</b></p> <p>9 <b>on Friday, I wouldn't start charging until I got in the</b></p> <p>10 <b>office and started working on the case. But if I am</b></p> <p>11 <b>leaving to the airport to travel to, you know, do a</b></p> <p>12 <b>vehicle inspection in this case, then I will charge for</b></p> <p>13 <b>my time leaving from my house to go to the airport,</b></p> <p>14 <b>wait at the airport, and for all the time that I'm</b></p> <p>15 <b>traveling, I'll bill for that time.</b></p> <p>16 Q. If you end up coming to Bainbridge,</p> <p>17 Georgia to testify in this case, will you bill for the</p> <p>18 time that you're waiting to testify, like if you're</p> <p>19 waiting at the hotel or something like that?</p> <p>20 <b>A. Probably, if I'm preparing for the case,</b></p> <p>21 <b>say reading depositions. But if I'm working on another</b></p> <p>22 <b>case because I'm delayed several days or a day or half</b></p> <p>23 <b>a day, and I'm working on another case, then I won't</b></p> <p>24 <b>charge my client for that time.</b></p> <p>25 Q. What about the time where you're sitting</p>	<div>Page 68</div> <p>1 him so he can put that on his resume.</p> <p>2 Q. (BY MR. JEB BUTLER) Who is William M.</p> <p>3 Bortles?</p> <p>4 <b>A. He's another partner in the firm that</b></p> <p>5 <b>manages one of the engineering teams.</b></p> <p>6 Q. I note on the second page in Plaintiffs'</p> <p>7 Exhibit 7 there's no name after each of the activities.</p> <p>8 <b>A. Well, when I was flipping through here, I</b></p> <p>9 <b>was surprised to see that, too, because I thought in</b></p> <p>10 <b>almost all of our invoices the person's name is behind</b></p> <p>11 <b>it. So it looks like perhaps one of the lines, and the</b></p> <p>12 <b>rest of them were cut off. I apologize. Usually, the</b></p> <p>13 <b>names of all of the individuals are listed on those</b></p> <p>14 <b>time sheets. I think I could probably get that printed</b></p> <p>15 <b>with all the names on there.</b></p> <p>16 Q. All right. I'll add that on</p> <p>17 Plaintiffs' 3; that is, "bills with names of people</p> <p>18 doing work."</p> <p>19 <b>A. Yes. I think behind each one of those</b></p> <p>20 <b>entries it should have a name behind them, or at least</b></p> <p>21 <b>in the past that's the way I've seen it. We use</b></p> <p>22 <b>QuickBooks. And they just updated QuickBooks online</b></p> <p>23 <b>with a new version, so I don't know if that's some of</b></p> <p>24 <b>the differences that we have there.</b></p> <p>25 Q. Okay. As you sit here today, looking at</p>
<div>Page 67</div> <p>1 in Bainbridge, Georgia not working on anything, say</p> <p>2 you're asleep, does that count towards your hourly</p> <p>3 rate?</p> <p>4 <b>A. I don't charge when I'm sleeping. I only</b></p> <p>5 <b>charge when I'm working on a case.</b></p> <p>6 Q. Or traveling?</p> <p>7 <b>A. I consider traveling working on a case.</b></p> <p>8 Q. I see. What's the total amount billed in</p> <p>9 this case to date, or do we need to add up all the</p> <p>10 items in Plaintiffs' 7?</p> <p>11 <b>A. I have not totaled those.</b></p> <p>12 Q. In looking at this, it appears that each</p> <p>13 line says the person who's done whatever action is</p> <p>14 listed; is that right?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And we'll go through, and I'll ask you who</p> <p>17 all these folks are. Who is Toby M. Terpstra?</p> <p>18 <b>A. He's one of the partners in the company.</b></p> <p>19 <b>He manages one of the visualization teams in our</b></p> <p>20 <b>company.</b></p> <p>21 Q. Who is John J. Heher?</p> <p>22 <b>A. Heher (pronouncing). That guy down at the</b></p> <p>23 <b>end of the table (indicating). He's a summer intern.</b></p> <p>24 MR. JEB BUTLER: Welcome to the record.</p> <p>25 THE DEPONENT: You might want to depose</p>	<div>Page 69</div> <p>1 the second page of Plaintiffs' Exhibit 7, do you know</p> <p>2 who did the work listed there?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Would the same be true with respect to the</p> <p>5 other billing records where no names appear?</p> <p>6 <b>A. Yes. We have some listing with</b></p> <p>7 <b>abbreviations here. So WB would be Will Bortles, JD</b></p> <p>8 <b>would be Jordan Dickinson.</b></p> <p>9 Q. Who is Dickinson?</p> <p>10 <b>A. He's a member of the visualization team.</b></p> <p>11 <b>I think he assisted in the -- a survey of the scene</b></p> <p>12 <b>with Toby Terpstra.</b></p> <p>13 Q. And then SF is Steve Fenton. So there are</p> <p>14 some abbreviations in some of the other items.</p> <p>15 THE DEPONENT: If you're going to add</p> <p>16 those up, can we take a restroom break?</p> <p>17 MR. JEB BUTLER: Sure. Let's do that.</p> <p>18 (Recess taken, 11:27 a.m. to 11:36 a.m.)</p> <p>19 Q. (BY MR. JEB BUTLER) Mr. Fenton, I'm</p> <p>20 looking through your billing records, and I marked a</p> <p>21 few things that I wanted to ask you about. There's a</p> <p>22 line that says, "Production of Visual Products - Scene</p> <p>23 Development." What does that language usually refer</p> <p>24 to?</p> <p>25 <b>A. I guess I could show you in our file here</b></p>

<div>Page 70</div> <p>1 <b>what visual products we've produced.</b></p> <p>2 Q. For now, just tell me that it's producing</p> <p>3 something that's in your file, if that's accurate.</p> <p>4 <b>A. Yes. It's producing something that's in</b></p> <p>5 <b>my file.</b></p> <p>6 Q. And then there's some entries for</p> <p>7 "Analysis and Production of 3D Geometry."</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Is that also something in your file?</p> <p>10 <b>A. It is.</b></p> <p>11 Q. I think that's all of the things I marked.</p> <p>12 "Scene Diagram Analysis and Production," does that also</p> <p>13 refer to something that's in your file?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Do you ever get paid with a bonus?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Have you ever been paid with a bonus in</p> <p>18 any case working on behalf of Chrysler?</p> <p>19 <b>A. No.</b></p> <p>20 Q. Who does your check come from?</p> <p>21 <b>A. I don't know.</b></p> <p>22 Q. Is it Chrysler or lawyers working for</p> <p>23 Chrysler?</p> <p>24 <b>A. I don't know. I think it could come</b></p> <p>25 <b>either way.</b></p>	<div>Page 72</div> <p>1 case, would they be in Plaintiffs' Exhibit 8?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Have you exchanged any e-mails with anyone</p> <p>4 employed by Chrysler, as distinct from Chrysler's</p> <p>5 outside counsel?</p> <p>6 <b>A. No.</b></p> <p>7 Q. I'm trying to figure out when you were</p> <p>8 retained in this case. Do you know offhand?</p> <p>9 <b>A. No.</b></p> <p>10 Q. Would your first billing record indicate</p> <p>11 it?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. I'm thinking that's going to put us at</p> <p>14 August 16, 2012.</p> <p>15 <b>A. That sounds right.</b></p> <p>16 Q. So it appears that you were retained in</p> <p>17 this case by Chrysler on August 16, 2012; is that</p> <p>18 right?</p> <p>19 <b>A. What does that entry say? It may have</b></p> <p>20 <b>been before then. I just don't know.</b></p> <p>21 Q. The second to the last page, I think, is</p> <p>22 the one I was looking at.</p> <p>23 <b>A. Yes, more likely than not, that would</b></p> <p>24 <b>probably be the date; thereabouts.</b></p> <p>25 Q. It appears that the first time you</p>
<div>Page 71</div> <p>1 Q. In any event, it's Chrysler that's</p> <p>2 ultimately footing the bill, I guess?</p> <p>3 <b>A. I believe so, yes.</b></p> <p>4 Q. Correspondence file.</p> <p>5 <b>A. You want to thumb through it, or you want</b></p> <p>6 <b>me to pull it out?</b></p> <p>7 Q. Probably pull it out.</p> <p>8 <b>A. It's under the correspondence tab.</b></p> <p>9 Q. All right, great. Okay, good.</p> <p>10 <b>A. Just lift up that lever, and you can pull</b></p> <p>11 <b>it out. And then lower the lever. There you go.</b></p> <p>12 Q. So cool. I'll hand that back to you.</p> <p>13 (Deposition Exhibit 8 was marked.)</p> <p>14 Q. I've now removed your correspondence from</p> <p>15 the folder in which you brought it, clipped it</p> <p>16 together, and marked it as Plaintiffs' Exhibit 8; is</p> <p>17 that right?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Is this the entirety of your</p> <p>20 correspondence on this case?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Is that to include e-mail?</p> <p>23 <b>A. Yes. I don't think there are any e-mails</b></p> <p>24 <b>in there.</b></p> <p>25 Q. If there are any e-mails related to this</p>	<div>Page 73</div> <p>1 received materials to review in this case was</p> <p>2 September 14, 2012. Does that appear right? You're</p> <p>3 welcome to look at the whole thing. That's the oldest</p> <p>4 letter in the stack.</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Okay. Have you exchanged any e-mails or</p> <p>7 correspondence with other experts in this case?</p> <p>8 <b>A. I don't believe so.</b></p> <p>9 Q. Who first contacted you or Kineticorp on</p> <p>10 this case?</p> <p>11 <b>A. I don't recall. Probably Diane Owens.</b></p> <p>12 Q. When was the first time that you spoke</p> <p>13 with somebody about this case, personally?</p> <p>14 <b>A. I can't recall the first time, but it was</b></p> <p>15 <b>probably with Diane Owens.</b></p> <p>16 Q. Do you recall what you said or what she</p> <p>17 said?</p> <p>18 <b>A. No. And, in general, I think there would</b></p> <p>19 <b>be a discussion about whether we were available to work</b></p> <p>20 <b>up a case for her; meaning, do vehicle inspection and</b></p> <p>21 <b>scene inspection and determine to do a reconstruction.</b></p> <p>22 Q. How many times did you inspect the vehicle</p> <p>23 in this case?</p> <p>24 <b>A. Once.</b></p> <p>25 Q. When was that?</p>

<div> <div>Page 74</div> <div> <p>1     <b>A. I believe it was September 27, 2012.</b></p> <p>2     Q. Okay. What did you do at the vehicle</p> <p>3 inspection?</p> <p>4     <b>A. Photographed the vehicle, used our 3D</b></p> <p>5 <b>laser scanner to document the vehicle -- actually, both</b></p> <p>6 <b>vehicles, the Dakota and the Jeep.</b></p> <p>7     Q. Okay. Have you looked at an exemplar</p> <p>8 Jeep?</p> <p>9     <b>A. Yes, we have.</b></p> <p>10    Q. Okay. Who else was present at the vehicle</p> <p>11 inspection?</p> <p>12    <b>A. I don't recall. I think perhaps Jon Olson</b></p> <p>13 <b>was present.</b></p> <p>14    Q. Were there any attorneys present?</p> <p>15    <b>A. I'm sure there were.</b></p> <p>16    Q. Do you know who they were?</p> <p>17    <b>A. No. I can look in the photos. Perhaps we</b></p> <p>18 <b>caught someone in one of the photos.</b></p> <p>19    Q. That's all right. They would have been</p> <p>20 attorneys on behalf of Chrysler, though?</p> <p>21    <b>A. And perhaps plaintiffs' attorneys. I</b></p> <p>22 <b>would imagine both plaintiff and defense attorneys</b></p> <p>23 <b>would be present. But maybe a representative, I don't</b></p> <p>24 <b>know if they were attorneys or not. Sometimes they're</b></p> <p>25 <b>paralegals, sometimes they're investigators. I don't</b></p> </div> </div>	<div> <div>Page 76</div> <div> <p>1 the scene of this wreck?</p> <p>2     <b>A. My survey crew has, but I have not.</b></p> <p>3     Q. When did your survey crew go?</p> <p>4     <b>A. They went December 21, 2012.</b></p> <p>5     Q. Who is a part of your survey crew?</p> <p>6     <b>A. I believe it was Will Bortles. And I</b></p> <p>7 <b>don't know who accompanied him. I can find out in the</b></p> <p>8 <b>billings -- well, maybe not in the billings. I think I</b></p> <p>9 <b>can in the billing, because it has parentheses behind</b></p> <p>10 <b>the names there.</b></p> <p>11    Q. Okay.</p> <p>12    <b>A. So perhaps I can find those billings.</b></p> <p>13 <b>Jordan Dickinson.</b></p> <p>14    Q. Dickinson and Bortles?</p> <p>15    <b>A. Yes.</b></p> <p>16    Q. Anyone else?</p> <p>17    <b>A. There were just two from my company that</b></p> <p>18 <b>went to survey the scene.</b></p> <p>19    Q. It was just two at the scene, right,</p> <p>20 Bortles and Dickinson, or was there a third?</p> <p>21    <b>A. I think there were only two.</b></p> <p>22    Q. That's what I thought, too. My co-counsel</p> <p>23 and I miscommunicated on that. Where do those two</p> <p>24 live? Are they in Colorado?</p> <p>25    <b>A. Yes.</b></p> </div> </div>
<div> <div>Page 75</div> <div> <p>1 <b>know. I'm sure there was -- I think there's a</b></p> <p>2 <b>check-in, a log, but it's -- I am not in custody of</b></p> <p>3 <b>that log-in information.</b></p> <p>4     Q. When did you look at an exemplar vehicle?</p> <p>5     <b>A. It was inspected on 7/10 of '14.</b></p> <p>6     Q. All right. Where? I mean, Colorado?</p> <p>7     <b>A. Colorado.</b></p> <p>8     Q. Who was present at the inspection of the</p> <p>9 exemplar vehicle?</p> <p>10    <b>A. David Pentecost.</b></p> <p>11    Q. And was there just one exemplar vehicle,</p> <p>12 one Jeep, or did you have a Dakota as well?</p> <p>13    <b>A. Just the Jeep.</b></p> <p>14    Q. And exemplar is -- well, tell us what an</p> <p>15 exemplar vehicle is, please.</p> <p>16    <b>A. It's a vehicle substantially similar to</b></p> <p>17 <b>the accident vehicle.</b></p> <p>18    Q. What did you learn in your inspection of</p> <p>19 the subject vehicle; meaning, the '99 Jeep Grand</p> <p>20 Cherokee that burned up?</p> <p>21    <b>A. We scanned the exemplar vehicle and</b></p> <p>22 <b>compared the scan of the exemplar to a scan of the</b></p> <p>23 <b>subject vehicle to determine the difference in the</b></p> <p>24 <b>structure.</b></p> <p>25    Q. Okay. Scene inspection, have you been to</p> </div> </div>	<div> <div>Page 77</div> <div> <p>1     Q. Have you communicated at all with other</p> <p>2 experts involved in this case?</p> <p>3     <b>A. Yes.</b></p> <p>4     Q. All right. I understand that you were at</p> <p>5 the vehicle inspection of the burned-up '99 Grand</p> <p>6 Cherokee with Jon Olson?</p> <p>7     <b>A. Yes, I believe he was there.</b></p> <p>8     Q. Any other times you've communicated with</p> <p>9 other experts involved in this case?</p> <p>10    <b>A. Yes, with Dr. Bennett.</b></p> <p>11    Q. Okay. How many times have you spoken with</p> <p>12 Dr. Bennett about this case?</p> <p>13    <b>A. I can only recall once, but perhaps twice.</b></p> <p>14 <b>I can't remember the second time, if there was one.</b></p> <p>15 <b>But I'm thinking there may have been another conference</b></p> <p>16 <b>call.</b></p> <p>17    Q. How about Olson? How many times have you</p> <p>18 spoken with Olson about this case?</p> <p>19    <b>A. I'd say probably two, maybe three.</b></p> <p>20    Q. Any other experts that you've talked to</p> <p>21 about this case?</p> <p>22    <b>A. Not that I can recall. Were there other</b></p> <p>23 <b>experts designated? I can't recall who all is involved</b></p> <p>24 <b>in this case.</b></p> <p>25    Q. You've got Paul Taylor, a stats guy.</p> </div> </div>

1 Laurentias Morias (phonetic) is a stats guy.  
 2 **A. I can't recall talking to those two.**  
 3 MR. JAMES BUTLER: Nathan Dorris.  
 4 Q. (BY MR. JEB BUTLER) Yes, Nathan Dorris  
 5 doing the warnings.  
 6 **A. I can't recall talking to him.**  
 7 Q. All right. Bennett, you said you've  
 8 spoken to one or two times. Did you speak in person  
 9 using a web conference-type medium, on the phone, or  
 10 how?  
 11 **A. It was on the phone.**  
 12 Q. When?  
 13 **A. Oh, the one that I can recall was about a**  
 14 **month ago.**  
 15 Q. Okay. How long did you-all talk?  
 16 **A. I think about a half an hour.**  
 17 Q. What did you discuss?  
 18 **A. My impact speeds and Delta Vs and vehicle**  
 19 **damage.**  
 20 Q. Okay. What did he tell you?  
 21 **A. I think it was mostly us talking, telling**  
 22 **him what our speeds were.**  
 23 Q. Did he tell you anything about the work  
 24 he'd done on the case or conclusions he had reached?  
 25 **A. No. I think the purpose of the call was**

1 **for us to tell him what impact speeds, Delta Vs, damage**  
 2 **to the vehicle, and rotation of the vehicle, were his**  
 3 **primary interests for the call.**  
 4 Q. Okay. What did you tell him with regard  
 5 to the forces to which [REDACTED] [REDACTED] was subjected  
 6 in this crash?  
 7 **A. Well, I recall telling him, you know, that**  
 8 **we had high impact speeds, and that the forces of the**  
 9 **collision acted on the seat-back of the rear seat,**  
 10 **displacing the rear seat. So I think those were kind**  
 11 **of the main issues with regards to the call, that there**  
 12 **was actual seat-back displacement and movement of that**  
 13 **seat-back.**  
 14 Q. How did you quantify the forces to which  
 15 [REDACTED] [REDACTED] was subjected in this wreck?  
 16 **A. I didn't tell him anything about the**  
 17 **forces. All I told him about was the speeds, the**  
 18 **general ranges of the speeds, and that the deformation**  
 19 **of the Jeep intruded into the occupant space deforming**  
 20 **the seat-back forward.**  
 21 Q. Okay.  
 22 **A. And we talked about rotation, that there**  
 23 **was significant rotation of the vehicle there in the**  
 24 **accident, one-and-a-half rotations.**  
 25 Q. Yes. What did you tell him about

1 [REDACTED] [REDACTED] occupant kinematics during the  
 2 wreck?  
 3 **A. We talked about the fact that he would**  
 4 **move rearward, and during the spinning, the vehicle**  
 5 **would move towards the right, and he would move**  
 6 **relative to that spinning inboard.**  
 7 Q. So you told Dr. Bennett that [REDACTED]  
 8 [REDACTED] would have had a tendency to move inboard during  
 9 the spinning of the Jeep?  
 10 **A. Yes.**  
 11 Q. What else?  
 12 **A. That his body would be subject to the**  
 13 **intrusion of the impacting vehicle, the Dakota, and**  
 14 **that that intrusion deformed the seat-back and pushed**  
 15 **it forward. And the forces of the collision would be**  
 16 **amplified because of the intrusion.**  
 17 Q. What did you tell him about any impacts to  
 18 [REDACTED] [REDACTED] head?  
 19 **A. I don't think I had any opinions with**  
 20 **regards to that.**  
 21 Q. Did anything strike [REDACTED] [REDACTED]  
 22 head?  
 23 **A. I don't know.**  
 24 Q. Is that important?  
 25 **A. Not from my analysis.**

1 Q. Your analysis includes occupant  
 2 kinematics?  
 3 **A. Yes.**  
 4 Q. We'll get back to all that fun stuff  
 5 later. That was one conversation with Dr. Bennett.  
 6 You said there might have been one more, but you  
 7 weren't sure. When would that have occurred, or what  
 8 do you recall about it?  
 9 MR. BRANTLEY: Object to the form of the  
 10 question.  
 11 **A. Again, I don't recall a prior conversation**  
 12 **with him, and I don't know when that might have**  
 13 **occurred. I just know that throughout the two years**  
 14 **that I've worked on the case, we may have had some**  
 15 **conference calls with the client, just to give him an**  
 16 **update as to the progress of the case, and other**  
 17 **experts may have been on those calls. I don't recall.**  
 18 Q. (BY MR. JEB BUTLER) Okay. What about  
 19 Olson? I think you said you-all had spoken two to  
 20 three times. Once, I presume, was at the vehicle  
 21 inspection; is that right?  
 22 **A. That's correct, yes.**  
 23 Q. What are the other one or two?  
 24 **A. That's the only time I can recall. He was**  
 25 **not on the conference call with Dr. Bennett, at least I**

<div>Page 82</div> <p>1 don't remember him being on that call. And I think</p> <p>2 there may have been a prior call. I don't recall the</p> <p>3 exact date with regards to where we were with our</p> <p>4 impact speeds and Delta Vs.</p> <p>5 Q. Do you recall the approximate date of that</p> <p>6 call regarding impact speeds and Delta Vs, with Olson?</p> <p>7 A. No.</p> <p>8 Q. Do you recall what you discussed, other</p> <p>9 than impact speeds and Delta Vs?</p> <p>10 A. No.</p> <p>11 Q. You mentioned conference calls with your</p> <p>12 client. Who all -- first off, how many were there?</p> <p>13 A. I don't recall. Perhaps I should look in</p> <p>14 the billing. It might say client correspondence. When</p> <p>15 I try to log those, I think I say -- there's a -- our</p> <p>16 software has drop-down menus where you can pick what</p> <p>17 you're doing, so either engineering analysis or debrief</p> <p>18 with client. That's usually the one I pick, is the</p> <p>19 debrief with the client. So I could look through the</p> <p>20 records and see when the debriefs occurred and go</p> <p>21 through those.</p> <p>22 Q. Sure. That would be great. Let's go off</p> <p>23 the record, and you can do that and take your time, and</p> <p>24 I'll see what else I have to get through.</p> <p>25 (Pause.)</p>	<div>Page 84</div> <p>1 Q. And when you say with your client, who are</p> <p>2 you referring to? Who was on the phone?</p> <p>3 A. Probably Diane Owens.</p> <p>4 Q. Any other lawyers?</p> <p>5 A. Perhaps Mr. Brantley.</p> <p>6 Q. Anyone other than folks at Swift Currie?</p> <p>7 A. Again, there may have been other experts,</p> <p>8 but I don't recall. But I don't think any other</p> <p>9 attorneys -- or I think you said there was somebody in</p> <p>10 D.C. that is involved in this case. I don't recall who</p> <p>11 that is or if she was on.</p> <p>12 Q. Her name is Erika Jones.</p> <p>13 A. She may have been on the call.</p> <p>14 Q. Have there been any other conference calls</p> <p>15 in this case, other than the ones on August 16, 2012</p> <p>16 and April 5, 2013 in which you've been involved?</p> <p>17 A. No, not that I recall.</p> <p>18 Q. Okay. Have you done -- worked on cases</p> <p>19 before in which Thomas Bennett was involved?</p> <p>20 A. Yes.</p> <p>21 Q. How many times?</p> <p>22 A. I can recall a handful of cases that he's</p> <p>23 been involved.</p> <p>24 Q. Is that around five?</p> <p>25 A. Yes.</p>
<div>Page 83</div> <p>1 A. Okay. You ready?</p> <p>2 Q. All right. Let's go.</p> <p>3 A. Thanks. I see two entries for client</p> <p>4 correspondence. One is on August 16, 2012, so there</p> <p>5 may have been a discussion with other experts on the</p> <p>6 call. I don't recall that, because that was so early</p> <p>7 in the case. I think that's the first time that there</p> <p>8 was any discussion. I don't know if any other experts</p> <p>9 were on. I would doubt it.</p> <p>10 Q. But is 8/16/12 an occasion when you spoke</p> <p>11 with your client?</p> <p>12 A. Yeah. It says, "Client Correspondence."</p> <p>13 And usually that's -- I would think that that would be</p> <p>14 discussions with the client.</p> <p>15 Q. Okay. There may have been experts on the</p> <p>16 phone in addition to you, but there may not have been?</p> <p>17 A. Correct. And then another one that says,</p> <p>18 "Debrief," which is on April 5, 2013. It says,</p> <p>19 "Debrief/Discussion of Material."</p> <p>20 Q. All right. Would that have been another</p> <p>21 conference call with your client?</p> <p>22 A. Perhaps.</p> <p>23 Q. All right. Were there any other experts</p> <p>24 on the phone?</p> <p>25 A. Not that I recall.</p>	<div>Page 85</div> <p>1 Q. How about Jon Olson?</p> <p>2 A. I would say probably 15 to 20.</p> <p>3 Q. All right. Laurentias Morias?</p> <p>4 A. I don't know who that is.</p> <p>5 Q. Paul Taylor? Exponent, statistics?</p> <p>6 Doesn't any of that ring a bell?</p> <p>7 A. It does ring a bell, but I can't recall</p> <p>8 ever being on a case with him.</p> <p>9 Q. Nathan Dorris?</p> <p>10 A. I can't ever recall being on a case with</p> <p>11 him.</p> <p>12 Q. Have you been involved in cases before --</p> <p>13 A. Wait. Is Nathan -- is that the younger</p> <p>14 one or the older one?</p> <p>15 Q. I think he's the younger one. I believe</p> <p>16 he's -- I can't remember.</p> <p>17 MR. BRANTLEY: He's the younger one.</p> <p>18 A. Is he the younger one? Okay. One case</p> <p>19 I've been on with him.</p> <p>20 Q. (BY MR. JEB BUTLER) These cases you've</p> <p>21 been involved in with Bennett, do any of them -- strike</p> <p>22 that.</p> <p>23 Of the cases you worked on with Thomas</p> <p>24 Bennett, did any involve fire?</p> <p>25 A. I think they all did.</p>

<div>Page 86</div> <p>1 Q. All right. Any of them Jeep cases, to the</p> <p>2 best of your recollection?</p> <p>3 <b>A. No, I don't think any of the others were</b></p> <p>4 <b>Jeep cases.</b></p> <p>5 Q. In any of those -- strike that.</p> <p>6 Do you recall in any of those other five</p> <p>7 cases that you and Thomas Bennett worked, on any case</p> <p>8 where he did not find evidence of a diffuse axonal</p> <p>9 injury?</p> <p>10 <b>A. I don't know what that is, and I wouldn't</b></p> <p>11 <b>know whether he did or didn't.</b></p> <p>12 Q. Jon Olson, of the cases that you worked on</p> <p>13 with him, did any of them involve fire?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. All of them, most of them?</p> <p>16 <b>A. I would say most of them.</b></p> <p>17 Q. In any of the cases that you worked on</p> <p>18 with Jon Olson, did he conclude that the vehicle at</p> <p>19 issue was defective?</p> <p>20 <b>A. I don't know.</b></p> <p>21 Q. Have you been involved in a case where</p> <p>22 Bryant Buchner was involved, before this one?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. How many times?</p> <p>25 <b>A. I can only recall one.</b></p>	<div>Page 88</div> <p>1 MR. BRANTLEY: Object to the form of the</p> <p>2 question.</p> <p>3 <b>A. I don't know what that means. I mean, I</b></p> <p>4 <b>guess we can go into the details.</b></p> <p>5 Q. (BY MR. JEB BUTLER) We'll get there.</p> <p>6 <b>A. So let's get into the details, and then</b></p> <p>7 <b>you can make that determination yourself.</b></p> <p>8 Q. Do you think he's qualified?</p> <p>9 <b>A. I don't know.</b></p> <p>10 Q. How about Charles Benedict? Have you ever</p> <p>11 been involved in a case where he was involved?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. How many times?</p> <p>14 <b>A. Probably a handful.</b></p> <p>15 Q. Around five?</p> <p>16 <b>A. Probably five to ten, so two handfuls. I</b></p> <p>17 <b>don't know. I don't keep track of those statistics.</b></p> <p>18 Q. All right. Materials reviewed in this</p> <p>19 case. I think you had a sheet in one of your folders</p> <p>20 that did a pretty good job of summarizing all this.</p> <p>21 <b>A. Yes. It's in a notebook titled "Provided</b></p> <p>22 <b>Materials."</b></p> <p>23 Q. Great. Thank you. And I note that in</p> <p>24 this gray notebook there's a thing here called</p> <p>25 "Exhibit A. List of Provided Materials"?</p>
<div>Page 87</div> <p>1 Q. Is Buchner an expert who's generally</p> <p>2 respected in the field?</p> <p>3 MR. BRANTLEY: Objection to the form of</p> <p>4 the question.</p> <p>5 <b>A. I don't know.</b></p> <p>6 Q. (BY MR. JEB BUTLER) You don't know?</p> <p>7 <b>A. I don't know.</b></p> <p>8 Q. Okay. Fred Arndt?</p> <p>9 <b>A. What about him?</b></p> <p>10 Q. Have you ever been involved in a case</p> <p>11 where Fred Arndt was also involved?</p> <p>12 <b>A. I can't recall any.</b></p> <p>13 Q. How about Joe Burton?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. How many times?</p> <p>16 <b>A. I'd probably say a handful.</b></p> <p>17 Q. Around five?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Are Fred Arndt and Joe Burton experts</p> <p>20 respected in their field?</p> <p>21 MR. BRANTLEY: Object to the form of the</p> <p>22 question.</p> <p>23 <b>A. I don't know.</b></p> <p>24 Q. (BY MR. JEB BUTLER) Do you personally</p> <p>25 respect the work of Bryant Buchner?</p>	<div>Page 89</div> <p>1 <b>A. Yeah. That one is kind of broken. I</b></p> <p>2 <b>broke it.</b></p> <p>3 Q. It's all right. It's still pretty good.</p> <p>4 (Deposition Exhibit 9 was marked.)</p> <p>5 Q. Have I now removed and marked as</p> <p>6 Plaintiffs' Exhibit 9 your list -- it says, "Appendix</p> <p>7 A, List of Provided Materials"?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Does that contain -- is that -- strike</p> <p>10 that.</p> <p>11 Does Plaintiffs' Exhibit 9 list all of the</p> <p>12 materials that you reviewed in connection with this</p> <p>13 case?</p> <p>14 <b>A. Yes, I believe so.</b></p> <p>15 Q. All right. Did you review everything on</p> <p>16 Plaintiffs' Exhibit 9?</p> <p>17 <b>A. Yes -- well, my staff has; some of these</b></p> <p>18 <b>things in here, I have not myself.</b></p> <p>19 Q. Okay. What about the -- lay it here so I</p> <p>20 can look at it.</p> <p>21 <b>A. Sure.</b></p> <p>22 Q. What about the deposition transcripts</p> <p>23 listed here? Have you reviewed all those personally or</p> <p>24 reviewed summaries of those depositions?</p> <p>25 <b>A. I have not reviewed all of them</b></p>



1 personally, no.

2 Q. As to the ones you haven't reviewed  
3 personally, have you reviewed summaries of those  
4 depositions?

5 A. Some of them I have -- well, no, I don't  
6 think there have been any summaries. The ones that I  
7 believe that were pertinent I reviewed, and others I  
8 was told weren't pertinent.

9 Q. Do you know who Kelly Alber is?

10 A. No.

11 Q. Okay. Let's go through. Did you review  
12 the depositions of the officers involved in creating  
13 the SCRT report? And by "SCRT," I mean the report,  
14 voluminous report, by the Georgia Specialized Collision  
15 Reconstruction Team?

16 A. No.

17 Q. Does that mean you did not review the  
18 deposition of Keith Butterworth or Steven Fallin?

19 A. That's correct. I have not.

20 Q. Nor have you reviewed summaries of them?

21 A. Correct.

22 Q. I think you said there have been no  
23 summaries created of any of these?

24 A. Correct.

25 Q. As to the -- the fireman involved in

1 pertinent or not.

2 Q. Okay. Do you feel like you and your team  
3 have synthesized all the relevant information from the  
4 depositions listed on Plaintiffs' Exhibit 9?

5 A. Yes.

6 Q. Have you reviewed the Calspan report in  
7 this case?

8 A. Yes.

9 Q. SCRT report?

10 A. Yes.

11 Q. By "SCRT," you know what I mean?

12 A. Yes.

13 Q. The autopsy report?

14 A. Not if it hasn't been part of the SCRT  
15 or -- I don't even remember seeing the SCRT report.  
16 So, no, I don't remember seeing it.

17 Q. Have you reviewed the photographs that  
18 accompanied the SCRT report?

19 A. Yes.

20 Q. Photographs that accompanied the autopsy  
21 report?

22 A. I don't remember seeing any autopsy  
23 photos.

24 Q. I know you've reviewed the State Patrol  
25 report, because I saw a highlighted copy in one of your

1 responding to the scene, did you review their  
2 depositions?

3 A. No.

4 Q. So that would mean you hadn't reviewed the  
5 depositions of Brandon Draper or Kenneth King or Doyle  
6 Welch; is that right?

7 A. That's correct. Only members of my staff  
8 have, but I have not. I read the depositions of  
9 Mr. Arndt, Mr. Buchner, [REDACTED] and [REDACTED]

10 [REDACTED]  
11 Q. How do members of your staff -- if someone

12 on your staff -- well, first off, who on your staff  
13 would have reviewed those depositions?

14 A. It would have been either Will Bortles or  
15 members of his team. He managed the case, so . . .

16 Q. What does it mean to manage the case?

17 A. Well, he manages the daily activities of  
18 the case. So he will manage a team of engineers and/or  
19 technicians to get the case in order. And then he and  
20 I and/or other members of the staff will sit down and  
21 discuss the case, as far as what do certain depositions  
22 say, what do other experts' file materials contain, so  
23 they -- you know, what do other exhibits say within the  
24 materials that were sent to us from, say, Arndt or  
25 Chrysler have to do with the case and whether they're

1 binders; is that right?

2 A. Yes.

3 Q. The fire department report, have you  
4 reviewed that?

5 A. I'd have to take a look.

6 Q. My recollection is it's a very short  
7 report, if that helps you.

8 A. There's a chance I'm misremembering and  
9 there is no such thing. Is it in there?

10 Q. I did not see it, but I also didn't see  
11 things like the original trooper report.

12 A. Oh, that's not listed on there? Right up  
13 there at the top.

14 Q. Okay.

15 A. So it says, "State of Georgia Traffic  
16 Crash Report," and then the SCRT report. I don't see a  
17 fire department report, but there are a lot of forms in  
18 here that are part of the SCRT and the traffic  
19 collision report, so it may be included in there. I  
20 don't recall it being a separate document. There's  
21 some report in here about DCFR.

22 Q. Decatur County Fire Rescue?

23 A. And then an apparatus resource log. So I  
24 think that that's probably part of the --

25 Q. Have you reviewed that?

<div data-bbox="730 174 794 195" data-label="Page-Header">Page 94</div> <p>1       <b>A. Yes. I mean, I've looked at this.</b></p> <p>2       Q. Okay.</p> <p>3       <b>A. It's part of my file; so, yes.</b></p> <p>4       Q. You have looked at the Decatur County Fire</p> <p>5 Rescue report, then?</p> <p>6       <b>A. Yes. It was part of the SCRT report.</b></p> <p>7       Q. Okay. Your areas of opinions. I think</p> <p>8 I've gathered we're doing reconstruction kinematics,</p> <p>9 OSIs. And what other areas do you anticipate providing</p> <p>10 expertise in this case?</p> <p>11       <b>A. I think everything fits in one of those</b></p> <p>12 <b>categories.</b></p> <p>13       Q. Biomechanical opinions?</p> <p>14       <b>A. No.</b></p> <p>15       Q. Statistical?</p> <p>16       <b>A. No.</b></p> <p>17       Q. Opinions as to defect?</p> <p>18       <b>A. No.</b></p> <p>19       Q. You had a very clean summary of your</p> <p>20 reconstruction at the front of that notebook, I think.</p> <p>21       (Deposition Exhibit 10 was marked.)</p> <p>22       Q. I've now taken a document marked "Primary</p> <p>23 Preliminary Opinions," dated July 25th, and marked it</p> <p>24 as Plaintiffs' Exhibit 10; is that right?</p> <p>25       <b>A. Yes.</b></p>	<div data-bbox="1352 174 1416 195" data-label="Page-Header">Page 96</div> <p>1       Q. Well, you've already calculated the energy</p> <p>2 involved in this collision, right?</p> <p>3       <b>A. Yes. I'm using kinetic energy.</b></p> <p>4       Q. How about opinions 1, 2, and 4? Are those</p> <p>5 final or preliminary?</p> <p>6       <b>A. Final.</b></p> <p>7       Q. I note in 2 that you've said that the Jeep</p> <p>8 was either stopped or slowly moving at the time of the</p> <p>9 wreck.</p> <p>10       <b>A. Yes.</b></p> <p>11       Q. Can you tell which it was?</p> <p>12       <b>A. Well, we have the testimony of [REDACTED]</b></p> <p>13 <b>[REDACTED] herself, who says that she was stopped, and</b></p> <p>14 <b>[REDACTED] says that she was also stopped, so I</b></p> <p>15 <b>think that physically that is possible. However, based</b></p> <p>16 <b>on crash tests for the vehicles involved, the reported</b></p> <p>17 <b>crash test data results in a speed that's higher than</b></p> <p>18 <b>zero, closer to 4 to 6 miles an hour. But those crash</b></p> <p>19 <b>tests that were run are full overlap crash tests,</b></p> <p>20 <b>meaning that the entire front of the vehicles are</b></p> <p>21 <b>engaging. And the response that a vehicle has in</b></p> <p>22 <b>overlap collisions is different sometimes than full</b></p> <p>23 <b>overlap. So if the stiffness of the vehicle is greater</b></p> <p>24 <b>in an overlap collision, then the testimony of both</b></p> <p>25 <b>those drivers that they were stopped would fit with</b></p>
<div data-bbox="730 1077 794 1098" data-label="Page-Header">Page 95</div> <p>1       Q. Why are they preliminary?</p> <p>2       <b>A. Because the opinions of Arndt have not</b></p> <p>3 <b>been finalized.</b></p> <p>4       Q. You understand that Arndt's second</p> <p>5 deposition is likely to deal only with other similar</p> <p>6 incidents?</p> <p>7       <b>A. Yes.</b></p> <p>8       Q. So subject to what you may learn after</p> <p>9 reviewing that second deposition, is there any other</p> <p>10 reason that these opinions are marked as preliminary on</p> <p>11 Plaintiffs' Exhibit 10?</p> <p>12       <b>A. Well, I know that he talks about, you</b></p> <p>13 <b>know, the energy between this accident and other</b></p> <p>14 <b>accidents. So I think we have the energy issue and the</b></p> <p>15 <b>OSI issue that he discusses in his deposition. So</b></p> <p>16 <b>until he's complete with those opinions, I won't be</b></p> <p>17 <b>complete with my opinions.</b></p> <p>18       Q. I notice on emuneration (sic) -- well,</p> <p>19 strike that.</p> <p>20       Is there anything preliminary about the</p> <p>21 opinions enumerated 1 through 4 on Plaintiffs'</p> <p>22 Exhibit 10, are or those opinions final</p> <p>23       <b>A. Well, 3 talks about energy, so I would say</b></p> <p>24 <b>that those are preliminary and may change depending on</b></p> <p>25 <b>the testimony of Mr. Arndt.</b></p>	<div data-bbox="1352 1077 1416 1098" data-label="Page-Header">Page 97</div> <p>1 <b>physical evidence that would support the fact the</b></p> <p>2 <b>vehicles are stiffer in an overlap condition.</b></p> <p>3       Q. There's a good bit of that involved,</p> <p>4 frankly. We'll go back through it, as you knew we</p> <p>5 would. You said at the beginning that, in your view,</p> <p>6 it's possible that the Jeep was stopped at the time of</p> <p>7 the collision; is that right?</p> <p>8       <b>A. Yes.</b></p> <p>9       Q. Is it also in your view possible that the</p> <p>10 Jeep was moving at the time of the collision?</p> <p>11       <b>A. Yes.</b></p> <p>12       Q. Does the physical evidence tend to</p> <p>13 indicate that the Jeep was moving at the time of the</p> <p>14 collision?</p> <p>15       <b>A. The physical evidence that we have, such</b></p> <p>16 <b>as -- specifically, I'm talking about the crash test --</b></p> <p>17 <b>because we have only full frontal crash test data, only</b></p> <p>18 <b>using that data supports the notion or the opinion that</b></p> <p>19 <b>the vehicles -- that the Jeep was moving at the time of</b></p> <p>20 <b>impact.</b></p> <p>21       Q. Okay.</p> <p>22       <b>A. But that crash test data, again, is full</b></p> <p>23 <b>overlap. And in our accident, we have partial overlap.</b></p> <p>24       Q. Sometimes people call it offset?</p> <p>25       <b>A. An offset impact, yes.</b></p>

<div>Page 98</div> <p>1 Q. What's the percentage offset?</p> <p>2 <b>A. It's about 50 percent.</b></p> <p>3 Q. Is it fair to say, based on the physical</p> <p>4 evidence that we have, it is more likely that the Jeep</p> <p>5 was moving at the time of the collision?</p> <p>6 <b>A. Yes. And I want to be clear, physical</b></p> <p>7 <b>evidence meaning the crash tests. The physical</b></p> <p>8 <b>evidence at the scene and the damage to the vehicles,</b></p> <p>9 <b>just using that information can't tell you whether the</b></p> <p>10 <b>vehicle was moving or not, so you need to dig further</b></p> <p>11 <b>into that determination. So when we dug further into</b></p> <p>12 <b>it and analyzed the crash tests, what we found were</b></p> <p>13 <b>that there were only full overlap crash tests that</b></p> <p>14 <b>would allow us to determine whether they were stopped</b></p> <p>15 <b>or moving.</b></p> <p>16 <b>And those crash tests that we found were</b></p> <p>17 <b>full overlap, and the result from that analysis was</b></p> <p>18 <b>that the vehicle -- the Jeep was moving at the time of</b></p> <p>19 <b>impact. But if we had overlap crash tests, we found</b></p> <p>20 <b>that it's possible that the data could tell us that the</b></p> <p>21 <b>vehicles are stiffer in that offset mode when they</b></p> <p>22 <b>are -- when the vehicles are offset, and that if the</b></p> <p>23 <b>vehicles are stiffer under that load, the testimony of</b></p> <p>24 <b>the witnesses could be consistent with the fact that</b></p> <p>25 <b>they're stopped.</b></p>	<div>Page 100</div> <p>1 to roadway?</p> <p>2 <b>A. Jeep compared to roadway.</b></p> <p>3 Q. All right. At the time of initial impact,</p> <p>4 do you believe the Jeep was lined up perfectly with the</p> <p>5 roadway, or was it at an angle with the direction of</p> <p>6 the roadway?</p> <p>7 <b>A. Pretty close to in line with the roadway.</b></p> <p>8 <b>I haven't quantified any -- any difference in</b></p> <p>9 <b>alignment. But as you can see here in this graphic, we</b></p> <p>10 <b>have the Jeep almost, you know, pretty straight in the</b></p> <p>11 <b>lane.</b></p> <p>12 Q. Okay. What was the angle of the tire --</p> <p>13 front tires of the Jeep at the time of initial impact?</p> <p>14 <b>A. We don't know for certain, but I have a</b></p> <p>15 <b>feeling, just based on the rotation evidence,</b></p> <p>16 <b>basically, this Jeep rotated very quickly at impact.</b></p> <p>17 <b>To get it to rotate that quickly, I have an opinion she</b></p> <p>18 <b>was -- most likely had her wheels turned towards the</b></p> <p>19 <b>left.</b></p> <p>20 Q. So the wheels were probably turned towards</p> <p>21 the left at the time of initial impact?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. And then the Dodge Dakota here, I'm</p> <p>24 looking at -- we should mark it.</p> <p>25 (Deposition Exhibit 11 was marked.)</p>
<div>Page 99</div> <p>1 Q. Okay. So if the vehicles are stiffer in</p> <p>2 the offset mode, then it's possible that the Jeep was</p> <p>3 stopped at the time of the collision?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Based on the physical evidence that we</p> <p>6 have, including the scene evidence, damage to the</p> <p>7 vehicles, and the full overlap crash tests, it is more</p> <p>8 probable the Jeep was moving at the time of the</p> <p>9 collision. Is that fair?</p> <p>10 <b>A. That's correct.</b></p> <p>11 Q. Okay. The -- what about the angle of the</p> <p>12 Jeep with the roadway? Let me ask a real question. So</p> <p>13 strike that.</p> <p>14 At the time of the collision, was the Jeep</p> <p>15 lined up with the roadway or at an angle with the</p> <p>16 roadway?</p> <p>17 <b>A. At first contact, I believe they were</b></p> <p>18 <b>fairly in line with each other, and that as they</b></p> <p>19 <b>proceeded to maximum engagement, where basically most</b></p> <p>20 <b>of the deformation, at least static deformation that we</b></p> <p>21 <b>measured on the vehicles occurred, they were at an</b></p> <p>22 <b>angle with each other.</b></p> <p>23 Q. Okay. So at initial impact, do you think</p> <p>24 the vehicles -- you talked about alignment. Are you</p> <p>25 talking about Dakota compared to Jeep or Jeep compared</p>	<div>Page 101</div> <p>1 Q. You've handed me a diagram, which I've now</p> <p>2 marked as Plaintiffs' Exhibit 11; is that right?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Based on that, it looks like your</p> <p>5 conclusion is that the Dodge Dakota was almost in line</p> <p>6 with the roadway, but not quite, at the time of initial</p> <p>7 impact. Is that fair?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. All right. We'll get into some more of</p> <p>10 this stuff. And I'll start with an overview.</p> <p>11 MR. JAMES BUTLER: When did you propose to</p> <p>12 break for lunch?</p> <p>13 MR. JEB BUTLER: I'm having a great time,</p> <p>14 but I know everyone else is probably sitting here</p> <p>15 hungry. It doesn't matter to me. We can do it now, if</p> <p>16 you want to.</p> <p>17 MR. JAMES BUTLER: I defer to the</p> <p>18 consensus.</p> <p>19 MR. BRANTLEY: I defer to the deponent.</p> <p>20 THE DEPONENT: I'm not hungry right now.</p> <p>21 MR. JEB BUTLER: Well, let's go a little</p> <p>22 while longer. We might just order lunch. You want to</p> <p>23 do that, or do you want to go out on the mall? Can we</p> <p>24 go off the record for a minute.</p> <p>25 (Discussion off the record.)</p>

<div>Page 102</div> <p>1 (Recess taken, 12:23 p.m. to 12:26 p.m.)</p> <p>2 (Deposition Exhibit 12 was marked.)</p> <p>3 Q. (BY MR. JEB BUTLER) Mr. Fenton, I'm</p> <p>4 marking now as Plaintiffs' Exhibit 12, a document that</p> <p>5 is an exhibit to Buchner's deposition; specifically, it</p> <p>6 was Exhibit 4. Does that look to you like Buchner's</p> <p>7 diagram?</p> <p>8 A. Yes.</p> <p>9 Q. Tell us what you disagree with on this</p> <p>10 diagram.</p> <p>11 A. I haven't studied this diagram in detail,</p> <p>12 but in a general sense, as an overview, I think he</p> <p>13 reports that this is first contact, which I would</p> <p>14 disagree that it's first contact. It looks like</p> <p>15 maximum penetration to me, because he's got the back</p> <p>16 end of the Jeep deformed. So his angle looks greater</p> <p>17 than our angle at maximum penetration.</p> <p>18 Q. By the angle, do you mean the angle of</p> <p>19 Jeep to the roadway?</p> <p>20 A. Yes.</p> <p>21 Q. I'm going to circle what I think you're</p> <p>22 pointing to on Plaintiffs' 12. Is this it</p> <p>23 (indicating)?</p> <p>24 A. Yes.</p> <p>25 Q. In other words, with respect to</p>	<div>Page 104</div> <p>1 detail to say that I agree with everything in this</p> <p>2 exhibit, except for the fact that I'm -- I have seen</p> <p>3 his orientation at impact and believe that we have a</p> <p>4 difference in opinion with regards to that orientation.</p> <p>5 But I haven't studied the rest, as far as the other</p> <p>6 positions that are shown.</p> <p>7 Q. Let me go through just some of the basics</p> <p>8 on Plaintiffs' 12. Do you agree that the Jeep rotated</p> <p>9 approximately one-half times after the collision?</p> <p>10 A. Yes.</p> <p>11 Q. Do you agree with the approximate path of</p> <p>12 the Dodge Dakota there?</p> <p>13 A. Yes.</p> <p>14 Q. Are the endpoints for the Jeep and the</p> <p>15 Dodge Dakota, I'll say, grossly correct; that is, just</p> <p>16 as you look at it, are they at about the right spots?</p> <p>17 A. It appears to be, yes.</p> <p>18 Q. Did the Dakota and Jeep achieve a common</p> <p>19 velocity in this collision?</p> <p>20 A. Yes.</p> <p>21 Q. That is to say it was a synchronized</p> <p>22 collision in your view?</p> <p>23 A. I don't know what that means.</p> <p>24 Q. Okay. What do you mean when you say they</p> <p>25 achieved a common velocity?</p>
<div>Page 103</div> <p>1 Plaintiffs' Exhibit 12 and what's circled, you think</p> <p>2 that the angle that Mr. Buchner has the Jeep drawn to</p> <p>3 the roadway is too much of an angle?</p> <p>4 A. Yes.</p> <p>5 Q. And then I think you also said that the</p> <p>6 circled point on Plaintiffs' Exhibit 12 to you</p> <p>7 represents of point of maximum deformation, rather than</p> <p>8 the point of initial impact.</p> <p>9 A. To be precise, I think maximum engagement.</p> <p>10 Q. Maximum engagement, okay.</p> <p>11 A. So it's a little unclear if this is his</p> <p>12 position at first contact or at maximum engagement or</p> <p>13 whether those are the same. I don't believe that they</p> <p>14 would be the same. First contact would be when they</p> <p>15 first touch. Maximum engagement, when they're</p> <p>16 completely overlapping each other and their damage</p> <p>17 profiles match. So that's what I have shown in my</p> <p>18 analysis as first contact and then maximum engagement.</p> <p>19 And I haven't seen any documents where he shows those</p> <p>20 two distinctly. So perhaps he's considering them to be</p> <p>21 the same, which would be an error.</p> <p>22 Q. Other than what we've just discussed, do</p> <p>23 you have any other disagreements with the depiction of</p> <p>24 the accident on Plaintiffs' Exhibit 12?</p> <p>25 A. I haven't studied it in great enough</p>	<div>Page 105</div> <p>1 A. That the vehicles' impact areas reached a</p> <p>2 common velocity during the collision, meaning that it's</p> <p>3 not a sideswipe collision. And so in a sideswipe</p> <p>4 collision, the vehicles won't reach a common velocity,</p> <p>5 meaning that the portions of the vehicles that are in</p> <p>6 contact with each other don't achieve the same velocity</p> <p>7 as they're going down the road. I don't believe this</p> <p>8 is a sideswipe-type collision. I think it's enough</p> <p>9 overlapped to where they reached a common velocity in</p> <p>10 the impact area.</p> <p>11 Q. Okay. I see. Do you think the center of</p> <p>12 gravity of the Jeep and the center of gravity of the</p> <p>13 Dakota ever reached common velocity?</p> <p>14 A. They don't necessarily have to. The</p> <p>15 impact areas, I believe, did, yes.</p> <p>16 Q. So the impact areas did. Do you believe</p> <p>17 the center of gravity of the Jeep and the CG of the</p> <p>18 Dakota reached a common velocity?</p> <p>19 A. I don't have an opinion with regards to</p> <p>20 that. I just know their areas of contact or their</p> <p>21 impact zones did reach a common velocity.</p> <p>22 Q. Okay. What's the probable direction of</p> <p>23 force in this wreck, in your opinion?</p> <p>24 A. Do you mean principal direction?</p> <p>25 Q. Yes, I do. Thank you.</p>

<p style="text-align: right;">Page 106</p> <p>1       <b>A. I know I have a graphic in here that shows</b>  2 <b>that. This is the graphic that shows the PDOF between</b>  3 <b>the two vehicles. And this is at maximum penetration.</b>  4 <b>So it's going to change from first contact to max pen;</b>  5 <b>but it doesn't change a lot, especially on the Jeep.</b>  6 <b>But I have it in this graphic at maximum penetration</b>  7 <b>coming in at 2 degrees from the rear.</b>  8           (Deposition Exhibit 13 was marked.)  9       <b>A. And so that 2 degrees that's shown there</b>  10 <b>on the diagram is the PDOF at maximum penetration.</b>  11       Q. I've just been describing -- or strike  12 that. I just marked the diagram you've been describing  13 as Plaintiffs' 13; is that right?  14       <b>A. Yes.</b>  15       Q. And this shows the vehicles at maximum  16 penetration, you said?  17       <b>A. Yes.</b>  18       Q. With principal direction of force of  19 2 degrees?  20       <b>A. Yes.</b>  21       Q. I have another illustration I wanted to  22 show you. You may recognize this as Exhibit 11 from  23 Fred Arndt's deposition. I'm going to mark it as  24 Plaintiffs' Exhibit 14 here in yours.  25           (Deposition Exhibit 14 was marked.)</p>	<p style="text-align: right;">Page 108</p> <p>1       Q. Okay. It looks like the images you've set  2 on here are taken from the actual wrecked vehicles; is  3 that right?  4       <b>A. Yes. That's from our 3D scan.</b>  5       Q. In terms of the way that the Jeep rotated  6 after collision, are you and Mr. Buchner in fairly  7 close agreement, or do you-all disagree significantly  8 with respect to that?  9       <b>A. I don't believe we disagree significantly</b>  10 <b>at all. I think there's a lot of commonality between</b>  11 <b>his understanding of the evidence and the vehicle's</b>  12 <b>orientation over the evidence.</b>  13       Q. How fast did the Jeep rotate?  14       <b>A. I'd have to take a look at our</b>  15 <b>spreadsheet. I don't know if we calculated that. But</b>  16 <b>we can calculate that, because we have the vehicle's</b>  17 <b>rotation shown in the spreadsheet, and we have a time</b>  18 <b>associated with that, so we can calculate how much it</b>  19 <b>rotated or what its rotation rate was.</b>  20       Q. If it's all right with you, I'll put -- on  21 Plaintiffs' Exhibit 3 I'll add speed of rotation of  22 Jeep, or should I put rate of rotation?  23       <b>A. Rate.</b>  24       Q. Rate of rotation. That's what you just  25 said you could calculate, right?</p>
<p style="text-align: right;">Page 107</p> <p>1       Q. Do you agree or disagree with the angle of  2 the vehicles immediately before impact is depicted in  3 the exhibit I just marked?  4       <b>A. I disagree with that orientation.</b>  5       Q. Is that because the Jeep in Plaintiffs'  6 Exhibit 14 is at too great an angle with the roadway,  7 in your opinion?  8       <b>A. Yes.</b>  9       Q. Any other reason?  10       <b>A. No.</b>  11       Q. Let's look through some of your file  12 materials. You've been pulling them out. And show me  13 what you prepared, in terms of your visual depictions  14 of this wreck.  15       <b>A. I think you'll find everything under the</b>  16 <b>tab "Accident Reconstruction." It's pretty thick. And</b>  17 <b>there's a lot of visual depictions of the accident and</b>  18 <b>damage to the vehicles.</b>  19       Q. All right. Did the Jeep ever strike the  20 light pole?  21       <b>A. No. Is that a light pole or a power pole?</b>  22       Q. I don't know if it's -- I think it may be  23 a power pole. It indicates it was not struck by the  24 Jeep. Is that true?  25       <b>A. Correct.</b></p>	<p style="text-align: right;">Page 109</p> <p>1       <b>A. Yes.</b>  2       Q. All right. What effect on the -- strike  3 that.  4           How does the rotation of the Jeep affect  5 the motion of [REDACTED] body?  6       <b>A. The Jeep is going to rotate to the right</b>  7 <b>counterclockwise. And that rotation to the right,</b>  8 <b>relative to the occupants inside, or especially</b>  9 <b>[REDACTED] in the rear-right position in the vehicle, is</b>  10 <b>going to cause him to move inboard and rearward.</b>  11       Q. Inboard means toward the center of the  12 Jeep, right?  13       <b>A. Yes.</b>  14       Q. And rearward, you mentioned something  15 about his seat-back. Did you say his seat-back failed?  16       <b>A. No.</b>  17       Q. Okay. I would have been surprised if you  18 had, but I was trying to remember what you said.  19       <b>A. Deformed.</b>  20       Q. Okay, deformed. You said that [REDACTED]  21 was moving back, I think?  22       <b>A. Yes.</b>  23       Q. He's got a seat-back behind him, so  24 what's -- how is it significant that he's moving back?  25       <b>A. Well, the vehicle is being impacted from</b></p>

1 the rear. So the vehicle is going to move out from  
2 underneath him forward. So he, relative to the  
3 vehicle, is going to move backwards, relative to the  
4 vehicle, because the vehicle is moving forward.

5 Q. How far back did he move?

6 A. Well, the forces of the collision are  
7 going to move the vehicle forward, so he's going to be  
8 up against the seat-back. But then what happens, and I  
9 think what I was talking specifically about, is the  
10 fact the intrusion into the vehicle was such that it --  
11 the Dodge deformed portions of the seat-back, pushing  
12 the seat-back forward in the collision.

13 Q. Did the Dodge actually strike the rear of  
14 the seat -- strike that.

15 Did the Dodge actually strike the rear  
16 seat-back in the Grand Cherokee?

17 A. No. It wasn't direct contact. Basically,  
18 the piling up of the material of the Jeep as it's being  
19 pushed forward continues forward to such a degree that  
20 it pushes the seat-back of the rear seat forward and  
21 causes deformation to the rear seat-back.

22 Q. So the seat-back in the rear of the seat  
23 of the Grand Cherokee actually moved forward relative  
24 to the rest of the vehicle?

25 A. That's correct.

1 Q. I see. So what kind of accelerations or  
2 decelerations would [REDACTED] have experienced  
3 as a result of this wreck?

4 A. The accelerations that he and his -- well,  
5 his body are going to experience are going to be far  
6 greater than just the acceleration of the vehicle. So  
7 when a -- when a vehicle experiences a change of  
8 velocity during a collision, occupants inside will  
9 experience accelerations, just due to the fact the  
10 vehicle is moving. But then when components of the  
11 vehicle deform and actually act on the body of the  
12 occupant inside, then those accelerations are going to  
13 be significantly higher.

14 Q. How high?

15 A. And I can't quantify those for you. These  
16 are just discussions that I had with regards to the  
17 movement of the occupants in the vehicle with  
18 Dr. Bennett, explaining to him what I saw during my  
19 vehicle inspection, as far as the deformation of the  
20 seat-back and how that would affect the occupant in  
21 that seated position.

22 Q. Is Dr. Bennett going to be able to  
23 quantify how much acceleration or deceleration  
24 [REDACTED] experienced?

25 A. I don't know.

1 Q. Did he tell you on the phone?

2 A. No.

3 Q. Did he tell you what the minimum was for  
4 the injury threshold?

5 A. No.

6 Q. So what -- you've said that you have --  
7 what was the Delta V of the Jeep in this wreck?

8 A. Between 24 and 30 miles an hour. Can I  
9 have the notebook back? I just want to make sure I'm  
10 reporting the right values for you.

11 Q. Mark that page, if you would.

12 A. Shoot. I think I missed it. Did we get  
13 through there?

14 Q. Yes. I didn't ask you a question. Even I  
15 know some limits.

16 A. Yes, okay. I reported that correctly.

17 Q. Can I see your notebook?

18 A. Sure.

19 Q. Can you be any more precise than between  
20 24 and 30 miles an hour for a Delta V of the Jeep?

21 A. Yes. I mean, I can define those for you.  
22 Again, one of them is based on whether we assume that  
23 the stiffness coefficients for the vehicle, the full  
24 overlap, are appropriate or whether the vehicle is  
25 stiffer in an offset impact, therefore validating what

1 the witnesses said about the Jeep being stopped.

2 Q. Why would the stiffness coefficient be  
3 higher in an offset collision than a full overlap  
4 collision?

5 A. There's been quite a bit of testing of  
6 vehicles to determine what affects the stiffness of a  
7 vehicle. Sometimes when they're impacted in a  
8 different mode, say in an overlap condition, we'll see  
9 that their stiffness coefficients will actually be  
10 greater, just because of the geometry of the engine  
11 compartment, the design of the shotgun or the fender.

12 Q. The shotgun?

13 A. The shotgun, the fender -- we call the  
14 fender -- it's the fender they build in kind of the  
15 shape of a shotgun.

16 Q. Okay. Looking at -- oh, we'll mark it.  
17 I'm sorry to take apart your pretty folders.

18 A. That's okay.

19 (Deposition Exhibit 15 was marked.)

20 Q. I've now marked one page that I just  
21 removed from your folder as Plaintiffs' Exhibit 15; is  
22 that right?

23 A. Yes.

24 Q. And it looks like you're saying that the  
25 Delta V of the Jeep was 24 if the Jeep was moving at

<div>Page 114</div> <p>1 the time of initial impact and 30 if it was stopped at</p> <p>2 the time of initial impact; is that right?</p> <p>3 <b>A. Right. If it was moving, it would be 24.</b></p> <p>4 <b>If it was stopped, it would be 30.</b></p> <p>5 Q. Okay. I understand. And you've got some</p> <p>6 other speeds, it looks like, that are contingent on</p> <p>7 that, too. So the way this works is in the Jeep moving</p> <p>8 scenario, tell me what final speed for Dodge means.</p> <p>9 <b>A. Post-impact.</b></p> <p>10 Q. All right. So that would be the speed,</p> <p>11 then, immediately as the Dodge is leaving the</p> <p>12 collision?</p> <p>13 <b>A. That's correct.</b></p> <p>14 Q. And then those don't change, the Jeep</p> <p>15 final speed and the Dodge don't change; but in your</p> <p>16 mind, the Delta V does. What does Dodge initial speed</p> <p>17 mean?</p> <p>18 <b>A. Impact speed.</b></p> <p>19 Q. So that's immediately before the impact?</p> <p>20 <b>A. At first contact.</b></p> <p>21 Q. Okay. Got you. So the way this works is</p> <p>22 if the Jeep was moving at the time of impact, then you</p> <p>23 believe that the speed of the Dodge as the initial</p> <p>24 impact occurred was 51.3 miles an hour; is that right?</p> <p>25 <b>A. If the Jeep was moving, yes.</b></p>	<div>Page 116</div> <p>1 <b>A. Yes.</b></p> <p>2 Q. My understanding of this chart is that the</p> <p>3 orange numbers at the bottom represent distances that</p> <p>4 the Dodge traveled in five individual segments?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. And the blue numbers immediately above</p> <p>7 those orange numbers, tell us what those are.</p> <p>8 <b>A. That's the yaw angle or the rotation angle</b></p> <p>9 <b>of the Jeep from impact to rest.</b></p> <p>10 Q. Did you mean the Dodge?</p> <p>11 <b>A. Yes, I did. Thank you.</b></p> <p>12 Q. And then there's blue angle numbers that</p> <p>13 are marked along what is obviously the path of the</p> <p>14 Jeep. I suppose those refer to the yaw angles of the</p> <p>15 Jeep?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. And the green numbers above that refer to</p> <p>18 distance traveled?</p> <p>19 <b>A. That's correct.</b></p> <p>20 Q. I wanted to ask you specifically about the</p> <p>21 interaction of the -- of the Jeep and the Dodge; that</p> <p>22 is, what components of the Dodge struck what components</p> <p>23 of the Jeep? I guess to begin, the beginning of the</p> <p>24 question is, was this an underride collision?</p> <p>25 <b>A. Yes.</b></p>
<div>Page 115</div> <p>1 Q. And if the Jeep was stopped, you think the</p> <p>2 speed of the Dodge immediately before impact was 56.9</p> <p>3 miles per hour; is that right?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And in either case, no matter what the</p> <p>6 Jeep was doing, you think the speed of the Jeep as it</p> <p>7 left the collision was 30.2, and the speed of the Dodge</p> <p>8 as it left the collision was 28; is that correct?</p> <p>9 <b>A. That's correct, yes.</b></p> <p>10 Q. What do these orange mean?</p> <p>11 <b>A. That's the distance that the Dodge</b></p> <p>12 <b>traveled from impact to rest. So we look at each</b></p> <p>13 <b>segment -- so you can total all those up from impact to</b></p> <p>14 <b>rest and get the total distance.</b></p> <p>15 Q. Why did you break up into these particular</p> <p>16 segments?</p> <p>17 <b>A. Because the vehicle rotates from -- it</b></p> <p>18 <b>looks like 8 degrees to 2 degrees from the beginning to</b></p> <p>19 <b>the end.</b></p> <p>20 Q. And then same here. All right. Let me</p> <p>21 see what you got there.</p> <p>22 (Deposition Exhibit 16 was marked.)</p> <p>23 Q. I've now marked as Plaintiffs' Exhibit 16</p> <p>24 a relative large chart chart you prepared describing</p> <p>25 what went on in this wreck; is that right?</p>	<div>Page 117</div> <p>1 Q. Would you characterize the underride as</p> <p>2 severe?</p> <p>3 <b>A. I guess I would quantify it as being</b></p> <p>4 <b>significant. I don't know how to define severe.</b></p> <p>5 Q. How about -- anyway, there was an impact</p> <p>6 with undercarriage of the Jeep, in your view; is that</p> <p>7 right?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Specifically, what part of the Dodge hit</p> <p>10 what part of the Jeep? Does that question make sense?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. So tell me.</p> <p>13 <b>A. The easiest way to tell you is to show</b></p> <p>14 <b>you.</b></p> <p>15 (Pause.)</p> <p>16 MR. JEB BUTLER: When we get through this</p> <p>17 little segment of questions, we'll break for lunch.</p> <p>18 THE DEPONENT: Maybe we're not going to</p> <p>19 have lunch.</p> <p>20 Q. (BY MR. JEB BUTLER) Did any part of the</p> <p>21 Dodge strike the actual fuel tank, or do you want me to</p> <p>22 let you find that before I start hammering -- or asking</p> <p>23 you questions again?</p> <p>24 MR. BRANTLEY: Your subconscious slipped</p> <p>25 up on you, I think, Jeb.</p>

<div>Page 118</div> <p>1       <b>A. Well, let's go to that question. I</b>  2 <b>thought I had a graphic here that aligned the two.</b>  3 <b>Let's just do it this way. So that is the back end of</b>  4 <b>the Jeep.</b>  5       Q. (BY MR. JEB BUTLER) And by "that," you're  6 referring to the piece of your file that I've now  7 marked as Plaintiffs' Exhibit 17; is that right?  8       (Deposition Exhibit 17 was marked.)  9       <b>A. Yes. This is the front portion of the</b>  10 <b>Dodge Dakota.</b>  11       (Deposition Exhibit 18 was marked.)  12       Q. I've marked the front portion of the Dodge  13 Dakota from your file as Exhibit 18; is that right?  14       <b>A. Yes. So what we've drawn on both of these</b>  15 <b>diagrams here -- and I guess -- I didn't see it in</b>  16 <b>here, I'll have to take a look during our break -- I</b>  17 <b>thought I had them lined up with each other. And maybe</b>  18 <b>it's somewhere else in the file. But I have a graphic</b>  19 <b>that I know I produced and maybe I just didn't get it</b>  20 <b>printed out in the file.</b>  21       <b>But we've got the left portion of the</b>  22 <b>Dodge making contact with the right portion of the</b>  23 <b>Jeep, and we've got the rear bumper structure of the</b>  24 <b>Jeep shown here and the front bumper structure of the</b>  25 <b>Dodge shown here (indicating). So, in essence, what we</b></p>	<div>Page 120</div> <p>1       Q. And the -- you made two black arrows, one  2 pointing up, one pointing to the right. Essentially,  3 what that means is from the point where those arrows  4 originate to the right, is the part of the Grand  5 Cherokee that you think the Dodge Dakota struck?  6       <b>A. That's correct.</b>  7       Q. What is the yellow on Plaintiffs'  8 Exhibit 17?  9       <b>A. When I inspected the Jeep, I put yellow</b>  10 <b>tape around the brush guard that was torn. So there's</b>  11 <b>a brush guard underneath the vehicle, and there was</b>  12 <b>contact to that brush guard, and the brush guard tore</b>  13 <b>from the rear moving forward. So I put yellow tape on</b>  14 <b>the tear and identified the tearing that occurred, most</b>  15 <b>likely due to contact from the exposed frame rail on</b>  16 <b>the Dodge.</b>  17       Q. Is frame head a fair term for the yellow  18 on Plaintiffs' Exhibit 18?  19       <b>A. That would be a fine term to use.</b>  20       Q. Okay. So the yellow on Plaintiffs' 18  21 shows the frame head on the Dodge; is that right?  22       <b>A. Yes.</b>  23       Q. And in your view, the frame head on the  24 Dodge struck the back of the Jeep, causing a tear in  25 what Chrysler calls the brush guard on the Jeep, which</p>
<div>Page 119</div> <p>1 <b>have is this contact area here on the bumper that's</b>  2 <b>outlined and traced in red, that's traced in 3D on our</b>  3 <b>scan data, lines up with the traced data on the back</b>  4 <b>bumper of the Jeep on the right half, basically</b>  5 <b>starting at this line here (indicating), moving -- it's</b>  6 <b>about at the centerline of the vehicle moving towards</b>  7 <b>the right.</b>  8       Q. Okay. So on Plaintiffs' Exhibit 17, does  9 the red line indicate the places where you think the  10 Jeep was struck?  11       <b>A. No. That's why it's a little hard to</b>  12 <b>understand. If I can use your marker?</b>  13       Q. You bet.  14       <b>A. What the red line is showing on 17 is the</b>  15 <b>location of the rear bumper for the Jeep, all the way</b>  16 <b>from the left side, all the way across the right side.</b>  17 <b>But I don't believe the entire rear end was contacted.</b>  18 <b>I believe it was an offset impact. So the contact</b>  19 <b>damage to the rear of the Jeep starts basically in this</b>  20 <b>area here (indicating) and goes to the right.</b>  21       Q. Okay. Let me go back and tie this up. In  22 other words, on Plaintiffs' Exhibit 17, the red is what  23 you characterize as the bumper of the Grand Cherokee;  24 is that right?  25       <b>A. Yes.</b></p>	<div>Page 121</div> <p>1 is outlined in yellow on Plaintiffs' Exhibit 17?  2       <b>A. That's correct.</b>  3       Q. Where -- I'm going to show you now what  4 I'm going to mark as Plaintiffs' Exhibit 19, which I'll  5 represent to you is a photo of an exemplar 1999 Jeep  6 Grand Cherokee and ask you to draw where the, what  7 Chrysler calls a brush guard, is torn on that picture,  8 using the marker you've got there.  9       (Deposition Exhibit 19 was marked.)  10       <b>A. I can't do that.</b>  11       Q. Why not?  12       <b>A. That would be very difficult for me to</b>  13 <b>know exactly what the geometry is showing here in this</b>  14 <b>photo and the exact geometry on the subject vehicle,</b>  15 <b>where those like points are located; meaning, where</b>  16 <b>similar points are on the brush guard in this photo and</b>  17 <b>where those same similar points are on the subject</b>  18 <b>vehicle. It's hard to tell.</b>  19       Q. Do you know what part of the brush guard  20 was torn approximately on Plaintiffs' 19?  21       <b>A. I'd say it's located on the right half of</b>  22 <b>the brush guard. And where in that area, exactly, it</b>  23 <b>would be difficult to tell.</b>  24       Q. Would you circle the right half of the  25 brush guard on Plaintiffs' 19?</p>



<div>Page 122</div> <p>1       <b>A. I'm not familiar with what I'm looking at</b>  2 <b>here on the back end.</b>  3       Q. I think you said you'd investigated --  4 you'd looked at an exemplar of a Jeep Grand Cherokee;  5 is that right?  6       <b>A. No.</b>  7       Q. Didn't earlier today you tell me you  8 looked at an exemplar?  9       <b>A. No.</b>  10      Q. You have never looked at an exemplar  11 vehicle in this case?  12      <b>A. No, I did not. Engineers from my company</b>  13 <b>did, but I did not.</b>  14      Q. Did they show you pictures from that  15 exemplar?  16      <b>A. I've seen pictures of the exemplar, yes.</b>  17      Q. Is it your testimony that you can't, on  18 Plaintiffs' Exhibit 19, identify the right side of what  19 Chrysler calls the brush guard?  20      <b>A. No. With you just handing me this photo,</b>  21 <b>I don't feel comfortable drawing on this photo without</b>  22 <b>studying it.</b>  23      Q. Can you identify on Plaintiffs' Exhibit 19  24 the right side of the what Chrysler calls a brush  25 guard?</p>	<div>Page 124</div> <p>1 calls the brush guard on Plaintiffs' Exhibit No. 19.  2       <b>A. I took it.</b>  3       Q. Oh, good. Were you able to do so?  4       <b>A. Yes. So they altered this vehicle, but</b>  5 <b>aside from that, it looks like just (indicating).</b>  6       Q. All right. Thanks. And for the record,  7 you're right. I should state that the plastic fascia  8 that is on the back of the Jeep Grand Cherokee has been  9 removed in place of Exhibit 19. Subject to that,  10 you've indicated the part of what Chrysler calls the  11 brush guard that I think you said tore during this  12 collision; is that right?  13      <b>A. Yes.</b>  14      Q. Okay. And I think we also established  15 that the instrument that struck it was the frame rail  16 head of the Dodge Dakota; is that right?  17      <b>A. That's what it looks like to me.</b>  18      Q. Okay. I wanted to show you some other  19 diagrams and ask what you thought of them. I'm going  20 to show you now what's been previously marked as  21 Exhibit 13 to the Fred Arndt deposition --  22         MR. JEB BUTLER: Here's a copy for  23 Mr. Brantley.  24         MR. BRANTLEY: Thank you.  25      Q. (BY MR. JEB BUTLER) -- which I'll mark as</p>
<div>Page 123</div> <p>1       MR. BRANTLEY: Objection, asked and  2 answered.  3       <b>A. I guess I'd want more time to look at this</b>  4 <b>and compare it to our exemplar and study it.</b>  5       Q. (BY MR. JEB BUTLER) I'll let you hang  6 onto it till after lunch. And you can look at it  7 during the break, if you'd like, and then I'll ask you  8 the same question when we get back as to whether you  9 can identify what the right side of what Chrysler calls  10 the brush guard is.  11      <b>A. That's fine.</b>  12      MR. JAMES BUTLER: This would be a good  13 point to take a break, wouldn't it?  14      MR. JEB BUTLER: Yes, that will work. We  15 can break.  16      MR. BRANTLEY: It's 1 o'clock on the nose.  17 What time do you want to reconvene?  18      MR. JAMES BUTLER: 1:45.  19      MR. JEB BUTLER: Works for me. Work for  20 you-all?  21      MR. BRANTLEY: We'll be back before then.  22         (Recess taken, 12:58 p.m. to 1:53 p.m.)  23      Q. (BY MR. JEB BUTLER) Before the break, we  24 were talking about whether, Mr. Fenton, you could  25 indicate or identify the right side of what Chrysler</p>	<div>Page 125</div> <p>1 Plaintiffs' Exhibit 20 to your deposition.  2         (Deposition Exhibit 20 was marked.)  3       Q. Take a look at that, please, Mr. Fenton  4 and let me know if you think that diagram is accurate  5 or what you think of it.  6       <b>A. I don't think it's accurate.</b>  7       Q. In what respect do you think it's  8 inaccurate?  9       <b>A. Based on our alignment of the vehicles'</b>  10 <b>damage profiles, they don't align properly as shown</b>  11 <b>here in Exhibit 20.</b>  12      Q. You mean the alignment of the Jeep  13 relative to the Dodge is wrong?  14      <b>A. Yes. Their crush profiles don't line up.</b>  15 <b>We put our 3D scans together such that the crush</b>  16 <b>profiles lined up, and the crush lines shown on here</b>  17 <b>when we placed them over their vehicle shapes do not</b>  18 <b>line up.</b>  19      Q. Okay. Let me mark, if you will, your own  20 exhibit to which you referred. And we're talking about  21 your disagreement with Plaintiffs' Exhibit 20.  22         (Deposition Exhibit 21 was marked.)  23      Q. You referred to one of your own diagrams,  24 which I've now marked as Plaintiffs' Exhibit 21; is  25 that right?</p>

<div>Page 126</div> <p>1       <b>A. Yes.</b></p> <p>2       Q. If the Jeep involved in this wreck had had</p> <p>3 a trailer hitch, would that have mattered?</p> <p>4       <b>A. I don't know.</b></p> <p>5       Q. Would it have changed the nature of the</p> <p>6 Dodge's interaction with the fuel tank on the Jeep?</p> <p>7       <b>A. I don't know.</b></p> <p>8       Q. What would you have to look at to</p> <p>9 determine whether the answer to that question was yes</p> <p>10 or no?</p> <p>11       <b>A. I don't know. As an accident</b></p> <p>12 <b>reconstructionist, I haven't thought about that. Maybe</b></p> <p>13 <b>as a fuel system design expert, I might look at it in a</b></p> <p>14 <b>different way. I don't know. But again, I'm looking</b></p> <p>15 <b>at this as an accident reconstruction engineer trying</b></p> <p>16 <b>to line up the deformed vehicles based on their crush</b></p> <p>17 <b>profiles. And to consider, say, different types of</b></p> <p>18 <b>structures there, I wouldn't know how that might affect</b></p> <p>19 <b>it or how it would change it.</b></p> <p>20       Q. I suspect I know the answer to the next</p> <p>21 question; that is, if the Jeep involved in this wreck</p> <p>22 had been equipped with what Chrysler terms a skid</p> <p>23 plate, as opposed to what they term a brush guard,</p> <p>24 would that have changed the outcome of this collision?</p> <p>25       <b>A. I don't know.</b></p>	<div>Page 128</div> <p>1 the Jeep? Do you know what I'm talking about? Are you</p> <p>2 aware that the right-rear wheel and tire separated from</p> <p>3 the Jeep during this collision?</p> <p>4       <b>A. Yes.</b></p> <p>5       Q. What caused that to happen?</p> <p>6       <b>A. That's where the Dodge Dakota impacted the</b></p> <p>7 <b>Jeep, is in that area, and drove that rear end far</b></p> <p>8 <b>enough forward to cause displacement on the axle and</b></p> <p>9 <b>fracture to the wheel.</b></p> <p>10       Q. Would you -- if I were to say that the</p> <p>11 frame head from the Dodge Dakota struck what Chrysler</p> <p>12 terms a brush guard, tore it, and then went through and</p> <p>13 struck the right-rear rim of the Grand Cherokee, would</p> <p>14 you agree or disagree?</p> <p>15       <b>A. I don't know. I haven't looked at that.</b></p> <p>16       Q. Do you know what specific components of</p> <p>17 the Dodge Dakota hit the right-rear rim of the Grand</p> <p>18 Cherokee?</p> <p>19       <b>A. Not offhand. I'd have to take a look at</b></p> <p>20 <b>the 3D models to see how they interacted, but it</b></p> <p>21 <b>wouldn't surprise me if some portions of the front</b></p> <p>22 <b>frame, at least, of the Dodge Dakota impacted the wheel</b></p> <p>23 <b>and made contact with the rim as they were passing</b></p> <p>24 <b>through each other.</b></p> <p>25       Q. It wouldn't surprise you if some part of</p>
<div>Page 127</div> <p>1       Q. Has anyone at Chrysler asked you to</p> <p>2 consider the effect of a trailer hitch on this</p> <p>3 collision?</p> <p>4       <b>A. No.</b></p> <p>5       Q. Anyone at Chrysler asked you to consider</p> <p>6 the effect of a skid plate on this collision?</p> <p>7       <b>A. No.</b></p> <p>8       Q. Any of Chrysler's lawyers ask you to</p> <p>9 consider the effect of a trailer hitch on this</p> <p>10 collision?</p> <p>11       <b>A. No.</b></p> <p>12       Q. Any of Chrysler's attorneys ask you to</p> <p>13 consider the effect of a skid plate on this collision?</p> <p>14       <b>A. No.</b></p> <p>15       Q. When in this wreck sequence did the fire</p> <p>16 start?</p> <p>17       <b>A. I don't know.</b></p> <p>18       Q. Does it matter to you?</p> <p>19       <b>A. No.</b></p> <p>20       Q. I wanted to -- I need to ask you more</p> <p>21 about the fuel tank. Do you think that any part of the</p> <p>22 Dodge truck, the fuel tank itself, is distinct from the</p> <p>23 metal basin in which the tank sits?</p> <p>24       <b>A. I don't know.</b></p> <p>25       Q. Why did the right-rear wheel separate from</p>	<div>Page 129</div> <p>1 the frame of the Dakota hit the right-rear rim as it</p> <p>2 was passing through; is that right?</p> <p>3       <b>A. Well, I don't know about the frame, but I</b></p> <p>4 <b>think portions of the frame, like the frame end might</b></p> <p>5 <b>come into contact in that area. I guess I haven't</b></p> <p>6 <b>looked to see if there's an imprint from the frame --</b></p> <p>7 <b>frame head, but I would imagine that portions of the</b></p> <p>8 <b>bumper would likely come into contact. And because the</b></p> <p>9 <b>bumper of the Dakota and the frame head are basically</b></p> <p>10 <b>occupying about the same area, that there could be some</b></p> <p>11 <b>contact there.</b></p> <p>12       Q. So it wouldn't surprise you to find some</p> <p>13 contact between some part of the Dakota bumper or frame</p> <p>14 and the inside of the right-rear rim of the Jeep Grand</p> <p>15 Cherokee?</p> <p>16       <b>A. That wouldn't surprise me, no.</b></p> <p>17       Q. This may sound like an obvious question.</p> <p>18 Do you agree that the fuel tank of the Jeep ruptured in</p> <p>19 this collision?</p> <p>20       <b>A. I believe there was a breach.</b></p> <p>21       Q. Okay. What part of the tank breached?</p> <p>22       <b>A. I don't know.</b></p> <p>23       Q. Do you know when in the wreck sequence the</p> <p>24 tank ruptured?</p> <p>25       <b>A. No.</b></p>

<div data-bbox="727 174 792 195" data-label="Page-Header"> <p>Page 130</p> </div> <div data-bbox="207 195 792 1031" data-label="Text"> <p>1 Q. Do you know what specifically caused it to  2 rupture?  3 A. No.  4 Q. Do you doubt that if this fuel tank had  5 been mounted ahead of the rear axle, it would not have  6 ruptured?  7 MR. BRANTLEY: Object to the form of the  8 question.  9 A. I don't know.  10 Q. (BY MR. JEB BUTLER) I wanted to ask you  11 about some energy. It looked like you calculated --  12 did some energy calculations, I think.  13 A. Yes.  14 Q. Probably a lot of them. Thank you.  15 (Deposition Exhibit 22 was marked.)  16 Q. You've now handed me, and I've now marked,  17 Plaintiffs' Exhibit 22, some energy calculations that  18 you performed; is that right?  19 A. Yes. Let me look it over.  20 Q. Sure. What does low impact, mid-impact,  21 and high impact mean on this diagram?  22 A. Low means low closing speed, mid-range  23 closing speed, and high-end closing speed. So we have  24 three ranges of closing speed; starting with 45, then  25 49, and 56. 56 is the high-end closing speed, 45 is</p> </div>	<div data-bbox="1344 174 1409 195" data-label="Page-Header"> <p>Page 132</p> </div> <div data-bbox="831 195 1416 1031" data-label="Text"> <p>1 values of the Dodge Dakota, we were able to bring down  2 the speed of the Jeep at impact, and we were able to  3 bring it down to zero miles per hour, stopped, by  4 increasing those those stiffness coefficients.  5 So that's how we differentiate between the  6 low and the high. Low is no adjustment for stiffness  7 values, and for the high it's adjusting those stiffness  8 values so that the testimony of the drivers is  9 consistent with the Jeep being stopped.  10 Q. Okay. Let me ask you this: What about  11 the -- let's see. What was the -- do these graphs show  12 the energy of the bullet object immediately before  13 impact?  14 A. Yes.  15 Q. Okay. With what energy did the Dodge  16 Dakota leave the impact?  17 A. I haven't calculated that value.  18 Q. Okay. My previous question was maybe  19 unclear. I'll just ask it again. The energy values  20 that are on the chart on Plaintiffs' Exhibit 22 refer  21 to the energy of the bullet vehicles or objects  22 immediately before impact; is that right?  23 A. Yes. Basically, it's preimpact or right  24 at first contact.  25 Q. Okay. So if you were to take the</p> </div>
<div data-bbox="727 1077 792 1098" data-label="Page-Header"> <p>Page 131</p> </div> <div data-bbox="207 1098 792 1934" data-label="Text"> <p>1 the low-end closing speed.  2 Q. Okay. These probably -- these -- this  3 corresponds with the chart we looked at earlier, the  4 high, middle, and low closing speeds?  5 A. Yes, it would.  6 Q. Let's see here. Never mind. I see. So  7 as to whether the closing speed was 45.4, which you've  8 got here as your low end, and 56.9, which you've got as  9 your high end, do you know where in that range the  10 actual closing speed was?  11 A. Well, the way to explain the difference  12 between those two is the same explanation I gave you  13 earlier when we talked about the stiffness of the  14 vehicles, whether it's a full overlap or whether it's  15 an offset. The first one, the 45, is using full  16 overlap stiffness values for the front end of the  17 Dodge. So to get the Jeep stopped, what we found is  18 that we had to increase those stiffness values.  19 Q. Okay.  20 A. And we found in literature that vehicles  21 perform differently -- whether it's a full overlap  22 impact or a partial overlap impact, those stiffness  23 values can either increase or decrease. So we know  24 from crash testing that some vehicle stiffness values  25 will increase. And if we increased the stiffness</p> </div>	<div data-bbox="1344 1077 1409 1098" data-label="Page-Header"> <p>Page 133</p> </div> <div data-bbox="831 1098 1416 1934" data-label="Text"> <p>1 mid-point, for instance, on the [REDACTED] wreck as  2 calculated by Kineticorp, then that would tell us that  3 the energy of the Dodge Dakota at the moment of impact  4 was just under 350,000 foot-pounds; is that right?  5 A. Yes.  6 Q. And you don't know the energy of the Dodge  7 Dakota immediately after impact?  8 A. No.  9 Q. What about as the vehicles separate? Do  10 you know the energy of the Dodge Dakota at the moment  11 the vehicles separate?  12 A. No.  13 Q. Do you know the energy of the Jeep at the  14 moment the vehicles separate?  15 A. No.  16 Q. How much energy did the Jeep absorb in  17 this wreck?  18 A. Oh, I have that calculated. We have those  19 ranges there; the low, mid, and high. So for the low,  20 the Jeep absorbed about 78,000 foot-pounds of energy;  21 for the mid, 92,000; and for the high, 118,000.  22 Q. Okay. Can I look at the document? You  23 can just break it out and hand it to me, what you're  24 referring to. Are they three separate ones?  25 A. Yes.</p> </div>

<div> <div>Page 134</div> <div> <p>1 Q. I may just mark them collectively. Is</p> <p>2 that all right with you?</p> <p>3 <b>A. That's fine.</b></p> <p>4 (Deposition Exhibit 23 was marked.)</p> <p>5 Q. You've now pulled three documents out of</p> <p>6 your file, the three to which you referred in</p> <p>7 determining what the energy absorbed by the Jeep</p> <p>8 amounted to. And I've marked those collectively as</p> <p>9 Plaintiffs' Exhibit 23; is that right?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And what Plaintiffs' Exhibit 23 tells us</p> <p>12 with respect to the energy absorbed by the Jeep was</p> <p>13 that in your low-end scenario, the Jeep absorbed 78,000</p> <p>14 foot-pounds, in your mid-range scenario it absorbed</p> <p>15 92,000 foot-pounds, and in your high-range scenario it</p> <p>16 absorbed 118,000 foot-pounds of energy; is that right?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Where on here would I find those numbers?</p> <p>19 <b>A. Total absorbed there on the bottom left</b></p> <p>20 <b>for the Grand Cherokee and then for the Dodge Dakota.</b></p> <p>21 Q. Okay. I see. Now, when you're evaluating</p> <p>22 the performance of a vehicle in a crash, what matters</p> <p>23 is the amount of energy absorbed, rather than total</p> <p>24 energy of the bullet vehicle; is that right?</p> <p>25 <b>A. I don't know what you mean. How do you</b></p> </div> </div>	<div> <div>Page 136</div> <div> <p>1 <b>to define whether the mirror was defective or not.</b></p> <p>2 Q. (BY MR. JEB BUTLER) Okay. I wanted to</p> <p>3 ask you some timing questions about this wreck. How</p> <p>4 long after the impact did it take for the Jeep to enter</p> <p>5 the southbound lane of traffic?</p> <p>6 <b>A. What portion, just the --</b></p> <p>7 Q. For any portion.</p> <p>8 <b>A. Any portion entering the opposing lanes of</b></p> <p>9 <b>traffic?</b></p> <p>10 Q. Right.</p> <p>11 <b>A. It looks like that would be vehicle two or</b></p> <p>12 <b>the second position here.</b></p> <p>13 Q. Sure. I'm with you.</p> <p>14 <b>A. The first position, it's not in there.</b></p> <p>15 <b>And the second position, it looks like it's nosed into</b></p> <p>16 <b>that opposing lane of traffic. So we have this</b></p> <p>17 <b>analysis here, which identifies each one of those</b></p> <p>18 <b>positions. So see that 7 feet is at 7, the 5.2 is at</b></p> <p>19 <b>5.2. Then we have a duration for each one of the</b></p> <p>20 <b>segments. So it looks like it goes between -- through</b></p> <p>21 <b>that 7.7 feet in about .18 seconds.</b></p> <p>22 (Deposition Exhibit 24 was marked.)</p> <p>23 Q. All right. You just pulled out a very</p> <p>24 helpful chart that I've now marked as Plaintiffs' 24;</p> <p>25 is that right?</p> </div> </div>
<div> <div>Page 135</div> <div> <p>1 <b>define "matters"?</b></p> <p>2 Q. Well, I guess I think of it this way. If</p> <p>3 I was -- let's say I was parked on the side of the</p> <p>4 interstate in my truck, and there's a tractor-trailer</p> <p>5 that's coming down on me. The tractor-trailer moving</p> <p>6 at highway speeds would have some massive amount of</p> <p>7 kinetic energy; is that right?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. And if the tractor-trailer comes by and it</p> <p>10 clips the mirror of my truck and then keeps going and</p> <p>11 does no other damage, then the kinetic energy of the</p> <p>12 bullet vehicle in that scenario would be massive,</p> <p>13 right?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. But the amount of energy absorbed by my</p> <p>16 truck would be very small?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. So if one were to evaluate the stress put</p> <p>19 on my truck by that wreck, the number that would be</p> <p>20 important is not the kinetic energy of the</p> <p>21 tractor-trailer of the bullet vehicle, but the amount</p> <p>22 of energy my truck absorbed, right?</p> <p>23 MR. BRANTLEY: Object to the form of the</p> <p>24 question.</p> <p>25 <b>A. Well, it depends on whether you're trying</b></p> </div> </div>	<div> <div>Page 137</div> <div> <p>1 <b>A. Yes.</b></p> <p>2 Q. That tells us that the Jeep would have</p> <p>3 entered the lane of opposing traffic in approximately</p> <p>4 0.18 seconds after the wreck?</p> <p>5 <b>A. Well, it moves between those two positions</b></p> <p>6 <b>in 0.18. But it looks like it would get in there</b></p> <p>7 <b>earlier than that, obviously, because you can see that</b></p> <p>8 <b>it's fully in that lane in the .18 seconds. So I would</b></p> <p>9 <b>say, you know, half of that time period.</b></p> <p>10 Q. Okay. So after initial impact, it takes</p> <p>11 approximately .09 seconds for the Jeep to enter the</p> <p>12 opposing lane of traffic; is that right?</p> <p>13 <b>A. Somewhere in that order, right.</b></p> <p>14 Q. How about for the Jeep to get totally off</p> <p>15 the roadway onto the grass?</p> <p>16 <b>A. Are you saying that position there or the</b></p> <p>17 <b>last position, the second to last or last position?</b></p> <p>18 Q. Let's take second to last. And by "second</p> <p>19 to last," referring to the second to last position on</p> <p>20 Plaintiffs' Exhibit No. 16, by which the Jeep is almost</p> <p>21 all off the roadway.</p> <p>22 <b>A. It looks like we have a total duration of</b></p> <p>23 <b>6.29. So we would have to subtract 3.55 from that.</b></p> <p>24 MR. JEB BUTLER: He has a nice calculator</p> <p>25 function on there.</p> </div> </div>

<div data-bbox="722 174 794 195" data-label="Page-Header">Page 138</div> <p>1 THE DEPONENT: This is my HP 41C from</p> <p>2 college, the only calculator I can run.</p> <p>3 <b>A. 2.8 seconds.</b></p> <p>4 Q. (BY MR. JEB BUTLER) Okay. So it takes</p> <p>5 approximately 2.8 seconds after initial impact for the</p> <p>6 Jeep to exit the roadway entirely?</p> <p>7 <b>A. To get to that position shown on the</b></p> <p>8 <b>diagram, yes, which would be the second to last</b></p> <p>9 <b>position.</b></p> <p>10 Q. On Plaintiffs' 16?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. You're aware, I take it, that as she</p> <p>13 waited to turn, [REDACTED] was waiting on another</p> <p>14 vehicle coming the opposite direction?</p> <p>15 <b>A. That's what she stated.</b></p> <p>16 Q. That's what she said. Where was that</p> <p>17 vehicle at the time of impact? Do you know?</p> <p>18 <b>A. No.</b></p> <p>19 Q. I wanted to ask you some questions about</p> <p>20 the Dodge Dakota after the wreck. You've told me how</p> <p>21 fast it was going after the wreck. It's in one of</p> <p>22 these diagrams, but I can't remember which one it was.</p> <p>23 I think it's in one we already pulled out.</p> <p>24 <b>A. Yes. But this would be a good one for</b></p> <p>25 <b>that, because that -- this is the post-impact speed for</b></p>	<div data-bbox="1346 174 1417 195" data-label="Page-Header">Page 140</div> <p>1 <b>A. Yes.</b></p> <p>2 Q. Is there any -- other than that part of</p> <p>3 the bumper that looks like it's in the shape of a tree,</p> <p>4 is there any other deformation attributable to the</p> <p>5 tree, rather than the Jeep?</p> <p>6 <b>A. It doesn't appear to, no.</b></p> <p>7 Q. Okay. I will now take Plaintiffs'</p> <p>8 Exhibit 26 and make a little U-shape mark. I put a "J"</p> <p>9 there to indicate I'm the one who made the mark, not</p> <p>10 you. And as you can see, that little mark shows some</p> <p>11 deformation to the bumper outside the part of the</p> <p>12 bumper that looks like a U. Is it your testimony that</p> <p>13 none of that deformation that I've marked there is</p> <p>14 attributable to the tree, as opposed to the Jeep?</p> <p>15 <b>A. I don't understand what you circled there.</b></p> <p>16 <b>Maybe I can see this one. What are you circling or</b></p> <p>17 <b>putting a C on -- or a J?</b></p> <p>18 Q. You said that this part (indicating) is</p> <p>19 attributable to the tree. And it obviously is. It</p> <p>20 looks like a tree. My question is whether any of the</p> <p>21 deformation here and here (indicating) is attributable</p> <p>22 to the tree, as opposed to the Jeep?</p> <p>23 <b>A. Yes. It looks like there might be some,</b></p> <p>24 <b>yes.</b></p> <p>25 Q. And so by "here and here," I'm referring</p>
<div data-bbox="722 1077 794 1098" data-label="Page-Header">Page 139</div> <p>1 <b>the Dodge.</b></p> <p>2 (Deposition Exhibit 25 was marked.)</p> <p>3 Q. I've now marked the document you've</p> <p>4 indicated as Plaintiffs' Exhibit 25; is that right?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. How fast is the Dodge going as it</p> <p>7 separates from the Jeep?</p> <p>8 <b>A. 28 miles an hour.</b></p> <p>9 Q. We've spoken some about the front bumper</p> <p>10 of the Dodge Dakota and how it was dented. I want to</p> <p>11 now show you what's been marked as Plaintiffs'</p> <p>12 Exhibit 26 to your depo. It was also Exhibit No. 13 to</p> <p>13 Mr. Buchner's deposition.</p> <p>14 (Deposition Exhibit 26 was marked.)</p> <p>15 Q. And that just shows Mr. Buchner with some</p> <p>16 rulers out there measuring the bumper; is that right?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. How much of that deformation in the bumper</p> <p>19 is attributable to the tree against which the Dodge</p> <p>20 came to rest, as opposed to the collision with the</p> <p>21 Jeep?</p> <p>22 <b>A. The area that's deformed in a circular</b></p> <p>23 <b>pattern, very similar to what he's showing there.</b></p> <p>24 Q. So I take it you mean the part of the</p> <p>25 bumper that looks like it's in the shape of a tree?</p>	<div data-bbox="1346 1077 1417 1098" data-label="Page-Header">Page 141</div> <p>1 to the part I attempted to mark in Plaintiffs'</p> <p>2 Exhibit 26. You're saying some of that deformation is</p> <p>3 attributable to the tree?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. How much energy did the Dakota lose when</p> <p>6 it hit the tree?</p> <p>7 <b>A. I can't recall if I quantified that. We</b></p> <p>8 <b>took the crush in that area out of our calculations.</b></p> <p>9 <b>So I don't know that we have a value for it. I think</b></p> <p>10 <b>that the energy is equivalent to about a</b></p> <p>11 <b>10-mile-an-hour impact.</b></p> <p>12 Q. Okay. So the energy lost at the tree is</p> <p>13 equivalent to about a 10-mile-an-hour impact?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Did the Dakota hit any other trees than</p> <p>16 the one it came to rest against?</p> <p>17 <b>A. I think it may have knocked down smaller</b></p> <p>18 <b>little saplings or something like that.</b></p> <p>19 Q. How much energy did the Dakota lose as it</p> <p>20 knocked down saplings?</p> <p>21 <b>A. I wouldn't think it would lose much speed</b></p> <p>22 <b>or energy.</b></p> <p>23 Q. Did the amount of energy that the Dakota</p> <p>24 lost as it knocked down saplings factor into your</p> <p>25 calculations?</p>

<div>Page 142</div> <p>1       <b>A. Yes. It does factor into the post-impact</b>  2 <b>speed of the Dakota.</b>  3       Q. Let's see. Do you believe that after the  4 collision all four wheels on the Dakota were rolling,  5 or were any of them trapped?  6       <b>A. I don't think they were trapped.</b>  7       Q. So you think they were all rolling?  8       <b>A. I believe so. I don't believe they were</b>  9 <b>trapped.</b>  10       Q. Do you believe that the driver of the  11 Dakota was braking, using the brake pedal after the  12 collision?  13       <b>A. Yes.</b>  14       Q. What do you base that belief on?  15       <b>A. The skid marks on the roadway.</b>  16       Q. After the collision?  17       <b>A. Yes.</b>  18       Q. Okay. Do you think the driver of the  19 Dakota was braking as he went down the hill towards the  20 trees?  21       <b>A. No.</b>  22       Q. Why not?  23       <b>A. Because he wouldn't have gone as far.</b>  24       Q. Okay. I wanted to ask you about  25 coefficients of friction and what numbers you used.</p>	<div>Page 144</div> <p>1       Q. Which one did you use?  2       <b>A. I think the one that we used is one by</b>  3 <b>Wallingford.</b>  4       Q. How do you spell that?  5       <b>A. W-a-l-l-i-n-g-f-o-r-d.</b>  6       Q. I see you brought with you three books  7 that I haven't marked yet. And I guess we'll just copy  8 the top page of them later or something. Is the number  9 you use for the off-road coefficient of friction in any  10 of those books that you brought?  11       <b>A. Probably all of them, all three.</b>  12       Q. Why did you use just one coefficient of  13 friction for both the grass and the hill and the mud  14 and the saplings that the Dakota went through?  15       <b>A. I guess I don't understand how you would</b>  16 <b>use a coefficient of friction for hitting a tree.</b>  17       Q. All right. There was a point where the  18 Dakota was running over saplings; is that right?  19       <b>A. Yes. I believe there was vegetation that</b>  20 <b>was run over by the vehicle.</b>  21       Q. And that would slow -- tend to slow the  22 vehicle down, right?  23       <b>A. Yes. That's why it came to a stop, or one</b>  24 <b>of the reasons why it came to a stop.</b>  25       Q. Why did you not use a different</p>
<div>Page 143</div> <p>1 The Dakota crosses, I would think, three surfaces --  2 the pavement, the hill, and then the mud and water --  3 immediately before it hits the trees, is that right, or  4 do you have additional ones or fewer ones?  5       <b>A. I just have two. I have two friction</b>  6 <b>zones. One is on-road and the other is off-road.</b>  7       Q. What's the coefficient of friction for the  8 on-road?  9       <b>A. .76.</b>  10       Q. And how about off-road?  11       <b>A. .4.</b>  12       Q. Where did those numbers come from?  13       <b>A. Well, there was a very detailed study done</b>  14 <b>by Wade Bartlett where he took thousands of tests</b>  15 <b>performed on pavement and analyzed the data and came up</b>  16 <b>with a bell curve. So based on those thousands of</b>  17 <b>tests, we came up with -- he came up with a value of</b>  18 <b>.76 as the most frequently recorded value.</b>  19       Q. What about the off-road value? You used  20 a .4 for all the off-road territory the Dakota covered,  21 right?  22       <b>A. Yes.</b>  23       Q. Where did that value come from?  24       <b>A. There's several publications out there for</b>  25 <b>off-road, say, grass-type surfaces.</b></p>	<div>Page 145</div> <p>1 coefficient of friction to account for the vegetation  2 it was running over?  3       <b>A. There's no research data to support a</b>  4 <b>value for that.</b>  5       Q. Why did you use the same coefficient of  6 friction to account for the grassy areas and the muddy  7 areas that the Dakota went through?  8       <b>A. Because it's hard to define the exact</b>  9 <b>transition between those and using an overall decel for</b>  10 <b>the entire segment.</b>  11       Q. Do you believe that the Dakota would have  12 decelerated the same amount on grass as it would have  13 in mud?  14       <b>A. Depends on how much brake application</b>  15 <b>there is through those phases.</b>  16       Q. Assuming the brake application was the  17 same, do you think that the Dakota would slow down the  18 same amount if it was on grass as it would on mud?  19       <b>A. Well, depends how thick the mud is.</b>  20       Q. Did you do anything to attempt to  21 determine how thick the mud is?  22       <b>A. Yes.</b>  23       Q. What?  24       <b>A. Looked at the photographs to determine how</b>  25 <b>thick the mud was.</b></p>

<p style="text-align: right;">Page 146</p> <p>1 Q. What were you able to determine about the</p> <p>2 thickness of the mud from the photographs?</p> <p>3 <b>A. It wasn't very deep or thick mud.</b></p> <p>4 Q. Was there standing water?</p> <p>5 <b>A. I can't recall.</b></p> <p>6 Q. Is it generally true that that</p> <p>7 coefficients of friction on the Dakota after the wreck</p> <p>8 went down, the speed at the collision would also have</p> <p>9 gone down?</p> <p>10 <b>A. Not necessarily.</b></p> <p>11 Q. Why not?</p> <p>12 <b>A. Because the Delta V could go up.</b></p> <p>13 Q. Let me ask you this: If you had concluded</p> <p>14 that the coefficients of friction relevant to the</p> <p>15 Dakota after the wreck were lower than you ultimately</p> <p>16 concluded, would you have also concluded that the speed</p> <p>17 of impact of the Dakota was lower?</p> <p>18 <b>A. Not necessarily, because you'd have to</b></p> <p>19 <b>balance the conservation of momentum with the crush,</b></p> <p>20 <b>meaning that it all has to come in line with each</b></p> <p>21 <b>other. So if you lower one, it might actually raise</b></p> <p>22 <b>the other so that all the energy is conserved in the</b></p> <p>23 <b>collision. So just because, say, a coefficient of</b></p> <p>24 <b>friction might go up or down doesn't necessarily say</b></p> <p>25 <b>that you're going to conserve all the energy in the</b></p>	<p style="text-align: right;">Page 148</p> <p>1 <b>was 90.</b></p> <p>2 Q. Would you mind breaking out whatever chart</p> <p>3 we're going to talk about?</p> <p>4 <b>A. Thank you.</b></p> <p>5 (Deposition Exhibit 27 was marked.)</p> <p>6 Q. You just handed me a document that I've</p> <p>7 marked as Plaintiffs' Exhibit 27; is that right?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. I see these come from Neptune Engineering,</p> <p>10 right?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. What was the number that you gave me? I</p> <p>13 apologize.</p> <p>14 <b>A. Those two right there (indicating).</b></p> <p>15 Q. The A, B is 290 and 90?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. What stiffness coefficient did you use for</p> <p>18 the Jeep?</p> <p>19 <b>A. We balanced the forces based on the</b></p> <p>20 <b>stiffness values of the Dakota. So to balance those</b></p> <p>21 <b>forces, we calculated those values. So they would be</b></p> <p>22 <b>in the crush sheet that is somewhere in here. Oh, here</b></p> <p>23 <b>it is. 350 and 54.</b></p> <p>24 Q. So for the stiffness -- strike that.</p> <p>25 The stiffness coefficient that you used</p>
<p style="text-align: right;">Page 147</p> <p>1 <b>collision and that the impact speed is going to go</b></p> <p>2 <b>down. It depends if the crush analysis balances the</b></p> <p>3 <b>energy that was absorbed in the collision.</b></p> <p>4 Q. You said you had -- I think you used the</p> <p>5 term friction zones, you had two of them. Am I</p> <p>6 remembering the term right?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. What about drag factors? Did you use for</p> <p>9 the Dakota post-collision all one drag factor or</p> <p>10 several different drag factors?</p> <p>11 <b>A. Well, it depends on the yaw orientation of</b></p> <p>12 <b>the vehicle.</b></p> <p>13 Q. So what drag factor or factors did you use</p> <p>14 for the Dakota after the collision?</p> <p>15 <b>A. Well, decel values for the Dakota range</b></p> <p>16 <b>from .02 to .58.</b></p> <p>17 Q. You're looking, as you say that, at</p> <p>18 Plaintiffs' Exhibit 25, it looks like?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. What column are you looking at? Average</p> <p>21 decel rate. Is that the same as the drag factor?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. What stiffness coefficient did you use for</p> <p>24 the front of the Dodge Dakota?</p> <p>25 <b>A. Oh, the A value was 290, and the B value</b></p>	<p style="text-align: right;">Page 149</p> <p>1 for the Jeep is an A value of 350 and a B value of 54;</p> <p>2 is that right?</p> <p>3 <b>A. That's right.</b></p> <p>4 Q. All right. I wanted to ask you about</p> <p>5 other parts of the wreck. Did you use those same two</p> <p>6 coefficients of friction for all your calculations</p> <p>7 here, the .76 and the .4?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Were there any other coefficients of</p> <p>10 friction that you applied to any part of this wreck?</p> <p>11 <b>A. No.</b></p> <p>12 Q. What about the drag factors on the Jeep?</p> <p>13 Where would we find those? You're indicating</p> <p>14 Plaintiffs' Exhibit 24; is that right?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. I see. And we look at the -- what did you</p> <p>17 just teach me, average deceleration rate?</p> <p>18 <b>A. That's correct.</b></p> <p>19 Q. We talked about how the right rim and tire</p> <p>20 of the Jeep came off in this collision and rolled off</p> <p>21 into the woods, right?</p> <p>22 <b>A. I believe so.</b></p> <p>23 (At this time Mr. James Butler left the</p> <p>24 room.)</p> <p>25 Q. And then the fuel tank of the Jeep melted</p>

<div>Page 150</div> <p>1 in the fire, right?</p> <p>2 <b>A. I believe so.</b></p> <p>3 Q. Are there any other parts of the Jeep</p> <p>4 behind the rear axle that are now missing or that came</p> <p>5 off during the collision?</p> <p>6 <b>A. I don't know.</b></p> <p>7 Q. In your inspection of the Jeep, did you</p> <p>8 notice any parts that were missing?</p> <p>9 <b>A. I don't recall.</b></p> <p>10 Q. We talked about whether this was an</p> <p>11 underride collision, earlier. You said you'd</p> <p>12 investigated, what, 1- to 2,000 wrecks?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Do you look for underride in most of them?</p> <p>15 In other words, is that the sort of basis of experience</p> <p>16 that you have in recognizing underride?</p> <p>17 <b>A. You mean my experience reconstructing</b></p> <p>18 <b>crashes gives me that knowledge or experience?</b></p> <p>19 Q. Yes, that's right. I guess that's my</p> <p>20 question. Is underride something that you regularly</p> <p>21 look for in the collisions you investigate?</p> <p>22 <b>A. I don't think that that's the right way to</b></p> <p>23 <b>describe it. I guess what I'm trying to do is identify</b></p> <p>24 <b>which portions of vehicles -- if I can, like in this</b></p> <p>25 <b>case, the Dodge was there and the Jeep -- they both</b></p>	<div>Page 152</div> <p>1 Q. Where is the crush zone on a 1999 Grand</p> <p>2 Cherokee?</p> <p>3 <b>A. Let me go back to those images we were</b></p> <p>4 <b>looking at earlier. So the zone of crush that the</b></p> <p>5 <b>subject vehicle was exposed to is basically the right</b></p> <p>6 <b>half of the vehicle. And that's where most of the</b></p> <p>7 <b>deformation of the vehicle occurred. Outside of that</b></p> <p>8 <b>area, you have what's called induced damage. So that's</b></p> <p>9 <b>where you don't have contact damage causing</b></p> <p>10 <b>deformation. It's just pulled forward in an induced</b></p> <p>11 <b>manner. So the area of crush would be shown in the</b></p> <p>12 <b>area where I have these arrows.</b></p> <p>13 Q. And you're looking at Plaintiffs'</p> <p>14 Exhibit 17 now; is that right?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. How often do you see underride in the</p> <p>17 collisions that you investigate? Is that rare, or is</p> <p>18 it, like, 40 percent of the collisions you look at, or</p> <p>19 what?</p> <p>20 <b>A. Well, in some cases I see underride, and</b></p> <p>21 <b>in some cases I see override. It depends on how the</b></p> <p>22 <b>vehicles are interacting with each other. Like in this</b></p> <p>23 <b>case, we have the Dodge braking heavily prior to</b></p> <p>24 <b>impact, and it's nosediving underneath the Cherokee.</b></p> <p>25 Q. It seems like if you have one, you'd have</p>
<div>Page 151</div> <p>1 were there for me to look at. So I was doing kind of a</p> <p>2 side-by-side comparison to say, what components do I</p> <p>3 think came into contact with each other, just by</p> <p>4 virtually looking at them. That's why I used some tape</p> <p>5 to identify what I thought were some hard spots on the</p> <p>6 Dodge and some tears or rips, specifically on that</p> <p>7 brush guard, for the Jeep. So those are some of the</p> <p>8 things that identified.</p> <p>9 But what I'm there to do when I'm doing an</p> <p>10 inspection is to collect data so that I can take those</p> <p>11 3D scans and piece them together, such that their hard</p> <p>12 spots, their components of the structures, like the</p> <p>13 front bumper of the Dodge and the rear bumper of the</p> <p>14 Jeep, line up in a way that the crush patterns between</p> <p>15 the two vehicles match. Instead of having poor matches</p> <p>16 between those components, we want to make sure we have</p> <p>17 a nice match where those 3D surfaces match each other</p> <p>18 really well throughout the crush zone. So that's why</p> <p>19 we're doing the in-depth laser scanning, to make sure</p> <p>20 those surfaces are matching each other.</p> <p>21 (At this time Mr. James Butler entered the</p> <p>22 room.)</p> <p>23 Q. So you've looked throughout the crush</p> <p>24 zone?</p> <p>25 <b>A. Yes.</b></p>	<div>Page 153</div> <p>1 the other. If you have underride, there would also be</p> <p>2 an override vehicle and vice versa. Is that fair?</p> <p>3 <b>A. Well, yeah, I guess that would be fair.</b></p> <p>4 <b>So I think what you usually refer to is, what is the</b></p> <p>5 <b>bullet vehicle doing. Is the bullet vehicle</b></p> <p>6 <b>underriding the structure or overriding the structure.</b></p> <p>7 Q. The bullet vehicle is the vehicle that's</p> <p>8 doing the striking, right?</p> <p>9 <b>A. That's correct.</b></p> <p>10 Q. And the vehicle that's being struck is</p> <p>11 called the target vehicle in your field?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. How often do you see collisions where one</p> <p>14 vehicle has underridden or overridden another? Is that</p> <p>15 most collisions you look at or only a very small</p> <p>16 percentage?</p> <p>17 <b>A. Well, I think that when you get to</b></p> <p>18 <b>extremely high severity accidents like this one, where</b></p> <p>19 <b>you're, you know, almost three times more severe than</b></p> <p>20 <b>FMVSS 301, that there's some override or underride</b></p> <p>21 <b>component, because these bumpers are matching up, and</b></p> <p>22 <b>then somewhere along the engagement something has to</b></p> <p>23 <b>give, and then finally one goes up and over or down and</b></p> <p>24 <b>under the other component. So at these levels where</b></p> <p>25 <b>there's this much energy, you typically see some kind</b></p>



<div>Page 154</div> <p>1 of under- or override. But in collisions where the</p> <p>2 severity is not this high, say within the standards of</p> <p>3 FMVSS 301, you don't see that occurring, because</p> <p>4 they're within the energy levels that these systems can</p> <p>5 manage very well.</p> <p>6 Q. So systems like this manage very well</p> <p>7 energy at, what, the 301 level, but not above; is that</p> <p>8 right?</p> <p>9 MR. BRANTLEY: Object to the form of the</p> <p>10 question.</p> <p>11 A. Well, I guess what I'm saying is when you</p> <p>12 have energy levels that are far less than this -- "far</p> <p>13 less" meaning, you know, at the 301 level -- you don't</p> <p>14 see these energy management systems having to, you</p> <p>15 know, absorb this much energy. And when they do,</p> <p>16 there's, you know, deformation that's occurring, and</p> <p>17 eventually one is going to either go up and over or the</p> <p>18 other component is going to go down and below.</p> <p>19 Q. (BY MR. JEB BUTLER) I think you just</p> <p>20 described this wreck -- I think you used the term high</p> <p>21 speed.</p> <p>22 A. Yes.</p> <p>23 Q. Is that fair? Is that what you said?</p> <p>24 A. I believe this is a -- well, high</p> <p>25 severity.</p>	<div>Page 156</div> <p>1 say that in most collisions of about this severity</p> <p>2 there is some underride or override?</p> <p>3 A. I think that's probably a fair statement,</p> <p>4 that because of the high-speed nature of these crashes,</p> <p>5 that there's going to be some component, you know, at</p> <p>6 this level of energy that there's going to be some --</p> <p>7 some level of under- or override occurring.</p> <p>8 Q. So in a collision of about this severity,</p> <p>9 most of the time you would expect to see some component</p> <p>10 of override or underride. Is that fair?</p> <p>11 A. Well, I'm not a structures guy, so I guess</p> <p>12 I kind of like to leave that to the structures guy.</p> <p>13 But just from an accident reconstruction standpoint,</p> <p>14 when you're putting the vehicle structure together, not</p> <p>15 all the components are lining up precisely with each</p> <p>16 other. You know, there's going to be some components</p> <p>17 that are deforming, you know, more say above or below</p> <p>18 the bumper level, just because of the nature of the</p> <p>19 collision.</p> <p>20 So especially when you have as much</p> <p>21 rotation and offset between these two vehicles, you</p> <p>22 know, they're hitting and rotating. Under my</p> <p>23 condition, they're in line with each other, and after</p> <p>24 impact, they start to rotate. And components of the</p> <p>25 vehicles are now engaging each other as they're</p>
<div>Page 155</div> <p>1 Q. How do you define a high severity wreck?</p> <p>2 A. When a wreck is, you know, two to three --</p> <p>3 even greater than three times more severe than</p> <p>4 FMVSS 301, I think that's an extremely severe crash.</p> <p>5 Q. But what basis are you saying this is two</p> <p>6 to three times as severe as 301?</p> <p>7 A. When you calculate the kinetic energy</p> <p>8 involved in this accident, if you consider, you know,</p> <p>9 the impact speeds, the range of impact speeds that we</p> <p>10 have, whether we use Mr. Arndt's values or even</p> <p>11 Mr. Buchner's values, it's much more severe than 301.</p> <p>12 Q. You know, how about in wrecks of about</p> <p>13 this severity, is underride something you see in more</p> <p>14 than half of them?</p> <p>15 A. Well, I have a case right now where</p> <p>16 there's a lot of override, where it goes into the back</p> <p>17 structure and goes up and over and into the -- up into</p> <p>18 the occupants' compartment. So it all depends on how</p> <p>19 those bumpers align and whether there's braking and</p> <p>20 brake dive involved in the design of those structures.</p> <p>21 One might go over in one case, and in another case it</p> <p>22 will go under. So I don't think I can quantify this</p> <p>23 percentage or most of them are underride or most of</p> <p>24 them are override. I don't know. It just varies.</p> <p>25 Q. How about if you combine the two? Can you</p>	<div>Page 157</div> <p>1 rotating and contacting each other. So energy is being</p> <p>2 absorbed by those components. So yeah, with a</p> <p>3 high-speed accident like this, I often see this</p> <p>4 occurring, where other components, other than just</p> <p>5 those at the bumper line, are deforming.</p> <p>6 Q. I think you said that you derived your</p> <p>7 figures for the stiffness coefficient of the Jeep from</p> <p>8 crash tests. Do I remember that right?</p> <p>9 A. It was for the Dodge.</p> <p>10 Q. For the Dodge?</p> <p>11 A. Crash test, yes.</p> <p>12 Q. For the Dodge, but crash test,</p> <p>13 nonetheless?</p> <p>14 A. Yes.</p> <p>15 Q. When you're doing an accident</p> <p>16 reconstruction, it's better to use a specific stiffness</p> <p>17 coefficient than a general stiffness coefficient, based</p> <p>18 on the vehicle type or the wheelbase of the vehicle; is</p> <p>19 that right?</p> <p>20 A. Yes. I think I might be understanding</p> <p>21 what you're saying. If you have specific testing for</p> <p>22 that vehicle, say, this subject Dodge Dakota, if you</p> <p>23 have a test of that vehicle, of that vintage vehicle,</p> <p>24 it's better to use those values than generic values</p> <p>25 for, say, an SUV that has a certain wheelbase.</p>

<div> <div>Page 158</div> <div> <p>1 Q. Generic is the term.</p> <p>2 <b>A. Generic, yes.</b></p> <p>3 Q. So when you're doing a reconstruction,</p> <p>4 it's better to use specific coefficient figures for the</p> <p>5 vehicle at issue, rather than generic figures for</p> <p>6 vehicle types or based on vehicle wheelbases; is that</p> <p>7 right?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Is it true that this Jeep would have had a</p> <p>10 higher stiffness coefficient if it had had a trailer</p> <p>11 hitch?</p> <p>12 <b>A. I don't know. I mean, it depends how they</b></p> <p>13 <b>attach that to the frame and how that attachment</b></p> <p>14 <b>absorbs energy in the collision, based on its</b></p> <p>15 <b>attachment.</b></p> <p>16 Q. I guess, would you need to review tests of</p> <p>17 Jeeps with trailer hitches on them?</p> <p>18 <b>A. To do what?</b></p> <p>19 Q. To answer that question as to whether the</p> <p>20 Jeep would have a stiffer coefficient of -- strike</p> <p>21 that.</p> <p>22 To answer the question as to whether the</p> <p>23 stiffness coefficient of a Jeep would be higher with a</p> <p>24 trailer hitch.</p> <p>25 <b>A. Yes.</b></p> </div> </div>	<div> <div>Page 160</div> <div> <p>1 <b>A. No, he did not.</b></p> <p>2 Q. Okay. What's wrong?</p> <p>3 <b>A. The amount of crush that he shows on this</b></p> <p>4 <b>diagram is inaccurate. There's greater crush. So this</b></p> <p>5 <b>diagram here identifies where our line is. Our line</b></p> <p>6 <b>would be to the -- say to the right of the end of his</b></p> <p>7 <b>red bars. I don't think I described that well, but</b></p> <p>8 <b>it's hard to describe. This line right here</b></p> <p>9 <b>(indicating) is where we have the crush. This line</b></p> <p>10 <b>here on the left (indicating) is where he shows the</b></p> <p>11 <b>crush.</b></p> <p>12 Q. I think I got you. All right. I'm going</p> <p>13 to mark the document you just showed me to answer that</p> <p>14 question as Plaintiffs' Exhibit 29.</p> <p>15 (Deposition Exhibit 29 was marked.)</p> <p>16 Q. Have I done that?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. And it looks like what Plaintiffs' 29 is</p> <p>19 is you took a copy of Mr. Buchner's diagram and then</p> <p>20 made some of your own edits on it to show where you</p> <p>21 thought he was wrong; is that correct?</p> <p>22 <b>A. Yes. We put our 3D laser scan on top of</b></p> <p>23 <b>his diagram to show where the crush profile is, based</b></p> <p>24 <b>on the 3D laser scan, and the position of the bumper,</b></p> <p>25 <b>based on that scan.</b></p> </div> </div>
<div> <div>Page 159</div> <div> <p>1 Q. Has Chrysler provided any such test to</p> <p>2 you?</p> <p>3 <b>A. I don't believe so. I mean, nothing that</b></p> <p>4 <b>we have enough information to answer that question.</b></p> <p>5 Q. Okay. What -- did you look at any crash</p> <p>6 tests of the 1999 Grand Cherokee?</p> <p>7 <b>A. No.</b></p> <p>8 Q. Did you ask for any?</p> <p>9 <b>A. No.</b></p> <p>10 Q. Chrysler offer to provide any?</p> <p>11 <b>A. No. We don't need them. We have crash</b></p> <p>12 <b>tests for Dodge Dakota.</b></p> <p>13 Q. I wanted to show you a couple diagrams and</p> <p>14 invite you, as we have in the past, to disagree.</p> <p>15 <b>A. I'm sure I will.</b></p> <p>16 Q. I think it's likely, but maybe not</p> <p>17 certain. These are probably the least controversial</p> <p>18 that I've brought</p> <p>19 (Deposition Exhibit 28 was marked.)</p> <p>20 Q. I've now marked as Plaintiffs' Exhibit 28</p> <p>21 something that was previously marked as Exhibit No. 10</p> <p>22 to Bryant Buchner's deposition. Remove my note, if you</p> <p>23 want to. It generally describes crush on the Jeep.</p> <p>24 Did he get it right, or did he get it basically right,</p> <p>25 is maybe a more fair question?</p> </div> </div>	<div> <div>Page 161</div> <div> <p>1 Q. And what's going on in Plaintiffs'</p> <p>2 Exhibit 29 is that you've inserted a green sliver at</p> <p>3 the back of the Jeep Grand Cherokee. Is that part</p> <p>4 right?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. And you're saying that the crush extended</p> <p>7 to the forward edge of that green sliver, and</p> <p>8 Mr. Buchner is saying the crush extended to the aft</p> <p>9 edge of that green sliver?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Okay.</p> <p>12 <b>A. Good description.</b></p> <p>13 Q. Thank you. I was quite proud of that</p> <p>14 myself. Let's do the same thing with the Dodge Dakota.</p> <p>15 <b>A. See if you can do it again.</b></p> <p>16 Q. I'm out, man. You've just showed me a</p> <p>17 document about the crush on the Dodge Dakota that I've</p> <p>18 now marked as Plaintiffs' Exhibit 30; is that right?</p> <p>19 (Deposition Exhibit 30 was marked.)</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. And this works like Plaintiffs' 29,</p> <p>22 basically; is that right?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Which is to say, you've added a blue</p> <p>25 sliver to the front of the Dodge Dakota -- strike that.</p> </div> </div>

<div>Page 162</div> <p>1 On Plaintiffs' Exhibit 30 you've taken</p> <p>2 Mr. Buchner's diagram of crush on the Dodge Dakota and</p> <p>3 added a blue sliver to the front of it; is that right?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And while Mr. Buchner contends that the</p> <p>6 crush extends only to the forward part of that blue</p> <p>7 sliver, you contend the crush extends to the aft part</p> <p>8 of that blue sliver; is that right?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Okay. Are there any areas of disagreement</p> <p>11 with Mr. Buchner that we haven't covered?</p> <p>12 MR. BRANTLEY: While he ponders that</p> <p>13 request, can I use the restroom real quick?</p> <p>14 MR. JEB BUTLER: Yes. Let's take a break.</p> <p>15 (Recess taken, 2:50 p.m. to 3:00 p.m.)</p> <p>16 Q. (BY MR. JEB BUTLER) Mr. Fenton, you were</p> <p>17 going to tell me about your areas of disagreement with</p> <p>18 Bryant Buchner that we haven't already discussed.</p> <p>19 <b>A. Well, we discussed the crush profile for</b></p> <p>20 <b>the Dodge and the Jeep and the impact orientation. I</b></p> <p>21 <b>have just some minor disagreement with him with regards</b></p> <p>22 <b>to the values that he used for his stiffness for the</b></p> <p>23 <b>Dakota. The values that he used were unadjusted for</b></p> <p>24 <b>air gap. And to explain what that means is that when</b></p> <p>25 <b>these crash tests were run, the front bumper of the</b></p>	<div>Page 164</div> <p>1 <b>And I have a disagreement with regards to</b></p> <p>2 <b>that, because these values that he's reporting here on</b></p> <p>3 <b>the top of his chart don't take into consideration all</b></p> <p>4 <b>of the crush on the front end of the Dodge Dakota. It</b></p> <p>5 <b>just goes to the bumper, and anything above the bumper</b></p> <p>6 <b>is not considered for this first speed determination.</b></p> <p>7 <b>And then later on he does a second analysis taking into</b></p> <p>8 <b>consideration all that above bumper deformation. And</b></p> <p>9 <b>that's this one here he calls UB. I think it's above</b></p> <p>10 <b>bumper. And when he utilizes all the crush on the</b></p> <p>11 <b>front of the vehicle, he gets higher speeds, and so do</b></p> <p>12 <b>I. And I think that's the appropriate way to evaluate</b></p> <p>13 <b>the crash, is to take all the crush into consideration,</b></p> <p>14 <b>not just at the bumper level.</b></p> <p>15 Q. All right. We've got four basic areas of</p> <p>16 disagreement with Buchner: crush profile, impact</p> <p>17 orientation, stiffness values.</p> <p>18 (Deposition Exhibit 31 was marked.)</p> <p>19 Q. And those that you describe, which are</p> <p>20 marked now Plaintiffs' Exhibit 31; is that right?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. With respect to stiffness values, it</p> <p>23 sounds like your view is Buchner used outdated figures</p> <p>24 for the Dakota?</p> <p>25 <b>A. Yes.</b></p>
<div>Page 163</div> <p>1 <b>vehicles rebounded -- the bumper cover rebounded off</b></p> <p>2 <b>the bumper, the stiff bumper beam.</b></p> <p>3 <b>And when the stiffness values were</b></p> <p>4 <b>derived, they used the crush to the -- that bumper</b></p> <p>5 <b>cover, and they realized years later that there was</b></p> <p>6 <b>some air gap between that bumper cover and the bumper</b></p> <p>7 <b>beam. And then they republished those stiffness values</b></p> <p>8 <b>considering the fact that there was that air gap in</b></p> <p>9 <b>there, that they needed to make a slight adjustment.</b></p> <p>10 <b>So we used the modified stiffness</b></p> <p>11 <b>coefficients when they were adjusted for air gap, which</b></p> <p>12 <b>is -- was recommended by the person who first derived</b></p> <p>13 <b>those stiffness coefficients, saying that the previous</b></p> <p>14 <b>values weren't correct. These new values are the</b></p> <p>15 <b>proper values to use. So Buchner used the previous</b></p> <p>16 <b>ones, and we're using the updated ones. So I don't</b></p> <p>17 <b>think there's a huge difference in results.</b></p> <p>18 <b>And then just in general terms,</b></p> <p>19 <b>Mr. Buchner in his speed summary, which is Exhibit 3 of</b></p> <p>20 <b>his deposition, says that he relies upon the lower</b></p> <p>21 <b>values for -- I don't know, I don't want to put words</b></p> <p>22 <b>in his mouth -- but these values here that kind of</b></p> <p>23 <b>circle in a recon, in that circle, and that he believes</b></p> <p>24 <b>that those speeds are most representative of this</b></p> <p>25 <b>crash.</b></p>	<div>Page 165</div> <p>1 Q. And then with respect to Plaintiffs' 31,</p> <p>2 you're not saying any of his values are perfect, but</p> <p>3 you believe that the row labeled "UB" is the more</p> <p>4 accurate row on Plaintiffs' Exhibit 31?</p> <p>5 <b>A. Correct.</b></p> <p>6 Q. All right. Calspan report, do you agree</p> <p>7 or disagree with -- I don't know. What do you think of</p> <p>8 it?</p> <p>9 <b>A. Well, the Calspan report says -- their</b></p> <p>10 <b>summary or background states the Jeep was stopped. So</b></p> <p>11 <b>if their determination is correct that the Jeep was</b></p> <p>12 <b>stopped, then the range of speeds that I'm reporting</b></p> <p>13 <b>would be higher than if it was actually moving.</b></p> <p>14 Q. Do you think the Delta V reported in the</p> <p>15 Calspan report of 32.9 for the Jeep is accurate?</p> <p>16 <b>A. I think it's high, but it's more in line</b></p> <p>17 <b>with the Jeep being stopped.</b></p> <p>18 Q. I see. Do you think that [REDACTED] [REDACTED]</p> <p>19 was belted in this collision?</p> <p>20 <b>A. I have no opinion.</b></p> <p>21 Q. Let's see. You talked about the issue as</p> <p>22 to -- we talked about the Delta V and the issue as to</p> <p>23 whether the Jeep was stopped at the time of this</p> <p>24 collision. Is there anything else in the Calspan</p> <p>25 report with which you disagree?</p>

<div>Page 166</div> <p>1       <b>A. I haven't looked at it with regards to</b>  2 <b>that, so I don't have an opinion with regards to that</b>  3 <b>issue.</b></p> <p>4       Q. What stiffness coefficient did the Calspan  5 report use for the Jeep, if you can tell?</p> <p>6       <b>A. I don't think I can tell. I think all I</b>  7 <b>have shown here are the crush dimensions. I don't see</b>  8 <b>any stiffness values reported.</b></p> <p>9       Q. If the Calspan Delta V for the Jeep of  10 32.9 is correct, can you deduce from that what speed  11 the Dakota would have had to have been going  12 immediately before the wreck? Does that question make  13 sense?</p> <p>14       <b>A. Yes. And I haven't done that.</b></p> <p>15       Q. I meant to ask you how fast, in your view,  16 was the Dakota going before the driver of the Dakota  17 started hitting the brakes before this collision?</p> <p>18       <b>A. I haven't calculated that value, but it</b>  19 <b>would be higher than the speed at impact. And if we</b>  20 <b>can get those speeds at impact, I know it's in this</b>  21 <b>pile of exhibits, I'd have to calculate that for you.</b></p> <p>22             (Pause.)</p> <p>23       Okay. On the low end, I think his speed  24 at impact I have reported as 51. I think he'd be going  25 somewhere around 56 miles an hour prior to braking.</p>	<div>Page 168</div> <p>1 account in your analysis of this crash?</p> <p>2       <b>A. Yes.</b></p> <p>3       Q. How?</p> <p>4       <b>A. I just reviewed it. I don't think there's</b>  5 <b>anything that I took from the report that they wrote</b>  6 <b>and made it a part of my analysis. I just reviewed it</b>  7 <b>and considered it.</b></p> <p>8       Q. Do you consider the Calspan report  9 reliable?</p> <p>10       <b>A. In what terms? Do you mean reliable</b>  11 <b>meaning that everything that they report is accurate?</b></p> <p>12       Q. I guess I mean that, yes.</p> <p>13       <b>A. I'd have different opinions than they do.</b></p> <p>14       Q. I will mark a copy of the Calspan report,  15 just for the record. We can break that one out or use  16 one of these, whichever one you prefer.</p> <p>17       <b>A. Might as well use that.</b></p> <p>18       Q. Let me give it to and you let you look it  19 over. I'm now marking as Plaintiffs' Exhibit 32 the  20 Calspan report we've been discussing.  21             (Deposition Exhibit 32 was marked.)</p> <p>22       Q. Does that appear to be correct?</p> <p>23       <b>A. Yes.</b></p> <p>24       Q. I'm finished with it. Another report that  25 we've discussed some in this case is what has been</p>
<div>Page 167</div> <p>1       Q. All right. Do you know who wrote the  2 Calspan report? I don't recall seeing a name there,  3 but I didn't know if you knew more than me.</p> <p>4       <b>A. Well, the authors are titled "Crash Data</b>  5 <b>Research Center."</b></p> <p>6       Q. Do you know personally or have any idea  7 what individuals wrote the report?</p> <p>8       <b>A. No, I do not.</b></p> <p>9       Q. When did you first learn that the Calspan  10 report existed?</p> <p>11       <b>A. I think it was relatively early on in the</b>  12 <b>case.</b></p> <p>13       Q. Was it when Chrysler provided it to you?</p> <p>14       <b>A. Yes.</b></p> <p>15       Q. I take it you don't know what individual  16 performed the calculations in the Calspan report?</p> <p>17       <b>A. No.</b></p> <p>18       Q. Do you agree that the Delta V -- strike  19 that.</p> <p>20             Do you agree that as the Calspan report  21 states, the lateral component of the Delta V was zero  22 for the Jeep?</p> <p>23       <b>A. No. But I don't think it would be very</b>  24 <b>high, based on my impact configuration.</b></p> <p>25       Q. Did you take the Calspan report into</p>	<div>Page 169</div> <p>1 called the SCRT report. That's S-C-R-T. Did you  2 review that?</p> <p>3       <b>A. Yes.</b></p> <p>4             (Deposition Exhibit 33 was marked.)</p> <p>5       Q. Have I now marked a copy of the SCRT  6 report as Plaintiffs' Exhibit 33?</p> <p>7       <b>A. Yes.</b></p> <p>8       Q. Did you take it into account in your  9 analysis of this crash?</p> <p>10       <b>A. Yes.</b></p> <p>11       Q. Is there anything in there that comes to  12 mind that you disagree with? I know it's a voluminous  13 document.</p> <p>14       <b>A. Well, I know that they have some data</b>  15 <b>reported with regards to the scene evidence that was</b>  16 <b>surveyed. And they have a --</b></p> <p>17       Q. I think you'll find that on pages 19 to  18 22.</p> <p>19       <b>A. Thank you. Yes. So they did survey the</b>  20 <b>evidence that was deposited at the scene, and we did</b>  21 <b>take that into consideration.</b></p> <p>22       Q. Is there anything in the forensic diagrams  23 on pages 19 to 22 of the SCRT report with which you  24 disagree?</p> <p>25       <b>A. Not that I'm aware of.</b></p>

<div>Page 170</div> <p>1 Q. Is there anything in the testimony of the</p> <p>2 authors of the SCRT report that you can think of as you</p> <p>3 sit here today with which you disagree?</p> <p>4 <b>A. I'm not aware of any, no.</b></p> <p>5 Q. I'm going to ask you some kinematics</p> <p>6 questions. We've already discussed some of this stuff.</p> <p>7 I'd like you to describe, as specifically as you can,</p> <p>8 the motion of the rear seat in the Grand Cherokee</p> <p>9 during this collision. You said that it went forward</p> <p>10 some?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. How much? At what speed?</p> <p>13 <b>A. The best way of explaining that is with</b></p> <p>14 <b>the photographs I took of the rear seat area.</b></p> <p>15 Q. When you find what you want, let's take it</p> <p>16 out and mark it. You just let me know.</p> <p>17 <b>A. Okay. Specifically in photo 82, you can</b></p> <p>18 <b>see that there is deformation that extends into the</b></p> <p>19 <b>occupant compartment, specifically in the area of the</b></p> <p>20 <b>rear seat, and pushes the rear seat forward. You have</b></p> <p>21 <b>separation of the rear seat from the rear fender area.</b></p> <p>22 (Deposition Exhibit 34 was marked.)</p> <p>23 Q. All right. You've pulled out to make that</p> <p>24 description a document I've now marked as</p> <p>25 Plaintiffs' 34; is that right?</p>	<div>Page 172</div> <p>1 of the Calspan report, in Figure 13. Is that the same</p> <p>2 gap?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. What specific -- what is it about the</p> <p>5 deformation that we see in Plaintiffs' Exhibit 34 that</p> <p>6 caused the rear seat of the Grand Cherokee to move</p> <p>7 forward relative to the rest of the Grand Cherokee?</p> <p>8 <b>A. It would be intrusion from the rear</b></p> <p>9 <b>components behind that seat that's pushing that seat</b></p> <p>10 <b>forward. So, in essence, what's happening is the Dodge</b></p> <p>11 <b>Dakota is loading the right half of the Jeep, and then</b></p> <p>12 <b>those forces are causing deformation to the right half</b></p> <p>13 <b>of the Jeep that continue into the seat-back area and</b></p> <p>14 <b>continue to intrude into the seat-back and cause</b></p> <p>15 <b>deformation to that seat-back and some separation.</b></p> <p>16 Q. What component of the Jeep, specifically,</p> <p>17 was loaded?</p> <p>18 <b>A. Well, we certainly know that the rear</b></p> <p>19 <b>bumper of the Jeep was loaded. And then that continues</b></p> <p>20 <b>into the right-rear quarter panel and then into the</b></p> <p>21 <b>rear axle and into the rear wheel. I think that rear</b></p> <p>22 <b>wheel is going to be pushed into the wheel well area.</b></p> <p>23 <b>I don't recall exactly what component of the Jeep</b></p> <p>24 <b>itself made contact to the seat-back and caused that</b></p> <p>25 <b>deformation, but it's all originating from the front</b></p>
<div>Page 171</div> <p>1 <b>A. Yes.</b></p> <p>2 Q. You're talking about photo 82, as you</p> <p>3 said?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. I'm still not real clear on what you're</p> <p>6 saying came detached.</p> <p>7 <b>A. I'll get you that pen.</b></p> <p>8 Q. So you've now circled the area that came</p> <p>9 detached. I see. All right. So you've now circled on</p> <p>10 Plaintiffs' Exhibit 34 in pictures 82 and 84 the gap to</p> <p>11 which you were just referring a minute ago?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. What's the significance of that gap?</p> <p>14 <b>A. Well, it's my opinion that the forces of</b></p> <p>15 <b>collision from the Dodge Dakota were severe enough</b></p> <p>16 <b>to -- to displace the rear seat-back in the</b></p> <p>17 <b>configuration that we see here that caused separation</b></p> <p>18 <b>between that seat-back and the fender area or the inner</b></p> <p>19 <b>fender area.</b></p> <p>20 Q. Okay. And so you're saying that that</p> <p>21 caused the rear seat to move forward relative to the</p> <p>22 rest of the Grand Cherokee?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. I think that that gap actually is</p> <p>25 described, if we pull out our Calspan report, on page 7</p>	<div>Page 173</div> <p>1 <b>kind of nose of the Dodge Dakota that's causing that</b></p> <p>2 <b>loading event to occur.</b></p> <p>3 Q. Did you say the right-rear wheel of the</p> <p>4 Grand Cherokee?</p> <p>5 <b>A. Yes. I think the right-rear wheel of the</b></p> <p>6 <b>Grand Cherokee is going to be pushed forward into the</b></p> <p>7 <b>wheel well.</b></p> <p>8 Q. So the right-rear wheel of the Cherokee is</p> <p>9 pushed forward into the wheel well of the Grand</p> <p>10 Cherokee, and that's what causes the rear seat of the</p> <p>11 Grand Cherokee to forward, in your view?</p> <p>12 <b>A. Well, I know that the wheel is going to</b></p> <p>13 <b>get pushed forward. I don't know if it's making direct</b></p> <p>14 <b>contact into the seat-back, but I know it's going to</b></p> <p>15 <b>push forward. So I haven't identified what component</b></p> <p>16 <b>is loading the seat-back, I just know that it's a</b></p> <p>17 <b>combination of all those components that are deforming</b></p> <p>18 <b>and then causing intrusion to occur on that seat-back</b></p> <p>19 <b>and causing it to move forward.</b></p> <p>20 Q. Does the right-rear wheel being forced</p> <p>21 forward into the wheel well contribute, in your view,</p> <p>22 to making the rear seat of the Dodge -- of the Jeep</p> <p>23 Cherokee move forward?</p> <p>24 <b>A. I don't know. I mean, I know it's moving</b></p> <p>25 <b>forward. It would most likely move forward and hit the</b></p>

1 wheel well area. I don't know if it's going to move  
2 inboard enough to actually make contact with the seat  
3 or just stay in the wheel well area.

4 Q. Are they causally related, the movement of  
5 the right-rear wheel and the forward movement of the  
6 backseat of the Grand Cherokee?

7 A. Yes, I think they're causally related;  
8 meaning, that you know, the Dakota is deforming those  
9 objects and causing them to move forward. I just  
10 haven't identified what's pushing the seat-back  
11 forward. But there's obviously deformation and  
12 intrusion that's causing that movement.

13 Q. So the right-rear wheel, then, doesn't  
14 contribute to the movement of the seat-back. Is that  
15 true?

16 A. I don't know if it does or not. I just  
17 know it's moving forward.

18 Q. Is the right-rear wheel, in your view,  
19 moving forward into other components of the Jeep?

20 A. Yes. It would move into the wheel well  
21 area.

22 Q. And can you identify -- I think you just  
23 answered this, but is it true that you cannot identify  
24 what component of the Jeep loaded the rear seat-back  
25 and forced the rear seat-back forward?

1 A. That's correct. I don't know exactly what  
2 component did that.

3 Q. Where did that idea first come from, that  
4 the rear seat of the Grand Cherokee had moved forward?

5 A. I think I noticed that in the inspection.  
6 That's why I photographed it.

7 Q. Is it statically forward?

8 A. Yes.

9 Q. Meaning, as the Jeep sits in some garage  
10 somewhere -- I can't remember where --

11 A. Weil Wrecker.

12 Q. As the Jeep sits at Weil Wrecker, the  
13 backseat of the Jeep is moved forward relative to what  
14 it otherwise would be?

15 A. Yes.

16 Q. Is there a difference in the dynamic and  
17 static deformation for the rear seat of the Grand  
18 Cherokee?

19 A. Yes.

20 Q. What's the difference?

21 A. This would be static. And dynamically, I  
22 would think it would be further forward and relax back  
23 to this static position.

24 Q. Is there some component of the Jeep that  
25 had to make physical contact with the rear seat of the

1 Jeep in order to force the rear seat forward?

2 A. Probably, yes.

3 Q. Okay. How fast did the seat move forward?

4 A. I don't know exactly, but I would say  
5 within the crash pulse, which would be under  
6 200 milliseconds.

7 Q. Under -- that must be the time during  
8 which the deformation occurred?

9 A. Yes.

10 Q. And what's the distance, the maximum  
11 distance, that the rear seat of the Jeep Grand Cherokee  
12 moved forward?

13 A. I don't know. I didn't measure the  
14 maximum distance.

15 Q. All right. Do you have an approximation  
16 for the distance that the rear seat of the Grand  
17 Cherokee moved forward?

18 A. I don't know. I didn't measure the  
19 maximum distance.

20 Q. Do you have an approximation for the  
21 distance that the rear seat of the Grand Cherokee moved  
22 forward?

23 A. No.

24 Q. Have you discussed the idea that the rear  
25 seat moved forward, with Chrysler and Chrysler's

1 lawyers?

2 A. I believe they were on the call, because  
3 it was a discussion I had with Dr. Bennett.

4 Q. Does Dr. Bennett consider that  
5 significant?

6 MR. BRANTLEY: Object to the form of the  
7 question.

8 A. I don't know, because it's something I had  
9 pointed out to him that I had identified during my  
10 vehicle inspection.

11 Q. (BY MR. JEB BUTLER) To what extent did  
12 [REDACTED] himself move back in the collision? You  
13 touch on that earlier.

14 A. I don't think he's moving back. It's just  
15 that the vehicle moves forward.

16 Q. So he's not moving back relative to the  
17 Grand Cherokee? It's just that [REDACTED] seat-back  
18 is moving forward. Is that accurate?

19 A. Well, the vehicle is moving forward and so  
20 is the seat-back moving forward. So the vehicle, as a  
21 whole, is moving forward, and then you also have  
22 additional loading and forward movement of the  
23 seat-back as that seat-back is being loaded and moving  
24 forward. So there's two components. One, the vehicle  
25 is moving forward, and then the seat-back itself is

1 moving forward.

2 Q. You mean relative to the vehicle?

3 A. Yeah. So if I'm moving my hands, that's  
4 the vehicle, and if my fingers are the seat-back, that  
5 would be the, I guess, right seat-back. So that's all  
6 occurring kind of -- not at the same time, but during  
7 the crash, during the crash pulse.

8 Q. I see. So the seat-back moved forward  
9 relative to the rest of the Grand Cherokee during this  
10 collision?

11 A. Yes.

12 Q. Did [REDACTED] or any part of [REDACTED]  
13 move back relative to the Grand Cherokee during this  
14 collision?

15 A. Well, relative to the Cherokee, yes, he  
16 would move -- he would stay stationary, and the vehicle  
17 would move forward.

18 Q. So how much did [REDACTED] head  
19 move back relative to the Grand Cherokee?

20 A. I don't know.

21 Q. How fast did he move back -- strike that.

22 How fast did [REDACTED] head move  
23 back relative to the rest of the Grand Cherokee as a  
24 result of this collision?

25 A. I don't know.

1 Q. What about sideways or rotation? What  
2 kind of motion did he experience, then?

3 A. Well, as I mentioned, he's going to -- the  
4 vehicle is going to rotate to the right, because it's  
5 rotating counterclockwise. And so he's going to be --  
6 the vehicle is going to be moving to the right, and  
7 he's going to be -- you know, if you take his head as a  
8 free particle, he's going to be staying inside the  
9 vehicle and move relative to the vehicle inboard.

10 Q. So how much does [REDACTED] head move  
11 inboard relative to the vehicle?

12 A. I don't have an opinion with regards to  
13 that.

14 Q. How fast does [REDACTED] head move  
15 inboard relative to the vehicle?

16 A. I don't have an opinion with regards to  
17 that.

18 Q. I mean, I have rotation rates that were --  
19 I have a depiction of how much the vehicle rotated over  
20 a time step that we showed you earlier, but I haven't  
21 calculate those values. But someone could.

22 Q. In other words, you haven't calculated the  
23 speed with which [REDACTED] head moved inboard  
24 relative to the Grand Cherokee. Is that true?

25 A. Correct. I would only be able to

1 calculate the speed of the vehicle. Someone else would  
2 have to calculate the reaction of the head relative to  
3 the vehicle.

4 Q. Who is going to calculate that?

5 A. I don't know if anybody will.

6 Q. Have you reviewed the deposition of  
7 Dr. Maryanne Gaffney-Kraft?

8 A. No.

9 Q. Do you know who she is?

10 A. No.

11 Q. Have you reviewed Dr. Burton's deposition?

12 A. No.

13 Q. I won't ask you what you disagree with,  
14 then.

15 A. Thank you.

16 Q. Do you know how long the fire burned in  
17 this car?

18 A. No.

19 Q. Did [REDACTED] make any volitional  
20 movements after the initial collision?

21 A. I don't know. I don't have an opinion.

22 Q. Do you know when his last volitional  
23 movement was?

24 A. I don't have an opinion.

25 MR. BRANTLEY: Object to the form of the

1 question.

2 MR. JEB BUTLER: Let me confer with my  
3 experienced co-counsel here. Let's go off the record  
4 for a second.

5 (At this time Mr. Jeb Butler and Mr. James  
6 Butler left the room and then returned.)

7 MR. JEB BUTLER: Let's go back on the  
8 record.

9 Q. (BY MR. JEB BUTLER) Mr. Fenton, do you  
10 know where [REDACTED] body was found after the fire  
11 was put out in this wreck?

12 A. I think there was some photos that show  
13 where it was found.

14 Q. Have you reviewed those?

15 A. Yes.

16 Q. Are they relevant to your opinions  
17 regarding occupant kinematics?

18 A. No.

19 Q. Why not? Well, strike that.

20 Isn't occupant kinematics the study of  
21 what happens to a body during a wreck?

22 A. In general terms, yes.

23 Q. And you just said the photos of where

24 [REDACTED] body was found were not relevant to your  
25 analysis of occupant kinematics. So my question is,

<div data-bbox="717 176 794 201" data-label="Page-Header">Page 182</div> <p>1 why?</p> <p>2 <b>A. Because I only evaluated the motion of</b></p> <p>3 <b>that position during the crash pulse and didn't</b></p> <p>4 <b>evaluate it post-impact after the vehicles were</b></p> <p>5 <b>spinning and came to their points of rest.</b></p> <p>6 Q. These are unpleasant pictures, but let's</p> <p>7 pull them out.</p> <p>8 THE DEPONENT: If this box is in your way,</p> <p>9 just let me know. I can move it.</p> <p>10 MR. JAMES BUTLER: Yes, move it, if you</p> <p>11 don't mind.</p> <p>12 THE DEPONENT: (Complied.)</p> <p>13 (Deposition Exhibit 35 was marked.)</p> <p>14 Q. (BY MR. JEB BUTLER) I'm now showing you</p> <p>15 two pictures collectively marked as Plaintiffs'</p> <p>16 Exhibit 35; is that right?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Do you recognize these as photographs that</p> <p>19 were -- that accompanied the SCRT report?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. How, in your opinion, did [REDACTED] body</p> <p>22 come to end up in the place depicted on Plaintiffs'</p> <p>23 Exhibit 35?</p> <p>24 <b>A. I don't know.</b></p> <p>25 Q. You don't have any opinion about that</p>	<div data-bbox="1336 176 1427 201" data-label="Page-Header">Page 184</div> <p>1 <b>And when you sort it based on platform,</b></p> <p>2 <b>there are five such cases. And then I looked at the</b></p> <p>3 <b>details of each one of those cases and created a</b></p> <p>4 <b>summary here for each of the cases, based on the title</b></p> <p>5 <b>of the accident report. So I have all five of those</b></p> <p>6 <b>listed here and a summary and some photographs that are</b></p> <p>7 <b>associated with each one of those accidents.</b></p> <p>8 Q. Okay. In your judgment, how many wrecks</p> <p>9 have you identified anywhere that are substantially</p> <p>10 similar to this wreck?</p> <p>11 <b>A. None.</b></p> <p>12 Q. Let's break out everything in your OSI</p> <p>13 folder. I'll just mark it all collectively.</p> <p>14 (Deposition Exhibit 36 was marked.)</p> <p>15 Q. Do you agree that in order for a wreck to</p> <p>16 be substantially similar, it does not necessarily need</p> <p>17 to involve the exact same platform as the subject</p> <p>18 vehicle?</p> <p>19 MR. BRANTLEY: Object to the form of the</p> <p>20 question.</p> <p>21 <b>A. No, I don't agree with that.</b></p> <p>22 Q. (BY MR. JEB BUTLER) So you think in order</p> <p>23 for a wreck to be substantially similar, it has to</p> <p>24 involve the exact same platform as the subject vehicle?</p> <p>25 <b>A. Yes, I think it should.</b></p>
<div data-bbox="717 1079 794 1104" data-label="Page-Header">Page 183</div> <p>1 whatsoever?</p> <p>2 <b>A. No, I don't have an opinion.</b></p> <p>3 Q. Well, that will shorten this line of</p> <p>4 questioning.</p> <p>5 Does anyone else -- strike that.</p> <p>6 Do any other Chrysler experts have an</p> <p>7 opinion, to your knowledge, about how the body came to</p> <p>8 be located in the position shown in Plaintiffs'</p> <p>9 Exhibit 35?</p> <p>10 <b>A. No.</b></p> <p>11 Q. Have you talked with Chrysler's lawyers</p> <p>12 about it?</p> <p>13 <b>A. No.</b></p> <p>14 Q. Have you discussed with anyone how his</p> <p>15 body might have ended up in the places shown in</p> <p>16 Plaintiffs' Exhibit 35?</p> <p>17 <b>A. No.</b></p> <p>18 Q. What have you done with respect to</p> <p>19 evaluating other similar incidents?</p> <p>20 <b>A. I created a section in my notebook with a</b></p> <p>21 <b>tab, the title "Arndt - Other Similar Incidents." And</b></p> <p>22 <b>I put his spreadsheet of other similar incidents behind</b></p> <p>23 <b>that tab and then sorted that list of 45 cases based on</b></p> <p>24 <b>platform, which is the WJ, which is the platform of the</b></p> <p>25 <b>subject vehicle.</b></p>	<div data-bbox="1336 1079 1427 1104" data-label="Page-Header">Page 185</div> <p>1 Q. All right. Do you agree that -- well,</p> <p>2 why?</p> <p>3 <b>A. Because of the different designs of the</b></p> <p>4 <b>platforms. Jeep has many different platforms of</b></p> <p>5 <b>vehicles with different types of designs for those</b></p> <p>6 <b>platforms; such as the design of the frame rails, the</b></p> <p>7 <b>design of the fuel system, the design of the fuel</b></p> <p>8 <b>filler tube, the design of, say, energy absorbing</b></p> <p>9 <b>structures within the vehicle. So to take a completely</b></p> <p>10 <b>different design of a vehicle and say that it's</b></p> <p>11 <b>applicable or similar to, say, the subject accident, I</b></p> <p>12 <b>don't think is a proper way of evaluating performance</b></p> <p>13 <b>of this system with this -- with this vehicle.</b></p> <p>14 Q. Is it possible to have two different</p> <p>15 platforms that are substantially similar to one</p> <p>16 another?</p> <p>17 MR. BRANTLEY: Object to the form of the</p> <p>18 question.</p> <p>19 <b>A. I don't believe so. I think the reason</b></p> <p>20 <b>they're changing the platform is because there's</b></p> <p>21 <b>significant differences in the platforms.</b></p> <p>22 Q. (BY MR. JEB BUTLER) What are all the</p> <p>23 differences between the fuel systems of the WJ and ZJ</p> <p>24 platforms?</p> <p>25 <b>A. I can't list all of the differences</b></p>



<div> <div>Page 186</div> <div> <p>1 between those. I know there's another expert that's</p> <p>2 going to be talking about the fuel system design and</p> <p>3 the structural design components of the different</p> <p>4 vehicles.</p> <p>5 Q. And who is that?</p> <p>6 A. I believe it's going to be Jon Olson or</p> <p>7 somebody at Chrysler.</p> <p>8 Q. Has he told you anything about the</p> <p>9 differences between the fuel systems of the WJ and ZJ</p> <p>10 platform?</p> <p>11 A. He hasn't categorically listed them or</p> <p>12 told me, but he said there's significant differences</p> <p>13 between all the different platforms of vehicles.</p> <p>14 Q. What are some of those differences between</p> <p>15 the WJ and ZJ fuel systems?</p> <p>16 A. I wouldn't be able to identify those.</p> <p>17 Q. Can you identify differences between the</p> <p>18 fuel systems of the WJ and ZJ platforms?</p> <p>19 A. I wouldn't be able to identify -- I</p> <p>20 haven't done a component analysis that differentiates</p> <p>21 the two. All I know is that there's significant</p> <p>22 differences between the vehicle structures. And I was</p> <p>23 then asked to not focus on identifying the differences,</p> <p>24 but focus on my expertise, which is not the structural</p> <p>25 differences, but the dynamic differences of the</p> </div> </div>	<div> <div>Page 188</div> <div> <p>1 question. It's an incomplete hypothetical.</p> <p>2 A. I don't know. I guess there's</p> <p>3 circumstances where that may or may not be true.</p> <p>4 Q. (BY MR. JEB BUTLER) How about the</p> <p>5 Delta V? Does it need to be identical, or can Delta Vs</p> <p>6 just be approximately the same and a collision still be</p> <p>7 substantially similar?</p> <p>8 MR. BRANTLEY: Object to the form of the</p> <p>9 question.</p> <p>10 A. I assume you're saying all things being</p> <p>11 equal, except for the Delta V? Is that what you're</p> <p>12 saying?</p> <p>13 Q. (BY MR. JEB BUTLER) Sure.</p> <p>14 A. Again, I think there's circumstances where</p> <p>15 that would be true and others where that might not be</p> <p>16 true.</p> <p>17 Q. How close do the directions of impact need</p> <p>18 to be for a wreck to be substantially similar to</p> <p>19 another?</p> <p>20 MR. BRANTLEY: Object to the form of the</p> <p>21 question, incomplete hypothetical.</p> <p>22 A. I don't think there's a good answer for</p> <p>23 that. There's so many different conditions that could</p> <p>24 arise. I haven't seen -- thought about how to quantify</p> <p>25 that. I guess you're saying everything being equal,</p> </div> </div>
<div> <div>Page 187</div> <div> <p>1 crashes.</p> <p>2 So it's my understanding that there's</p> <p>3 significant differences between the platforms, and that</p> <p>4 they were not substantially similar. And the reason</p> <p>5 behind that, I'm not laying the foundation for.</p> <p>6 Q. Okay.</p> <p>7 A. What I'm laying the foundation for is</p> <p>8 taking that as a known, what are the differences</p> <p>9 between our accident and the remaining subject</p> <p>10 accidents that are involved in the OSI.</p> <p>11 Q. I'm going to ask you two more questions,</p> <p>12 to which I think I know the answer. First is, it</p> <p>13 sounds like you're not able to identify the differences</p> <p>14 between the WJ and XJ fuel systems; is that right?</p> <p>15 A. That's correct. I haven't looked at those</p> <p>16 vehicles' fuel system designs and methodologies.</p> <p>17 Q. So is it also correct that you're not able</p> <p>18 to identify the differences between the WJ and KJ fuel</p> <p>19 systems?</p> <p>20 A. Correct.</p> <p>21 Q. All right. Answer that (indicating).</p> <p>22 Let's see. Do you agree that for two crashes to be</p> <p>23 substantially similar, the direction of impact needs to</p> <p>24 be basically the same, but need not be identical?</p> <p>25 MR. BRANTLEY: Object to the form of the</p> </div> </div>	<div> <div>Page 189</div> <div> <p>1 except for direction? Is that what the question was?</p> <p>2 Q. (BY MR. JEB BUTLER) Yes.</p> <p>3 A. How close do they need to be?</p> <p>4 Q. Right.</p> <p>5 A. Everything else being equal, same vehicle,</p> <p>6 same impacting objects, same bullet vehicles, same</p> <p>7 target vehicles, same Delta Vs?</p> <p>8 Q. You got it.</p> <p>9 A. Same roadway, same friction, same load.</p> <p>10 Everything is the same, how close to the -- I don't</p> <p>11 know. I guess you'd say the PDOF should be -- I</p> <p>12 haven't even thought about that. But if you're</p> <p>13 measuring on a clock, say 6 o'clock or 5 o'clock, you'd</p> <p>14 probably want to be within 30 degrees.</p> <p>15 Q. 30 degrees?</p> <p>16 A. What about Delta V? All other things</p> <p>17 being the same, how much congruence do you need in</p> <p>18 Delta V for a wreck to be substantially similar?</p> <p>19 MR. BRANTLEY: Object to the form of the</p> <p>20 question.</p> <p>21 Q. (BY MR. JEB BUTLER) I'll clarify that as</p> <p>22 Delta V of the target vehicle.</p> <p>23 MR. BRANTLEY: Same objection.</p> <p>24 A. So everything being equal?</p> <p>25 Q. (BY MR. JEB BUTLER) Right.</p> </div> </div>

<div>Page 190</div> <p>1       <b>A. You can't really answer that without</b>  2 <b>knowing whether you're measuring Delta V in the impact</b>  3 <b>area or at the CG or where on the vehicle you're</b>  4 <b>measuring that Delta V.</b></p> <p>5       Q. What are your criteria for determining  6 substantial similarity between two collisions?</p> <p>7       <b>A. Well, if you have a semi impacting the</b>  8 <b>back of a vehicle, and you're trying to say that that's</b>  9 <b>substantially similar to the subject accident, I would</b>  10 <b>disagree with you. If you said, say, a tow truck is</b>  11 <b>substantially similar to the bullet vehicle in this</b>  12 <b>case, I would disagree.</b></p> <p>13       <b>If the post-impact -- or post-impact</b>  14 <b>movement of the target vehicle goes over, say, a</b>  15 <b>guardrail, you know, and catches fire after an impact,</b>  16 <b>I wouldn't consider those to be substantially similar.</b>  17 <b>If there's separation of the filler tube on a specific</b>  18 <b>accident and the subject accident didn't have that same</b>  19 <b>separation that allowed fuel to be breached from the</b>  20 <b>system, I wouldn't call those substantially similar.</b></p> <p>21       Q. You sort of brought up weight of vehicles,  22 what a vehicle struck, you used the guardrail example,  23 and then you talked about filler tubes. How do you  24 generalize that? What is that, failure mode?</p> <p>25       <b>A. Sure.</b></p>	<div>Page 192</div> <p>1 see. Okay. I've now marked as Plaintiffs' Exhibit 37  2 a list of OSI criteria that we discussed here. Have I  3 missed anything or written anything wrong, or do you  4 have anything to add?</p> <p>5       <b>A. Because you wrote "are," a-r-e. Just put</b>  6 <b>an "a" at the end there. Is it okay if I write on</b>  7 <b>here? I'm just going to add target vehicle speed and</b>  8 <b>geometry.</b></p> <p>9       Q. Sure.</p> <p>10       <b>A. I think that's a pretty good list to start</b>  11 <b>with.</b></p> <p>12       Q. All right. Anything to add at this time  13 to Plaintiffs' Exhibit 37?</p> <p>14       <b>A. Not at this time, no.</b></p> <p>15       Q. Are -- does Plaintiffs' Exhibit 36 list  16 all of the wrecks that you considered in your  17 evaluation of substantial similarity?</p> <p>18       <b>A. Yes.</b></p> <p>19       Q. Are you familiar with the scope of the  20 recall request from the National Highway Traffic Safety  21 Administration in this case?</p> <p>22       <b>A. No.</b></p> <p>23       Q. Of the -- of the other incidents that you  24 reviewed, how many cases were there where a Jeep with a  25 fuel tank behind the rear axle leaked fuel?</p>
<div>Page 191</div> <p>1       Q. Are those fair descriptions of the things  2 you just identified; weight, what was struck, and  3 failure mode?</p> <p>4       <b>A. Yes. Speed.</b></p> <p>5       Q. Speed. We can make it an exhibit, I  6 guess.</p> <p>7       <b>A. What's that second one? What was struck?</b></p> <p>8       Q. Weight, what was struck, failure mode,  9 speed. We will make it an exhibit.</p> <p>10       <b>A. I think we can add vehicle type or bullet</b>  11 <b>vehicle type. Some vehicles are stiffer than the</b>  12 <b>subject vehicle. Like a semi or a tow truck or</b>  13 <b>something like that would be stiffer than the subject</b>  14 <b>vehicle, so it's not going to absorb much energy.</b></p> <p>15       Q. Okay. And you started this mentioning --  16 talking about target vehicle types. The target vehicle  17 type would be one of your criteria as well, I imagine?</p> <p>18       <b>A. Well, if we're talking about the same</b>  19 <b>target vehicle, right. That's how we whittled it down</b>  20 <b>from 45 down to 5. But, yes, target vehicle, geometry.</b></p> <p>21       MR. BRANTLEY: He also discussed area of  22 impact.</p> <p>23       MR. JEB BUTLER: Thank you, Mr. Brantley.  24 (Deposition Exhibit 37 was marked.)</p> <p>25       Q. (BY MR. JEB BUTLER) All right. Let's</p>	<div>Page 193</div> <p>1       <b>A. Well, of the WJ, I believe that there was</b>  2 <b>a breach to the fuel -- to a fuel system, we don't know</b>  3 <b>which fuel system, on all five of them that I reviewed.</b></p> <p>4       Q. Okay. What about as to -- is ZJ another  5 platform that you reviewed?</p> <p>6       <b>A. Yes.</b></p> <p>7       Q. How many fuel leakages among the ZJs?</p> <p>8       <b>A. I didn't list them by platforms.</b></p> <p>9       Q. Let me see how you've got it listed, and I  10 can do a better question.</p> <p>11       <b>A. I just highlighted them by which ones were</b>  12 <b>WJs and color coded them in red -- I'm sorry, blue.</b></p> <p>13       Q. Okay. Of the incidents listed on the --  14 does the first page of 36, of Plaintiffs' Exhibit 36,  15 list all of the other wrecks that you reviewed?</p> <p>16       <b>A. Yes.</b></p> <p>17       Q. Okay. I didn't realize it was all on the  18 first page. So of the wrecks that you reviewed and  19 that are listed on the first page of Plaintiffs'  20 Exhibit 36, in how many of those did leak fuel?</p> <p>21       <b>A. I didn't look at every one of the cases.</b>  22 <b>I just looked at ones that had a WJ platform, because I</b>  23 <b>don't believe any of the others would be substantially</b>  24 <b>similar. So then I drilled down to the remaining five</b>  25 <b>that were WJ.</b></p>

<div>Page 194</div> <p>1 Q. Of the -- on the WJs, on those cases, how</p> <p>2 many times was somebody injured?</p> <p>3 <b>A. I wasn't looking at injury criteria. I</b></p> <p>4 <b>was just looking at the dynamics of the collision.</b></p> <p>5 Q. So when you were assessing substantial</p> <p>6 similarity, you didn't look at whether someone was</p> <p>7 injured?</p> <p>8 <b>A. Correct, I did not. I just looked at</b></p> <p>9 <b>whether they were substantially similar, based on their</b></p> <p>10 <b>impact modes.</b></p> <p>11 Q. All right. Let's see. Did anyone at</p> <p>12 Chrysler or any of Chrysler's lawyers ask you to review</p> <p>13 other incidents that were not involving a WJ platform?</p> <p>14 <b>A. I guess I don't understand that question.</b></p> <p>15 Q. Did anyone at Chrysler or any of</p> <p>16 Chrysler's lawyers ask you to evaluate for substantial</p> <p>17 similarity wrecks involving Jeeps, other than WJs?</p> <p>18 <b>A. Well, it wasn't the instruction from the</b></p> <p>19 <b>attorneys that I got, it was my discussions with the</b></p> <p>20 <b>other experts about the design of the vehicles being</b></p> <p>21 <b>not similar to the subject vehicle, and only that the</b></p> <p>22 <b>design of the other vehicles wasn't substantially</b></p> <p>23 <b>similar and the differences they would identify or</b></p> <p>24 <b>someone else would identify.</b></p> <p>25 Q. So it sounds like no one at Chrysler and</p>	<div>Page 196</div> <p>1 similarity to this accident, which was a WJ, also. So</p> <p>2 that's how we whittled it down.</p> <p>3 Now, the materials that are provided</p> <p>4 include other types of vehicles, but I didn't drill</p> <p>5 down into those, because the platform is a different</p> <p>6 platform, and they're not -- the platform is not</p> <p>7 substantially similar.</p> <p>8 Q. Other than being asked to review the</p> <p>9 materials from Mr. Arndt's deposition, has anyone at</p> <p>10 Chrysler or any lawyer for Chrysler ever asked you to</p> <p>11 review other wrecks to determine whether they're</p> <p>12 substantially similar?</p> <p>13 <b>A. No.</b></p> <p>14 Q. When did -- you may have told me this, and</p> <p>15 if you have, I forgot. When did that conversation with</p> <p>16 Mr. Olson regarding the similarity of platforms occur?</p> <p>17 <b>A. I think it probably occurred both when I</b></p> <p>18 <b>was meeting with him and probably on a phone</b></p> <p>19 <b>conference, where there was a discussion about the</b></p> <p>20 <b>different types of vehicles and the different</b></p> <p>21 <b>platforms, and that that was his area of expertise.</b></p> <p>22 <b>He's a fuel system design engineer, and I'm not a fuel</b></p> <p>23 <b>system design engineer. So I think it was mutually</b></p> <p>24 <b>agreed upon that he would evaluate the different</b></p> <p>25 <b>designs of the fuel systems for each type of vehicle,</b></p>
<div>Page 195</div> <p>1 none of Chrysler's lawyers asked you to review other</p> <p>2 wrecks involving vehicles of platforms other than WJ?</p> <p>3 MR. BRANTLEY: Object to the form of the</p> <p>4 question. I think it's been asked and answered.</p> <p>5 <b>A. I guess I don't know how to answer that in</b></p> <p>6 <b>a different way.</b></p> <p>7 Q. (BY MR. JEB BUTLER) Did anyone from</p> <p>8 Chrysler ask you -- strike that.</p> <p>9 Did anyone from Chrysler or any of</p> <p>10 Chrysler's lawyers ask you to review other wrecks to</p> <p>11 determine whether they were substantially similar?</p> <p>12 <b>A. No.</b></p> <p>13 Q. So is the work done on Plaintiffs'</p> <p>14 Exhibit 36 something you did on your own?</p> <p>15 <b>A. I guess I don't understand. I was sent</b></p> <p>16 <b>boxes -- boxes of materials from Mr. Arndt's</b></p> <p>17 <b>deposition.</b></p> <p>18 Q. Okay.</p> <p>19 <b>A. And inside the boxes I was told that there</b></p> <p>20 <b>are materials that he considers to be documents of</b></p> <p>21 <b>similar incidents; so a spreadsheet of all those cases,</b></p> <p>22 <b>which we have a case number or an OSI number, 1 through</b></p> <p>23 <b>45. So we identified all those cases that were</b></p> <p>24 <b>provided to us and then determined which one of those</b></p> <p>25 <b>cases were WJs, because we were looking at substantial</b></p>	<div>Page 197</div> <p>1 because of his area of expertise, and that I would look</p> <p>2 at the dynamics side of the accidents, because that's</p> <p>3 my area of expertise.</p> <p>4 So from that standpoint, he was going to</p> <p>5 deal with the similarities between these different</p> <p>6 platforms or the dissimilarities between the platforms,</p> <p>7 based on their design, because of his design</p> <p>8 engineering background, and I would look at the</p> <p>9 dynamics of the collisions and evaluate the</p> <p>10 similarities or dissimilarities between these cases,</p> <p>11 based on the dynamics.</p> <p>12 Q. He's on the design side, you're on the</p> <p>13 recon side?</p> <p>14 <b>A. That's correct.</b></p> <p>15 Q. Let's see. You said your meeting with</p> <p>16 Mr. Olson. Is that the time when you were inspecting</p> <p>17 the vehicle, or is that a different time?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. I think you spoke about a phone conference</p> <p>20 with him. Is that the one to which we've already</p> <p>21 referred, or is that a separate one?</p> <p>22 <b>A. Yes. It would be one in the past that</b></p> <p>23 <b>we've had.</b></p> <p>24 Q. Do you remember approximately when that</p> <p>25 was?</p>

<div>Page 198</div> <p>1       <b>A. Well, I see that there was something in --</b>  2 <b>was it April or something like that that we had listed?</b>  3 <b>And I can't remember the exact date. I can look at the</b>  4 <b>billings.</b>  5       Q. That's all right. April 2014?  6       <b>A. I thought so.</b>  7       Q. It sounds like, in terms of actually  8 reviewing wrecks for substantial similarity, you've  9 only looked at five in this case; is that right?  10       <b>A. That's correct. I have the materials for</b>  11 <b>more of those, but I've only looked at five. If --</b>  12 <b>it's my understanding that Mr. Arndt hasn't finalized</b>  13 <b>his opinions with regards to OSIs, that he hasn't</b>  14 <b>identified, of the materials that he provided, which</b>  15 <b>ones he believes are substantially similar.</b>  16       Q. You're referring to a conversation with  17 Mr. Brantley?  18       <b>A. Yes. And that he was going to dig into</b>  19 <b>that further and then offer his opinions with regards</b>  20 <b>to that. So instead of wasting a bunch of time trying</b>  21 <b>to guess what he was going to say, we evaluated the</b>  22 <b>information that we have. And if he has opinions other</b>  23 <b>than the ones that I'm offering here, then I'll</b>  24 <b>certainly evaluate those and respond.</b>  25       Q. Thus far, you have only evaluated those</p>	<div>Page 200</div> <p>1 was -- well, we'll see what it was.  2       MR. JAMES BUTLER: You made it so far  3 without any total BS prompting of the witness. I mean,  4 you know I had to say something.  5       MR. BRANTLEY: I've let a number of  6 questions go, but the question about what Chrysler can  7 and can't or shouldn't do --  8       MR. JEB BUTLER: Let's listen to the  9 question.  10       (The last question was read back as  11 follows: "Well, my question is, could they? Is there  12 any reason, to your knowledge, that Chrysler couldn't  13 look at all the wrecks that it's aware of and evaluate  14 them for substantial similarity?")  15       <b>A. I don't have an opinion with regards to</b>  16 <b>that.</b>  17       Q. (BY MR. JEB BUTLER) Can you name me any  18 reason that Chrysler could not evaluate all the wrecks  19 that it's aware of for substantial similarity?  20       MR. BRANTLEY: Object to the form of the  21 question.  22       <b>A. I can think of a lot of reasons why they</b>  23 <b>couldn't do that.</b>  24       Q. (BY MR. JEB BUTLER) Okay. What are some  25 of them?</p>
<div>Page 199</div> <p>1 five wrecks for substantial similarity; is that right?  2       <b>A. Yes.</b>  3       Q. And then wouldn't it be possible for  4 Chrysler and its experts to look at all the wrecks  5 they're aware of and decide whether any of them were  6 substantially similar?  7       MR. BRANTLEY: Object to the form of the  8 question.  9       <b>A. I guess I don't understand why you think</b>  10 <b>they should be doing something like that.</b>  11       Q. (BY MR. JEB BUTLER) Well, my question is,  12 could they? Is there any reason, to your knowledge,  13 that Chrysler couldn't look at all the wrecks that it's  14 aware of and evaluate them for substantial similarity?  15       MR. BRANTLEY: I'll object to the form of  16 the question, calls for speculation, incomplete  17 hypothetical. I believe there's -- it's been asked and  18 answered. He's testified as to the evaluation that he  19 has performed as an expert in the case, and I don't  20 know if it's appropriate to ask him to opine as to what  21 Chrysler should, could, can't, will do.  22       MR. JAMES BUTLER: All of that is total  23 BS, Terry. Would you read the question back, please,  24 Madam Court Reporter.  25       MR. JEB BUTLER: I believe the question</p>	<div>Page 201</div> <p>1       <b>A. Well, when you want to look at whether</b>  2 <b>they're similar, I think you have to do a very detailed</b>  3 <b>accident reconstruction to the level that I've done it,</b>  4 <b>incorporating the expertise that I and others are</b>  5 <b>adding to this case. I mean, looking at biomechanics,</b>  6 <b>looking at structures, looking at the dynamics, looking</b>  7 <b>at fuel system design, bring all those together.</b>  8       <b>So I guess if that same thing was done</b>  9 <b>with other cases, perhaps there's a way that you could</b>  10 <b>then blend that together and determine whether they're</b>  11 <b>substantially similar. But I think that to take a -- a</b>  12 <b>view without knowing the details of the crash and say</b>  13 <b>that they're similar isn't a proper way to come up with</b>  14 <b>a list of substantially similar accidents.</b>  15       Q. Has Chrysler, to your knowledge, taken any  16 steps to identify substantially similar collisions,  17 other than asking you or other experts to review the  18 documents that Fred Arndt produced at his deposition?  19       <b>A. I don't know if they have.</b>  20       Q. So you don't know of any other efforts  21 they've undertaken?  22       <b>A. I do not know.</b>  23       MR. JAMES BUTLER: That's bullshit.  24       MR. JEB BUTLER: Well, hold on a second.  25       Q. (BY MR. JEB BUTLER) Have you ever in a</p>

1 Chrysler case opined that another vehicle was  
2 substantially similar to the wreck at issue?

3 **A. Not that I recall.**

4 Q. Have you ever in any product liability  
5 case where you were providing testimony on behalf of  
6 the manufacturer opined that another wreck was  
7 substantially similar to the wreck at issue?

8 **A. Not that I recall.**

9 Q. When you did your vehicle inspection in  
10 this case, did you look -- I'm not clear -- did you  
11 look inside the vehicle for occupant contact marks?

12 **A. Inside the Jeep?**

13 Q. Yes, specifically in the area where  
14 [REDACTED] was sitting.

15 **A. I'm sure I have, but I wasn't specifically  
16 focused on that.**

17 Q. Is there any part of the interior of the  
18 Jeep that you believe [REDACTED] head or other  
19 body part struck during the collision?

20 **A. I didn't look into that area. It's not an  
21 area I have an opinion about with regards to contact  
22 points.**

23 Q. What kind of car do you drive?

24 **A. I have four boys, so I drive a big  
25 Escalade.**

1 Q. Do you or anyone in your family currently  
2 drive any Chrysler, Fiat, Dodge, Jeep vehicles?

3 **A. No.**

4 Q. Have you all ever?

5 **A. My family?**

6 Q. Yes.

7 **A. No.**

8 Q. Did you say no?

9 **A. No, I have not.**

10 (Discussion off the record.)

11 Q. (BY MR. JEB BUTLER) Have you talked with  
12 any current or former Chrysler employees about this  
13 wreck, that excludes Chrysler's outside counsel?

14 **A. Not that I recall, no.**

15 Q. Did you meet with Mr. Brantley or any  
16 other Chrysler counsel before this deposition?

17 **A. Yes.**

18 Q. How long and when?

19 **A. It was last week on Wednesday, I believe,  
20 that Mr. Brantley and I met. He came in the office at  
21 8:30, and he left at around 3:30, I believe.**

22 Q. Okay. So you and Mr. Brantley met from  
23 8:30 to 3:30 last Wednesday?

24 **A. Yes.**

25 Q. Any other meeting with Chrysler's counsel?

1 **A. No.**

2 Q. Who else was present when you and  
3 Mr. Brantley met last week?

4 **A. Will Bortles.**

5 Q. Anybody else?

6 THE DEPONENT: John, did you step in?

7 MR. HEHER: No.

8 MR. JEB BUTLER: He's already on the  
9 record. He doesn't need to be again.

10 Q. (BY MR. JEB BUTLER) We discussed some --  
11 early in this deposition, your thoughts about what sort  
12 of exhibits you might make for trial. Are there any  
13 other -- I guess I should go back through it. Other  
14 than what's in your file now and the computer  
15 simulation issue that Mr. Brantley cleared up for us,  
16 is there anything else specifically that you anticipate  
17 creating for purposes of trial?

18 **A. When I was trying to find our impact  
19 configuration and I had to revert to the two separate  
20 vehicles, I know I had done that alignment. So we  
21 might add that to your list of things I'll get for you,  
22 because I know I looked at that, so I know I'm going to  
23 provide a more detailed impact configuration. I have  
24 those models lined up so that those red lines that were  
25 the crush profiles for each of the vehicles, I have**

1 **those lined up in 3D, and I plan on using them.**

2 Q. What words should I write for that?

3 **A. Let's put 3D impact configuration.**

4 Q. And is that, like, a two-dimensional piece  
5 of paper?

6 **A. Yes. It would just be printed on paper,  
7 but it would show the three-dimensional relationship.**

8 Q. I've now added that to Plaintiffs' 3; is  
9 that right?

10 **A. Yes.**

11 Q. Good. Anything else?

12 **A. I don't think so.**

13 Q. All right. Have you ever asked or spoken  
14 with anyone at Chrysler or formerly employed by  
15 Chrysler about whether it's wise to mount a fuel tank  
16 behind the rear axle of a vehicle?

17 **A. No.**

18 Q. Do you have any questions or concerns  
19 about the methodology employed by Bryant Buchner in his  
20 analysis? I know that you disagree with some of his  
21 conclusions, but this question asks after his  
22 methodologies.

23 **A. Well, I think the reason why I have  
24 differing opinions is because of his methodologies. I  
25 think his methodologies are flawed, his methodology in**

<div>Page 206</div> <p>1 <b>determining the crush profile.</b></p> <p>2 Q. Okay. Let's see. We identified, what was</p> <p>3 it, three areas why you disagree with Buchner. It was</p> <p>4 crush profile, stiffness coefficient, and there was one</p> <p>5 other.</p> <p>6 <b>A. Impact configuration.</b></p> <p>7 Q. Apart from those things, do you have any</p> <p>8 other areas where you question his methodology?</p> <p>9 <b>A. No. I think that that's the major areas</b></p> <p>10 <b>of difference. I mean, I looked at his weights and</b></p> <p>11 <b>drag coefficients and deceleration rates, and, I mean,</b></p> <p>12 <b>we have minor differences. But the glaring differences</b></p> <p>13 <b>are those that we've identified.</b></p> <p>14 Q. Now twice?</p> <p>15 <b>A. Twice, at least.</b></p> <p>16 Q. What about Fred Arndt? Do you have any</p> <p>17 questions or concerns about his methodologies?</p> <p>18 <b>A. Well, he talks about absorbed energy and</b></p> <p>19 <b>comes up with a calculation for absorbed energy in the</b></p> <p>20 <b>FMVSS 301. And when he does that comparison, he uses</b></p> <p>21 <b>values that were provided to him by Buchner. But I</b></p> <p>22 <b>don't believe Buchner provided him with absorbed energy</b></p> <p>23 <b>in a 301. So I question where he got that absorbed</b></p> <p>24 <b>energy value. I don't believe his calculations are</b></p> <p>25 <b>correct.</b></p>	<div>Page 208</div> <p>1 questioned his methodologies?</p> <p>2 <b>A. Well, OSI. But again, I think he's</b></p> <p>3 <b>leaving his OSI analysis open right now. So I guess</b></p> <p>4 <b>I'll just wait until he's done.</b></p> <p>5 Q. You could have questions about his OSIs</p> <p>6 later?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Anything else?</p> <p>9 <b>A. That's all I can think of right now.</b></p> <p>10 Q. And then I guess as to Burton, you don't</p> <p>11 have questions or concerns about his methodologies,</p> <p>12 because you haven't reviewed his testimony?</p> <p>13 <b>A. That's correct.</b></p> <p>14 Q. Do you know of any accelerant that was in</p> <p>15 the subject Jeep Grand Cherokee?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Do you agree that drivers' memories of</p> <p>18 scary, unanticipated, and short-term events are</p> <p>19 unreliable?</p> <p>20 MR. BRANTLEY: Object to the form of the</p> <p>21 question.</p> <p>22 <b>A. No.</b></p> <p>23 Q. (BY MR. JEB BUTLER) You do not agree with</p> <p>24 that?</p> <p>25 <b>A. No.</b></p>
<div>Page 207</div> <p>1 Q. Okay. Apart from that, do you have any</p> <p>2 questions or concerns regarding Fred Arndt's</p> <p>3 methodologies?</p> <p>4 <b>A. Well, just to expand on that absorbed</b></p> <p>5 <b>energy, I think his evaluation of the absorbed energy</b></p> <p>6 <b>is not presented appropriately, in that the absorbed</b></p> <p>7 <b>energy analysis needs to take into consideration those</b></p> <p>8 <b>components of the vehicle that had to absorb the</b></p> <p>9 <b>energy. So to be specific, in this case, the Jeep had</b></p> <p>10 <b>to absorb energy in this crash. And most of the energy</b></p> <p>11 <b>was absorbed by the right side of the Jeep in this</b></p> <p>12 <b>crash, because it was offset to the right.</b></p> <p>13 <b>In an FMVSS 301, it's a full overlap</b></p> <p>14 <b>impact. So the entire rear end of the vehicle is</b></p> <p>15 <b>allowed to and does absorb energy in that collision.</b></p> <p>16 <b>So to compare those two and say that that's a better</b></p> <p>17 <b>way to evaluate the severity of a crash, I would</b></p> <p>18 <b>disagree with. And that's what he's doing in this</b></p> <p>19 <b>case. And I think it's an inappropriate way of</b></p> <p>20 <b>handling things.</b></p> <p>21 Q. Sounds like both of the concerns you</p> <p>22 identified so far relate to Mr. Arndt's views regarding</p> <p>23 absorbed energy?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. Is there any other area in which you</p>	<div>Page 209</div> <p>1 Q. All right.</p> <p>2 <b>A. And just to be clear for the record, is</b></p> <p>3 <b>that some memories can be reliable, some memories may</b></p> <p>4 <b>not be reliable.</b></p> <p>5 Q. All right. Did you bring a bibliography</p> <p>6 with you, like a list of -- I guess they would be</p> <p>7 industry journals or whatever you rely on?</p> <p>8 <b>A. Yes. And each section from my accident</b></p> <p>9 <b>reconstruction analysis I've got a sampling of the</b></p> <p>10 <b>literature that supports our opinions and the</b></p> <p>11 <b>foundation for those input values for each one of the</b></p> <p>12 <b>steps that were taken in our analysis. So you'll see</b></p> <p>13 <b>at the beginning of this we've got a list for this</b></p> <p>14 <b>section here, and then another list for the second</b></p> <p>15 <b>section, and then another list for the third, I</b></p> <p>16 <b>believe. Maybe it's just two sections that have the</b></p> <p>17 <b>list of documents. Yeah, just two sections.</b></p> <p>18 Q. Are the materials referred to in these --</p> <p>19 can I call these bibliographies?</p> <p>20 <b>A. That's fine.</b></p> <p>21 Q. Are the materials referred to in these</p> <p>22 bibliographies authoritative?</p> <p>23 <b>A. Only those that we've authored.</b></p> <p>24 Q. You talk like you have the ego of a lawyer</p> <p>25 now. Let me ask the question again. Are the materials</p>

<div>Page 210</div> <p>1 that you refer to in your bibliographies authoritative?</p> <p>2 <b>A. I would say yes with respect to our use of</b></p> <p>3 <b>those; meaning that we might refer to a book, and there</b></p> <p>4 <b>may be new research that's out there that will build</b></p> <p>5 <b>upon or somewhat change what may be reported in, say,</b></p> <p>6 <b>one of these texts, one of these books that I have</b></p> <p>7 <b>here.</b></p> <p>8 <b>So it looks like for our conservation of</b></p> <p>9 <b>energy and momentum analysis we're referring to Daily</b></p> <p>10 <b>and Fricke, which are these books here (indicating).</b></p> <p>11 <b>We are referring to specifically certain pages and</b></p> <p>12 <b>certain methodologies that are defined in these books.</b></p> <p>13 <b>Some of the things in the book have been updated with</b></p> <p>14 <b>other research that's been done. So not to say this</b></p> <p>15 <b>wouldn't be authoritative, it's just that more</b></p> <p>16 <b>information is now available because of different tests</b></p> <p>17 <b>and research that have been published that may</b></p> <p>18 <b>supplement or replace data that's reported in the text.</b></p> <p>19 Q. Okay. Apart from reading depositions and</p> <p>20 official reports, do you know of anything observed or</p> <p>21 said by the officers who investigated this crash, the</p> <p>22 firefighters that worked this crash, or the</p> <p>23 non-official witnesses who were on the scene of this</p> <p>24 crash?</p> <p>25 MR. JEB BUTLER: I think that was actually</p>	<div>Page 212</div> <p>1 shouldn't say, "on average."</p> <p>2 If Mr. Buchner testified the 1999 Grand</p> <p>3 Cherokee crushed 18 to 20 inches in a rear-end</p> <p>4 FMVSS 301 test, would could you have any basis to</p> <p>5 disagree with that?</p> <p>6 <b>A. Not at this time, no. I don't know. I</b></p> <p>7 <b>haven't evaluated how much deformation there is.</b></p> <p>8 Q. I want to ask you about computer programs</p> <p>9 that you used. Which ones did you use in your</p> <p>10 evaluation of this wreck?</p> <p>11 <b>A. AutoCAD, 3D Studio, Excel, PowerPoint.</b></p> <p>12 Q. I mean engineering programs, with which I</p> <p>13 would be unfamiliar. You don't have to list Microsoft</p> <p>14 Word.</p> <p>15 <b>A. Word. Let's see here.</b></p> <p>16 Q. Did you use EDCRASH, WinSMASH, WinCRASH,</p> <p>17 EDSMAC, or WinSMAC?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Have you provided us -- of the engineering</p> <p>20 programs, you mentioned, AutoCAD and one other --</p> <p>21 <b>A. 3D Studio.</b></p> <p>22 Q. -- have you provided in your file</p> <p>23 materials the input files that you used?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. Okay.</p>
<div>Page 211</div> <p>1 a good question, but let's see. Would you read it back</p> <p>2 for us?</p> <p>3 (The last question was read back as</p> <p>4 follows: "Apart from reading depositions and official</p> <p>5 reports, do you know of anything observed or said by</p> <p>6 the officers who investigated this crash, the</p> <p>7 firefighters that worked this crash, or the</p> <p>8 non-official witnesses who were on the scene of this</p> <p>9 crash?")</p> <p>10 <b>A. I'm not aware of any.</b></p> <p>11 MR. BRANTLEY: You can't go that</p> <p>12 direction. I've been watching the whole time. You got</p> <p>13 to the last page.</p> <p>14 MR. JEB BUTLER: I wondered if you-all</p> <p>15 were going to bark on that. I will have some other</p> <p>16 things to go through, but I want to look through your</p> <p>17 file and figure out how to mark and that and then go</p> <p>18 through and streamline the other questions during a</p> <p>19 break. So let's go off the record for a minute.</p> <p>20 (Discussion off the record.)</p> <p>21 (Recess taken, 4:20 p.m. to 4:29 p.m.,</p> <p>22 after which Mr. Heher was not present.)</p> <p>23 Q. (BY MR. JEB BUTLER) If Mr. Buchner</p> <p>24 testified that the 1999 Grand Cherokee crushed on</p> <p>25 average 18 to 20 inches -- no, strike that. I</p>	<div>Page 213</div> <p>1 <b>A. For 3D Studio, I think it was decided</b></p> <p>2 <b>you're going to take this disk that has the 3D data?</b></p> <p>3 Q. That's right. I don't know whether to</p> <p>4 mark it or not. I'm going to mark it as</p> <p>5 Plaintiffs' 38.</p> <p>6 <b>A. And you're going to retain 38? Because I</b></p> <p>7 <b>don't want to retain that.</b></p> <p>8 Q. I'll take 38 with me, if that's all right</p> <p>9 with you and Chrysler's counsel?</p> <p>10 MR. BRANTLEY: Absolutely. And we'll just</p> <p>11 have a piece of paper marked as 38 and attached to the</p> <p>12 transcript indicating it's a thumb drive plaintiffs'</p> <p>13 counsel took with him following the deposition.</p> <p>14 MR. JEB BUTLER: I'll make it now.</p> <p>15 Mr. Brantley, I just created such as an exhibit. Tell</p> <p>16 me if it meets with your approval (indicating).</p> <p>17 MR. BRANTLEY: Absolutely.</p> <p>18 MR. JEB BUTLER: You want it appropriately</p> <p>19 marked as Plaintiffs' Exhibit 38?</p> <p>20 MR. BRANTLEY: Yes.</p> <p>21 (Deposition Exhibit 38 was marked.)</p> <p>22 MR. BRANTLEY: Do we want to do the same</p> <p>23 thing for 39, A, B, and C?</p> <p>24 MR. JEB BUTLER: Yes. Let me get to that</p> <p>25 in a minute. We're not done with all the fun yet.</p>

<div>Page 214</div> <div> <p>1 Let's see. We've already marked your depo notice. And</p> <p>2 Chrysler filed some objections to that. And I'll</p> <p>3 provide a copy to Mr. Brantley. I'm marking those</p> <p>4 objections as No. 39.</p> <p>5 (Deposition Exhibit 39 was marked.)</p> <p>6 Q. (BY MR. JEB BUTLER) Have I done that?</p> <p>7 A. Yes.</p> <p>8 Q. Have you ever seen those objections</p> <p>9 before?</p> <p>10 A. No.</p> <p>11 Q. One of the things that -- they contain</p> <p>12 several things that we asked for and Chrysler objected</p> <p>13 to. I'm not going to go through them exhaustively, but</p> <p>14 I'll go through a few. One of the things the plaintiff</p> <p>15 and for which Chrysler objected was any and all</p> <p>16 contracts between you and your company or any defendant</p> <p>17 or its subsidiaries or attorneys or representatives.</p> <p>18 Did you decide you were unwilling to</p> <p>19 provide that, or was that something that Chrysler</p> <p>20 decided to object to?</p> <p>21 MR. BRANTLEY: Object to the form of the</p> <p>22 question.</p> <p>23 A. Which number is that?</p> <p>24 Q. (BY MR. JEB BUTLER) It's No. 4 on the</p> <p>25 Schedule A of documents to Plaintiffs' Exhibit 1.</p> </div>	<div>Page 216</div> <div> <p>1 seeing that for the first time today?</p> <p>2 A. Yes.</p> <p>3 Q. Had you discussed that document with</p> <p>4 Chrysler or Chrysler's counsel before today?</p> <p>5 A. This document?</p> <p>6 Q. Plaintiffs' 39.</p> <p>7 A. No -- well, yes. Mr. Brantley said that</p> <p>8 he filed a document that I haven't seen. He told me</p> <p>9 that this morning, that he filed a document that listed</p> <p>10 an objection to your notice of deposition. That's all</p> <p>11 I knew of this document. I haven't seen it.</p> <p>12 Q. Was this morning the first time you ever</p> <p>13 heard of the document that's now marked as Plaintiffs'</p> <p>14 Exhibit 39?</p> <p>15 A. Yes.</p> <p>16 Q. You mentioned a case in which your</p> <p>17 testimony had been excluded, and I didn't ask after the</p> <p>18 name of the case. Do you know what it is?</p> <p>19 A. No.</p> <p>20 Q. Do you have a copy of it?</p> <p>21 A. No.</p> <p>22 MR. JAMES BUTLER: Weaver. The name of</p> <p>23 the case was Weaver.</p> <p>24 THE DEPONENT: It may have been.</p> <p>25 (Deposition Exhibit 40 was marked.)</p> </div>
<div>Page 215</div> <div> <p>1 A. I guess meaning any defendant in this</p> <p>2 case, right?</p> <p>3 Q. Yes.</p> <p>4 A. There are no contracts, so there would be</p> <p>5 no reason to object to that, in my eyes.</p> <p>6 Q. Okay. Let's go to No. 14, which is copies</p> <p>7 of all correspondence and documents, including e-mails</p> <p>8 sent or received by you or anyone at your company in</p> <p>9 connection with this case.</p> <p>10 Is there any reason that you can think of</p> <p>11 to object to No. 14 in Plaintiffs' Exhibit 1?</p> <p>12 A. No.</p> <p>13 Q. Let's go to No. 19, any tangible evidence</p> <p>14 that you have in your possession, custody, or control.</p> <p>15 Is there any reason you can think of to</p> <p>16 object to that?</p> <p>17 A. No.</p> <p>18 Q. Let's look at No. 23, all background</p> <p>19 sources and other persons that you consulted.</p> <p>20 Any reason you can think of to object to</p> <p>21 that?</p> <p>22 A. Well, except for the fact that I didn't</p> <p>23 create a list for you.</p> <p>24 Q. Okay. As to Chrysler's objections, which</p> <p>25 I've now marked as Plaintiffs Exhibit No. 39, are you</p> </div>	<div>Page 217</div> <div> <p>1 Q. (BY MR. JEB BUTLER) I've now marked as</p> <p>2 Plaintiffs' Exhibit 40 a screenshot from the Kineticorp</p> <p>3 website. And that appears to show a way for</p> <p>4 Kineticorp's clients to log in; is that right?</p> <p>5 A. Yes.</p> <p>6 Q. What's behind that? What's behind the</p> <p>7 screenshot?</p> <p>8 A. Oh, I guess what you mean, what's the</p> <p>9 purpose for this, or what do you mean by "behind it"?</p> <p>10 Q. If I were a client of Kineticorp and</p> <p>11 logged in, what information would I be able to access</p> <p>12 after that screen?</p> <p>13 A. Well, a lot of times we are asked to</p> <p>14 provide our file materials to our clients in</p> <p>15 preparation for the deposition; meaning that opposing</p> <p>16 counsel wants our file, say, a week ahead of time. A</p> <p>17 lot of times there's a mutual agreement between</p> <p>18 attorneys that the file will be produced a week ahead,</p> <p>19 so we will post our file digitally. So all this could</p> <p>20 be posted digitally on our server. And we give our</p> <p>21 client the user name and password, and they can pass it</p> <p>22 on to opposing counsel so that they can download the</p> <p>23 entire file, if it's supposed to be produced in advance</p> <p>24 of the deposition.</p> <p>25 Q. Other than giving your clients access --</p> </div>



<div>Page 218</div> <p>1 well, strike that.</p> <p>2 The materials that you brought today, you</p> <p>3 refer to as your case file; is that right?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And one of the things that a client could</p> <p>6 access through going through screen that's marked as</p> <p>7 Plaintiffs' Exhibit 40 is your case file, right?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Okay.</p> <p>10 <b>A. Not unless we posted it. So if the client</b></p> <p>11 <b>asks us to post the case file, I'd say, sure, we'll</b></p> <p>12 <b>post the case file. But I can't ever recall a client</b></p> <p>13 <b>asking us to post our case file, unless it was in</b></p> <p>14 <b>advance of the deposition where it had to be supplied</b></p> <p>15 <b>to the opposing counsel prior to deposition.</b></p> <p>16 Q. Other than your case file, what other</p> <p>17 materials are available that you can log in at the</p> <p>18 screen marked Plaintiffs' Exhibit 40?</p> <p>19 <b>A. I'd say nothing.</b></p> <p>20 Q. All right. Let's mark your file. You've</p> <p>21 brought three books with you today, Mr. Fenton. And</p> <p>22 one of them says, "Fundamentals of Traffic Crash</p> <p>23 Reconstruction, Volume II of the Traffic Crash</p> <p>24 Reconstruction Series by Daily, Shigemura, and Daily.</p> <p>25 At the bottom it says, "Institute of Police Technology</p>	<div>Page 220</div> <p>1 Q. I got some questions we'll have to return</p> <p>2 to. The third book you brought says on the cover,</p> <p>3 "Traffic Crash Reconstruction," Second Edition, by</p> <p>4 Lynn B. Fricke. And that's F-r-i-c-k-e; is that right?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. At the bottom it says, "Northwestern</p> <p>7 University Center for Public Safety."</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. And it says inside, Second Edition, 2010.</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. All right. I noticed you were registered</p> <p>12 as a professional engineer in Colorado and Alabama.</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. I figure Colorado, because you live here?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And we're in Colorado.</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Why Alabama?</p> <p>19 <b>A. Alabama was or is -- or was, I guess, the</b></p> <p>20 <b>only state that required an engineer to have a license</b></p> <p>21 <b>in that state to testify as an engineer.</b></p> <p>22 Q. I see. Are you registered in Georgia?</p> <p>23 <b>A. No. But that state doesn't require a</b></p> <p>24 <b>person to be licensed as an engineer to testify</b></p> <p>25 <b>regarding engineering opinions.</b></p>
<div>Page 219</div> <p>1 and Management"; is that right?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. I'm trying to find a year for the book.</p> <p>4 It says, "Third Printing, October 2007," on the title</p> <p>5 page; is that right?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. The second book you brought says, "Vehicle</p> <p>8 Accident Analysis and Reconstruction Methods," by</p> <p>9 Raymond M. Brach and R. Matthew Brach; is that right?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. At the bottom it says, "SAE</p> <p>12 International."</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. It was given to you by Matt Brach and Ray</p> <p>15 Brach?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Who are they?</p> <p>18 <b>A. They're the authors, so they signed the</b></p> <p>19 <b>book for me.</b></p> <p>20 Q. Oh, I misread their last name.</p> <p>21 <b>A. Brach, actually.</b></p> <p>22 Q. Brach, excuse me. I'm looking for a date</p> <p>23 for this one. It says here, Copyright 2005,</p> <p>24 SAE International; is that right?</p> <p>25 <b>A. Yes.</b></p>	<div>Page 221</div> <p>1 Q. Do you or does anyone at Kinetcorp have</p> <p>2 records of your testifying experiences before 2009?</p> <p>3 <b>A. Not that I'm aware of.</b></p> <p>4 Q. Does anyone else at Kinetcorp testify on</p> <p>5 a frequent basis?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Who?</p> <p>8 <b>A. William Neale; Nathan Rose; Greg</b></p> <p>9 <b>Beauchamp, B-e-a-u-c-h-a-m-p; David Danaher.</b></p> <p>10 Q. Anybody else?</p> <p>11 <b>A. Will Bortles testifies sometimes.</b></p> <p>12 Q. Is that all?</p> <p>13 <b>A. I think that's it.</b></p> <p>14 Q. Did -- I forgot his first name. Does Kerr</p> <p>15 testify regularly?</p> <p>16 <b>A. Rick Kerr?</b></p> <p>17 Q. Yes.</p> <p>18 <b>A. Not a lot.</b></p> <p>19 Q. Okay. Who came up with the name</p> <p>20 Kinetcorp?</p> <p>21 <b>A. When I set up my business, I hired a high</b></p> <p>22 <b>school friend who works as a marketing -- at a</b></p> <p>23 <b>marketing firm, owns a marketing firm. So it was a</b></p> <p>24 <b>combination of my friend and I and my partners, the two</b></p> <p>25 <b>partners at the time, which was William Neale and</b></p>

<p style="text-align: right;">Page 222</p> <p>1 <b>Nathan Rose, we all four, I guess, collaborated.</b></p> <p>2 Q. So you, Neale, Rose, and your friend who</p> <p>3 ran a marketing company collaborated and came up with</p> <p>4 the name KinetiCorp?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. I note before you were at KinetiCorp you</p> <p>7 were at a company called Knot Laboratory or Knob? I</p> <p>8 forgot.</p> <p>9 <b>A. Knott, K-n-o-t-t.</b></p> <p>10 Q. What was that company's business?</p> <p>11 <b>A. It was a forensic engineering company that</b></p> <p>12 <b>did the same type of work that I'm doing now.</b></p> <p>13 Q. Why did you leave?</p> <p>14 <b>A. I wasn't getting along with the other</b></p> <p>15 <b>owner. There were two owners, and we had differences</b></p> <p>16 <b>of opinion.</b></p> <p>17 Q. Who were the other two owners?</p> <p>18 <b>A. There were two owners. I was one owner,</b></p> <p>19 <b>and the other one was Dr. Ziernicki.</b></p> <p>20 Q. How did you spell Ziernicki?</p> <p>21 <b>A. Z-i-e-r-n-i-c-k-i.</b></p> <p>22 Q. What did you--all disagree about?</p> <p>23 <b>A. I signed a confidentiality agreement</b></p> <p>24 <b>saying that I wouldn't talk about the disassociation</b></p> <p>25 <b>between myself and the company.</b></p>	<p style="text-align: right;">Page 224</p> <p>1 <b>A. I did work on some mines. Most of the</b></p> <p>2 <b>work was building roadways and bridges and dams.</b></p> <p>3 Q. All right. File. So what we're going to</p> <p>4 do, I think, is mark --</p> <p>5 MR. JAMES BUTLER: I have one more.</p> <p>6 Q. (BY MR. JEB BUTLER) How did you become an</p> <p>7 accident reconstruction expert?</p> <p>8 <b>A. When I got tired of being a construction</b></p> <p>9 <b>worker, I wanted to follow a dream that I had, which is</b></p> <p>10 <b>to do photogrammetry. I learned about photogrammetry</b></p> <p>11 <b>at the Colorado School of Mines as an engineer and</b></p> <p>12 <b>thought that -- well, in college we took -- I took a</b></p> <p>13 <b>photogrammetry class, and I learned about doing</b></p> <p>14 <b>close-range photogrammetry; in essence, taking</b></p> <p>15 <b>photographs from the ground and being able to get</b></p> <p>16 <b>dimensions from photographs taken from the ground; not</b></p> <p>17 <b>only from the air, but from the ground.</b></p> <p>18 <b>And I learned that the Japanese police had</b></p> <p>19 <b>been doing that since the 1960s, so I always had that</b></p> <p>20 <b>in the back of my mind that that would be an</b></p> <p>21 <b>interesting business to start. So after working</b></p> <p>22 <b>construction for about ten years, I decided that that</b></p> <p>23 <b>would be -- sounded like more fun, so I left</b></p> <p>24 <b>construction and started my own company doing</b></p> <p>25 <b>photogrammetry.</b></p>
<p style="text-align: right;">Page 223</p> <p>1 Q. Okay. Were you doing the same kind of</p> <p>2 work at Knott that you now do at KinetiCorp?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Where did you -- where were you employed</p> <p>5 before Knott?</p> <p>6 <b>A. I think it was Fenton Kerr Engineering,</b></p> <p>7 <b>yes.</b></p> <p>8 Q. Why did that entity dissolve -- or I</p> <p>9 assume it did dissolve?</p> <p>10 <b>A. It did. Fenton Kerr Engineering merged</b></p> <p>11 <b>into Knott Laboratory.</b></p> <p>12 Q. Okay. What were you doing at Peter Kiewit</p> <p>13 and Sons in Omaha?</p> <p>14 <b>A. Kiewit, K-i-e-w-i-t. That's a large</b></p> <p>15 <b>construction company, and I was a construction engineer</b></p> <p>16 <b>and superintendent for them.</b></p> <p>17 Q. All right.</p> <p>18 <b>A. That's the same company all the way down</b></p> <p>19 <b>through Twin Mountain and Kiewit Western. That's the</b></p> <p>20 <b>same company.</b></p> <p>21 Q. Were you doing the same thing?</p> <p>22 <b>A. In essence, yes. I first started working</b></p> <p>23 <b>as a field engineer in college, and then when I</b></p> <p>24 <b>graduated, I became a project superintendent.</b></p> <p>25 Q. Were you working on mines?</p>	<p style="text-align: right;">Page 225</p> <p>1 Q. Your own company was?</p> <p>2 <b>A. Fenton Engineering.</b></p> <p>3 Q. Fenton Engineering. I guess it later</p> <p>4 became Fenton Kerr Engineering?</p> <p>5 <b>A. Yes. I guess it was Fenton Engineering.</b></p> <p>6 <b>And Rick Kerr, I guess six months to a year later -- we</b></p> <p>7 <b>were working together at Peter Kiewit Construction.</b></p> <p>8 <b>And then I left, and then he followed behind, and then</b></p> <p>9 <b>we worked together for a number of years and then</b></p> <p>10 <b>merged with Knott Laboratory. But we were doing</b></p> <p>11 <b>photogrammetry for accident reconstruction and for</b></p> <p>12 <b>archeological projects, some of the archeological</b></p> <p>13 <b>funding that we got from the Colorado Historical</b></p> <p>14 <b>Society, for recording historic buildings. One</b></p> <p>15 <b>building designed by I.M. Pei, here in Denver, and</b></p> <p>16 <b>documenting industrial facilities using photogrammetry.</b></p> <p>17 <b>So found a niche in accident reconstruction and</b></p> <p>18 <b>followed it.</b></p> <p>19 Q. When did you found Fenton Engineering?</p> <p>20 <b>A. That was in 1993.</b></p> <p>21 Q. Did you start doing reconstruction stuff</p> <p>22 immediately upon founding Fenton Engineering?</p> <p>23 <b>A. I think that's -- the first projects I</b></p> <p>24 <b>worked on were car crashes, yes.</b></p> <p>25 Q. Okay. All right. File. I think what we</p>

1 said is that -- I can't remember if you were in here --  
 2 if it's agreeable with you, what we'll do is, I guess,  
 3 mark these, but then you can keep them and just -- if  
 4 you can make duplicates of them and send them to  
 5 plaintiffs' counsel.

6 **A. Yes. And I'm fine if we hand them to the**  
 7 **court reporter and allow her to do that.**

8 Q. It really doesn't matter to me.

9 MR. JAMES BUTLER: Which is cheaper?

10 THE DEPONENT: I don't know.

11 MR. JEB BUTLER: Let's go off the record.

12 (Discussion off the record.)

13 MR. JEB BUTLER: Let's go back on.

14 Q. (BY MR. JEB BUTLER) Mr. Fenton, you  
 15 brought three folders; one red, one grey, one black.

16 (Deposition Exhibit 41 was marked.)

17 Q. I've now marked the red one as

18 Plaintiffs' 41; is that right?

19 **A. Yes.**

20 Q. All right. I'm going to move that -- oh,  
 21 the side of this says: Owens.1942-0812, [REDACTED] v.  
 22 Chrysler Group, VAR, Engineering; is that right?

23 **A. Yes. That's our engineering file.**

24 Q. And this contains -- it contained the  
 25 thumb drive we already talked about. Then it has tabs

1 that say: CV, testimony history, invoicing,  
 2 correspondence, police investigation, '97 Dodge Dakota,  
 3 '99 Grand Cherokee, physical evidence, diagram,  
 4 accident reconstruction, reconstruction comparison,  
 5 Arndt, other similar instances, and one blank tab; is  
 6 that right?

7 **A. Yes.**

8 Q. And then this one next.

9 **A. Yes, the gray one.**

10 Q. The gray folder I'm marking as Plaintiffs'  
 11 Exhibit 42.

12 (Deposition Exhibit 42 was marked.)

13 Q. And on the side it says: Owens.1942-0812,  
 14 [REDACTED] v. Chrysler Group, VAR, Provided Materials; is  
 15 that right?

16 **A. Yes.**

17 Q. And this contains, to begin, five -- five  
 18 CDs. Disk 104 contains Chrysler Group's discovery  
 19 responses. 2 of 4 contains more Chrysler Group's  
 20 discovery responses. 3 of 4 and 4 of 4 also contain  
 21 Chrysler Group's discovery responses; is that right?

22 **A. Yes.**

23 Q. Then you've got plaintiffs' discovery  
 24 responses on a separate disk, right?

25 **A. Yes.**

1 Q. And then crash photos and articles from  
 2 the Post Search Light on another disk; is that right?

3 **A. Yes.**

4 Q. There are three more disks. They say:

5 Video clips and scripts from [REDACTED] stories from WCTV,  
 6 9/27/12 inspection photos by Jon Olson, and Bryant  
 7 Buchner, P.E. deposition and exhibits; is that right?

8 **A. Yes.**

9 Q. Beyond that, what does this file contain?

10 **A. It contains the crash -- Calspan report,**  
 11 **the complaint, and a tab called "Media."**

12 Q. Okay. Is "Media" news articles about this  
 13 case?

14 **A. Yes.**

15 MR. BRANTLEY: And I believe we have  
 16 agreed that plaintiffs' counsel do not want copies of  
 17 the disks with the subject matter on them, correct.

18 MR. JEB BUTLER: That's correct. We'll  
 19 take just a copy of the top of the CD.

20 Q. (BY MR. JEB BUTLER) And then our last  
 21 folder is now marked --

22 **A. Oh, that's the back.**

23 (Deposition Exhibit 43 was marked.)

24 Q. All right. Our last folder is now marked  
 25 Plaintiffs' Exhibit 43. And on the side it says:

1 Owens.1942-0812, [REDACTED] v. Chrysler Group, VAR,  
 2 Photographs; is that right?

3 **A. Yes.**

4 Q. Did you say yes?

5 **A. Yes.**

6 Q. And this contains several tabs. They say:

7 Aerial photographs, SCRT photographs (police), Post  
 8 Search Light (media), subject Jeep inspection, subject  
 9 Dodge inspection, Kineticorp site inspection, exemplar  
 10 Jeep inspection, and three blank tabs; is that right?

11 **A. Yes.**

12 Q. Good.

13 MR. JEB BUTLER: And our agreement with  
 14 respect to these folders, I believe, is that Gail and  
 15 her team of superb court reporters are going to make  
 16 copies and provide the copies to plaintiffs' counsel  
 17 and give the originals back to Mr. Fenton at  
 18 Kineticorp; is that right?

19 THE REPORTER: Yes.

20 MR. JAMES BUTLER: Can you put them in  
 21 notebooks?

22 THE REPORTER: Oh, sure.

23 MR. JEB BUTLER: And then with respect to  
 24 other exhibits that we pulled out and marked, basically  
 25 the same process. Gail and her team are going to make

<div>Page 230</div> <div> <p>1 copies, provide those copies to plaintiffs' counsel,</p> <p>2 and give the originals back to Mr. Fenton at</p> <p>3 Kineticcorp; is that right?</p> <p>4 THE REPORTER: Correct.</p> <p>5 MR. JAMES BUTLER: Let the matter be</p> <p>6 concluded.</p> <p>7 MR. JEB BUTLER: No further questions.</p> <p>8 (Discussion off the record.)</p> <p>9 WHEREUPON, the within proceedings were</p> <p>10 concluded at the approximate hour of 4:56 p.m. on the</p> <p>11 28th day of July, 2014.</p> <p>12 * * * * *</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div>	<div>Page 232</div> <div> <p>1 TO: Terry Brantley</p> <p>2 Re: Signature of Deponent Stephen Fenton, P.E.</p> <p>3 Date Errata due back at our offices: 08/31/2014</p> <p>4</p> <p>5 Greetings:</p> <p>6 The deponent has reserved the right to read and sign.</p> <p>7 Please have the deponent review the attached PDF</p> <p>8 transcript, noting any changes or corrections on the</p> <p>9 attached PDF Errata. The deponent may fill out the</p> <p>10 Errata electronically or print and fill out manually.</p> <p>11</p> <p>12 Once the Errata is signed by the deponent and notarized,</p> <p>13 please mail it to the offices of Tiffany Alley (below).</p> <p>14</p> <p>15 When the signed Errata is returned to us, we will seal</p> <p>16 and forward to the taking attorney to file with the</p> <p>17 original transcript. We will also send copies of the</p> <p>18 Errata to all ordering parties.</p> <p>19</p> <p>20 If the signed Errata is not returned within the time</p> <p>21 above, the original transcript may be filed with the</p> <p>22 court without the signature of the deponent.</p> <p>23</p> <p>24 Please send completed Errata to:</p> <p>25 Tiffany Alley Global Reporting &amp; Video</p> <p>730 Peachtree St. NE, Ste 470</p> <p>Atlanta, GA 30308</p> <p>(770) 343-9696</p> </div>
<div>Page 231</div> <div> <p>1 REPORTER'S CERTIFICATE</p> <p>2 STATE OF COLORADO )</p> <p>3 ) ss.</p> <p>4 CITY AND COUNTY OF DENVER )</p> <p>5 I, GAIL OBERMEYER, Registered Professional</p> <p>6 Reporter and Notary Public ID 19994012647, State of</p> <p>7 Colorado, do hereby certify that previous to the</p> <p>8 commencement of the examination, the said STEPHEN J.</p> <p>9 FENTON, P.E. was duly sworn by me to testify to the</p> <p>10 truth in relation to the matters in controversy between</p> <p>11 the parties hereto; that the said deposition was taken</p> <p>12 in machine shorthand by me at the time and place</p> <p>13 aforesaid and was thereafter reduced to typewritten</p> <p>14 form; that the foregoing is a true transcript of the</p> <p>15 questions asked, testimony given, and proceedings had.</p> <p>16 I further certify that I am not employed</p> <p>17 by, related to, nor of counsel for any of the parties</p> <p>18 herein, nor otherwise interested in the outcome of this</p> <p>19 litigation.</p> <p>20 IN WITNESS WHEREOF, I have affixed my</p> <p>21 signature this 31st day of July, 2014.</p> <p>22 My commission expires May 10, 2015.</p> <p>23</p> <p>24 <u>  X  </u> Reading and Signing was requested.</p> <p>25</p> <p>Reading and Signing was waived.</p> <p>Reading and Signing is not required.</p> <p><i>Gail Obermeyer</i></p> <p>GAIL OBERMEYER</p> </div>	<div>Page 233</div> <div> <p>1 ERRATA</p> <p>2 I, the undersigned, do hereby certify that I have read the</p> <p>3 transcript of my testimony, and that</p> <p>4</p> <p>5 ___ There are no changes noted.</p> <p>6 ___ The following changes are noted:</p> <p>7 Pursuant to Rule 30(7)(e) of the Federal Rules of Civil</p> <p>8 Procedure and/or OCGA 9-11-30(e), any changes in form or</p> <p>9 substance which you desire to make to your testimony shall</p> <p>10 be entered upon the deposition with a statement of the</p> <p>11 reasons given for making them. To assist you in making any</p> <p>12 such corrections, please use the form below. If additional</p> <p>13 pages are necessary, please furnish same and attach.</p> <p>14 Page ___ Line ___ Change _____</p> <p>15 Reason for change _____</p> <p>16 Page ___ Line ___ Change _____</p> <p>17 Reason for change _____</p> <p>18 Page ___ Line ___ Change _____</p> <p>19 Reason for change _____</p> <p>20 Page ___ Line ___ Change _____</p> <p>21 Reason for change _____</p> <p>22 Page ___ Line ___ Change _____</p> <p>23 Reason for change _____</p> <p>24 Page ___ Line ___ Change _____</p> <p>25 Reason for change _____</p> </div>



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18 Reason for change \_\_\_\_\_  
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DEPONENT'S SIGNATURE  
21 \_\_\_\_\_  
Sworn to and subscribed before me this \_\_\_\_ day of  
22 \_\_\_\_\_, \_\_\_\_\_.  
23 \_\_\_\_\_  
24 NOTARY PUBLIC  
25 My Commission Expires: \_\_\_\_\_



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