

JAMES LOYD WHITT vs DAIMLER CHRYSLER CORPORATION

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

JAMES LOYD WHITT, Individually and
as Next Friend for SHELBY WHITT and
MASON WHITT, and as Executor of the
Estate of NANCY LOU WHITT, and as
Next Friend for SHELBY WHITT and
MASON WHITT,

Plaintiffs,

-vs-

Civil No. 3-01-1231
Judge Wiseman

DAIMLERCHRYSLER CORPORATION,
a foreign corporation doing
business in the State of Tennessee
and corporate successor to
CHRYSLER CORPORATION,

Defendant.

The deposition of CHRIS P. THEODORE, taken
pursuant to the Federal Rules of Civil Procedure in the
above-entitled cause before Rose Ann Zaidan, a Notary
Public in and for the County of Oakland, acting in the
County of Wayne, State of Michigan, at 500 Woodward,
Ste. 4000, Detroit, Michigan, on Thursday, January 16,
2003, commencing at or about the hour of 2:46 o'clock P. M.

APPEARANCES:

MAZUR MORGAN MEYERS & KITTEL, PLLC,
BY COURTNEY E. MORGAN, ESQ., (P29137),
1490 First National Building, Detroit, MI 48226,
313-961-0130, appearing on behalf of the
Plaintiff.

(Appearances continued on P. 2)

APPEARANCES (Continued):

HANLON BOGLIOLI & HANLON, L.L.P.,
BY ROBERT M. HANLON, ESQ., 523 Raritan Center
Parkway, Edison, NJ 08837, 732-346-9555,
appearing on behalf of the Defendant.

DICKINSON & WRIGHT, BY JOHN E. S. SCOTT, ESQ.,
(P20164), 500 Woodward Avenue, Ste. 4000,
Detroit, MI 48226, 313-223-3622, appearing on
behalf of Chris P. Theodore.

ROBERT W. POWELL, ESQ., (P34127), Ford Motor
Company, Office of the General Counsel,
3 Parklane Blvd., 300 Parklane Towers West,
Dearborn, MI 48126, 313-621-6402, appearing on
behalf of Chris P. Theodore.

ALSO PRESENT: William LaCrosse, The Videographer

Rose Ann Zaidan, CSR-2217, RPR

C O N T E N T S

WITNESS

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CHRIS P. THEODORE

EXAMINATION BY MR. MORGAN

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JAMES LOYD WHITT vs DAIMLER CHRYSLER CORPORATION

5

1 THE VIDEOGRAPHER: Today's date is January
2 the 16th, 2003. We're on the record at 2:46.
3 CHRIS P. THEODORE,
4 having been called as a witness pursuant to the
5 Michigan General Court Rules, was examined and
6 testified as follows:
7

8 EXAMINATION BY MR. MORGAN:

9 Q. Would you state your full name for the record,
10 please?
11 A. Chris Peter Theodore.
12 Q. Mr. Theodore, you're here today pursuant to a
13 subpoena as well as a court order, is that correct,
14 sir?
15 A. That's correct.
16 Q. Okay. What is your current address?
17 A. 1068 Pilgrim, Birmingham, Michigan.
18 Q. And your date of birth, sir?
19 A. August 15th, 1950.
20 Q. What is your educational background?
21 A. I have a Bachelor's in Mechanical Engineering from
22 the University of Michigan, Master's in Mechanical
23 Engineering from University of Michigan-Dearborn and
24 an M.B.A. from Michigan State University.
25 Q. Where are you currently employed?

6

1 A. Ford Motor Company.
2 Q. How long have you been working there?
3 A. Since 1999.
4 Q. When in '99, sir?
5 A. March 1st.
6 Q. What position do you currently hold there?
7 A. I'm Vice-President of North American Product
8 Development.
9 Q. Have you held that since March of '99?
10 A. Well, the titles have changed nominally here and
11 there, but basically the same position, yes.
12 Q. Before the 1st of March '99 where did you work?
13 A. I was employed by DaimlerChrysler.
14 Q. When did you first go there to work?
15 A. I was employed by Chrysler, the predecessor, twice,
16 roughly between 1975 and 1980, and then when
17 Chrysler acquired American Motors in 1987, from 1987
18 through 1999.
19 Q. Continuously from '87 to '99?
20 A. Correct.
21 Q. And the reason you went to Chrysler in '87 was
22 because American Motors was acquired by Chrysler and
23 you as an American Motors employee then became a
24 Chrysler employee?
25 A. That's correct.

1 Q. Is that correct? Okay. What was the first job tha
2 you did at Chrysler, then, in '87?
3 A. At the time I was in charge of stuff for -- I can't
4 remember the exact title as it changed, but I was in
5 charge of Powertrain Engineering.
6 Q. How long did you hold that job?
7 A. For a couple of years.
8 Q. '87 to '89?
9 A. I believe so.
10 Q. When you say you were in charge of Powertrain
11 Engineering, first of all, tell me what the
12 Powertrain is. What do you mean?
13 A. Well, then, it was -- in fact, to be more correct, I
14 think it was engine engineering was the title, in
15 charge of the development of engines, which at that
16 time were still the legacy American Motors engines
17 and then some of the truck engines that were part of
18 the Dodge Truck organization.
19 Q. All right. When in '87 did you go to Chrysler?
20 A. Whenever the acquisition was finalized.
21 Q. All right. What was your next job?
22 A. I moved to Highland Park as part of Chrysler
23 Corporation and somewhere in that time I was
24 Powertrain Chief Engineer for the Minivan Platform
25 Group. I think that was around 1989.

8

1 Q. Powertrain Chief Engineer for Minivan?
2 A. Yeah, I think Chief Engineer, probably Executive
3 Engineer. I'm not sure what the title was at the
4 time.
5 Q. This would have --
6 A. It was Executive Engineer.
7 Q. -- been roughly late '88, early '89 when you took up
8 that position?
9 A. I don't recall the exact dates. I think it was 198
10 -- probably early 1989, but I'm not sure.
11 Q. What kind of projects were you working on in that
12 capacity?
13 A. We were responsible for engines and transmissions in
14 mostly the minivan products.
15 Q. What I'm trying to get at is do you have a
16 recollection of the things you were actually working
17 on, the projects that took up your time?
18 A. Yes, the engines and transmissions that went into
19 the minivan products. And some of those engines
20 were also applied to other vehicles.
21 Q. Can you identify the engines?
22 A. Yes, the -- at the time I think it was the 3.3-liter
23 V6 engine was one of the projects that we were
24 launching around that time.
25 Q. And the transmissions?

1 A. The A-604 transmission.
 2 Q. Do you remember any particular projects with either
 3 that 3.3-liter V6 engine or the A-604 transmission
 4 that you worked on?
 5 A. I was in charge of all the projects that went into
 6 the minivan, so those powertrains that were
 7 installed in minivans, and some of those powertrains
 8 went into other vehicles besides minivans.
 9 Q. Do you remember any particular problems encountered
 10 with either of those things, that V6 engine or the
 11 A-604?
 12 A. Typical issues associated with developing engines
 13 and transmissions, yes.
 14 Q. Just typical issues?
 15 A. Transmission issues, engine issues.
 16 Q. Nothing out of the ordinary?
 17 A. Well, I don't know what's ordinary. Problems are
 18 never ordinary. It's part of engineering.
 19 Q. How long did you remain in that job, sir?
 20 A. I believe until 1992, when I was made General
 21 Manager of the Minivan Platform.
 22 2:52:48
 23 Q. Did you have involvement in that job as the
 24 Executive or Chief Engineer for Powertrain for the
 25 minivan in the freshening of the minivan that took

1 place in -- for -- I think in -- it came out in late
 2 1990.
 3 A. That had started by the time that I moved -- I'm
 4 sorry. Can you clarify the question more?
 5 Q. Sure. I'm trying to find out if you were involved
 6 -- there was a freshening, as I understand it. The
 7 minivan initial designation was something called the
 8 T-115. Are you familiar with that nomenclature?
 9 A. Yes. It goes back a ways.
 10 Q. It goes back to the introduction of the minivan,
 11 which would in fact predate your employment at
 12 Chrysler.
 13 A. Correct.
 14 Q. But then it was freshened in or about 1990 and it
 15 then became something called the AS. Do you recall
 16 that?
 17 A. I don't know when the designations changed. Clearly
 18 when I became General Manager, if that's when you're
 19 asking, the General Manager of Minivan Platform,
 20 what was known as the AS at that time -- I don't
 21 know when the designation changed -- was ongoing,
 22 and that ongoing engineering was under my purview,
 23 yes.
 24 Q. Under your direction. Okay.
 25 A. The focus at the time, however, when I moved on

1 there, was on the next generation minivan, which
 2 would have been the NS, which was introduced as the
 3 1995 model.
 4 Q. So in '92, when you became the General Manager of
 5 Minivan Platform, you had two jobs. One was the
 6 continuation of the AS minivan while that was being
 7 marketed, and then this NS minivan was being readied
 8 for market and you were also involved with that, is
 9 that fair?
 10 A. That's fair. The focus -- I'd say the predominance
 11 of our efforts were focused towards the new model.
 12 Q. How long did you remain involved as the General
 13 Manager of the Minivan Platform?
 14 A. Until I believe it was 19 -- well, let me check. I
 15 wrote it down because I knew I'd forget the dates.
 16 1995 I think I moved on to the Small Car Platform.
 17 Q. What did you consult for that date, sir?
 18 A. Pardon me?
 19 Q. You said you wrote it down.
 20 A. This is an affidavit that I was asked when I had
 21 what positions in filling this out and I went back
 22 to check the dates, because I don't have them
 23 committed to memory.
 24 Q. Who prepared the affidavit?
 25 A. I did.

1 Q. What did you prepare it from?
 2 A. The questions that were sent me.
 3 Q. But what was your source material to figure out,
 4 well, on this date I was in this job and on that
 5 date I was in that job?
 6 A. I just went back to recollection to try and figure
 7 out what dates. I don't have any documents going
 8 back, so I just went back and wrote it down as best
 9 as I can recall when the titles changed.
 10 Q. Approximately when was it in '95 that you went to
 11 Small Car?
 12 A. I really don't recall what month.
 13 Q. Let me back up for a moment. Was it a promotion for
 14 you to move from the Chief or Executive Engineer for
 15 Powertrain to be the General Manager of the Minivan
 16 Platform?
 17 A. Yes, that would have been a promotion.
 18 Q. Who did you replace?
 19 A. John Nemeth.
 20 Q. And who replaced you as the Powertrain chief?
 21 A. Who replaced me as the Powertrain chief? Minivan
 22 platform... I'm not sure. I -- there's several
 23 people I can think of, but I'm not sure exactly who
 24 had what job in what platform.
 25 Q. Can you give me the list, then?

1 A. Let me think a little bit. Powertrain chief -- it
 2 might have been -- God, I wish I could remember. It
 3 was either -- I think it was Floyd Allen or -- God,
 4 it could have been one of three people, Floyd Allen,
 5 Gordon Rinschler or Rich Schaum. And I should know
 6 this. I just can't -- I can't recall.
 7 Q. You say Rich Schaum?
 8 A. Schaum, yes.
 9 Q. S-c-h-a-u-m?
 10 A. Right.
 11 Q. How long did you remain involved with the Small Car?
 12 A. Until 1999. Well, excuse me. Then I was promoted
 13 to Vice-President of Platform Engineering around
 14 199 -- I think it was January 1st of 1998.
 15 Q. When you were the General Manager of the Minivan
 16 Platform who was your boss?
 17 A. That changed. At first it was Francois Castaing and
 18 then I believe later on it became Tom Gale.
 19 Q. And who did you report to when you were at Small
 20 Car?
 21 A. I believe it -- that transition to Tom Gale was
 22 probably when I was at Small Car, now that I think
 23 about it. So it was Tom Gale in Small Car. There
 24 was a transition there between Francois and Tom
 25 Gale. They switched jobs somewhere around 1997,

1 '98.
 2 Q. And who were you reporting to when you were the
 3 Vice-President for Platform Engineering beginning
 4 January of '98?
 5 A. Tom Stallkamp.
 6 Q. Who did you replace in that job?
 7 A. Francois Castaing. Wait. Let me back up, because
 8 you're testing my memory here. There was a -- yeah
 9 -- indirectly Francois Castaing. How was that?
 10 There had been a reorganization. It's hard to
 11 describe. So Francois Castaing had been
 12 Vice-President of Engineering. Tom Gale then took
 13 over Engineering and Design and Francois went to
 14 International, and there was another reorganization
 15 to which Francois retired and I ended up being named
 16 Vice-President of Platform Engineering, so I'm not
 17 sure I recall exactly whom I reported to at what
 18 period of time.
 19 Q. Do you -- well, I asked you who -- the last question
 20 was who you replaced. Your best estimate, given the
 21 reorganizations, was functionally Francois Castaing?
 22 A. Yeah, functionally I became the Vice-President of
 23 Engineering. That's the most clear thing to state.
 24 I don't think -- in that transition there may not
 25 have been a singular Vice-President of Platforms.

1 It may have been a new position, now that I think
 2 about the way they defined it. As I recall now,
 3 there were five Platform General Managers, and then
 4 there was a Vice-President, Bernard Robertson, in
 5 parallel to the organization for the research labs
 6 and so on. And then I think they actually created a
 7 new position, a Vice-President of Platform
 8 Engineering, and that's when I became
 9 Vice-President.
 10 Q. And you remained in that job until the 1st of March?
 11 A. That's correct.
 12 Q. Of '99?
 13 A. That's correct.
 14 Q. When you were the -- in your last job, the
 15 Vice-President of Engineering or Platform
 16 Engineering -- you've used both terms.
 17 A. Platform Engineering was the title, I believe.
 18 Q. What committees were you a member of?
 19 A. I don't recall any major committees or any
 20 particular titles. I think there was a Products
 21 Strategy Committee where we looked at forward model
 22 products. I don't know if that's the correct title
 23 or not. I don't recall.
 24 Q. You said forward?
 25 A. Forward, yes.

1 Q. Okay.
 2 A. Basically where we would decide what projects we
 3 would work on in the future.
 4 Q. Were you in the Vehicle Safety Emissions Planning
 5 Committee?
 6 A. I don't recall that. I may have been, but I can't
 7 recall for sure.
 8 Q. Mr. Castaing has testified he was Chairman of that
 9 until he took over the international job and then he
 10 moved on. Since you replaced him, do you think you
 11 would have been the Chairman of that committee?
 12 A. I'm not sure. I really don't recall that, because
 13 Bernard Robertson might have taken that function on.
 14 Reporting to Tom Gale, as I mentioned, I'm sure if
 15 -- with that transmission that we talked about, Tom
 16 Gale may have been the head of that committee. I
 17 may or may not have been a part of it. I don't
 18 recall.
 19 3:02:44
 20 Q. Are you familiar with something called highest-
 21 common-denominator set of requirements?
 22 A. It depends on what you apply it to. Obviously I
 23 know what highest common denominator is.
 24 Q. Have you ever used that term?
 25 A. Probably.

1 Q. Was that something that you were attempting to
 2 inculcate into the Chrysler organization?
 3 A. I'm not sure what you mean by that.
 4 MR. MORGAN: All right. Would you mark
 5 that for me, please?
 6 (Whereupon a document was marked
 7 Deposition Exhibit No. 1
 8 by the reporter).
 9 MR. MORGAN: Okay. Let me -- I guess I'll
 10 hand this across first. I'll let Counsel look at
 11 it. We have marked it as Exhibit 1 to the Theodore
 12 deposition.
 13 MR. HANLON: Thank you.
 14 MR. MORGAN: Okay. You don't need to see
 15 it.
 16 BY MR. MORGAN.
 17 Q. All right. Mr. Theodore, I'm going to hand you
 18 Exhibit 1.
 19 MR. MORGAN: I'll do my best, Mr. Hanlon.
 20 Right now I do have one for you.
 21 MR. HANLON: Thank you.
 22 MR. MORGAN: I may or may not be able to
 23 say that later.
 24 A. Okay.
 25 BY MR. MORGAN:
 26 Q. This is a copy of an article that purports to be

1 an interview with you with some persons employed by
 2 the Automotive News. Do you recall the interview,
 3 sir?
 4 A. Looking at the article, yeah, obviously I did do an
 5 interview with them and I --
 6 Q. Okay.
 7 A. I know the individual, so obviously I did the
 8 interview with him.
 9 Q. All right. And I think we've got a -- yeah -- you
 10 can look on the human-sized copy and I'll put this
 11 up here.
 12 You were interviewed -- I don't know if we
 13 can get this here -- you were asked "Will you build
 14 vehicles with overseas," misspelled, "customers in
 15 mind?"
 16 A. I didn't do the spelling.
 17 Q. I understand that. We'll have to talk to those
 18 folks at Crain Communications. And they -- your
 19 answer is quoted as follows: "That gets to a
 20 philosophy that I've been trying to get throughout
 21 the organization that I call the highest-common-
 22 denominator set of requirements." You said that,
 23 sir?
 24 A. That's correct.
 25 Q. Okay. So you did use the term "highest-common-

1 denominator set of requirements"?
 2 A. Yes, in that interview, that's correct.
 3 Q. Okay. Where did you get that nomenclature from?
 4 A. Highest common denominator is a mathematical term
 5 that engineers are taught in grade schools.
 6 Q. Okay. Are you saying you coined this term, then?
 7 A. I don't think --
 8 Q. Highest common denominator?
 9 A. Well, I think highest common denominator is a
 10 standard -- it's in the lexicon. I didn't coin -- I
 11 don't think I coined it. That's just something I...
 12 Q. Okay. When did you start trying to get through the
 13 organization something called the highest-common-
 14 denominator set of requirements?
 15 A. In the context of that question we were talking
 16 about we had been developing products -- starting to
 17 develop products for Europe and other markets,
 18 overseas markets, and so sometimes the dynamic
 19 requirements of the customers might be more
 20 demanding in Europe than they are in the States, or
 21 the ride requirements in the United States in North
 22 America might be more demanding than those in
 23 Europe, so you might try and find a vehicle that
 24 could get the best of those two characteristics, so
 25 that both markets would be happy.

1 Q. You said that you wanted the -- "So the engineers
 2 are becoming much more attuned to worldwide
 3 requirements, and they are designing cars to the
 4 highest common denominator or requirements." Was
 5 that true?
 6 A. That's what it says, yes.
 7 Q. And did you believe that that was required of
 8 Chrysler as a reasonably prudent manufacturer --
 9 A. Well, as I --
 10 Q. -- to have its designs equate to the highest-common-
 11 denominator set of requirements?
 12 A. Well, I think you have to read the next sentence,
 13 which requires some balance. The next sentence says
 14 "We're not going to the extreme of doing the
 15 so-called world car," so what I'm trying to imply
 16 there is you try and get as many of those
 17 requirements common as possible, but not necessarily
 18 all, because, as we say there, then, it may not be
 19 possible or reasonable.
 20 Q. Accepting your answer that you want to get as many
 21 as possible --
 22 A. That's true.
 23 Q. -- would you agree with me that that would be
 24 required of any reasonably prudent manufacturer --
 25 A. It's not --

1 Q. -- of automotive products?
 2 A. No, I wouldn't say required, no. I said that is a
 3 good balance that we were trying to achieve.
 4 Q. Precisely my point. The balance that you said you
 5 were attempting to achieve that you've described on
 6 this record would you agree with me would be
 7 required of any reasonably prudent automotive
 8 manufacturer?
 9 A. Yes, in the context of what I was talking about --
 10 Q. Okay.
 11 A. -- which is, for example, vehicle ride and handling
 12 requirements.
 13 Q. You then are asked the question "Who is Chrysler
 14 benchmarking for products and vehicle development?"
 15 Now, what is meant by the term "benchmarking," sir?
 16 A. The term "benchmarking" means how well other people
 17 do, particular attributes of a vehicle, how they
 18 design products, how they manufacture products, see
 19 who does something better than someone else. It's
 20 the process of learning.
 21 Q. And you indicated you'd studied Honda, Volkswagen
 22 and Audi, is that right?
 23 A. Amongst others, yes.
 24 Q. All right. What are the others that you recall
 25 studying?

1 A. Always look at all manufacturers for various
 2 aspects.
 3 Q. Okay. And you were actually saying that you strive
 4 for something more than what they had. You say "I
 5 just don't want to be the maker of the perfect
 6 appliance. Nobody in this company does. It's got
 7 to have soul and we're trying to figure out how to
 8 do that?"
 9 A. Yep.
 10 Q. Now, can you tell me when you first began to
 11 advocate the philosophy of highest-common-
 12 denominator set of requirements?
 13 A. In this context is when we were developing some
 14 products for Europe and other markets and that's the
 15 context we were talking about. What date or when I
 16 started talking about that in the context of meeting
 17 more global requirements, no, I don't recall.
 18 Q. Is that the first time you did it, or had you done
 19 it --
 20 A. Well, I'm sure it's not the first time, because
 21 clearly that's --
 22 Q. Let me stop you right there and let's get a ground
 23 rule down so that this deposition will go a lot
 24 smoother and that the court reporter can get down
 25 everything that you and I have to say. Really only

1 one of us can talk at any given point in time, so
 2 you're going to have to let me finish my question
 3 before you start answering. It may be a little bit
 4 difficult for you to do because in normal
 5 conversation you may not behave that way. But we
 6 have some technological, if you will --
 7 A. Okay.
 8 Q. -- limitations that require that I finish the
 9 question and then you answer the question so that we
 10 have a complete record. Okay?
 11 A. Okay.
 12 Q. That's fair, isn't it?
 13 A. That's fair.
 14 Q. Great. I'm not -- my question isn't limited to the
 15 context of this interview. I want to know when you
 16 first began to advocate the use of the highest-
 17 common-denominator set of requirements within any
 18 organization.
 19 A. I would have no idea when I first used that term.
 20 Q. That wasn't my question. When did you first begin
 21 to advocate the use of those -- of that philosophy,
 22 as you say, philosophy I've been trying to get
 23 throughout the organization I call highest common
 24 denominator. When did you first try to do that in
 25 any context, Mr. Theodore?

1 A. I can't specifically recall when I would have first
 2 used that term.
 3 Q. Would it have been when -- during the time that you
 4 worked at Chrysler or would it have been before
 5 that?
 6 A. Probably sometime during the time at Chrysler.
 7 Q. And, again, I'm not focusing just on the use of the
 8 term, but rather the philosophy, whether or not you
 9 came up with the name later.
 10 A. Well, the philosophy of always trying to do the best
 11 you can do I think I've always tried to do.
 12 Q. Okay. So you -- whether or not you called it that
 13 philosophy, you would have advocated for that type
 14 of philosophy, as an example, while you were the
 15 Powertrain Chief Engineer and while you were the
 16 General Manager of Minivan Platform, fair?
 17 A. I guess so.
 18 3:15:50
 19 MR. MORGAN: Let's mark this one.
 20 (Whereupon documents were marked
 21 Deposition Exhibit No. 2
 22 by the reporter).
 23 MR. MORGAN: Mr. Hanlon, that's going to be
 24 the next one right there. It's the whole sheaf of
 25 documents. We'll probably hit several pages in
 there. Okay?

1 MR. HANLON: Is this my copy?
 2 MR. MORGAN: Yes. You can keep that.
 3 BY MR. MORGAN:
 4 Q. Mr. Theodore, I'm going to ask you to take a look at
 5 Exhibit No. 2. And before you review that in any
 6 detail, sir, can you tell me whether or not you
 7 reviewed anything in preparation for this deposition
 8 other than your affidavit you have in front of you
 9 there?
 10 A. No, nothing other than the affidavit.
 11 Q. Okay. So no -- excuse me -- no documents from
 12 Chrysler were shared with you to help refresh your
 13 recollection --
 14 A. No.
 15 Q. -- and to review in any way? Did you meet with any
 16 representatives of Chrysler at all in preparation
 17 for the deposition?
 18 A. No, I met with my attorney.
 19 Q. That would be Mr. Scott?
 20 A. Dave and -- Bob and John, yes.
 21 Q. Okay. I want to draw your attention to -- sir, if
 22 you look in the lower right-hand corner of the
 23 documents as you go through, you'll find a page 53.
 24 I want you to open the packet to that page, if you
 25 would. And take a moment, Mr. Theodore, because I

1 want you to look -- just look through and
 2 familiarize yourself, see if you can recall these
 3 documents through page 62.
 4 A. What pages did you want me to go through?
 5 Q. It goes through page 62, sir.
 6 A. I'll keep reading.
 7 3:21:09
 8 A. Okay.
 9 Q. Do you recall reviewing these documents, Mr.
 10 Theodore?
 11 A. No, I don't recall reviewing them, but I do see that
 12 I was on the copy list of this document.
 13 Q. At the time that you received your copy of this back
 14 in April of 1989 you would have been the Powertrain
 15 Executive or Chief Engineer for Minivan, is that
 16 right?
 17 A. I'm not sure, as I said, in 1989 I was Powertrain.
 18 This is dated April 3rd, so I'd probably have to go
 19 back to Chrysler, ask the records to see if I was
 20 the Powertrain Executive. I don't remember when in
 21 1989 I went over there.
 22 Q. Well, were you doing any work with methanol at that
 23 time, you personally?
 24 A. Certainly our people had worked with -- at some
 25 point in time we did work with methanol. I don't

1 remember what dates, what year.
 2 Q. What about legislative or regulatory updates? Were
 3 you involved in that?
 4 A. Sure. That's why I was on the copy list. I'm sure
 5 of that.
 6 Q. Because of legislative and regulatory updates?
 7 A. Just to be informed of regulatory matters.
 8 Q. Were you on the list to be informed of automatic
 9 transmission brake shift interlock?
 10 A. I was on the copy list to be informed of these
 11 discussions as regulations in general. It says
 12 Vehicle Safety and Emissions Planning Committee.
 13 This is to keep the engineering community informed
 14 of potential regulatory actions, yes.
 15 Q. Okay. And pursuant to your job duties, when you
 16 received this back in April of 1989, you would have
 17 reviewed this document?
 18 A. Yes.
 19 Q. In its entirety?
 20 A. Yeah.
 21 Q. Including its attachments?
 22 A. I certainly would try and read everything that was
 23 sent to me.
 24 Q. And you were aware that what -- the company
 25 practice at that time was to send out an agenda for

1 a meeting minute along with the documents to be
 2 presented and reviewed at the meeting? Were you
 3 aware of that?
 4 A. I certainly remember agendas being sent out. I
 5 don't remember the precedent, whether or not the
 6 documents were sent out in advance or not. I just
 7 don't recall. Various groups do things different
 8 ways.
 9 Q. Have you had a chance to review these documents now?
 10 A. Yes. I didn't in heavy heavy detail, but, yes, I
 11 have reviewed them.
 12 Q. One of the things that these documents teach us is
 13 that the members of the committee as well as the
 14 persons receiving copies of the documents were made
 15 aware that there was regulatory scrutiny of
 16 brake-park interlock as a feature as well as
 17 movement by Chrysler's competitors in the direction
 18 of incorporating this technology into their
 19 products, is that correct, sir?
 20 A. Yes, as indicated in the document, there had been
 21 concern first in the field with unintended
 22 acceleration and, therefore, as the document states,
 23 this was being considered as a -- for correcting
 24 misapplication of the accelerator instead of the
 25 brake.

1 Q. Were you aware that Chrysler was considering
 2 incorporating the brake shift interlock into any of
 3 its offerings in that era of 1989?
 4 A. I probably was.
 5 Q. Certainly by the time you became the Chief Engineer
 6 for Transmissions for the minivan you would have
 7 been aware of it?
 8 A. I was not Chief Engineer of Transmissions, but --
 9 Q. I'm sorry. Powertrain, which includes
 10 transmissions, does it not?
 11 A. Yes, but I'm not sure what -- well, never mind.
 12 Q. My point is that by the time you were the Chief
 13 Engineer for Powertrain, which includes
 14 transmissions, you would have been aware of
 15 Chrysler's interest in and evaluation of the
 16 brake-park interlock feature?
 17 A. Yes. There's been general industry discussion for
 18 some time about brake-park interlocks, yes.
 19 Q. The brake-park interlock feature is a safety
 20 feature, is it not?
 21 A. It's a device that was developed to prevent
 22 unintended acceleration after basically the
 23 experiences that had happened to Audi, as I recall.
 24 Q. Is that a yes?
 25 A. I think that's a yes.

1 Q. Were you also aware in that era of April of '89 that
 2 most, if not all, of the automotive industry was
 3 phasing in this safety feature in their offerings
 4 beginning with '87?
 5 A. As I recall, there had been a movement afoot because
 6 of the Audi situation to try and minimize the
 7 potential for misapplication and, therefore, of the
 8 accelerator pedal for sudden acceleration.
 9 Q. And movement by Chrysler towards incorporating this
 10 safety device into its offerings would have been
 11 consistent with the philosophy of highest-common-
 12 denominator requirements that you had been
 13 espousing, whether or not you called it that, would
 14 that be fair?
 15 A. I don't think that would have come under
 16 consideration at all at that point in time. You're
 17 connecting two different things.
 18 Q. Well, you have testified that the highest-common-
 19 denominator requirements philosophy was one that,
 20 and you said, wherever possible, to incorporate
 21 features that the competition has.
 22 A. I said wherever it made sense I think is what I said
 23 earlier.
 24 Q. No, you said wherever possible.
 25 A. No, I think I said something about balance. I don't

1 mean to argue with you, but I think I talked
 2 about balance.
 3 Q. Well, your testimony is on the record. It is under
 4 oath. And you stand by it, do you not?
 5 A. Well, then, let's go back and go over what the
 6 question was and what I answered.
 7 Q. Is there something you'd like to change?
 8 A. I don't -- I would like to know what the question
 9 was and what I answered.
 10 MR. MORGAN: Can you do that for him?
 11 THE WITNESS: I'm not trying to be
 12 argumentative, but I don't want people putting words
 13 in my mouth either.
 14 (Whereupon the record, as requested,
 15 was read by the reporter).
 16 BY MR. MORGAN:
 17 Q. Your testimony was that you try and get as many of
 18 the requirements as possible, but not necessarily
 19 all? Wasn't that your testimony?
 20 A. Yes, and then I went on with a couple other
 21 statements, that's correct.
 22 Q. Okay. And you stand by that testimony, then, right?
 23 A. Uh-huh.
 24 Q. Is that a yes?
 25 A. Yes.

1 Q. Okay. So, incorporating this safety feature, which
 2 most, if not all, of the rest of the industry was
 3 incorporating, would have been consistent with your
 4 philosophy of highest-common-denominator
 5 requirements?
 6 MR. HANLON: Object to the form of the
 7 question.
 8 BY MR. MORGAN:
 9 Q. Incorporating as many of those requirements as
 10 possible, but not necessarily all?
 11 MR. HANLON: I'm sorry. I object to the
 12 form of the question. I thought you were finished
 13 and I apologize.
 14 A. I'm sorry. Where are we?
 15 MR. HANLON: You can answer.
 16 A. All right. Try one more time so I understand your
 17 question.
 18 BY MR. MORGAN:
 19 Q. Incorporating the brake shift interlock in Chrysler
 20 offerings at a time when the rest of the industry
 21 was in fact incorporating brake shift interlock, a
 22 safety device, into their offerings would have been
 23 consistent with the philosophy that you say you
 24 espoused of highest-common-denominator requirements?
 25 A. Well --

1 MR. HANLON: Object to the form.
 2 BY MR. MORGAN:
 3 Q. As many requirements as other manufacturers are
 4 doing as possible, but not necessarily all?
 5 MR. HANLON: I object to the form of the
 6 question. You can answer.
 7 A. I'm sorry. Let me try one more time. I'm not
 8 trying to be difficult, but you went back and forth
 9 there. I think -- could you read -- so he doesn't
 10 have to repeat his question, could you read his
 11 question, read it back?
 12 (Whereupon the record, as requested,
 13 was read by the reporter).
 14 A. To try and answer your question, I think the answer
 15 is that you have to consider, which I wasn't -- I
 16 don't believe I was a part of that discussion, the
 17 context of all requirements of a vehicle, if you
 18 were going to apply that highest-common-denominator
 19 mentality, not to every individual attribute, as I
 20 mentioned, because whether it's safety attributes,
 21 ride attributes, dynamic attributes, I think all
 22 means considering all of the attributes.
 23 BY MR. MORGAN:
 24 Q. At this time period in 1989 you were aware that in
 25 this country there had been no requirement for the

1 inclusion of a brake shift interlock in any vehicle,
 2 correct?
 3 A. That's correct. To my knowledge there's no
 4 requirement to this day.
 5 Q. And yet Ford, General Motors, Audi, Honda, Nissan,
 6 Mercedes and Toyota, as well as Mitsubishi,
 7 Chrysler's partner, were all including brake shift
 8 interlock in their offerings beginning in '87 and
 9 all of them phasing in beginning at least by the
 10 1991 model year?
 11 MR. HANLON: Object to the form of the
 12 question.
 13 BY MR. MORGAN:
 14 Q. Is that your understanding, sir?
 15 A. I believe the document says we're planning to. What
 16 page were you reading from?
 17 Q. Page 56.
 18 A. It looks -- the document looks like plans. I'm not
 19 sure all of those came to fruition.
 20 Q. It says "Competitive Analysis: Ford, phase-in
 21 starting with '90 model year; General Motors,
 22 phase-in starting with '91 model year," and so
 23 forth.
 24 A. Yes.
 25 Q. Audi, included on all vehicles since '87; Honda,

1 phase-in starting with '89; Nissan, '89; Mercedes,
 2 '89; Toyota, '89.
 3 MR. HANLON: I object to the form of the
 4 question.
 5 BY MR. MORGAN:
 6 Q. Right?
 7 A. It says phase-in. This was written in April of
 8 1989, so this is a future -- most of these are
 9 future applications. That's all I'm saying.
 10 Q. And all of them in fact did phase it in?
 11 A. That I don't know.
 12 Q. All of those manufacturers decided to spend the
 13 money on including this safety feature in their
 14 offerings.
 15 A. That's your assertion, sir. I don't know if that's
 16 true or not.
 17 Q. You don't know?
 18 A. I don't know for every single line and the time
 19 frame that was indicated --
 20 Q. Well, let's go through your knowledge, then. When
 21 did you first learn that anybody put a brake shift
 22 interlock in one of their vehicles?
 23 A. I think, to my recollection, probably the first one
 24 was after Audi had to deal with the sudden
 25 acceleration issue. That's to my recollection.

1 Q. When's the next one?
 2 A. Don't recall.
 3 Q. How many were incorporated into any vehicles during
 4 the time period that you were the Chief of
 5 Powertrain for the minivan that you were aware of?
 6 A. I don't recall.
 7 Q. You don't know of any?
 8 A. I said I don't recall. I don't know if any were or
 9 were not. And when I was in Powertrain, that was
 10 not necessarily an area that came under my purview.
 11 Q. What was not an area that came under your purview?
 12 A. The issues of brake shift interlocks.
 13 Q. Why wouldn't it come under the purview of
 14 transmissions?
 15 A. Because, if I recall correctly, at the time that was
 16 something that was handled by the Steering Group
 17 because the brake shift interlock was something
 18 associated with the steering column.
 19 Q. Steering Group?
 20 A. Uh-huh.
 21 Q. Who was the head of the Steering Group when you were
 22 the Chief Engineer for Transmissions?
 23 A. I was not the Chief Engineer for Transmissions. I
 24 believe the head of the steering column group was a
 25 gentleman by the name of Mike Halaka (phonetics).

1 Q. Mike Halaka?
 2 A. Uh-huh. I think that would have come under their
 3 responsibility.
 4 Q. Is Mr. Halaka's name on the distribution list there?
 5 A. Well, why don't I read it here where I can see it.
 6 No, I do not see Mr. Halaka's name on the
 7 distribution list.
 8 Q. Do you see anybody you recognize as from the
 9 steering area?
 10 A. I don't recall where -- within Steering was several
 11 levels down in the organization. I don't recall at
 12 that time where the steering column organization
 13 was. I think that's the organization that would
 14 have handled the engineering of the brake shift
 15 interlock.
 16 Q. When you say several levels down, are you saying
 17 within your powertrain organization?
 18 A. I don't recall where it was in the Chrysler
 19 organization.
 20 Q. So it may have been within your Powertrain
 21 organization?
 22 A. It may have been or may have not. At that point in
 23 time I don't recall. Seven thousand engineers at
 24 the time, so I'm not sure I remember exactly with
 25 all the organizations, the change over time, where

1 that steering column organization might have been.
 2 Q. Were you aware, with the rest of the industry either
 3 already having incorporated a brake shift interlock
 4 or phasing it in in '89, '90 or '91, were you aware
 5 that Chrysler alone decided not to do so?
 6 A. I don't know about a decision not to do so. I
 7 know from this document there was discussion as to
 8 whether or not to incorporate a brake shift
 9 interlock.
 10 Q. And did you know that the decision was not to do so
 11 at that time?
 12 A. As I recall, you know, over the years this -- this
 13 discussion over sudden acceleration came and went
 14 and the debates, as in the context of this letter,
 15 was would there be regulatory action or would there
 16 not be, and I think that went on for some period of
 17 time. So I suspect discussions went on for some
 18 period of time whether or not there should be a
 19 phase-in or not.
 20 Q. Did you participate in any of those discussions?
 21 A. I don't recall any specific discussions on that.
 22 Q. Do you know of anyone who actually did participate
 23 in any of these discussions?
 24 A. Well, I'm sure there were, because I mean --
 25 Q. Don't guess, Mr. Theodore. Tell me if you know if

1 anyone did participate in any such discussions.
 2 A. By evidence of this document, yes. We know for sur-
 3 at least at this time frame there were discussions
 4 along those lines and there were probably more.
 5 Q. We know there was one discussion in April of '89.
 6 A. Absolutely.
 7 Q. Do you know of any after that, sir?
 8 A. I'm sure there were. I cannot --
 9 Q. Don't guess, Mr. Theodore. Tell me if you recall.
 10 A. I do not recall specifically.
 11 Q. But you believe there were because a reasonably
 12 prudent manufacturer would have had such
 13 discussions, correct?
 14 MR. HANLON: Object to the form of the
 15 question.
 16 3:47:27
 17 A. I believe there were always ongoing discussions as
 18 to safety features and meeting regulatory
 19 requirements and emissions requirements, as are
 20 discussed in this document here. Those are ongoing
 21 types of discussions. So I'm sure there are more
 22 agendas, you know, that would discuss regulatory
 23 issues and this would probably have been, you know,
 24 on one of those agendas.
 25 BY MR. MORGAN:

1 Q. Do you know what Chrysler's recordkeeping practices
 2 were during that time period with respect to
 3 maintaining copies of these agendas and
 4 presentations at meetings?
 5 A. Now, Chrysler had a record retention policy.
 6 Q. Can you state it?
 7 A. No. I don't recall the details of it.
 8 Q. Do you have any idea what it was?
 9 A. Certain documents, you know, were to be held for --
 10 Q. Mr. Theodore, I'm directing my comments -- and let
 11 me rephrase the question --
 12 A. Okay.
 13 Q. -- so that you're clear on it, sir -- with respect
 14 to agendas, meeting minutes or presentations at
 15 committee meetings, such as the Vehicle Safety and
 16 Emissions Planning Committee, what Chrysler's
 17 recordkeeping practice was.
 18 A. I don't recall how that applied to -- the specifics
 19 of how that would have applied to the record
 20 retention policy. I don't recall.
 21 Q. Do you have any idea how long Chrysler would
 22 maintain such records?
 23 A. No, I don't. I don't recall the specifics to your
 24 question -- as they apply to your question.
 25 Q. Do you have an estimate of the time period that

1 Chrysler would be expected to keep such records?
 2 A. No, I don't, because I -- all I do remember is there
 3 were different time frames for different types of
 4 documents, but I don't remember which one applied to
 5 what.
 6 Q. In your estimation when would be the -- would the
 7 incorporation of a brake shift interlock in Chrysler
 8 offerings have been feasible for the '92 model year,
 9 as this document indicates?
 10 MR. HANLON: Object to the form of the
 11 question.
 12 A. I don't think I can answer my estimation. This
 13 document indicates, as you stated, that -- I think
 14 it said somewhere in here to do this would be tight
 15 or something to that -- some words to that effect
 16 for the '92 model year. If you like, I can find
 17 that section.
 18 BY MR. MORGAN:
 19 Q. It's on page 56.
 20 A. "Timing is extremely tight for 1992 model year
 21 implementation."
 22 Q. Do you have any idea when Chrysler actually did
 23 implement brake shift interlock?
 24 A. I think various models had various implementation
 25 dates, but I don't recall any specifics.

1 Q. Setting aside models produced by its Japanese
 2 partner, Mitsubishi, when did Chrysler incorporate
 3 brake shift interlock into its American offerings?
 4 A. I don't recall, but I believe it was -- well, I
 5 better not answer because I don't know the
 6 specifics.
 7 Q. The decision was made in 1998, wasn't it, for the
 8 2001 model year?
 9 MR. HANLON: Object to the form of the
 10 question.
 11 A. I don't recall.
 12 BY MR. MORGAN:
 13 Q. When you were the vehicle platform engineer?
 14 A. I'm not sure that I -- I suspect there might have
 15 been an application or two before that time frame,
 16 so I'm not sure. I don't know.
 17 Q. Other than --
 18 A. I don't recall. I don't recall.
 19 Q. You're right, you remind me there was a recall and
 20 retrofit for Jeeps prior to 1998. Setting that one
 21 aside, wasn't it -- wasn't the decision made in 1998
 22 to incorporate for the 2001 model year?
 23 MR. HANLON: Object to the form of the
 24 question.
 25 A. I don't recall. I...

1 BY MR. MORGAN:
 2 Q. Do you have an explanation for the Jury, sir, as to
 3 the -- for the nine-year delay between the
 4 recommendation for '92 model year and the actual
 5 incorporation for the 2001?
 6 MR. HANLON: I'll object to the form of the
 7 question.
 8 A. I don't know why I should have an explanation for
 9 that.
 10 BY MR. MORGAN:
 11 Q. Was it because Chrysler did not wish to spend the
 12 money?
 13 A. I'm sorry. I don't think that question is -- I
 14 think I'd like to go back to my former response,
 15 which is I don't know how to answer that question.
 16 Q. You were aware through this late '80s and early '90s
 17 time period that most of Chrysler's competitors were
 18 considering and, in fact, phasing in brake shift
 19 interlock in their offerings, is that correct?
 20 A. As I recall, there were plans for phase-in, and then
 21 many of those plans, if I recall correctly, subsided
 22 as people began to realize that unintended
 23 acceleration was predominantly a pedal location and
 24 misapplication issue.
 25 Q. Have you ever seen a pedal location study conducted

1 by Chrysler?
 2 A. I don't recall. I'm sure there were studies done.
 3 I can't recall if I specifically saw them.
 4 Q. Again, don't guess.
 5 A. I don't specifically recall.
 6 Q. You have no information that such a study was done?
 7 A. No direct recollection, no.
 8 Q. Do you have any information that suggests that
 9 Chrysler was in fact monitoring the field
 10 performance of its vehicles to see if they were
 11 experiencing so-called pedal misapplications and/or
 12 sudden accelerations?
 13 A. Well, you know, as indicated in this document that I
 14 read, in fact, it said in here that, as Chrysler
 15 always did, all safety issues, monitored the
 16 performance of their products and they did monitor
 17 the activity, which was somewhere in this document
 18 as well.
 19 Q. I want to know if you're familiar with any such
 20 monitoring taking place.
 21 A. Yes, as I indicated earlier, the safety office
 22 always monitored, you know, the performance of
 23 Chrysler vehicles.
 24 Q. Can you describe what they did?
 25 A. Well, I wasn't in charge of the safety office, but

1 it's more or less indicated in here. They would
 2 monitor reports to either Chrysler Corporation of
 3 safety issues or reports to the government of safety
 4 issues and to see if they were, you know, normal or
 5 abnormal trends.
 6 Q. Were they monitoring for your competitive offerings
 7 as well?
 8 A. Oh, I believe -- well, I know things like FARS data,
 9 which was collected by the government, monitors all
 10 of the vehicles in North America, so they would have
 11 comparative data on the safety performance of all
 12 vehicles.
 13 Q. Based on FARS data?
 14 A. Well, FARS data. There are many other databases.
 15 I'm not an expert in that. But I remember
 16 specifically FARS is one set of databases that were
 17 used.
 18 Q. That's called the Fatal Accident Reporting System?
 19 A. That's probably the correct version of the acronym,
 20 correct.
 21 Q. Okay. What I'm trying to find out is with respect
 22 to pedal misapplications, was Chrysler monitoring
 23 its competitive offerings to see if they were
 24 experiencing problems?
 25 A. I would think there were databases that would

1 compare that. This letter does indicate something
 2 to that effect. In fact, here's -- you know, on
 3 page 57 it says "A NHTSA-sponsored comprehensive
 4 study of this phenomenon concluded that pedal
 5 misapplication may be aggravated by vehicle" --
 6 I know there's something else. Let me -- "NHTSA has
 7 indicated privately that Chrysler products do not
 8 appear susceptible because of accelerator/pedal
 9 arrangement and a firmer brake pedal feel." So, you
 10 know, you monitor through the government and you
 11 monitor through any of the databases that the
 12 safety office had.
 13 Q. The question to you, sir, was were you aware of any
 14 monitoring by Chrysler of its competitive offerings
 15 to determine if they were having problems with pedal
 16 misapplication.
 17 A. I think the answer is yes, Chrysler looked at
 18 competitive safety data, any data that they could
 19 have on their own vehicles versus competitive
 20 vehicles, which included data like FARS, which is
 21 checked by the government, and other databases.
 22 Q. Did, in the '89 era and early '90s era, did Chrysler
 23 have the money to spend on brake shift interlock?
 24 A. Chrysler had money to spend on safety features that
 25 it thought were appropriate and money to spend on

1 what it thought were appropriate for the customer.
 2 Q. Was money tight at that time, sir?
 3 A. Well, at that time frame it seemed to me --
 4 Q. For Chrysler, I mean.
 5 A. For Chrysler. They were spending money to introduce
 6 the first passenger-side air bag and so they were
 7 spending money on safety at that point in time.
 8 1989 was -- Chrysler was actually, if I recall,
 9 financially, to answer your question, I think was on
 10 the uptake.
 11 Q. So it's your belief that they had the money in order
 12 to spend on brake shift interlock at that time?
 13 A. They had money to spend on what they thought was
 14 appropriate, like the passenger-side air bag. No
 15 one has infinite money.
 16 Q. Do you have an explanation as to why Chrysler's
 17 competitors saw fit to spend the money on brake
 18 shift interlock and Chrysler did not in that era?
 19 A. No, because I was not Chrysler's competitor at that
 20 time, so I have no knowledge to their thought
 21 processes.
 22 Q. Are you familiar with something called Win-88?
 23 A. It was a code name for the Ford Windstar.
 24 Q. When did you first learn of the code name Win-88?
 25 A. I probably read it in the same Automotive News

1 article, the same Automotive News publication that
 2 you referred to in testimony earlier.
 3 Q. Did you have any other sources for information about
 4 Win-88 besides Automotive News or other
 5 publications?
 6 A. Well, you said when I first. I'm sure use of that
 7 code name probably from when I first read of it,
 8 probably heard of it at other times as well, and
 9 ultimately became known as the Windstar, yes.
 10 Q. Did you have -- my question to you, sir, was what
 11 sources did you have of information about what Ford
 12 was planning for this Win-88 before it was
 13 introduced?
 14 A. Basically the sources that I recall are trade
 15 publication information that we read prior to its
 16 introduction.
 17 Q. Did you have anything else?
 18 A. There were probably -- well, the stuff that was
 19 collected up by various trade sources. I'm sure
 20 there were --
 21 Q. By trade sources you mean what?
 22 A. Well, there are publications like Automotive News,
 23 there are others at that time that would say Ford is
 24 coming out with a new product, code named Win-88,
 25 that will be a minivan, and might have description

1 of, you know, the features that they were planning
 2 of the vehicle. I can't remember specifics.
 3 Q. Did you have any other sources besides publications?
 4 A. I think you get some word of mouth.
 5 Q. What do you mean by word of mouth?
 6 A. I'm sure people say that Ford's coming out with a
 7 new Windstar. I mean once people talk about it,
 8 then -- you don't know whether they read it in a
 9 publication or whether they got it from a supplier
 10 or whatever, but word of mouth you do get
 11 information on what your competitors are doing.
 12 Q. Were you getting Ford documents supplied to you on
 13 the q.t.?
 14 A. I was not getting documents supplied to me on the
 15 q.t., no.
 16 Q. You were not. Were you reviewing documents that had
 17 been supplied to Chrysler on the q.t. about the
 18 Win-88?
 19 A. Not to my recollection.
 20 Q. You're certain of that?
 21 A. Not to my recollection.
 22 Q. Do you know a man by the name of Brock Yates?
 23 A. Yes.
 24 Q. He was a gentleman who was allowed by Chrysler to
 25 write a book that became called The Critical Path?

1 A. Yes.
 2 Q. Do you recall that?
 3 A. Uh-huh.
 4 Q. He, in fact, mentioned you by name in his Forward
 5 as someone that he wanted to specifically thank. Do
 6 you recall that?
 7 A. Yes, I do.
 8 Q. You were interviewed extensively by Mr. Brock Yates
 9 in connection with that book, were you not?
 10 A. Interviewed and he followed us around as we
 11 developed the product.
 12 Q. Well, and as he's going through his Introduction --
 13 I'll read it to you; you can take a look at it if
 14 you'd like -- he thanks his, of course, thanks his
 15 wife, he thanks Bob Lutz, he thanks some other
 16 folks, and then he says "So, too" -- these are
 17 thanks, gratitude -- "So, too, for Chris Theodore
 18 and Tom Edson, two key members of the Minivan
 19 Platform team who spent endless hours in my company,
 20 patiently explaining the insanely complex details
 21 encompassing the creation of a contemporary
 22 automobile." Does that help to refresh your
 23 recollection, Mr. Theodore?
 24 A. Not -- I spent -- as I said, we spent time with
 25 interviews and he spent time following the entire

1 team, Tom Edson and myself in particular, and the
 2 rest that he credits in the book around as he wrote
 3 the book, that's a true story, true statement.
 4 Q. So not only did he follow you around in the meetings
 5 that you were involved in, but he also interviewed
 6 you about meetings perhaps that you went to that he
 7 didn't get the chance to go to, fair?
 8 A. I don't know whether they inter -- yes, he
 9 interviewed me.
 10 Q. Okay.
 11 4:03:57
 12 MR. MORGAN: Let's mark that.
 13 (Whereupon a document was marked
 14 Deposition Exhibit No. 3
 15 by the reporter).
 16 MR. MORGAN: Mr. Hanlon.
 17 MR. HANLON: Yes. Thank you.
 18 BY MR. MORGAN:
 19 Q. Let me show you what I've marked as Exhibit 3. It's
 20 the copy of the dust jacket for The Critical Path,
 21 as well as Chapter 4 of that document, pages 62
 22 through 79. By the way, did you ever read the book,
 23 sir?
 24 A. Yes, a long time ago.
 25 Q. I bet you've got a signed copy from the author, too,
 26 huh?

1 A. Yes, I do. What would you like me to read, sir?
 2 Q. Right now I'd like to refer you to page 79. The
 3 first full paragraph on the page begins "As the
 4 little team was forming up..." Do you see that
 5 there, sir?
 6 A. Uh-huh.
 7 Q. Let me know when you're done.
 8 A. Okay.
 9 Q. You've read the paragraph?
 10 A. Yep.
 11 Q. This document -- this paragraph in fact refers to
 12 the Win-88.
 13 A. Yes, it does.
 14 Q. It describes -- Mr. Yates writes "Meanwhile Ford had
 15 committed a similar figure" -- he refers to five
 16 billion -- "to its so-called Mondeo world car,
 17 small-car concept and was deep into a minivan
 18 program, after several false starts, known only as
 19 Win-88. The corporate intelligence network was, as
 20 usual, operating at full strength. There being no
 21 secrets within the Big Three, Theodore knew that
 22 this time Ford would not be as wide off the mark as
 23 it had been with its Aerostar doorstop." Is that a
 24 true statement, sir?
 25 A. That's what the book says for sure.

1 Q. It says "Thanks to a source within Ford that was
 2 mysteriously passing information through a General
 3 Motors pipeline -- quote, 'I was getting Win-88
 4 information from GM still on Ford stationery,' he
 5 muses, close quote -- Theodore and his associates
 6 understood that the new Ford effort would be deadly
 7 serious competition."
 8 A. Correct.
 9 Q. Is that a true statement?
 10 A. Yes, I think it is.
 11 Q. So there was a source within Ford that was
 12 mysteriously passing information through a General
 13 Motors pipeline and it was landing on your desk?
 14 A. I saw a copy --
 15 Q. And you knew of it?
 16 A. May I explain what I saw?
 17 Q. Sure.
 18 A. I recall seeing a copy of a GM document that had
 19 been passed on that in fact I believe it photostated
 20 some information -- I don't know how they had
 21 obtained it -- on Ford Windstar product features.
 22 Q. You say here "I was getting Win-88 information from
 23 GM still on Ford stationery." Is that a true
 24 statement?
 25 A. Yes.

1 Q. Who were you getting it from?
 2 A. I don't recall.
 3 Q. Where was that person getting it from?
 4 A. Apparently from General Motors.
 5 Q. It wasn't coming directly to you, then, from a
 6 source within General Motors?
 7 A. No.
 8 Q. Did you advise your superiors that somebody at
 9 General Motors was sending something to Ford -- I'm
 10 sorry -- sending something to Chrysler that was on
 11 Ford stationery?
 12 A. No, I don't recall advising anybody. Somebody
 13 showed me those documents.
 14 Q. This is before the introduction of the Windstar,
 15 correct?
 16 A. Yes.
 17 Q. Did you consider this information on Ford stationery
 18 that you were getting through the GM source to be a
 19 trade secret, sir, belonging to the Ford Motor
 20 Company and not you?
 21 A. It did not belong to me, that's for sure, yes.
 22 Somebody copied Ford documents on GM stationery and
 23 passed it on and I did receive a copy of it. That's
 24 a true statement.
 25 Q. And you utilized it in doing your job, is that

1 right?
 2 A. I did read the information, as I said, with the
 3 other hearsay that we all hear about competitors in
 4 the industry.
 5 Q. Did you return this information to the Ford Motor
 6 Company, saying I don't know how I got this, but
 7 this is obviously your trade secret; I'm returning
 8 it to you?
 9 A. No, I don't think so.
 10 Q. Okay. This document on page 79 also says "There
 11 being no secrets within the Big Three..." Is that
 12 true?
 13 A. I think that would be quite an exaggeration.
 14 Clearly there are some things that -- I know we talk
 15 about them, trade secrets, but "no secrets" is a
 16 very large exaggeration.
 17 Q. Did you at any time after reading this book talk to
 18 Mr. Yates about this particular paragraph and the
 19 quotation of you?
 20 A. No.
 21 4:09:53
 22 Q. The quotation, as I read it, indicates not that you
 23 got one piece of information, but that you were
 24 getting a pipeline of information from GM, still on
 25 Ford stationery, all about this Win-88.

1 A. Well, I understand the quotation would tend to
 2 indicate plural. I only remember one document like
 3 that.
 4 Q. But you're not saying that Mr. Yates is wrong; it's
 5 just that as you sit here today you only have a
 6 recollection of one document?
 7 A. That's correct.
 8 Q. What were the Ford trade secrets that you recall
 9 reviewing, sir?
 10 A. I vaguely remember a description of the vehicle,
 11 that it would be front-wheel drive, that, as
 12 indicated in the article, that it was not going to
 13 be a rear-wheel drive vehicle like the Aerostar, a
 14 front-wheel-drive-based vehicle with a general
 15 product description, best I can recall.
 16 Q. Was it important to you as either the head of
 17 Powertrain or the Minivan Platform head to have as
 18 much information as you could find out about what
 19 Ford was doing with this Win-88 Windstar project?
 20 A. It's always good to know what your competitors are
 21 doing.
 22 Q. And you sought that information from whatever
 23 sources you could find, is that right?
 24 A. I did not -- I used information, if it was available
 25 through trade publications or people talked to me.

1 I did not seek out information.
 2 Q. When you went over to work at the Ford Motor
 3 Company, did you advise your superiors that back
 4 when, when you were at Chrysler, back in the day you
 5 had Ford documents on the Win-88, there must be a
 6 leak here; we better plug it?
 7 A. No, because I didn't -- no.
 8 Q. And while at Chrysler you did not do anything to try
 9 and find out where this documentation was coming
 10 from through GM that was still on Ford stationery?
 11 A. No.
 12 Q. Have you ever -- are you familiar with a term that's
 13 used apparently in the automotive industry called
 14 "perfuming the pig"?
 15 A. It's used in a lot of areas, and, yes, it's used
 16 in the automotive industry as well.
 17 Q. All right. And what is its meaning within the
 18 automotive industry?
 19 A. Well, I think as a general term is if you have
 20 something, how do you make it more desirable than it
 21 is.
 22 Q. Including perhaps a current offering that needs
 23 freshening in some way, you might call that
 24 perfuming the pig?
 25 A. It can be applied to that, yes.

1 Q. Ever heard of something called "fluff and buff"
 2 within the automotive context again?
 3 A. Again, that's a term that's used a lot of ways,
 4 polishing documents, presentations, cars, a lot of
 5 things.
 6 Q. In connection with freshening of current offerings
 7 is that term used, "fluff and buff"?
 8 A. My recollection of use of it is, like I said, mostly
 9 for presentations and stuff. I'm not saying that it
 10 is or is not used by other people as it applies to
 11 automobiles as well. I tend to think of it more for
 12 presentations and that kind of thing, but I'm sure
 13 it's applied to vehicles, you know, getting them
 14 prepared for shows and whatever.
 15 Q. Now, from your -- to your knowledge, from the time
 16 that the minivan was first introduced by Chrysler in
 17 '84, and, again, this is from your knowledge and
 18 there may be some things you don't know about, until
 19 that NS minivan was introduced, whenever that was,
 20 how many perfumings or fluff and buffs or
 21 freshenings or reskinings or however you want to
 22 term it were done to the minivan?
 23 A. Oh, I think there were various changes,
 24 improvements, features, added over the years. Some
 25 are called majors, some are called minors. As I

1 recall, for example, I think the 1994 model year was
 2 the first year that had introduced the
 3 passenger-side air bag. I believe the 3.3 liter
 4 engine I mentioned earlier was introduced, I think
 5 it was the 1990 or '91 model year. So there were --
 6 you know, new features were added, some major and
 7 some not quite so major, through the years.
 8 Q. Were features added to the minivan in order to
 9 freshen it to keep -- to maintain its image with the
 10 customer and to be in competition with the Windstar?
 11 A. Just to keep improving the product in and of itself
 12 as well as anticipated competitive actions.
 13 The Windstar didn't come out till what? 1994,
 14 1994-1/2?
 15 Q. Yeah. And the NS didn't come out until after that
 16 at some point in time, is that right?
 17 A. Yeah, I think in -- yeah, well, 1995 model year, as
 18 I recall.
 19 Q. Stated another way, the Windstar beat the NS to the
 20 market?
 21 A. No, stated -- don't mean to disagree with you, but
 22 the minivan established the market, the Chrysler
 23 minivan established the market, beat it to the
 24 market for a long time, and the Windstar was a
 25 response to the Chrysler minivan as it kept

1 evolving. It was Ford Motor Company's second
 2 response, the first one being the Aerostar.
 3 Q. Please listen to my question and answer it. The
 4 Windstar beat the NS to the market?
 5 A. The Windstar was introduced before the NS, that is
 6 correct.
 7 Q. Okay. And Chrysler knew that the Windstar would be
 8 introduced before the NS?
 9 A. Yes.
 10 Q. And so it freshened its '94 and after AS-body
 11 minivans in order to maintain its image with the
 12 customer and to try and compete with the Windstar
 13 that they knew was going to be on the market before
 14 the NS, is that not true?
 15 A. As I tried to indicate to you, Chrysler freshened
 16 its minivan probably -- I know at times before, I
 17 think I mentioned 1990, long before Chrysler even
 18 knew -- I think Chrysler knew a Windstar would be
 19 coming. You always know the competitors when you're
 20 the leader in a particular segment, competitors will
 21 be coming with more products in the future. So one
 22 of the -- certainly in 1994 there was a freshening
 23 action that anticipated the Windstar, but prior to
 24 that there were other freshening actions that were
 25 done.

1 Q. And you mentioned one in 1990?
 2 A. And I believe there were others.
 3 Q. Well, the one in 1990 would have incorporated the
 4 A-604 transmission?
 5 A. I believe so.
 6 Q. Okay.
 7 A. Yeah, I think it was 1990.
 8 Q. And then I've read a figure of some 60 million that
 9 was spent on the freshening of the AS-body for 1994.
 10 Would that be about right?
 11 A. I don't recall the figure. I don't recall the
 12 figure.
 13 Q. But in neither of those freshenings was a brake
 14 shift interlock incorporated into the vehicle, is
 15 that right?
 16 A. That is correct.
 17 Q. Now, Ford already had a brake shift interlock in its
 18 Aerostar, didn't it?
 19 A. I don't recall that.
 20 Q. And you know they had it in the Windstar?
 21 A. I do know they had it in the Windstar.
 22 Q. And the Windstar was a brand new offering, right?
 23 A. That's correct.
 24 Q. So it didn't have any history of sudden
 25 accelerations or pedal misapplications because it

1 wasn't on the market. It was introduced with the
 2 brake shift interlock in place, right?
 3 A. That's correct.
 4 Q. So Ford chose as a matter of its discretion to spend
 5 the money on brake shift interlock and they
 6 introduced that Windstar in 1994, right?
 7 A. Yes.
 8 Q. And Chrysler, as a matter of its discretion, decided
 9 not to spend the money, correct?
 10 A. I think, as I indicated earlier, Chrysler spend its
 11 money in other areas on the minivans. They did not
 12 spend money on the interlock. As I indicated, they
 13 spent their money being the first at market with a
 14 passenger-side air bag.
 15 Q. Did the Windstar have a passenger-side air bag?
 16 A. After the Chrysler introduced the passenger-side air
 17 bag, yes.
 18 Q. So when the Windstar came to market, it also had a
 19 passenger-side air bag?
 20 A. That's correct.
 21 Q. So Ford was able to do both, but Chrysler only did
 22 one?
 23 A. The state of the art continuously improves from time
 24 to time and people keep adding more features over
 25 time, so I don't know the answer to your chicken-

1 and-the-egg question, honestly.
 2 Q. When did brake shift interlock become state of the
 3 art, Mr. Theodore, in your view?
 4 4:19:26
 5 A. Like I said, I think it continued on. It meandered
 6 along as the concern over sudden acceleration became
 7 better understood, so it was a hot button in the
 8 late '80s because of the Audi concern and then was
 9 an issue that tended to subside.
 10 Q. Define the term for me "state of the art."
 11 A. State of the art is the latest application of a
 12 technology that somebody is or process that somebody
 13 is utilizing.
 14 Q. What do you mean by latest application of
 15 technology?
 16 A. Well, if something is new and it's, as from a
 17 technology standpoint, if it's a new technology,
 18 then it can be termed "state of the art." Air bags
 19 at one time, first the driver's air bag was
 20 considered a state of the art, or application of
 21 a new technology and was considered state of the
 22 art, then passenger-side air bags. That's the way
 23 I'm using the context of that term.
 24 Q. So in that context brake shift interlock would have
 25 been state of the art in the late '80s?

1 A. It was -- the technology existed and it had been
 2 introduced in the late '80s, that's correct.
 3 MR. MORGAN: Let's go off the record a
 4 couple of minutes. We've been at it long enough we
 5 should all get a break anyway. I've got to pull a
 6 couple things out.
 7 THE VIDEOGRAPHER: We'll go off the record
 8 at 4:21.
 9 (Recess taken from 4:21 to 4:32).
 10 (Whereupon documents were marked
 11 Deposition Exhibits No. 4 and No. 5
 12 by the reporter).
 13 THE VIDEOGRAPHER: We're back on the record
 14 at 4:32.
 14 BY MR. MORGAN:
 15 Q. The next exhibit I have, Mr. Theodore, and I'd
 16 like you to just --
 17 THE VIDEOGRAPHER: Turn your mike on.
 18 MR. MORGAN: Sorry. Can you hear me now?
 19 THE WITNESS: The Verizon commercials.
 20 MR. MORGAN: Well, you know, we are what we
 21 watch.
 22 BY MR. MORGAN:
 23 Q. Exhibit 4 is a series of four excerpts from owner's
 24 manuals, or sometimes called owner's guides, from
 25 various manufacturers, two from Ford, one from Honda

1 and one from Dodge for the Shadow, '92, '93, '94,
 2 '95 era, all of them showing incorporation of brake
 3 shift interlock in those offerings. Were you aware
 4 of pedal misapplication problems in the Shadow, sir?
 5 A. No, I don't -- I don't recall any --
 6 Q. It was a Chrysler offering, was it not?
 7 A. Yes, it was.
 8 Q. And you have there the fact that Ford Motor Company
 9 provided to its customers that bought an Aerostar in
 10 1993 a brake shift interlock, even though they knew
 11 they were replacing the vehicle the next year with
 12 the Windstar?
 13 A. Yes.
 14 Q. Right?
 15 A. Yep.
 16 Q. Ford spent the money on the safety device and
 17 Chrysler did not, correct?
 18 A. Ford chose to install a brake shift interlock in
 19 1993 on the Aerostar.
 20 Q. All right. Are you familiar with something called
 21 "The Honda Study"?
 22 A. Yes, I recall the Honda study.
 23 Q. You've read the document, have you?
 24 A. Well, we better make sure we're talking about the
 25 same document. As I recall, there was a Honda study

1 that was several books long.
 2 Q. Okay. And I have an excerpt from that here as
 3 Exhibit 5. I'll show that to you.
 4 MR. MORGAN: I've got a copy for Mr. Hanlon.
 5 MR. HANLON: Thank you. (Indicating).
 6 MR. MORGAN: That's from some other
 7 deposition that's not from this dep.
 8 BY MR. MORGAN:
 9 Q. Are you familiar with this particular Honda study?
 10 A. Yes, yes.
 11 Q. Mr. Theodore?
 12 A. Yep.
 13 Q. You read this while you were an employee at
 14 Chrysler, did you?
 15 A. I don't know if I read it from cover to cover, but I
 16 did -- I do recall the presentation and the books
 17 and going through at least portions of it. I don't
 18 remember if I read it cover to cover. I recall
 19 three large books.
 20 Q. This was a -- there was a survey of 270 employees
 21 were asked the open-ended question "What do you
 22 think Chrysler's priorities are?"
 23 A. That's what it says.
 24 Q. And the overwhelming majority of answers --
 25 answer was short-term profit or profit?

1 A. That's what it says.
 2 Q. Followed by market share and cost reduction?
 3 A. Yeah.
 4 Q. Sixty-nine percent of the respondents said something
 5 about Chrysler and money.
 6 A. Uh-huh. Yes.
 7 Q. All right. And then they asked a question what
 8 should their -- "What do you think they should be?"
 9 And it came back quality and customer and product/
 10 innovation only 63 percent, 64 percent, right?
 11 A. Correct.
 12 Q. When was this Honda study done?
 13 A. Well, it's dated here February 1st, 1988.
 14 Q. Does it accurately state the attitude of Chrysler
 15 Corporation in that era, sir?
 16 A. I can only state that it accurately states what
 17 those two hundred and some odd people says.
 18 Q. Did you agree with it, that the emphasis was on
 19 profit, market share and cost reduction, money
 20 issues, quality coming in a fourth?
 21 A. No, I do not believe so.
 22 Q. Did you agree that it should be quality first,
 23 customer second, product and innovation third?
 24 A. I believe that you had to have a proper --
 25 appropriate balance. You have to have quality.

1 Quality lead to profits, but you have to balance
 2 quality with costs so that you give the best value
 3 for the customer, so we do believe in value.
 4 Q. Now, in that era Chrysler Corporation was described
 5 as being in crisis, was it not, 1988?
 6 A. It was -- yeah, I think it was -- that was about the
 7 time that it was entering a troubled period
 8 financially.
 9 Q. If you want to take a look at your chapter from
 10 The Critical Path and look at page 65, at the last
 11 paragraph on there Mr. Yates describes 1988 to '8 --
 12 to '91. I'm sorry. Let me try again. Mr. Yates
 13 describes 1988 through '91 as crisis years. Would
 14 you agree with that assessment?
 15 A. I'd call them -- that's his terminology. I would
 16 call them recovery years, planning for recovery
 17 years.
 18 Q. Take a look at page 66, again, the last paragraph on
 19 the page, Mr. Yates describes "turmoil within the
 20 engineering ranks and executive suites, as men and a
 21 few women maneuvered for position. Assignments and
 22 titles were changed almost by the week. Quote, 'It
 23 was constant, a pillar-to-post situation that had
 24 everybody in limbo,' recalls an ex-engineer." Do
 25 you recall it the same way, Mr. Theodore?

1 A. I'm not sure exactly what -- he's quoting another
 2 engineer, so I'm not sure of the context.
 3 Q. I know, but you were there at the time. Is he
 4 accurate? Is Mr. Yates accurate in his depiction of
 5 that era, "everybody in limbo"?
 6 A. I don't recall it that way, no. I recall we made a
 7 big organizational change to platform organization
 8 in the engineering community, but I don't -- this
 9 looks -- either who he was talking to or his
 10 perceptions tend to make it sound a lot more dynamic
 11 than what I recall.
 12 Q. Take a look at page 68 for me. The first full
 13 paragraph on the page begins "I first heard the
 14 phrase 'platform team' discussed in mid-'88, recalls
 15 Tom Edson." You know Mr. Edson?
 16 A. Yes, I do.
 17 Q. Do you believe him to be a truthful man?
 18 A. Yeah.
 19 Q. You would have worked closely with him while the two
 20 of you were at Chrysler, would you not?
 21 A. Yes. Ah, here's where your questions came from.
 22 Q. And indeed the term is used in this paragraph. They
 23 say "We were perfuming the pig, doing what we called
 24 fluff-and-buff jobs on current products, while the
 25 LH, which a lot of people in the industry said stood

1 for last hope, and the new Jeep were bogged down in
 2 committees." Do you recall it that way, sir?
 3 A. I recall -- and in interpreting what Tom said as
 4 well, I think he was looking historically. Like the
 5 LH, as it was, I think he was talking about probably
 6 the 1987, where in fact it was -- it was a product
 7 that was not well defined until finally a platform
 8 team was established and they got focused and got
 9 going. So it's his interpretation, and, yeah, you
 10 know, we all have a different view of it, but about
 11 the same, yes.
 12 Q. It goes on to say "'It was hopeless paper-shuffling
 13 in endless rounds of dog-and-pony acts,' says
 14 another engineer. Quote, 'The strategy was simple:
 15 If you had to give a status report, you simply told
 16 management what you thought they wanted to hear,
 17 then prayed you would be moved to another assignment
 18 before the issue either got fixed or the real truth
 19 came out.'" Is that an accurate statement of how
 20 things were at Chrysler back then, sir?
 21 A. That is somebody's inaccurate statement, I'm sure,
 22 of somebody, and my interpretation of my
 23 recollection of that environment is one of history
 24 prior to 1988. In my context, and I'm sure if you
 25 talk to Tom Edson, the same thing, it was more of

1 history, and then if you read on to the next
 2 paragraph, it goes on to the LH assignment, where
 3 some discipline and organization and focus was put
 4 in place, and, as I recall, that was done in the
 5 1988 -- sometime in the 1988 time frame.
 6 Q. What's your basis for that?
 7 A. What's my basis for that what? I'm sorry.
 8 Q. That it was in 1988 when that assignment was given
 9 to Mr. Gardner.
 10 A. That's my recollection.
 11 Q. You -- are you familiar with Mr. Richard Dauch?
 12 A. Yes.
 13 Q. Take a look at page 70 for me, the paragraph at the
 14 bottom and going over to the top of the next page.
 15 This paragraph indicates that Mr. Dauch was the
 16 Vice-President of Manufacturing before Mr. Castaing
 17 came along. Is that correct?
 18 A. This statement is factually inaccurate.
 19 Q. All right. What's inaccurate about it?
 20 A. It says Richard Dauch preceded Castaing as Corporat
 21 Vice-President of Manufacturing. Castaing was never
 22 in charge of manufacturing.
 23 Q. But Mr. Dauch was?
 24 A. Mr. Dauch was in charge of manufacturing, yes,
 25 that's correct.

1 Q. And this indicates Mr. Dauch epitomized Chrysler's
 2 traditional way of doing business, which was to
 3 sacrifice quality for line speed and let the
 4 inevitable mistakes be taken care of as a matter of
 5 warranty.
 6 A. I'm sorry. Where does it say that?
 7 Q. Just read the paragraph. I'll quote it for you.
 8 "Like most veterans in the industry, assembly-line
 9 speed was essential to Dauch and it was generally
 10 maintained that minor glitches would be corrected
 11 following final assembly or by the dealers rather
 12 than slow the pace."
 13 A. I think that's some editorializing on the part of
 14 the author.
 15 Q. Then on the next page he says "The logic was the
 16 component might work despite its poor quality, and,
 17 if not, it would be corrected by the dealers under
 18 warranty." Was that the philosophy at Chrysler,
 19 sir?
 20 A. No. I think that's editorializing on the part of
 21 the author.
 22 Q. When did -- you said you read this book.
 23 A. Yes.
 24 Q. When did you tell Mr. Yates that he was wrong?
 25 A. When he first showed it to me, I tried to -- Mr.

1 Yates is a very entertaining writer. You should
 2 meet him. And the way --
 3 Q. Believe me, it's on my list of things to do.
 4 A. Well, you should. And he likes to spell a good yarn,
 5 and like -- you know, there were, as I indicated to
 6 him when I did finally see the book, there were some
 7 inaccuracies. For example, you know, Castaing was
 8 never manufacturing. There were some inaccuracies
 9 and, as I mentioned earlier, some exaggerations,
 10 some hyperbole. That's what makes for a good read.
 11 Q. Did you ever publicly indicate that the information
 12 asserted by Mr. Yates in these two paragraphs was
 13 factually in error?
 14 A. Nobody ever asked me.
 15 Q. Well, you said you read it and you looked at this
 16 and this was exaggeration or hyperbole. When did
 17 you ever state that publicly, This book is wrong?
 18 A. I talked to Brock about it. A lot of it's right.
 19 That doesn't mean everything -- he spelled
 20 Stallkamp, if I recall correctly, four different
 21 ways in the book. There are inaccuracies in the
 22 book. I didn't think I had to go public to declare
 23 this, every inaccuracy of anything ever written. I
 24 did talk to Brock about it and I said there were
 25 some things, but... You know, I'm not his editor.

1 He chooses to write as he so chooses.
 2 Q. Looking at the bottom of page 71, this describes the
 3 atmosphere regarding the perfuming of the T-115 for
 4 1990.
 5 A. I'm sorry. I don't see "perfuming" in here. Let me
 6 read a little bit more.
 7 Q. I'll read you the paragraph. "During the turmoil
 8 the Corporation had been laboring to produce an
 9 updated version of the T-115 minivan, code-named AS.
 10 This would involve a total reskinning of the
 11 original platform and was to be introduced in the
 12 fall of 1990 as a totally new," in quotes, "Dodge
 13 care van and Plymouth Voyager."
 14 A. I still don't see the "perfuming" part. I'm sorry.
 15 Q. Is that -- is that statement accurate there that I
 16 just read to you, Mr. Theodore?
 17 A. Well, definitely there was -- there were updates
 18 planned of -- it's not clear in this document what
 19 time frame he's exactly talking about, so definitely
 20 there were updates planned for the minivan program.
 21 And I think the context of this, if I recall
 22 correctly, was originally had been planned for 1990
 23 introduction, and I think it ended up a 1991 or '2
 24 introduction. I don't remember when those changes
 25 occurred.

1 4:49:34
 2 Q. And this paragraph here describes the problems
 3 associated with that effort. If you read the last
 4 paragraph -- I'm sorry -- the last sentence on page
 5 72, the last sentence of the paragraph. I'll read
 6 it to you. "It was aesthetics versus ergonomics.
 7 'The design group and engineering group were two
 8 armed camps,' says Tom Edson." Is that accurate,
 9 Mr. Theodore?
 10 MR. HANLON: Object to the form of the
 11 question.
 12 A. I'm sorry.
 13 BY MR. MORGAN:
 14 Q. The top of page 72, the last sentence of the
 15 previous page.
 16 A. The top of page 72?
 17 Q. Yes, sir.
 18 A. That was before my involvement, so you'd have to ask
 19 Mr. Edson about that. I don't recall that period
 20 close enough to have those details.
 21 Q. So you can't recall one way or another whether or
 22 not --
 23 A. I can't -- I wasn't close --
 24 Q. -- that's an accurate statement?
 25 A. I'm sure it was. It's quoting -- ask Tom Edson. If

1 it's an accurate quotation of Tom, I'm sure it's
 2 true, because Tom is a truthful man.
 3 Q. Okay. And if this updating or reskinning of the
 4 minivan was planned for the fall of '90, this work
 5 would have been ongoing in '88 and '89, would it
 6 not?
 7 A. Yes.
 8 Q. Do you think the customers would care to know that
 9 the design and engineering groups were like two
 10 armed camps when they were working on updating the
 11 vehicle that Chrysler was asking people to buy?
 12 A. I don't think -- I think the customers care about
 13 what kind of product they get.
 14 Q. Do you think having them as two armed camps is
 15 conducive to giving the customer the best, highest-
 16 common-denominator requirements product they can
 17 get?
 18 A. I'm sorry. You should ask Mr. Edson that question,
 19 because that's his terminology, and, like I said, I
 20 didn't experience that.
 21 Q. Let's continue on page 72.?
 22 A. Okay.
 23 Q. It says "More big-time trouble in the form of Lee
 24 Iacocca was on the way. It had always been the
 25 prerogative of automobile bosses to imperiously

1 mandate detail changes on automobile designs, no
 2 matter how late in the program. Such was the case
 3 with the AS, which possessed a so-called character
 4 line, a styling trick to break up a flat expanse of
 5 sheet metal both for aesthetics and added rigidity,
 6 on the right rear quarter. It displeased the
 7 Chairman. Moreover, he hated the radius curves of
 8 the window glass on the left rear quarter of the AS.
 9 He demanded changes, although Gale and other
 10 executives angrily argued that millions had been
 11 spent on the aperture stamping dies necessary to
 12 punch out the body panels in mass production.
 13 Iacocca would have none of it. The change was
 14 dictated at an extra cost of 100 million dollars.
 15 'Gale went nuts,' remembered Edson." Do you recall
 16 that happening?
 17 A. No, that was before my time, like I said.
 18 Q. What do you mean by before your time?
 19 A. Before I was actively involved in the Minivan
 20 Platform on that portion. I was in Powertrain, as
 21 you may recall.
 22 Q. Yes, we're going to get to that in a minute.
 23 A. Okay.
 24 Q. But Mr. Edson remembers a hundred million dollars
 25 being spent essentially on Mr. Iacocca's whim.

1 A. That's what it says here.
 2 Q. Did that seem appropriate to you, sir?
 3 A. I have no -- I'm in no position to judge what Mr.
 4 Edson said of something that may or may not be true.
 5 Q. So in this era Chrysler had a hundred million
 6 dollars to spend to satisfy the whim of Lee Iacocca,
 7 but not one nickel to put a brake shift interlock in
 8 its vehicles, a safety device.
 9 MR. HANLON: Are you finished?
 10 BY MR. MORGAN:
 11 Q. Isn't that the size of it, Mr. Theodore?
 12 MR. HANLON: Object to the form of the
 13 question.
 14 A. No. As I just testified, I'm not a party to this
 15 discussion, nor the connecting of the two. I'm
 16 sorry. They don't go together and I wasn't there.
 17 BY MR. MORGAN:
 18 Q. Let's go to the next paragraph, where you do come
 19 in, Mr. Theodore.
 20 A. Okay.
 21 Q. "Worse yet, Iacocca rushed ahead to be first to the
 22 market with an old hydraulically-controlled
 23 automatic transmission that had been in the works
 24 since 1987." You read on there, that becomes the
 25 Ultra Drive, the A-604. You're familiar with that,

1 weren't you?
 2 A. Yes, I am.
 3 Q. It was a disaster, wasn't it?
 4 A. It was a very difficult product in its first years
 5 of launch, that's true.
 6 Q. It says here "When it arrived in the market on the
 7 updated AS minivan models, a plethora of tiny weak
 8 points caused thousands of breakdowns. Iacocca's
 9 gamble to beat the competition had the potential of
 10 branding the company with the mark of Cain. Within
 11 weeks of introduction in late 1990 new minivans were
 12 being towed into dealerships across the country with
 13 failed transmissions."
 14 That's what was going on at that time
 15 period, wasn't it, Mr. Theodore?
 16 A. There were definitely transmission difficulties in
 17 that time period, that's a true statement.
 18 Q. And not just the usual type of problems, this was a
 19 big problem, wasn't it?
 20 A. With this particular new transmission it was a large
 21 problem, yes, it was.
 22 Q. As it says here, "The word was passing through the
 23 industry, and more ominously through the network of
 24 mechanics, gas station operators, car dealers,
 25 auctioneers, wholesalers, journalists, safety

1 experts and disgruntled minivan owners, that the
 2 A-604 was a disaster." That's accurate, isn't it,
 3 Mr. Theodore?
 4 A. The terms -- it was a very difficult program.
 5 Disaster? That's subject to people's
 6 interpretation. It was a very difficult problem,
 7 that's a true statement.
 8 Q. "News reached Highland Park that Consumer Reports,
 9 the influential, nonprofit publication that was
 10 believed inside the company to be notoriously anti-
 11 Chrysler, was about to publish a major denunciation
 12 of the transmission," which in fact it did, didn't
 13 it?
 14 A. That's correct.
 15 Q. Consumer Reports called that transmission a lemon,
 16 didn't it?
 17 A. I believe so. I think that was the terminology.
 18 Q. And what happens was a meeting was held of the
 19 Chrysler Executive Council, chaired by Iacocca, and
 20 you were there.
 21 A. Yes, I was.
 22 Q. You're the source of this information in the book,
 23 aren't you?
 24 A. I think this one's more source of legend. I don't
 25 know. This is a well-known story.

1 Q. And you were there.
 2 A. I was there. No question about it. In fact, I
 3 remember getting out of that meeting and the press
 4 calling as if they had been in the room, saying this
 5 is -- you know, did this happen and you're the guy.
 6 So, yes, it was a well-known thing that happened.
 7 Q. This meeting was called "And Chris Theodore, then
 8 heading a group called Current Platform Power Team,
 9 was summoned to help solve the problem." Were you
 10 the most junior man in room?
 11 A. I don't recall who all was in the room.
 12 Q. I assumed you were because you got the job.
 13 A. Hopefully it was not because I was the most junior
 14 man in the room. Hopefully it was because they
 15 thought I could help.
 16 Q. It goes on to say "No one in the room was exactly
 17 leaping out of his chair to volunteer. The A-604
 18 was a labyrinth of flaws. No single Achilles' heel
 19 was evident, but rather a series of interconnected
 20 mechanical and electronic glitches that caused
 21 terminal failure, often within the first thousand
 22 miles of operation. Finally Iacocca, tired of the
 23 wrangling and buck-passing, and I quote, 'I'm going
 24 to take a piss. When I come back, somebody's going
 25 to have this assignment,' he growled." Did that

1 happen?
 2 A. More or less. The words -- the quotation may not be
 3 exactly correct, but the context is pretty close.
 4 Q. And "While the Chairman was relieving himself Lutz
 5 gave Theodore the dubious honor." And that's the
 6 way it went down, isn't it?
 7 A. Uh-huh.
 8 Q. Now, do you have any idea how much money Chrysler
 9 spent on warranty issues with respect to that A-604?
 10 A. No, I don't recall, but I do recall spending a lot
 11 of money to make sure that we took care of every
 12 customer that had a problem. I remember extending
 13 the warranty period on those vehicles and going to
 14 extraordinary measures to make sure we took care of
 15 the customers.
 16 (Whereupon a document was marked
 17 Deposition Exhibit No. 6
 18 by the reporter).
 19 MR. MORGAN: I'm sorry, Mr. Hanlon. I
 20 don't have one handy for you, but I'm sure I can get
 21 you one.
 22 MR. HANLON: That's okay. That's all
 23 right.
 24 BY MR. MORGAN:
 25 Q. Take a look at Exhibit 6, Mr. Theodore.
 25 A. Okay.

1 Q. Are you familiar with this article, sir, from the
 2 Detroit Free Press?
 3 A. I'm sure -- yeah, I vaguely remember it. I don't
 4 remember this article specifically.
 5 Q. It says "It's going to take more than Lee Iacocca'
 6 one-liners to erase the perception problem
 7 threatening consumer confidence in Chrysler
 8 Corporation's minivans and other vehicles equipped
 9 with a new transmission. More than 500 temporary
 10 Chrysler workers are calling more than 1 million
 11 customers with minivans and cars equipped with the
 12 A-604 Ultra Drive transmission, which Consumer
 13 Reports called a lemon." "Chrysler is responding
 14 with pit bull intensity to protect its most
 15 profitable vehicle." "Automotive News reports that
 16 the warranty costs related to the A-604 have
 17 surpassed 250 million dollars." Is that accurate,
 18 Mr. Theodore? And that was in February of '91.
 19 A. Yeah, I don't know if the 250 million dollars that
 20 they reported was accurate or not. I don't recall.
 21 Q. Do you have an estimate?
 22 A. But clearly it was expensive. No, I don't have an
 23 estimate. It probably ended up more than that
 24 over time.
 25 Q. So because of Mr. Iacocca's rushing the Ultra Drive

1 to market before it was ready and costing the
 2 company 250 million plus, there wasn't money
 3 available for the brake shift interlock?
 4 A. That's --
 5 MR. HANLON: Object to the form of the
 6 question.
 7 BY MR. MORGAN:
 8 Q. Right, Mr. Theodore?
 9 A. No, I think that's a pretty far-fetched connection.
 10 The one had nothing to do with the other. I mean
 11 that's -- that's a pretty unusual connection.
 12 Q. In the end it's all money, right?
 13 A. In the end they were talking about a very profitabl
 14 vehicle and taking care of customers and doing the
 15 right thing, and I don't think, despite what's
 16 characterized as -- just to go back to your earlier
 17 question, I think if you ask Mr. Iacocca, I don't
 18 think he deliberately rushed something into
 19 production that he thought would have a problem, an
 20 he wanted to make sure that when we did have a
 21 problem, that we took care of our customers, which
 22 is the reason for the very proactive calling
 23 campaign on behalf of the customers that was
 24 initiated.
 25 Q. The reason was you didn't want to get the reputatio

1 of having a lemon and having it destroy your most
 2 profitable vehicle?
 3 A. Well, that's what the author says. The reason was
 4 taking care of the customers because we wanted loyal
 5 customers and we wanted to continue to attract more
 6 customers.
 7 Q. You sure? That's not what the Honda study says.
 8 The Honda study is very explicit: Profits, right,
 9 Mr. Theodore?
 10 A. The Honda study is two hundred and some people that
 11 you asked. That has nothing to do with the
 12 discussion that we just talked about here with
 13 taking care of the customers. This was not --
 14 obviously not an inexpensive thing to do. We just
 15 talked about that, take care of these customers,
 16 call them, take care of them, make sure that they
 17 were made as whole as can possibly be.
 18 Q. How would you describe the situation when you got to
 19 Chrysler as a Chrysler employee, coming over from
 20 American Motors?
 21 A. What do you mean by how would I describe the
 22 situation?
 23 Q. How would you describe the situation at Chrysler?
 24 What did you encounter?
 25 A. I encountered a new corporation with new people, new

1 faces, new -- a new corporation.
 2 Q. When you got to Chrysler, did you see unbelievable
 3 waste and inefficiency?
 4 A. I think I always see waste and inefficiency in every
 5 organization. It's only a question of how much
 6 better we all can get over time.
 7 Q. My question to you, sir, is when you got to
 8 Chrysler, did you see unbelievable waste and
 9 inefficiency?
 10 A. I saw waste and inefficiency, as I answered earlier.
 11 Q. The question is unbelievable waste and inefficiency.
 12 A. I don't know what unbelievable is.
 13 Q. Take a look at page 75 of Mr. Yates' book?
 14 A. Okay.
 15 Q. Wherein you are quoted.
 16 A. Okay. 75.
 17 Q. Right about in the middle of page. "'Hell, we
 18 already were a platform team at A.M.C.," muses
 19 Theodore. 'We didn't have enough people or money to
 20 operate otherwise. When we got to Chrysler, we saw
 21 unbelievable waste and inefficiency.'
 22 A. I don't know if the quote is accurate. Like I said,
 23 I saw waste and inefficiency. If I said
 24 "unbelievable," I said "unbelievable." That's 1987.
 25 Q. It takes time to fix unbelievable waste and

1 inefficiency; it doesn't happen overnight, does it,
 2 Mr. Theodore?
 3 A. I've been working my entire life to try to eliminate
 4 unbelievable waste and inefficiency and there's
 5 plenty more to be had. That's a true statement.
 6 It's never done.
 7 Q. Take a look back at page 74. I want to draw your
 8 attention to something that had become dubbed
 9 "Iacocca's mausoleum." Have you ever heard that
 10 term, sir?
 11 A. There was a term that was associated -- I don't
 12 remember it being "mausoleum." I remember another --
 13 it was "Iacocca's monument," as I recall, but
 14 somebody may have recalled it as mausoleum, but same
 15 thing.
 16 Q. That would be the Auburn Hills Technical Center?
 17 A. That's correct.
 18 Q. With a price tag of 1.1 billion, right?
 19 A. Roughly, yeah.
 20 Q. Interest payments of 130 million dollars a year?
 21 A. I don't recall.
 22 Q. Right?
 23 A. I suspect that's appropriate, but I don't recall.
 24 Q. What time period is this when Chrysler's investing
 25 1.1 billion and spending a hundred thirty million a

1 year just on interest payments?
 2 A. I think you're missing the context of this. This is
 3 a company that probably was grossing -- I don't
 4 know -- 25, 30 billion dollars a year in that time
 5 frame, so, yeah, a hundred thirty million in
 6 interest was interesting. As I recall, the
 7 financing arrangement was really just the interest.
 8 It was a fairly clever financing arrangement that
 9 was done, but there was concern about the amount of
 10 money that was being spent on the facility, that's
 11 true.
 12 Q. The question to you, Mr. Theodore, is what's the
 13 time period now?
 14 A. That was from -- well, I think it had already
 15 started is -- planning it at least started prior to
 16 the American Motors acquisition, so it must have
 17 been in the 1987 or prior time frame.
 18 Q. I don't want to draw your attention to -- well, when
 19 did you move into the --
 20 A. It may be --
 21 Q. -- building out at Auburn Hills?
 22 A. As I recall, the first team to move in there was the
 23 Small Car Platform Team, and I can't remember. That
 24 probably was in 1990, something like that. I didn't
 25 move in there till -- I don't know -- maybe a year

1 or so later.
 2 Q. '91 era? What were you doing when you moved in?
 3 What was your job?
 4 A. Must have been in '92, because I think it was --
 5 yeah, when I moved in there I'd had already been
 6 named, I think, General Manager of the Minivan
 7 Platform, so I think it was probably 1992.
 8 Q. Drawing your attention again to page 74, the book
 9 states "While Iacocca railed publicly against the
 10 Japanese, the government and the economy as the
 11 source of his company's troubles, most of the
 12 blame could be traced to the fifth floor of the
 13 K. T. Keller Building in Highland Park, where
 14 inefficient, outdated policies made worse by
 15 profligate spending were driving Chrysler toward
 16 bankruptcy." Accurate, Mr. Theodore?
 17 A. No, I think that's Mr. Yates editorializing.
 18 Q. Well, did you tell Mr. Yates that after you read the
 19 book?
 20 A. I didn't tell Mr. Yates this entire book. No, I
 21 didn't go through this book line item by line item.
 22 Why would I do that?
 23 5:10:43
 24 Q. Describe the transition to the platform concept.
 25 When did it occur and was it smooth? Any problems

1 that may have been encountered?
 2 A. As I recall, there was -- the platform concept came
 3 around the formation of the LH team. And the
 4 LH team -- it was the first -- as had been mentioned
 5 in the book, I think the quotes that you discussed
 6 earlier, according to Tom Edson, there had been a
 7 Liberty team creating an LH product that had never
 8 really gotten anywhere, and so a platform team was
 9 formed, led by Glen Gardner, as you questioned me
 10 earlier, and in general there was some fairly
 11 serious concern on the part of many employees about
 12 the wisdom of changing that direction on how to
 13 organize and how to do the program, so there were
 14 some supporters and many detractors.
 15 Q. On page 76 Mr. Yates tells us that one Chrysler
 16 employee is quoted as saying "You talk about
 17 internal strife. This was war."
 18 A. Like I said, there were some people that I recall --
 19 there were some proponents and some detractors.
 20 Q. So you have a corporation in turmoil and strife,
 21 employees who are warring with each other, armed
 22 camps, a hundred million dollars on Iacocca's whim,
 23 a hundred and thirty million dollars on interest
 24 payments, 250 million plus on the A-604 debacle. No
 25 wonder there was no money for the brake shift

1 interlock. Right, Mr. Theodore?
 2 MR. HANLON: Object to the form of the
 3 question and it isn't even a question.
 4 A. It's not a question. I can't even answer that
 5 question. But you've managed to put together a lot
 6 of hyperbole and then relate it to an unrelated
 7 issue, but so be it. That's your opinion.
 8 BY MR. MORGAN:
 9 Q. How is it unrelated? It's all money. Chrysler's
 10 got to spend it on something. They chose to spend
 11 it on interest payments and Mr. Iacocca's whim and
 12 warranty because they put a lemon out on the market
 13 and they chose not to spend it on the brake shift
 14 interlock. Isn't that the long and short of it, Mr.
 15 Theodore?
 16 A. No, it is not, sir. And they chose to spend money
 17 on air bags before anybody else in the industry, on
 18 product features before anyone else in the industry,
 19 on a new line of LH products before anybody in the
 20 industry, so, no, your conclusion is incorrect and
 21 unrelated. I'm sorry. I'm not going to agree with
 22 a false statement.
 23 Q. Do you -- when you were the -- in charge of
 24 Powertrain at -- for the Minivan Platform and
 25 ultimately when you were in charge of the minivan,

1 were you receiving any information regarding the
 2 performance of Chrysler's products in the field?
 3 A. I certainly received warranty performance, customer
 4 satisfaction performance. We had -- what other kind
 5 of data? We had quality data that we got back from
 6 the field. Performance, you're using a very general
 7 term. We had performance as far as vehicle
 8 performance, how our vehicles accelerated and
 9 braked. I mean magazine performance reviews. What
 10 do you mean by performance?
 11 Q. As wide and as broad as the term can used.
 12 A. I think I gave you a pretty broad answer. We had
 13 all sorts of feedback.
 14 5:14:50
 15 Q. Were there any restrictions on that feedback?
 16 A. What type of restrictions?
 17 Q. Certain types of information that you would not be
 18 given.
 19 A. Why would I not be given feedback?
 20 Q. Because the lawyers didn't want you to have it.
 21 A. I have no knowledge of anything like that.
 22 Q. Are you familiar with incidents occurring in the
 23 field with respect to minivans and other vehicles
 24 being shifted by children?
 25 A. No, I'm not.

1 Q. That information was not given to you?
 2 A. I don't know why -- back in the context, I don't
 3 know why it would be given to me. I could not
 4 possibly gather all data that is known on our
 5 products, so, no, I have no recollection of anything
 6 along those lines.
 7 Q. Were you involved in situations where allegations
 8 were being made that Chrysler vehicles were moving
 9 on their own, if you will, from Park to Reverse?
 10 A. No.
 11 Q. You were not aware of allegations having been made
 12 nor investigations into that subject matter?
 13 A. I don't recall any.
 14 (Whereupon a document was marked
 15 Deposition Exhibit No. 7
 by the reporter).
 16 BY MR. MORGAN:
 17 Q. Take a look at Exhibit No. 7. The article is
 18 entitled "Chrysler front-drive vehicles face probe."
 19 It's January 23, 1991.
 20 A. I don't recall this.
 21 Q. That was when you were the head of Powertrain,
 22 right? That's clearly a transmission issue, isn't
 23 it?
 24 A. No, not necessarily. This is 1991. I was the head
 25 of Powertrain. This would normally be -- as I

1 mentioned earlier, those investigations typically
 2 are involved with the shift mechanism, which is
 3 typically a part of the steering column group, so I
 4 don't recall this particular investigation.
 5 5:18:24
 6 Q. Have you ever participated whatsoever in any
 7 investigation of the attributes of brake shift
 8 interlock?
 9 A. I certainly don't recall any. There's 7,000
 10 engineers in the Chrysler Corporation. I'm not sure
 11 -- so I'm sure somebody may have, but I don't recall
 12 being directly involved in any.
 13 (Whereupon a document was marked
 14 Deposition Exhibit No. 8
 by the reporter).
 15 BY MR. MORGAN:
 16 Q. Let me show you Exhibit 8, Mr. Theodore, and ask if
 17 you've ever seen that before.
 18 A. What is your question, sir?
 19 Q. Do you ever recall seeing that?
 20 A. No, I do not.
 21 Q. Do you ever recall being informed by members of the
 22 Legal staff or the Public Relations staff or anyone
 23 that's Chrysler vehicles were being started, shifted
 24 and driven by two-year-olds?
 25 A. No, I don't recall any of that.

1 Q. A brake shift interlock would prevent that, wouldn't
 2 it, Mr. Theodore?
 3 A. So would a park brake.
 4 Q. So the answer is yes?
 5 A. Yes.
 6 Q. A brake shift interlock would?
 7 A. Yes, and so would a park brake.
 8 Q. How often do you set your parking brake, Mr.
 9 Theodore?
 10 A. All the time.
 11 Q. All the time. Do you know what percentage of
 12 Chrysler owners set their parking brake all the
 13 time?
 14 A. No, I don't.
 15 Q. You have no clue?
 16 A. No, I don't.
 17 Q. Would you expect that the percentage of people that
 18 set their parking brake habitually is probably less
 19 than ten percent?
 20 A. I really haven't seen any data on that.
 21 MR. MORGAN: Mark this one.
 22 (Whereupon a document was marked
 23 Deposition Exhibit No. 9
 by the reporter).
 24 BY MR. MORGAN:
 25 Q. Let me ask you to take a look at Exhibit 9.

1 5:23:09
 2 A. Okay.
 3 Q. Are you familiar with this document, sir?
 4 A. No.
 5 Q. So you were unaware that in the middle 1980s
 6 Chrysler had the knowledge and, in fact, advocated
 7 to the government that it had no problems with Park
 8 to Reverse in its transmissions in part because
 9 children were moving shift levers as opposed to the
 10 transmissions having some defect?
 11 A. I was not a part of Chrysler Corporation at this
 12 time, so...
 13 Q. You've mentioned, Mr. Theodore, that the brake shift
 14 interlock is something that is used to prevent pedal
 15 misapplication.
 16 A. That's correct.
 17 Q. It also can be used to prevent inadvertent shifting
 18 of the shift lever?
 19 A. It could be. There's no argument. I never heard
 20 any discussion of it in that context.
 21 Q. Well, let me ask you this. Why give the customer a
 22 safety device known as the brake shift interlock if
 23 all it does is protect the customer from his own
 24 mistake? Why not let the customer stew in his own
 25 juices, as it were?

1 A. As I said earlier, the brake shift interlock was
 2 something that was considered because people, if
 3 pedals were not placed properly, there was a concern
 4 that, one, people did not step on the right pedal or
 5 their foot slipped off the pedal, as indicated in
 6 some of the earlier documents, and, in fact,
 7 accusations, if I recall correctly, had been made
 8 that cars were mysteriously taking off on their own,
 9 which later I think has pretty well been found to be
 10 untrue, but brake shift interlocks were introduced
 11 for that reason. That's my recollection of the
 12 entire discussion.
 13 Q. Protecting the customer from his or her own mistake?
 14 A. As far as stepping on the wrong pedal, that is a
 15 true statement.
 16 Q. So why? Why protect the customer from his or her
 17 own mistake?
 18 A. You try and do as much as you can in many areas
 19 where you think, you know, something like that might
 20 happen. That's why you have a park brake, that's
 21 why you have a key in an ignition. You try and do
 22 what the most prudent things are.
 23 Q. That's why you have a brake shift interlock, because
 24 people make mistakes?
 25 A. You know, if you took your logic to the extreme you

1 would have a car that wouldn't go forward so nobody
 2 could make a mistake.
 3 Q. No, that's not my logic, Mr. Theodore?
 4 A. It sounds like it to me.
 5 Q. Maybe that's yours.
 6 A. That's my interpretation of your logic. I can't
 7 protect everybody from every potential thing that
 8 could go wrong. We try and do prudent things. We
 9 all try and do prudent things.
 10 Q. And Chrysler -- when did Chrysler recognize that
 11 customers might misapply the pedals?
 12 A. As the documents indicated earlier, Chrysler and the
 13 government concluded that people in that time frame
 14 when the documents that you were talking about,
 15 their pedal relationships seemed to be okay and
 16 people weren't misjudging pedal locations.
 17 Q. Has that always remained the case, then?
 18 A. Apparently not, because there was some issues that
 19 came about later, as you mentioned earlier.
 20 Q. This has been previously marked. It's Bates number
 21 35. June 17, 1998, brake-park shift interlock, the
 22 VSEPC direction, are to be installed in all
 23 automatic transmission-equipped vehicles for all
 24 markets, according to the attachment in the
 25 Broadcast Bulletin. Are you familiar with that,

1 sir? You were still at Chrysler in June of '98,
 2 correct?
 3 A. Yep.
 4 Q. You had taken over essentially most of Mr.
 5 Castaing's duties?, correct?
 6 A. Roughly half, that's true.
 7 Q. And the Corporation made a decision to go across the
 8 board with brake shift interlock?
 9 A. That's correct.
 10 Q. Why?
 11 A. I don't recall.
 12 Q. Were you having pedal misapplication problems, Mr.
 13 Theodore?
 14 A. The only thing I recall is there were some
 15 accusations of pedal misapplication problems on Jeep
 16 vehicles, and I wasn't -- I don't recall being
 17 involved actively in those discussions that finally
 18 led to that.
 19 Q. And, in fact, the Jeep had a recall and retrofit
 20 with respect to that problem --
 21 A. That's right.
 22 Q. -- before June of '98?
 23 A. That's correct.
 24 MR. HANLON: Object to the form of the
 25 question.

1 A. That is what I recall.
 2 BY MR. MORGAN:
 3 Q. Okay. So why would the Corporation go across the
 4 board, then, with something that, according to what
 5 you just testified, NHTSA assured you you didn't
 6 need?
 7 A. I don't recall being privy to or party to those
 8 discussions, but I suspect they decided to proceed
 9 forward based on the experience they'd had on the
 10 Jeep, they made a decision to go forward and apply
 11 it across all applications. A decision was made and
 12 that became policy.
 13 Q. Are you familiar with something called walk-through,
 14 Mr. Theodore?
 15 A. Not -- I'm not --
 16 Q. As it relates to the minivan?
 17 A. Ah. Yes.
 18 Q. All right. What's walk-through?
 19 A. Walk-through -- it seems to me we used another
 20 version of the term, but walk-through is the ability
 21 to move from the driver -- front driver or passenger
 22 seat to the rear part of the vehicle.
 23 Q. And vice versa.
 24 A. Yes.
 25 MR. MORGAN: Mark that one and this one.

1 (Whereupon documents were marked
2 Deposition Exhibits No. 10 and No. 11
by the reporter).

3 BY MR. MORGAN:

4 Q. Let me show you Exhibit No. 10. I draw your
5 attention to the first paragraph under Interior.
6 You don't need to read the whole thing.

7 A. Okay.

8 Q. This is a document regarding the so-called NS
9 minivan that you were the platform leader for,
10 right?

11 A. Correct.

12 Q. And it says that "The path to again achieving style
13 and utility in the same vehicle started with a few
14 design elements that could be experimented with
15 combined with those that were deemed off limits,
16 such as the space required for true walk-through
17 ability from the front seats to the rear
18 compartment." Do you see that there, sir?

19 A. Yes, I do.

20 Q. So for the minivan it was extremely important to
21 allow for an ability to get from the front seat to
22 the rear, and, of course, from the rear seat to the
23 front?

24 A. It was a customer feature for -- from the original
25 Chrysler minivan -- it was an appreciated customer

1 feature for the driver or front seat passenger to
2 move to the rear of the vehicle and then move back
3 up to the front.

4 Q. As is being demonstrated right here by this little
5 child. (Indicating).

6 A. Yes, it is.

7 Q. Now, is anybody controlling the shift mechanism
8 here?

9 A. No.

10 Q. And here's Chrysler in its own advertising material
11 showing how a child can move from front to rear and
12 of course, from rear to front, with no one
13 controlling the shift mechanism, correct, sir?

14 A. Presumably there are no keys in it.

15 Q. How do you know that?

16 A. Well, 'cause it would be a smart thing.

17 Q. Well, it'd be a smart thing to put your foot on the
18 brake and not the accelerator, but sometimes
19 customers do that. (Indicating). No brake shift
20 interlock, and yet here you are, you know that
21 children do these things. You're advocating to your
22 customers. You provide them the opportunity --

23 A. Please do not use an accusatory "you," sir. I am
24 not --

25 Q. You were in charge of the minivan, weren't you, Mr.

1 Theodore?

2 A. I am not -- you know, I take offense at that kind of
3 accusation. Shame on you. Shame on you. Now, take
4 that back.

5 Q. Mr. Theodore, I have nothing to take back.

6 A. Well --

7 Q. You, sir, provided your customers with a minivan
8 that enhanced the ability for children to get from
9 the rear to the front and yet you gave absolutely no
10 thought to what those children might do when they
11 get in the front, now, isn't that true, sir?

12 A. Sir, we had a parking brake, we had an ignition key,
13 and a lock -- steering column lock.

14 Q. And you had a cut -- you had competitors who
15 uniformly were using the brake shift interlock and
16 you didn't want to spend the money, did you?

17 A. I totally disagree with what you just said.

18 Q. How many times did you consider brake shift
19 interlock for the -- for any minivan offering,
20 Mr. Theodore? Isn't the answer never, you
21 personally?

22 A. I'm sorry. Can you repeat your question?

23 Q. How many times did you, Chris Theodore, ever
24 consider the use of a brake shift interlock for any
25 minivan offering? Did you ever do it?

1 A. As I told you earlier, minivan -- minivans were part
2 of the consideration of the whole discussion of
3 brake shift interlocks. Brake shift interlocks were
4 always discussed and considered in the context of
5 unintended acceleration.

6 Q. Mr. Theodore, shame on you for not answering my
7 question.

8 MR. SCOTT: Mr. Morgan --

9 MR. HANLON: That's it. That's it. We're
10 done. We're done. We're done. We're done.

11 MR. SCOTT: -- shame on you. We are
12 through with you arguing with this witness.

13 MR. HANLON: We're done.

14 MR. SCOTT: You have spent 30 minutes on
15 what you represented to this Court that you had to
16 have this witness for. You have spent the rest of
17 the two and a half hours on, to use your terms,
18 fluff and buff. This deposition is at an end under
19 Rule 30.

20 MR. MORGAN: What -- what portion of
21 Rule 30 --

22 MR. SCOTT: The portion that permits me --

23 MR. MORGAN: -- Mr. Scott?

24 MR. SCOTT: -- permits me to file a motion
25 with this Court, which I intend to do, to seek a

1 protective order. You misrepresented what you're
 2 doing here today to this Magistrate.
 3 MR. MORGAN: I misrepresented no such
 4 thing.
 5 MR. SCOTT: Well, I'll see you when --
 6 MR. MORGAN: I asked this man about that
 7 information.
 8 MR. SCOTT: I will see you when --
 9 MR. MORGAN: I had other things to ask this
 10 witness of. Certainly you didn't expect me to give
 11 you --
 12 (Interruption by the court reporter).
 13 MR. SCOTT: I'm exercising my right under
 14 the Federal Rules to terminate this deposition to
 15 permit me to go back and see this Magistrate and
 16 seek relief. Period. End of discussion.
 17 MR. MORGAN: This deposition is not
 18 concluded.
 19 THE WITNESS: Excuse me. I will abide by
 20 Counsel. And shame on you.
 21 MR. MORGAN: Mr. Scott, would you talk to
 22 your client, please?
 23 MR. SCOTT: Would you be kind enough to
 24 give me a copy of your videotape, and I will order
 25 a copy of this -- your transcript as well. Thank

1 you.
 2 MR. MORGAN: Mr. Scott?
 3 MR. SCOTT: Yes, sir.
 4 MR. MORGAN: Would you caution your client,
 5 please?
 6 MR. SCOTT: I see no need to --
 7 MR. MORGAN: I see.
 8 MR. SCOTT: -- Mr. Morgan.
 9 MR. MORGAN: So he can come in here and
 10 he can lecture to me, he can tell me "Shame on
 11 you, Mr. Morgan." You'll sit there like a potted
 12 plant.
 13 MR. SCOTT: I am not going --
 14 MR. MORGAN: But let me ask questions of
 15 the witness and you get up and walk out. That's
 16 where we are, isn't it?
 17 MR. SCOTT: Oh, for God's sake, get a life,
 18 will you? You sat there for two hours arguing with
 19 him over all kinds of stuff instead of asking him
 20 about the design decisions that you represented to
 21 this Magistrate that you wanted to do. I am now
 22 exercising my right under the Federal Rules to seek
 23 relief, which I intend to do. That's the end.
 24 MR. MORGAN: The record should reflect that
 25 I spent that time without one objection being raised

1 with respect to relevance, not one.
 2 THE VIDEOGRAPHER: We are going off the
 3 record at 5:30.
 4 (Deposition adjourned at 5:30 P. M.)
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CERTIFICATE OF NOTARY

1 STATE OF MICHIGAN)
 2 COUNTY OF OAKLAND)
 3 I, the undersigned, do hereby certify that
 4 the witness, whose attached deposition was taken before me
 5 in the above-entitled matter, was by me first duly sworn
 6 to testify to the truth, the whole truth, and nothing but
 7 the truth; that the foregoing questions were asked and the
 8 foregoing answers were made by the witness, which were
 9 duly recorded by me stenographically and by me later
 10 reduced to typewritten form by computer-assisted
 11 transcription; and I certify that this is a true and
 12 correct transcript of my stenographic notes so taken.
 13 I do further certify that I am not connected
 14 by blood or marriage with any of the parties, their
 15 attorneys or agents and that I am not interested, directly
 16 or indirectly, in the matter of the controversy.
 17 In witness thereof, I have hereunto set my
 18 hand this 19th day of July, 2003.
 19
 20
 21
 22
 23
 24
 25

Rose Ann Zaidan, CSR-221Y, RPR
 Notary Public, Oakland County,
 Michigan
 My commission expires:
 August 7, 2006

JAMES LOYD WHITT vs DAIMLER CHRYSLER CORPORATION

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