

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF IOWA
3 CENTRAL DIVISION
4

5 FRANCIS A. AHLBERG and MICHAEL GLENN,
6 co-administrators of the Estate of
7 RALPH A. AHLBERG, Deceased, and
8 FRANCES A. AHLBERG, Individually,

9
10 Plaintiffs,

11 vs Case No. 4:04-cv-90104

12 Mag. Judge Thomas J. Shields

13 CHRYSLER CORPORATION, a Delaware
14 corporation, and DAIMLERCHRYSLER
15 CORPORATION, a Delaware corporation,

16
17 Defendants.
18 _____/

19
20 DEPONENT: DaimlerChrysler Corp. (Robert Banta)

21 DATE: Thursday, January 5, 2006

22 TIME: 11:05 a.m.

23 LOCATION: 840 West Long Lake Road, Suite 200
24 Troy, Michigan

25 REPORTER: Angela E. Broccardo, CSR 4679

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1	APPEARANCES:
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3	DAVID A. DOMINA
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8	Appearing on behalf of the Plaintiffs.
9	
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2	
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	Page 5
1	Troy, Michigan
2	Thursday, January 5, 2005
3	11:05 a.m.
4	* * *
5	ROBERT BANTA,
6	having first been duly sworn, was examined and
7	testified as follows:
8	EXAMINATION
9	BY MR. DOMINA:
10	Q. What is your name, sir?
11	A. My name is Robert Banta, B-a-n-t-a.
12	Q. Are you here today to testify as the
13	spokesperson for the defendant, DaimlerChrysler
14	Corporation?
15	A. I am, yes.
16	Q. Mr. Banta, the first topic identified in the
17	notice for this deposition concerns the status
18	of documents, other than newspaper articles,
19	contained on Defendant's Disk 7 produced during
20	discovery on select dates, October 6 and 17,
21	2005, and the second concerns all documents
22	produced by the defendant following the court's
23	December 16, 2005 order.
24	Before you were sworn today, I handed
25	you and your attorneys, and you spent some time,

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1 by agreement with me, going through the
2 Plaintiffs' Exhibits 17 through 290. I think I
3 said 292 before we started, but 290.
4 Were you a person who participated in
5 the process of looking at those documents?
6 A. Yes, I did.
7 Q. Are Exhibits 17 through 290 documents that were
8 produced by DaimlerChrysler in the course of
9 discovery in this litigation?
10 A. Some were and some were not.
11 Q. Which were not?
12 A. I'll give you the results of my review of the
13 documents.
14 Q. Thank you, sir.
15 A. Exhibit 22 is a screen print of a
16 DaimlerChryslerCorporation.com website. It is
17 not a document that we produced; however, I have
18 no reason to doubt that it is not a proper
19 screen print of our website.
20 Exhibits 23 and 25 and 52, those tabs
21 were empty. There was no document behind those
22 tabs.
23 Exhibit 27 is a chart that was
24 apparently created by Jim Schultz who is an
25 expert in this case. It is not a document that

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1 I participated in or had seen before today.
2 Exhibit 108 is a newspaper article;
3 however, I believe it was from a DaimlerChrysler
4 file.
5 And Exhibit 135 is a page that contains
6 commentary, but that page was not created or
7 produced by Chrysler.
8 All of the remainder appear to be
9 authentic copies of items that were found in
10 DaimlerChrysler files and produced to you.
11 Q. I'm going to try to take a look at my computer
12 version and see if I can satisfy myself about
13 what 23, 25 and 52 should be, and see if that's
14 inadvertent copying or we don't have them.
15 Mr. Banta, I would say, judging from
16 the exhibit list, that what should have occurred
17 here is that the document you described as being
18 behind tab 22, which is the website screens,
19 should actually be behind tab 23, and 22 should
20 be an advertisement that I don't see present one
21 tab on either side.
22 So I think 22 is actually the one that
23 we are missing.
24 MR. DOMINA: With everybody's
25 permission, I'm going to move the document that

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1 is now behind tab 22 to 23, and then we'll have
2 your description of it.
3 MR. WESTENBERG: Sure.
4 MR. DOMINA: I doubt that the features
5 list, Number 25, which must have just been an
6 oversight in the copying, will be an issue
7 later, so I'm not going to worry about that now.
8 But it is certainly absent now, as Mr. Banta has
9 said.
10 And 52 -- I know what 52 should be, but
11 I'm not able to locate it where I thought it
12 was, and it's missing in my bookmarks also.
13 Exhibit 52 is intended to be page 34 of
14 Exhibit 12 broken out so it's all alone in one
15 spot.
16 THE WITNESS: I'm sorry, say that
17 again.
18 MR. DOMINA: Exhibit 52 when it's
19 separately placed, just so that this discreet
20 page can be identified alone, will be
21 Exhibit 34, page 12, that one-page document. So
22 just so you all know what it is going to be and
23 what it should be now.
24 MR. WESTENBERG: Okay. And for the
25 record, that's Bates number DLPCAHL002898.

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1 MR. DOMINA: Very good.
2 And obviously since you said that
3 Exhibit 28 in its entirety is something that
4 came from DaimlerChrysler, we know that that
5 page did too when we get it broken out.
6 MR. WESTENBERG: I'm sorry, David, did
7 you say Exhibit 28?
8 MR. DOMINA: Yeah, Exhibit 28, page 34,
9 which is also Deposition Exhibit 12, page 34,
10 that Mr. Banta and I talked about the last time
11 we met.
12 BY MR. DOMINA:
13 Q. I'll leave Exhibit 27 out of my questions for a
14 moment. That's Mr. Schultz's chart. And I'll
15 leave Exhibits 23, 25 and 52, which are empty
16 now that you've identified. And I'll exclude
17 from the questions I'm going to ask you now
18 Exhibit 135, which is the commentary page, and
19 Exhibit 108, which is the newspaper article.
20 With those exceptions, are Exhibits 17
21 through 290 documents that were gathered and
22 maintained by DaimlerChrysler or its predecessor
23 in the ordinary course of its business?
24 A. Yes, they are copies of documents.
25 Q. And are those then copies of documents that

1 would have been regularly maintained as business
2 records of the company?

3 MR. WESTENBERG: Object to the form of
4 the question.

5 THE WITNESS: I'm not sure what you
6 mean by regularly maintained. They were
7 documents that were in our possession.

8 BY MR. DOMINA:

9 Q. Let me ask it this way. Were they documents
10 that were accumulated from time to time over the
11 course of time in the course -- the ordinary
12 course of the company's business?

13 A. Yes, over an extensive period of time, perhaps
14 more than ten years.

15 MR. DOMINA: I'll offer as evidence
16 Exhibits 17 through 290, excluding 23, 25, 27,
17 52, 108 and 135.

18 MR. WESTENBERG: You'll offer them?

19 MR. DOMINA: I'm now offering them.

20 MR. WESTENBERG: For purposes of what?

21 MR. DOMINA: Trial, for admission
22 before the jury.

23 MR. WESTENBERG: Well, we're not
24 prepared to admit -- to agree to their
25 admission. As we've discussed before, there may

1 be issues of admissibility with individual
2 documents that we will have to raise at trial or
3 at the appropriate time before trial.

4 MR. DOMINA: I think that's now, Brian.

5 MR. WESTENBERG: I'm sorry?

6 MR. DOMINA: I think that's now. I
7 think that appropriate time is now.

8 MR. WESTENBERG: Then we need to go
9 through each of these documents once again, and
10 if you're suggesting that we need to identify
11 objections we have to each document and its
12 admissibility at trial, then we need --

13 MR. DOMINA: I want an opportunity to
14 cure any admissibility objection. That's my
15 concern.

16 MR. WESTENBERG: Okay.

17 MR. DOMINA: I want to be sure that
18 while I have Mr. Banta or the appropriate
19 witness, I have an opportunity to meet or cure
20 any objection that can be met or cured by his
21 presence.

22 Now, if you are willing to agree that
23 there are no objections of the kind that would
24 require that I establish more proof about the
25 nature or history or authenticity or maintenance

1 of the record, of the document, so your
2 objections are relevance objections or Rule
3 403(a) materiality objections, I don't at all
4 mind that you reserve those.

5 MR. WESTENBERG: Hearsay?

6 MR. DOMINA: Well, I also don't mind
7 that you reserve hearsay objections, so long as
8 the specific hearsay objection is not that I've
9 failed to establish the elements for a business
10 record.

11 MR. WESTENBERG: I'm not sure that I
12 can agree with that, but can you give me a few
13 minutes?

14 MR. DOMINA: You bet. You see what I'm
15 trying to accomplish?

16 MR. WESTENBERG: I understand. No, I
17 understand. This may require a phone call to
18 Terry and Rick, so --

19 MR. DOMINA: Understood.

20 MR. WESTENBERG: -- it might take us a
21 few minutes.

22 (A brief recess was taken.)

23 MR. WESTENBERG: We've had the
24 opportunity to talk to Terry Thom, our trial
25 counsel, and we cannot at this time provide you

1 with specific objections to each and every
2 exhibit. So what we propose to do here is, in
3 accordance with the court's pretrial order, go
4 through each and every exhibit, let you know
5 what our objections are to each exhibit, if any,
6 because we have to look at each document on an
7 evidentiary level and then provide you with the
8 opportunity to cure those objections through a
9 witness.

10 MR. DOMINA: Okay.

11 MR. WESTENBERG: I mean, David, that's
12 all we can do right now.

13 MR. DOMINA: I think you are acting in
14 good faith. I don't doubt that. I am too. If
15 you are aware of anything I should try to cure
16 today, will you tell me now, and I'll try now?
17 And if you are not aware, and you want to wait
18 and go through them, that's a fair response
19 also.

20 MR. WESTENBERG: Frankly, I have no --
21 I can't provide you with anything that this
22 witness -- particularly this witness would be
23 able to assist you with curing an objection.

24 MR. DOMINA: Okay. Very good. Let's
25 move on to other parts of the deposition notice

1 then.

2 BY MR. DOMINA:

3 Q. The third item relates --

4 A. Before we do that, can I interrupt you?

5 Q. Certainly.

6 A. Just do some housekeeping.

7 Q. Certainly.

8 A. On my deposition taken in March of this year, I

9 found an error in the deposition that doesn't

10 have a lot of significance, but I thought I

11 should advise you of it.

12 On page 44, line 2, in the sentence

13 that says, "and by 1986 or 1987 we had enough

14 statistical data," those years should be 1996

15 and 1997.

16 I'm not sure how this error occurred,

17 whether it was a transcription error or I

18 misspoke, but I want to make it clear that it is

19 '96 and '97.

20 Q. So whether it was a speaking error or a taking

21 error, we are just off a decade?

22 A. Yes.

23 Q. Okay. Anything else about that deposition that

24 you want to note?

25 A. No.

1 Q. Let's take a look then at these subjects that I

2 communicated I would like to talk about during

3 the corporate deposition today.

4 The fourth topic concerns committees.

5 What was the Product Planning Committee during

6 the years 1990 through 1997?

7 A. The Product Planning Committee was a committee

8 comprised of the most senior executives in the

9 corporation, vice presidents, senior vice

10 presidents. These were people that met monthly

11 and generally decided major product programs and

12 vehicle programs for the future.

13 Q. Did the Product Planning Committee's approval

14 serve as the final step in a series of steps

15 that would be necessary to complete before

16 implementing a new design for a Chrysler

17 product?

18 A. Yes and no. If you mean a new design to include

19 a major vehicle program, the answer would be

20 yes. But if you meant more subtle design

21 features like a radio or a transmission or an

22 engine, the answer is no.

23 They broadly defined the direction of

24 engineering vehicles and engineering activity

25 for the future.

1 Q. Would the Product Planning Committee, for

2 example, have approved the decision to install

3 brake shift interlock as original equipment in

4 Jeep vehicles?

5 A. No, not likely.

6 Q. Would the --

7 A. The Product Planning Committee might approve

8 building the Jeep, say Grand Cherokee, they

9 would conceptually agree that the Grand Cherokee

10 should be built, but they would not direct

11 details of the Jeep beyond those that are

12 contained in a broad general description that I

13 think you described as the 12-panel chart.

14 Q. Would the Product Planning Committee have

15 received the 10-, 11- or 12-panel charts?

16 A. Yes.

17 Q. Would committee approval of the chart as the

18 final summary description of a product be

19 required?

20 A. No, the committee would not approve the chart.

21 The chart is an element of information that

22 supports the program that the committee may or

23 may not approve or send back for more

24 information. I think you took Mr. Castaing's

25 deposition?

1 Q. I'm going to. I haven't yet. I've read one of

2 his, however.

3 A. Mr. Castaing, who was a major player in the

4 Product Planning Committee, describes how that

5 committee works, and generally is very broad

6 concepts, and those members occasionally asked

7 for more information which is then provided in a

8 subsequent meeting.

9 Q. Would the role of the document we'll refer to,

10 whether it's got 12 panels or more, which I

11 understand varies from product to product, would

12 that 12-panel chart's role at the Product

13 Planning Committee level be strictly to serve as

14 a resource or an information piece to assist in

15 describing a product under consideration for

16 approval?

17 A. Yes, a product or a program. We more often call

18 it a program rather than a product. For

19 example, a current car could be made in a

20 four-door sedan or station wagon. That would be

21 a program rather than a product. And it's

22 literally done in that general sense.

23 Q. Was there something then called the Product

24 Planning Subcommittee?

25 A. I understand that from time to time there were

1 subcommittees of the Product Planning Committee,
2 but it was not, to my knowledge, a standing
3 committee. For example, if the Product Planning
4 Committee wanted to know about engine
5 configurations for a new program, a subcommittee
6 would be formed, they would answer the
7 questions, and then go back to the full
8 committee.

9 Q. Was there then some separate organization called
10 the Policy Planning Committee?

11 A. That term is foreign to me. I've been at
12 Chrysler for 38 years. I've never heard of that
13 term.

14 Q. Does the term Policy Planning Subcommittee have
15 that same foreignness for you then?

16 A. Yes. I don't know what that is.

17 Q. My feeble attempt to be thorough; that's what it
18 is.

19 Is there a record of the Product
20 Planning Committee's actions on light truck
21 programs for the years 1990 through 1997?

22 A. There is not currently a record.

23 Q. Can you explain what you mean by not currently?

24 A. The Product Planning Committee met monthly, and
25 there were meeting minutes published and an

1 agenda created that were in the hands of the
2 members of the committee. But in all of our
3 valiant searches, we have found that from the
4 period 2000 and prior, we have no such documents
5 remaining for the truck.

6 And generally the reasoning behind that
7 is twofold. One is that in 2001 we went to an
8 electronic database system, which still exists;
9 and that the corporate document retention
10 program was four years. So documents that were
11 older than four years were discarded.

12 And to the extent that I've been able
13 to learn about this system, I've learned that it
14 was a Word Perfect based system done off a word
15 processor, and paper copies were given to
16 members.

17 Q. Do the 12-panel charts still exist?

18 A. No, they do not.

19 Q. Now, the 12-panel charts would have been
20 distributed more broadly than the membership of
21 the Product Planning Committee, would they not?

22 A. The 12-panel charts would be a tab item within a
23 booklet called the Program Description Book, and
24 we have not been able to locate a Program
25 Description Book for the time period that you're

1 talking about.

2 Q. And that's the years 1990 through '97?

3 A. Yes.

4 Q. What is the appropriate repository for the
5 Program Description Books --

6 A. The --

7 Q. -- if they were in that location?

8 A. The Program Description Books would be in the
9 hands of, at that time, the appropriate Product
10 Planning departments, which no longer exist. We
11 don't work that way anymore.

12 Q. Was that change one that came about when you
13 moved to platforms?

14 A. No, it was coincidental with us becoming a much
15 larger company and doing things electronically.

16 What happened was, in 2001,
17 approximately, the Product Planning Committee
18 ceased to exist, and it was replaced by two
19 organizations. One organization approved
20 programs that were greater than \$50 million in
21 value, and another committee approved programs
22 that were less than 50 million in value.

23 So all the materials prior to 2001 were
24 discarded for two reasons. One was we were now
25 depending on an electronic database, and the

1 other was the four-year document retention
2 program.

3 (Marked for identification
4 Deposition Exhibit No. 256.)

5 BY MR. DOMINA:

6 Q. I'm going to show you a document which I've
7 marked Exhibit 256, which I believe is the next
8 deposition exhibit number for the continuing
9 sequence of depositions in this case. I've
10 handwritten those numbers, Exhibit 256 and the
11 date 1-5-06, in the upper right-hand corner.

12 What is Exhibit 256?

13 A. 256 is the program objective summary or the
14 12-panel chart, as it's sometimes called, with a
15 lot of blacked out information.

16 Q. So what we see are categories and a summary of
17 the panels, but no specific data; is that
18 correct?

19 A. Yes. We can, from this document, identify the
20 legend of the 12 panels, what the content of the
21 12 panels are.

22 Q. Could you tell us what those are, please?

23 A. Would you like me to read them?

24 Q. Would you, please?

25 A. Sure. The first panel or block is called

1 quality slash reliability slash serviceability,
 2 panel number 2 is titled supplied parts, panel 3
 3 are -- is volumes, panel 4 is timing, panel 5 is
 4 vehicle weight, 6 is vehicle package, 7 is
 5 financial, 8 is manufacturing, 9 is complexity,
 6 10 is functional targets dash vehicle, 11 is
 7 aerodynamics, and the final one, 12, is fuel
 8 economy and performance.

9 Q. Did the 12-panel charts contain economic or
 10 financial program projections that described the
 11 target margin for the product or program?
 12 A. You mean profits?
 13 Q. Yes.
 14 A. No. No, it would not. Panel number 5 is a
 15 financial box, and my understanding of that
 16 financial box is the tooling, component part
 17 cost, assembly cost, generally what this program
 18 is going to cost.
 19 (Marked for identification
 20 Deposition Exhibit No. 257.)
 21 BY MR. DOMINA:
 22 Q. Take a look for me, if you would, at
 23 Exhibit 257, Deposition Exhibit Number 257,
 24 which I've numbered with my handwriting again on
 25 the first page in the upper right-hand corner

1 and the date.
 2 You can glance through all of those
 3 pages, but you'll see that I've tabbed a couple
 4 of them there in particular with tabs.
 5 A. Okay. I've read it.
 6 Q. Is Exhibit 257 a packet of material that
 7 includes Product Planning Committee meeting
 8 minutes for a specified date?
 9 A. Exhibit 257 is a collection of a variety of
 10 documents, some of which are Product Planning
 11 Committee meeting documents, but I can't -- if
 12 you can give me a minute here.
 13 Q. Certainly.
 14 A. I need to tie some of the pages to the base
 15 documents.
 16 It appears that this collection,
 17 Exhibit 257, are documents that the Product
 18 Planning Committee would have reviewed,
 19 including meeting minutes.
 20 Q. Thank you.
 21 On the first of the tabs there, I
 22 believe the blue tab, I have marked a document
 23 which is entitled 10-panel chart in this
 24 particular instance. Do you see that?
 25 A. Yes, I do.

1 Q. Does the fact that this chart is called a
 2 10-panel chart mean anything other than that, as
 3 a resource tool for the committee, it happened
 4 to consist of 10 versus 12 descriptive
 5 categories?
 6 A. Yes, it appears that in Exhibit 257 we are
 7 missing two panels, and it looks like one of
 8 them might be the supplied parts, which is in
 9 256, and number 3, volumes, that is also in 256.
 10 Q. Now, this particular 10-panel chart within
 11 Exhibit 257 concerns light trucks and a BS body
 12 style?
 13 A. BR.
 14 Q. Pardon me, BR body style. Is that correct?
 15 A. Yes.
 16 Q. Would a Dodge Ram 1500 pickup like the one in
 17 question in the Ahlberg case have been a BR body
 18 style?
 19 A. Yes.
 20 Q. In the particular 10-panel chart --
 21 A. Can I interrupt you? Ahlberg was a --
 22 Q. 1999 model year.
 23 A. 1999. So this is the '98 program objective for
 24 BR, but not pickup truck. This is a 10-panel
 25 chart for a proposed BR body style sport

1 utility, not the pickup truck. We never
 2 actually built this vehicle.
 3 Q. You never built the vehicle in Exhibit 257, it
 4 was just proposed there?
 5 A. That's correct. This is a program submission to
 6 the Product Planning Committee, and for whatever
 7 reason it did not happen because we never built
 8 a BR sport utility. I know we were planning to
 9 build one, and the program was canceled.
 10 Q. Okay. Now if you'll take a look at the second
 11 tab that I marked with the yellow tab within
 12 this exhibit, this is the financial panel for
 13 that proposed vehicle, is it not?
 14 A. No. No, this is a financial summary attachment
 15 for a Dakota pickup truck in 1987.
 16 Q. So a Dakota is a smaller vehicle?
 17 A. Yes.
 18 Q. And a lower cost vehicle?
 19 A. Yes.
 20 Q. Do you know if any financial summaries like this
 21 one within Exhibit 257 concerning the Dakota
 22 pickup exist for BR body Dodge Ram 1500
 23 vehicles?
 24 A. Pickups?
 25 Q. Pickups.

1 A. I know of no such document that exists for the
 2 BR vehicle. In fact, I'm surprised to see this.
 3 I've searched this company up and down, and I
 4 did not even locate this.
 5 Q. Would the search for the materials -- would the
 6 search that you had made for documents
 7 responsive to the plaintiffs' request in this
 8 case have included a search for financial data
 9 about the Dodge Ram 1500 pickup?
 10 A. Yes.
 11 Q. So you are able to testify that, unless it
 12 simply hasn't been found after a diligent
 13 search, the company is aware of the existence of
 14 no financial summaries for the Dodge Ram 1500
 15 pickup for model year 1999?
 16 A. No financial summaries that would have been part
 17 of the Product Planning Committee.
 18 Q. Are there financial summaries in existence that
 19 describe what the company's revenues and net
 20 revenues were on that product line for 1999?
 21 A. No. Well, the 10- or 12-panel chart wouldn't do
 22 that either. They are only projections. They
 23 don't include things like actuals and incentive
 24 costs and advertising and things like that.
 25 Q. Well, are there documents in existence that --

1 let's break it into two parts. I asked, and I
 2 may have switched on you. I didn't mean to. So
 3 let's break it into two parts.
 4 First of all, are there documents in
 5 existence that project or forecast the revenues
 6 anticipated or targeted, both gross and net, for
 7 the Dodge Ram 1500 pickup for model year 1999?
 8 A. Not that I'm aware of, and I have not been able
 9 to locate those documents.
 10 Q. Now, I just asked you about forecasting, and you
 11 said you've looked and haven't found them. Just
 12 to be sure I cover the subject, I want to ask
 13 you now, are there any documents in existence
 14 that report the actual results of sales of the
 15 Dodge Ram 1500 pickup for model year 1999?
 16 A. I do not know. I have not undertaken that kind
 17 of -- I have not undertaken a study of profits
 18 and financials of actual build vehicles in the
 19 past.
 20 I have undertaken a study to get 10-
 21 and 12-panel charts which do contain some
 22 technical and incidentally financial
 23 information.
 24 So, to the extent that I have looked
 25 for the 10- and 12-panel charts in the Product

1 Planning Committee stuff, I found nothing. I
 2 have not undertaken a study to locate actuals
 3 after the fact, if that's what you are asking
 4 for. I have not considered those technical
 5 documents, and frankly, wouldn't know where to
 6 look for them.
 7 Q. Approximately how many Dodge Ram 1500 pickups
 8 were built in model year 1999?
 9 A. I would have to guess perhaps 100,000.
 10 Q. I noticed the projection for the vehicle that
 11 wasn't built was 150,000 projected.
 12 A. I think that's ambitious.
 13 Q. And I think that forecast, if I remember
 14 correctly, 11 percent of the market for that
 15 type of vehicle. Do you know what the market
 16 share that the Dodge Ram 1500 pickup commanded
 17 in the late 1990s was?
 18 A. No, but I think the market share for the pickup,
 19 not just 1500, but 25 and 35, was in the
 20 neighborhood of 20 or 21 percent.
 21 Q. Of the total vehicle market?
 22 A. Yes, of large pickups. Not total vehicle, of
 23 large pickups.
 24 Q. The document Exhibit 257, second tab, describing
 25 the financial data concerning the Dakota pickup

1 forecasts a 30 percent net margin.
 2 A. I'm surprised at that.
 3 Q. Adjusted by one percent after allowances, or
 4 incentives I believe it's called.
 5 Was there any year in which a 29
 6 percent margin was not attained during the 1990s
 7 on the Dodge pickups?
 8 A. That's not a real margin.
 9 MR. WESTENBERG: Object. Foundation.
 10 THE WITNESS: That has to be offset by
 11 warranty costs, advertising, incentives.
 12 30 percent is a projection margin on
 13 our cost to build the vehicle versus what we
 14 receive for it, but there are continuing costs
 15 after that, like warranty costs and advertising
 16 and incentive costs and things of that nature.
 17 So I'm not an expert on costs, but I
 18 can tell you that these margins aren't pure
 19 margins. We don't make 30 percent on a car. We
 20 make more like two to four when we close the
 21 books.
 22 BY MR. DOMINA:
 23 Q. Well, of course incentive costs are accounted
 24 for there at one percent, and advertising costs
 25 wouldn't continue to be charged against a sold

1 vehicle, would they?
 2 A. I don't know. I'm not a financial guy. I don't
 3 know how we cost the vehicles. All I know is
 4 that these profit margins of 30 percent are not
 5 a real 30 percent when we are done.
 6 Q. And then the warranty cost item on a forecasting
 7 basis, the warranty cost item would include the
 8 costs -- legal and award costs for personal
 9 injury and death cases; correct?
 10 MR. WESTENBERG: Object. Foundation.
 11 THE WITNESS: I don't know. I think
 12 that's the cost that is a variable cost that's
 13 put into the pricing of the vehicle, but I don't
 14 know how -- I don't think it compares to
 15 warranty.
 16 BY MR. DOMINA:
 17 Q. What's the forecasting mechanism used to budget
 18 the variable costs for personal injury and
 19 death?
 20 MR. WESTENBERG: Object. Foundation.
 21 THE WITNESS: I don't know.
 22 BY MR. DOMINA:
 23 Q. Who in the company would know that?
 24 A. I don't know. I don't know that that's even
 25 done. That's a term that is foreign to me. I

1 don't know that we even do that.
 2 Q. Well, it is true, is it not, that failure
 3 analyses are performed on a forecasting basis
 4 when products are planned?
 5 MR. WESTENBERG: Object to the form of
 6 the question.
 7 THE WITNESS: Failure analysis --
 8 BY MR. DOMINA:
 9 Q. In other words, you forecast a failure rate.
 10 A. We forecast a warranty rate, not necessarily a
 11 failure rate. Some failures are expected. It
 12 is a product, it wears out and has durability
 13 problems; and we're not perfect, things fail,
 14 things break.
 15 Q. Of course.
 16 A. So warranty costs are not necessarily a failure
 17 in the litigation sense. It could be things
 18 like a worn wiper blade or an engine that uses
 19 too much oil or something.
 20 Q. Or a bad tire or a wheel rim that needs to be
 21 replaced or something like that?
 22 A. Yes.
 23 Q. Over the years it's been in business, Chrysler
 24 has amassed experience with the incidence rate
 25 or frequency at which its vehicles are involved

1 in personal injury and death claims, hasn't it?
 2 MR. WESTENBERG: Object to foundation.
 3 THE WITNESS: I'm sorry, would you do
 4 that again?
 5 BY MR. DOMINA:
 6 Q. Over the years, Chrysler has amassed a database
 7 of information about the incidence rate at which
 8 its products are involved in personal injury or
 9 death instances or events, hasn't it?
 10 MR. WESTENBERG: Same objection.
 11 THE WITNESS: We have a database of
 12 incidents and claims, but I don't know of any
 13 database that describes a rate.
 14 BY MR. DOMINA:
 15 Q. You have a database, don't you, that describes
 16 the life of your products, approximately how
 17 many are out of service after five years, eight
 18 years, ten years, 20 years, 30 years?
 19 A. I don't know of such a database. I know we have
 20 projections, but I don't know that we have such
 21 a database.
 22 Q. You have a database about the number of your
 23 vehicles that go out of service because they are
 24 involved in collisions?
 25 A. I think we have only an estimate, and it's a

1 generic estimate. It is not a by model, by year
 2 type of database. I don't know of such a
 3 database.
 4 Q. Do you have a database that sorts the titles to
 5 your vehicles into two categories, standard
 6 titles and salvage titles?
 7 A. Not to my knowledge.
 8 Q. You know that many of the states maintain that
 9 difference, don't you, between standard titles
 10 and salvage titles for vehicles?
 11 A. I do, and I'm aware that RL Polk in Cincinnati
 12 maintains data files of information obtained
 13 from the states, and that from time to time we
 14 buy that information to support our business
 15 activities. But I don't know that we do any
 16 studies to compare salvage versus non-salvage
 17 vehicle, and if we did, I'm not sure what we
 18 would do with the information. For example, a
 19 salvage vehicle may be one that was in a flood
 20 in New Orleans versus an accident that injured
 21 someone.
 22 Q. I've asked in subject 6 -- and I think you've
 23 probably told me, but let me confirm this. Is
 24 it accurate that there is no custodian of
 25 records of the Policy Planning Committee or any

1 subcommittee of the Policy Planning Committee?
 2 A. I'm not --
 3 Q. Because you are not aware of any such committee?
 4 A. That's correct.
 5 Q. And is it also true that there is no custodian
 6 of the records for the years 1990 through 1999
 7 of any proceedings of the Product Planning
 8 Committee, because they have been searched for
 9 and not found?
 10 A. That's correct.
 11 Q. Has there been a search made of other
 12 departments of the company for submissions to
 13 the Product Planning Committee concerning brake
 14 shift interlock or light trucks during the years
 15 1990 through 1998?
 16 A. You've got a compound question. Brake shift
 17 interlock or light truck? Brake shift interlock
 18 on light trucks, yes.
 19 Q. Okay. And what have you found?
 20 A. We've found the documents that have been
 21 provided to you.
 22 Q. All right. And what about brake shift interlock
 23 as a separate subject? Were there submissions
 24 on that subject to the Product Planning
 25 Committee?

1 A. I know of no submissions to the Product Planning
 2 Committee on brake shift interlock.
 3 Q. Could I see Exhibit 257 for a minute? This is
 4 the only copy of it I have with me, and I'm
 5 sorry, we'll copy it maybe later when we're
 6 finished.
 7 May I stand beside you for a moment,
 8 Mr. Banta, so we can look at this together?
 9 A. Sure.
 10 Q. I'm looking now at this document entitled 1997
 11 AN Dakota Program Financial Summary. It's got a
 12 date of 1-21-94, PPC, which would indicate
 13 Product Planning Committee?
 14 A. Yes.
 15 Q. Okay. Now, as I understand this, we have some
 16 1993 figures in the first box. We'll ignore
 17 that for a moment. Then '96 and '97 figures
 18 under this panel 2 variable cost expressed in
 19 1994 dollar terms; right?
 20 A. Yes.
 21 Q. And then some pricing again using 1994 dollars,
 22 we're projecting forward three years for two
 23 different cab styles, regular and club; correct?
 24 A. Yes.
 25 Q. And then an average net variable margin, again

1 using 1994 economics, for the '97 model year;
 2 correct?
 3 A. Yes.
 4 Q. And then some volume projections showing what
 5 the market is for this kind of product and what
 6 your company's share is of that market; is that
 7 right?
 8 A. Yes.
 9 Q. So using those 1997 numbers, the U.S. market
 10 apparently would be 1,280,000 units. You'd have
 11 11.3 percent or 144,000 units in the U.S., 6,000
 12 in Canada, for a total here of 150,000 in this
 13 analysis.
 14 A. Right.
 15 Q. And then down in the 6th panel, profitability
 16 indicators are present indicating margin
 17 objectives; right?
 18 A. Yes, margin objectives as a percent of revenue.
 19 Q. Right. So if we wanted to know what the
 20 margin -- the net margin for this program would
 21 be, we would take your unit sales here, 150,000,
 22 times your margin here, \$4,805; correct?
 23 A. I'm not sure of that. I can't -- I don't know.
 24 I don't know the economics of this chart. I
 25 don't know what goes into net variable margin of

1 a vehicle in the projections.
 2 These cannot be actuals. These are
 3 projections made in 1994 for a vehicle that may
 4 be built in '97, and I don't know what other
 5 factors comprise the financials. I'm an
 6 engineer, I'm not a financial person. I can
 7 tell you this, we don't make 30 percent profit
 8 on a vehicle.
 9 Q. Well, some part of this objective, of course,
 10 would be federal and state income tax, I
 11 presume?
 12 MR. WESTENBERG: Object. Foundation.
 13 BY MR. DOMINA:
 14 Q. There is no adjustment for that in these numbers
 15 anywhere, is there?
 16 A. There may be adjustments that come out of margin
 17 as a percent of revenue for things like warranty
 18 costs, incentives, advertising, and other things
 19 that I'm just not aware of. I'm just not a
 20 pricing/finance person. I can't tell you the
 21 answer to those things.
 22 Q. I see -- again, using '94 dollars to describe
 23 the '97 vehicle, I see, for example, showroom
 24 typical prices here, \$11,409 for a Dakota;
 25 right?

1 A. Yes.
 2 Q. That's a regular cab, two-wheel Dakota,
 3 two-wheel drive, isn't it?
 4 A. Yes.
 5 Q. If we go up to the 4-wheel drive club cab, it
 6 would be \$20,707 for a showroom typical vehicle?
 7 A. That's what the high line is.
 8 Q. Okay. Can you tell me what the adjustment is
 9 for the category fed reg related in the middle
 10 of the page there?
 11 A. I think -- I can guess that pricing people have
 12 to weight the value of anticipated federal
 13 regulations, safety and emissions and noise
 14 regulations. So they have to make some
 15 adjustment for pricing due to scheduled
 16 regulatory items on the vehicle.
 17 Q. As you gathered documents and reviewed documents
 18 gathered and produced for the Ahlberg family in
 19 this case, did you notice that there were
 20 calculations -- that's not a good word -- that
 21 there were forecasted prices furnished by
 22 vendors for the cost of brake shift interlock
 23 devices?
 24 A. Yes, I noticed that there were forecast
 25 component prices for pieces that went into the

1 system, and I also noticed that there were some
 2 estimates of system cost, absent assembly time
 3 and things of that nature.
 4 Q. And those prices ranged, I think, from a low of
 5 three a half to a high of seven and a half
 6 dollars?
 7 A. Yes, or even higher than that.
 8 Q. Did you see some higher than seven and a half?
 9 Do you remember how high?
 10 A. Nine or ten. I saw an estimate by one of the
 11 Japanese manufacturers of nearly \$80, but the
 12 numbers that I saw from the files that we were
 13 able to locate and produce to you were in the 5
 14 to \$10 range. But I have to caution you that
 15 that's component cost to engineering and
 16 purchasing, not the final cost of the product.
 17 Q. And of course there is no end user adjustment or
 18 pass-through cost calculated. We are just
 19 looking at the company's cost, not the
 20 consumer's price, aren't we?
 21 A. That's right. We are looking at component cost
 22 only. We're not looking at assembly cost or the
 23 set-aside for warranty and things of that
 24 nature.
 25 Q. If we had, hypothetically, a \$5 part, and we

1 were forecasting a 30 percent margin, and using
 2 just that \$5 cost, our 30 percent margin would
 3 make the consumer cost of that product \$6.50?
 4 MR. WESTENBERG: Object. Foundation.
 5 THE WITNESS: If you choose to do that.
 6 We don't do things that way, but --
 7 BY MR. DOMINA:
 8 Q. Do you know if that's how the Product Planning
 9 Committee analyzes the financial viability of a
 10 program?
 11 A. No. I think the Product Planning Committee
 12 looks at a much more broad set of pricing and
 13 volume goals. I don't think they have a crystal
 14 ball that is that sharp.
 15 Q. They would set the margin for the program,
 16 wouldn't they, not for the part?
 17 A. Yes, the total program, which includes tooling
 18 and manufacturing and things of that nature.
 19 (Marked for identification
 20 Deposition Exhibit No. 258.)
 21 BY MR. DOMINA:
 22 Q. Do you recognize Exhibit 258?
 23 A. Number 258 is a roughly 1988 time period booklet
 24 that contains N body or Dakota pickup truck
 25 program review information from the engineering

1 program management people who are generally
 2 listed on the second page.
 3 Q. Is this the kind of record that would have been
 4 prepared for regularly conducted engineering
 5 program review meetings?
 6 A. At that time, yes.
 7 Q. How often were those meetings held?
 8 A. It depended on where the program was at. Early
 9 in the program they would be quarterly; and as
 10 you got closer to the production, they would be
 11 monthly; and eventually, when we get very close
 12 to launch, they would be as often as weekly.
 13 This one, I think -- this meeting is
 14 February 11th, and the previous meeting was
 15 January 14th. So it appears in this program
 16 they were meeting monthly at this time.
 17 Q. Has there been a search through the company's
 18 records to see if any engineering program review
 19 booklets exist for the Dodge Ram 1500 pickup?
 20 A. Relative to the BTSI device, yes.
 21 Q. And of course since there was never a brake
 22 shift interlock included in the Dodge Ram 1500
 23 for model year 1999 or previous, there is no
 24 reference in any of those monthly booklets to
 25 such a device involving that item of production,

1 is there?
 2 A. That's correct.
 3 Q. Do the booklets --
 4 A. The BTSI device -- I'll interrupt you, if I
 5 can --
 6 Q. Certainly.
 7 A. -- to clarify something, that we've had a lot of
 8 discussion about program management and Product
 9 Planning Committees, but to my knowledge, and as
 10 a result of all the discovery activity that I've
 11 done on the BTSI, I found no reference to either
 12 of those activities being involved in the BTSI.
 13 Our vehicles are conceptualized and
 14 approved by more than just the Product Planning
 15 Committee. For example, if there is regulatory
 16 activity involved in adding some component to
 17 the car, it would not necessarily go through the
 18 Product Planning Committee. It is not a
 19 decision-making process, you just have to do it.
 20 It's part of our business plan.
 21 My knowledge of the BTSI is that it was
 22 not a forecasted device, rather the Vehicle
 23 Safety and Emissions Committee directed that the
 24 BTSI be installed on Jeep products, followed
 25 later by other products in that chart that we

1 gave you. That was the trigger that made the
 2 BTSI occur, not program management and not
 3 Product Planning Committee.
 4 Q. If, for example, there were engineering attempts
 5 to deal with pedal misapplication or pedal
 6 placement issues, a review of the engineering
 7 program meeting booklets, or their equivalent
 8 after they were called by a different name,
 9 would confirm or rule out that activity,
 10 wouldn't it?
 11 A. Not necessarily. If there were pedal
 12 misapplication incidents occurring in the field,
 13 program management and product planning minutes
 14 would not necessarily know about it. We
 15 wouldn't deliberately put out a vehicle that our
 16 product planning people or program management
 17 knew would be subject to frequent pedal
 18 misapplications. That's a discovery that we
 19 learn in a field experience, which has little to
 20 do with the concept and decision-making process
 21 of a product.
 22 Q. Of course. However, if you had a problem with
 23 either some sort of pedal misapplication or
 24 pedal placement issue, and you decided to make a
 25 change in the programming, then the engineering

1 reviews would include review of the change, if
 2 not the rationale?
 3 A. No. No. All these things we've been talking
 4 about are things that lead up to the product
 5 coming off the line. Once the product has come
 6 off the line, program management and product
 7 planning are no longer involved in the
 8 decision-making process about what the program
 9 is going to be.
 10 Q. Who decides to change the placement of pedals?
 11 A. The engineering people do.
 12 Q. What document is there of that?
 13 A. There would be a product change notice, there
 14 will be meeting minutes. Somebody is coming
 15 down the hallway to talk to them about how all
 16 this stuff didn't work right, all the planning,
 17 all the program management didn't work right.
 18 That's a product problem input that led to the
 19 Carlson files and things of that nature.
 20 Q. Do you mean Carlstrom?
 21 A. Strom, yes.
 22 Q. So if there are minutes for the engineering
 23 committees that would deal with those kinds of
 24 issues, then it's true, isn't it, that if pedal
 25 placement was an issue, those kinds of minutes

1 would verify its existence and attempts at its
 2 remediation?
 3 A. Yes, but they would be housed within the
 4 responsible engineering activity or vehicle
 5 safety activity. It would not exist in the
 6 Product Planning Committee or Program Management
 7 Committees because it is a past point of
 8 production product problem area.
 9 Q. Has a search been made for the existence of
 10 those kinds of minutes in connection with the
 11 Ahlberg case?
 12 A. Oh, goodness, yes.
 13 Q. And none have been found?
 14 A. No. We have not identified a pedal placement
 15 problem.
 16 Q. How about a pedal misapplication problem that's
 17 documented?
 18 A. Oh, yes.
 19 Q. Or a study?
 20 A. Oh, yes. We have -- the files are replete with
 21 discussions about pedal misapplication.
 22 Q. Well, I see narrative descriptions in the
 23 abstract of that, but I don't see any specific
 24 engineering studies or any surveys or any
 25 incidence reports. Are there any of those?

1 MR. WESTENBERG: It might be helpful
 2 for the witness, David, to reference this to a
 3 vehicle. Are we talking about the BR or all
 4 vehicles?
 5 BY MR. DOMINA:
 6 Q. Any kind, except for your -- well, leave out
 7 your Jeeps.
 8 A. We have done repeated studies on incidence of
 9 sudden acceleration where we have found no
 10 vehicle defects, no malfunction in the vehicle,
 11 no system cause, which leads to the obvious
 12 conclusion that the operator must have
 13 misapplied the pedal, and that led to the
 14 customer satisfaction recall number 733 that I
 15 think you are aware of.
 16 Q. For the Jeep?
 17 A. For the Jeep, where we were finding a higher
 18 than ordinary level of pedal misapplication and
 19 provided brake transmission shift interlock as a
 20 mitigation tool for that.
 21 Q. Did the incidence change?
 22 A. Oh, yes.
 23 Q. How much?
 24 A. I don't recall the numbers, but significant.
 25 NHTSA predicted perhaps as much as a 70 percent

1 improvement, and I think that's probably
 2 correct.
 3 Q. So what was happening was that your Jeeps were
 4 going from zero to something very rapidly
 5 because people getting in them when they were in
 6 park were mistakenly accelerating instead of
 7 braking?
 8 A. Yes, they had their foot on the accelerator
 9 pedal rather than the brake pedal.
 10 Q. And then they were coincidentally --
 11 A. But not necessarily when they were in park.
 12 This happened in a variety of different
 13 circumstances. What the BTSI did was managed
 14 their behavior when they moved the selector out
 15 of park.
 16 Q. The brake shift interlock becomes inactive as
 17 soon as the selector is moved out of park,
 18 doesn't it?
 19 A. That's correct. That's how it manages your
 20 behavior. It prevents you from coming out of
 21 park unless you have your foot on the brake.
 22 Q. So, the brake shift interlock device has nothing
 23 to do with post park position selector
 24 placement?
 25 A. That's right.

1 Q. And sudden acceleration?
 2 A. That's right. Even today we can have sudden
 3 acceleration events due to pedal misapplication
 4 while one is in neutral. The common one would
 5 be a car wash.
 6 Q. Are you aware of a Chrysler pickup product with
 7 an engine that does not emit an audible
 8 difference in volume and tone when the
 9 accelerator is rapidly depressed from its idle
 10 position?
 11 A. No.
 12 Q. What fraction of persons, if Chrysler knows, who
 13 drive its pickup products are deaf?
 14 A. I don't know.
 15 (Marked for identification
 16 Deposition Exhibit No. 259-262.)
 17 BY MR. DOMINA:
 18 Q. Exhibits 259 through 262, can you glance at
 19 those and identify what they are for me, please?
 20 A. 259, the first document, is someone's contact
 21 list of Jeep and truck engineering in about
 22 January of '88, and it appears that it was --
 23 that it is created by an administrative
 24 assistant named Leslie who worked for Mr.
 25 VonRustin. At least she shares his phone

1 number. And he was the director of engineering
 2 operations at the time.
 3 260 is an organization chart from the
 4 1987 time period for engineering program control
 5 that contained information, names and phone
 6 numbers of director Mr. Miller and some of his
 7 programmers and their direct reports, where
 8 there are some. In one case the person had no
 9 one working for him.
 10 Q. Would the person immediately above that
 11 organizational chart's top end in Exhibit 260,
 12 sir, have been the director of engineering for
 13 the company, or vice president perhaps was the
 14 title, of engineering for the company?
 15 A. No, the director would be someone who -- at this
 16 time the director was the person directly above
 17 a manager. A director had several managers
 18 working for him.
 19 Q. So what would be the position above the top end
 20 of the org chart shown on page 2 of Exhibit 260
 21 have -- what would that person's title have
 22 been?
 23 A. I believe it would be executive engineer.
 24 Q. Is that the position that Mr. Castaing held at
 25 one time, though not at that time?

1 A. Oh, no. Mr. Castaing was an executive vice
 2 president over all of engineering.
 3 Q. Was he also the executive engineer at one time,
 4 or do you recall?
 5 A. Perhaps very early in his career. Maybe in '87.
 6 I suspect that in '87 he was maybe an executive
 7 engineer, but I'm -- he's not on this chart, so
 8 he's beyond this chart.
 9 Q. All right. And I interrupted you, but
 10 Exhibit 261, can you identify what that is,
 11 please?
 12 A. This is an organization chart for Mr. Castaing's
 13 organization. It includes an organizational
 14 chart that is the same as 260, along with
 15 additional Jeep and truck personnel.
 16 Q. Was there a segment of the company called JTE?
 17 A. Yes, that's what this is.
 18 Q. Jeep and truck engineering?
 19 A. Jeep Truck Engineering. Jeep Truck Engineering
 20 is Exhibit 259. An element of Jeep Truck
 21 Engineering is on 260. Apparently a complete
 22 set is on 261, although I don't think it is
 23 really complete.
 24 Q. It may have been an attempt at complete,
 25 perhaps?

1 A. I think some of the pages are missing.
 2 Q. Okay.
 3 A. And 262 is a 1990 era organizational chart
 4 starting at the chairman of the board and going
 5 down to the vice president level.
 6 Q. What about 263, can you identify what that
 7 exhibit is?
 8 A. Give me a minute here.
 9 Q. Sure. I thought you were finished.
 10 A. In 1990 Mr. Castaing was a vice president, and
 11 he reported to the president at that time.
 12 I'm sorry, the next one was?
 13 Q. 263, please.
 14 A. 263. This is an August -- oh, my God, it's my
 15 birthday, August 16th, 1990, when I was 40 years
 16 old -- human resources document that has general
 17 information from HR.
 18 Q. You have no idea how hard it was to find an HR
 19 document that would match your birthday.
 20 A. You did a good job.
 21 Q. All right. In 1990 when brake shift interlock
 22 was under active investigation and
 23 consideration, was engineer retention a serious
 24 problem for Chrysler?
 25 MR. WESTENBERG: Object to form.

1 THE WITNESS: In 1990? 1990 was not a
 2 good -- we kind of ebb and flow in the auto
 3 industry, and I think that was more of an ebb
 4 year. The merger with American Motors occurred
 5 in 1987, and we stumbled a little bit in '90.
 6 The economy was a little soft.
 7 But I don't think -- typically engineer
 8 retention runs opposite that. When the economy
 9 slows down, engineers don't move as much. When
 10 the economy gets robust, then they start moving.
 11 I don't know that engineer retention
 12 has ever been a big problem at Chrysler.
 13 (Marked for identification
 14 Deposition Exhibit No. 263.)
 15 BY MR. DOMINA:
 16 Q. In Exhibit 263 it is noted that through seven
 17 months the company had lost within five percent
 18 of the number of engineers during seven months
 19 of 1990 that were lost -- or as were lost all of
 20 the preceding year, and that 31 of the 69 lost
 21 had gone to Ford.
 22 A. Yes.
 23 Q. Now, how many of those, if you know -- and you
 24 probably don't, but I'll ask -- how many of
 25 those were involved in working on brake shift

1 interlock?
 2 A. I don't know of any. I know Ford was raiding us
 3 for a while back then.
 4 Q. And Ford got brake shift interlock shortly after
 5 this, didn't they?
 6 MR. WESTENBERG: Object. Foundation.
 7 THE WITNESS: I'm not certain of Ford's
 8 implementation dates.
 9 BY MR. DOMINA:
 10 Q. Well, was Chrysler's engineering group working
 11 on brake shift interlock stolen away by a
 12 competitor?
 13 A. No.
 14 MR. WESTENBERG: Object to form.
 15 THE WITNESS: No. No. The brake shift
 16 interlock is more of an adaptive process rather
 17 than an inventive process.
 18 BY MR. DOMINA:
 19 Q. And the adaptation work was essentially done at
 20 the supplier level pursuant to requests for
 21 proposals and submissions anyway, wasn't it?
 22 A. With a lot of oversight by Mr. Carlstrom.
 23 Q. And when a vendor is asked to adapt a part to go
 24 into a vehicle that is already a part of an
 25 approved plan like the BR body pickup, for

1 example, that adaptation would be required to
 2 fit the vehicle, wouldn't it?
 3 MR. WESTENBERG: Object to form.
 4 THE WITNESS: Well, yes, but that's
 5 done by virtue of the design requirements, which
 6 would be a Chrysler responsibility. We give the
 7 supplier the dimensions, the size, the aperture
 8 that it has to operate in, and the working
 9 characteristics, and then we evaluate the
 10 supplier's submission to us, and we might give
 11 this to three or four suppliers.
 12 BY MR. DOMINA:
 13 Q. So, essentially then, every one of those
 14 submissions is a proposal for what is, in every
 15 meaningful way, a retrofit, isn't it?
 16 MR. WESTENBERG: Object to form.
 17 THE WITNESS: I don't understand that.
 18 BY MR. DOMINA:
 19 Q. In other words, if you've got an approved
 20 vehicle in a program, it's in process, and you
 21 decide you want to add something to it, so you
 22 give your suppliers the specifications and
 23 criteria you just described and ask for
 24 proposals back, they are, in effect, from their
 25 perspective, proposing a retrofit, aren't they?

1 A. Not necessarily. I'll tell you why. I'll give
 2 you an example. The '96 Jeep got the BTSI
 3 device in production, but the production parts
 4 couldn't necessarily be used for retrofit.
 5 At the system level when we are
 6 building the vehicle in the plant, we can make
 7 accommodations for the entire system coming
 8 together, but to go backwards, to retrofit the
 9 vehicle, we have to do things differently.
 10 Q. And that is a very fundamental difference, isn't
 11 it, the mechanism for installation?
 12 A. Yeah, and making it work.
 13 Q. And the difference between retrofit and addition
 14 or adaptation is that, when you retrofit, you
 15 put something on that wasn't there in something
 16 that already exists, and when you adapt, you are
 17 simply planning for new production with a
 18 change?
 19 A. That's right. It is the difference of original
 20 equipment versus service equipment.
 21 MR. WESTENBERG: Excuse me, David. How
 22 much longer?
 23 MR. DOMINA: What if I say 13 minutes?
 24 MR. WESTENBERG: Okay. He's been
 25 pretty accurate.

1 (Marked for identification
 2 Deposition Exhibit No. 264.)
 3 BY MR. DOMINA:
 4 Q. Exhibit 264, can you identify what it is for me,
 5 please?
 6 A. This is a 1994 memo from Mr. Nichols, who was a
 7 product research executive, to various people in
 8 the company describing features for a minivan
 9 that were surveyed at a clinic in Boston in May
 10 of '94, and it describes the interest in the ten
 11 features.
 12 Q. Did the company at any time survey consumers for
 13 their interest in brake shift interlock?
 14 A. Not to my knowledge.
 15 (Marked for identification
 16 Deposition Exhibit No. 265.)
 17 BY MR. DOMINA:
 18 Q. What is Exhibit 265, if you can tell us?
 19 A. I understand the subject of 265, but I do not
 20 know the author or where it came from. I'm
 21 confident that it came out of a booklet of some
 22 type.
 23 Q. Does it describe an interlock device that is
 24 designed to protect the starter motor against
 25 the generation of an unpleasant sound when it is

1 engaged after the engine has itself started?
 2 A. Yeah, it talks about an electronic -- or talks
 3 about an interlock device to prevent
 4 reengagement of the starter motor, or grinding
 5 the motor you and I might call it.
 6 Q. Sure.
 7 A. Actually, we did this. We now do it.
 8 Q. Do you know whose original concept was used as
 9 the foundation for that interlock device?
 10 A. No. I know who did it.
 11 Q. Who did it?
 12 A. Mr. Bielenda.
 13 (Marked for identification
 14 Deposition Exhibit No. 266.)
 15 BY MR. DOMINA:
 16 Q. Do you recognize Exhibit 266?
 17 A. This document 266 is a handout that appears to
 18 have come from the Honda study team, which was
 19 an internal organization inside Chrysler that
 20 was operating in '87, '88. It's an incomplete
 21 collection. My guess is that this is a part of
 22 a file that someone had, various pages that are
 23 not necessarily linked to each other.
 24 But the Honda study team was a rather
 25 significant attempt back in the late '80s at the

1 direction of Mr. Iacocca to take a -- to compare
2 yourself to other successful companies and
3 understand what they were doing that was making
4 them successful and implement those or mimic
5 those ideas within your company.

6 (Marked for identification
7 Deposition Exhibit No. 267-268.)

8 BY MR. DOMINA:

9 Q. Couple more. Exhibit 268. Can you identify it
10 for us?

11 MR. WESTENBERG: Did we skip 267?

12 MR. DOMINA: I'm going to get to that
13 in that eleventh, twelfth and thirteenth minute.

14 MR. WESTENBERG: All right.

15 BY MR. DOMINA:

16 Q. I can tell you about the date disagreement, I
17 think.

18 A. Yeah, I'm struggling with this. This is dated
19 2004, and it's got to be ten years older than
20 that.

21 Q. I understand that the 2004 date is a computer
22 run print date, and that the source document is
23 a floppy disk that was maintained by Mr.
24 Sheridan, and the printout probably occurred
25 here at Miller Canfield or Chrysler someplace,

1 but that the correct date is the one at the top.

2 A. June of '92.

3 Q. Yes.

4 A. I was struggling with this 2004 NS. We don't
5 make a 2004 NS.

6 Q. Right.

7 A. This is notes from a meeting in June of '92 in
8 the minivan complexity team.

9 Q. Now, I want to ask you some questions about an
10 engineering activity undertaken by Chrysler in
11 the early 1990s that I came across under the
12 heading Patriot Games that involved the
13 development of a Patriot electric race car.

14 Are you familiar with that project?

15 A. Vaguely, yes.

16 Q. Between 19 -- approximately '88 or '90 and 1994,
17 did Chrysler spend tens of millions of dollars
18 to develop an electric race car?

19 A. Not to my knowledge.

20 Q. Did it spend \$4.1 million specifically on a
21 contract with SatCon for the original inquiry
22 about the subject?

23 A. Not that I know of.

24 Q. Was the Patriot green-friendly race car ever
25 developed?

1 A. Not to my knowledge.

2 Q. Did Chrysler have a policy at that time to spend
3 whatever was necessary to develop a green race
4 car; that is to say, an ecologically friendly
5 electric race car that was sufficiently powerful
6 and effective to win the Le Mans Auto Race?

7 A. Not that I know of. I'm not familiar with that.
8 I have heard of the Patriot, but I don't
9 associate the name Patriot with a green car.

10 Q. Was the Patriot program a corporate image
11 campaign?

12 A. Not that I'm aware of.

13 Q. All right.

14 (Marked for identification
15 Deposition Exhibit No. 269.)

16 BY MR. DOMINA:

17 Q. I'm going to show you Exhibit 269 and ask you
18 first if you've seen it, and then if you
19 haven't, after you've had a chance to look at
20 it, ask if that refreshes your individual
21 recollection. It's not fair to ask if it
22 refreshes Chrysler's corporate recollection on
23 the subject, so I won't ask it that way.

24 A. I do know about this. This is not an electric
25 car. This is a flywheel motor where we store

1 the energy in a rotating mass of a flywheel. I
2 remember we did work on this program.

3 We had a skunkworks, an advanced
4 engineering think tank group called Liberty at
5 one time with a very forward-thinking group of
6 people to come up with future scientific
7 activities.

8 And the Patriot car was a concept, an
9 intriguing concept where a rotating mass, it
10 looked like a wheel with some significant weight
11 to it, would be spun at extremely high speeds,
12 like maybe 200,000 RPMs, and then you would
13 harness the energy from that rotating flywheel
14 to power the vehicle.

15 And Liberty did in fact spend some time
16 and effort on the harnessed flywheel concept.
17 It's not an electric car, it's actually a
18 hybrid, but not a traditional hybrid like we
19 think gas/electric and diesel/electric today.
20 It was a flywheel hybrid. We did some research
21 on this.

22 Q. Was it fossil fuel and flywheel?

23 A. No, it was an electric motor turning --

24 Q. Electric motor and flywheel?

25 A. Yes.

1 Q. So in that sense, conceptually, something like a
 2 windmill?
 3 A. Well, a very fast windmill, yes, like a 200,000
 4 RPM windmill. And I know for a short time we
 5 did study the flywheel engine concept.
 6 Q. Would there be any record about how much money
 7 the company spent on that during the years 1988
 8 through 1994?
 9 A. I don't know. I could certainly look. Liberty
 10 doesn't exist anymore. It's been disbanded. I
 11 know Liberty was working on the harnessed
 12 flywheel. The name Patriot didn't ring a bell,
 13 but now that I see that it is the flywheel, I
 14 know about that.
 15 Q. Who organizationally or positionally within the
 16 company would have decided to expend money on
 17 that race car instead of on a device like brake
 18 shift interlock?
 19 A. I don't think we were working on a race car. I
 20 think we were working on hybrid engines
 21 generally, and the flywheel was one of the
 22 subcategories. I think we were working on a
 23 powertrain. I don't think we were working on a
 24 race car.
 25 Q. According to the article, it sounds like Mr.

1 Castaing was pretty intensively involved.
 2 Perhaps we can ask him some more about that. I
 3 can probably finish, but I don't want to cut you
 4 off on that subject if you have more you want to
 5 say about Exhibit 269.
 6 A. This is written by John Lowell. He was a writer
 7 for one of the automotive magazines, and then he
 8 became an independent writer, and I think this
 9 fits into the category of a human interest
 10 thing, but I don't think it is completely
 11 accurate.
 12 Q. It is not a technical piece of writing by any
 13 means, is it?
 14 A. No, it is not. But he is correct, we were
 15 working on the flywheel engine for a while.
 16 Q. Okay. Now, just take a look for me at the first
 17 page, that's all I need for my purpose now, of
 18 Exhibit 257 where you see the names of the
 19 members of the Product Planning Committee.
 20 A. Yes.
 21 Q. There was an activity starting at least as early
 22 as October of 1995 known as Project Blitz?
 23 A. I'm sorry?
 24 Q. B-l-i-t-z. Project Blitz.
 25 A. I don't know about that program.

1 Q. Do you know of attempts as early as 1995 to
 2 involve Goldman Sachs International in
 3 discussions to either sell or merge Chrysler
 4 with Daimler-Benz AG of Germany?
 5 MR. WESTENBERG: Object. Foundation.
 6 THE WITNESS: I know that merger
 7 discussions were held prior to '97 on one
 8 occasion, and then perhaps '95 or '4 on previous
 9 occasions.
 10 BY MR. DOMINA:
 11 Q. Do you know if there were in fact slide shows
 12 either with overheads or with PowerPoint or its
 13 1995 predecessor describing Project Blitz?
 14 A. No. All I know about the merger activities is
 15 that they were done twice. I was not a party to
 16 that.
 17 Q. Have you seen any part of Exhibit 267?
 18 A. I know nothing about any of this.
 19 Q. Do you know how many of the people on the
 20 Product Planning Committee listed on the
 21 left-hand side of page 1, Exhibit 267, received
 22 personal compensation in excess of \$5 million
 23 when the merger happened?
 24 MR. WESTENBERG: Object. Foundation.
 25 THE WITNESS: No, I don't.

1 BY MR. DOMINA:
 2 Q. Do you know if any of those persons received
 3 personal compensation in excess of \$50 million?
 4 MR. WESTENBERG: Same objection.
 5 THE WITNESS: No, I do not.
 6 BY MR. DOMINA:
 7 Q. And do you know how much personal compensation
 8 or wealth was realized by Robert Eaton as a
 9 result of the transaction with Daimler-Benz?
 10 MR. WESTENBERG: Object. Foundation.
 11 THE WITNESS: No, I only know what I
 12 read in the newspapers.
 13 BY MR. DOMINA:
 14 Q. Which was \$220 million?
 15 A. In excess of 200 million, what I read in the
 16 newspaper. I don't know how accurate that is.
 17 Q. It's a securities and exchange commission piece
 18 of news, isn't it, a public document?
 19 MR. WESTENBERG: Foundation.
 20 THE WITNESS: I think so.
 21 MR. DOMINA: I went a little beyond 13
 22 minutes because your pauses were the problem. I
 23 have no further questions.
 24 THE WITNESS: Thank you very much.
 25 MR. DOMINA: Thank you. Read and sign

1 or waive?

2 MR. WESTENBERG: Read and sign.
3 (The deposition was concluded at 1:25 p.m.)
4
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9

10 _____
11 ROBERT BANTA
12

13 _____
14 DATE
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1 State of Michigan)
2 County of Oakland)

3 I do hereby certify that the witness,
4 whose attached testimony was taken in the
5 above-entitled matter, was first duly sworn to
6 tell the truth; the testimony contained herein
7 was reduced to writing in the presence of the
8 witness by means of stenography; afterwards
9 transcribed; and is a true and complete
10 transcript of the testimony given by the
11 witness.

12 I further certify I am not connected by
13 blood or marriage with any of the parties, their
14 attorneys or agents; and that I am not
15 financially interested in the matter of
16 controversy.

17 In witness whereof, I have hereunto set
18 my hand at Troy, Michigan, County of Oakland,
19 State of Michigan.
20

21 _____
22 Angela E. Broccardo, CSR-4679
23 Certified Shorthand Reporter
24 2301 West Big Beaver, Suite 925
25 Troy, Michigan