

IN THE SUPERIOR COURT OF DECATUR COUNTY  
STATE OF GEORGIA

JAMES BRYAN WALDEN AND  
LINDSAY WALDEN, individually  
and on Behalf of the Estate of their  
Deceased Son, Remington Cole Walden,

CASE NO. 12-CV-472

Plaintiffs,

vs.

VOLUME 14 OF 16  
PAGES 2129-2242

CHRYSLER GROUP, LLC AND  
BRYAN L. HARRELL,

Defendants.

---

IN RE: Jury Trial

BEFORE: HONORABLE J. KEVIN CHASON  
Circuit Judge

DATE: Thursday, April 2, 2015

TIME: Commenced at 1:26 p.m.  
Concluded at 6:27 p.m.

LOCATION: Decatur County Courthouse  
Bainbridge, Georgia

REPORTED BY: LORI DEZELL  
Registered Professional Reporter

LORI DEZELL, CCR, RPR  
5170 Grandview Court  
Tallahassee, Florida 32303

APPEARANCES:

REPRESENTING THE PLAINTIFFS:

JAMES E. BUTLER, JR., ATTORNEY AT LAW  
jim@butlerwooten.com  
DAVID T. ROHWEDDER, ATTORNEY AT LAW  
rohvedder@butlerwooten.com  
BUTLER WOOTEN CHEELEY & PEAK, LLP  
105 Thirteenth Street  
Columbus, Georgia 31901  
706.322.1990

- AND -

JAMES E. BUTLER III, ATTORNEY AT LAW  
jeb@butlertobin.com  
BUTLER TOBIN, LLC  
1932 N. Druid Hills Road, NE, Suite 250  
Atlanta, Georgia 30319  
404.587.8423

- AND -

GEORGE C. FLOYD, ATTORNEY AT LAW  
gfloyd@floydkendrick.com  
FLOYD & KENDRICK, LLC  
415 S. West Street  
Bainbridge, Georgia 39818  
229.246.5694

- AND -

L. CATHARINE COX, ATTORNEY AT LAW  
Post Office Box 98  
Young Harris, Georgia 30582  
706.379.5137

APPEARANCES (CONTINUED):

REPRESENTING DEFENDANT CHRYSLER GROUP, LLC.

M. DIANE OWENS, ATTORNEY AT LAW  
diane.owens@swiftcurrie.com  
ALICIA A. TIMM, ATTORNEY AT LAW  
alicia.timm@swiftcurrie.com  
TERRY O. BRANTLEY, ATTORNEY AT LAW  
terry.brantley@swiftcurrie.com  
BRADLEY S. WOLFF, ATTORNEY AT LAW  
brad.wolff@swiftcurrie.com  
SWIFT, CURRIE, MCGHEE, HIERS, LLP  
The Peachtree  
1355 Peachtree Street, NE, Suite 300  
Atlanta, Georgia 30309  
404.888.6158

- AND -

SHEILA JEFFREY, ATTORNEY AT LAW  
jeffrey@millercanfield.com  
BRIAN WESTENBERG, ATTORNEY AT LAW  
westenberg@millercanfield.com  
MILLER CANFIELD  
101 North Main, 7th Floor  
Ann Arbor, Michigan 48104  
734.668.7797

- AND -

BRIAN W. BELL, ATTORNEY AT LAW  
bbell@smbtrials.com  
ANTHONY J. MONACO, ATTORNEY AT LAW  
amonaco@smbtrials.com  
SWANSON, MARTIN & BELL, LLP  
330 North Wabash, Suite 3330  
Chicago, Illinois 60611  
312.321.8424

- AND -

BRUCE W. KIRBO, JR., ATTORNEY AT LAW  
Bruce W. Kirbo Jr., Attorney at Law, LLC  
Post Office Box 425  
Bainbridge, Georgia 39818  
229.246.3900

**APPEARANCES (CONTINUED) :**

REPRESENTING DEFENDANT HARRELL:

KARSTEN BICKNESE, ATTORNEY AT LAW  
kbicknese@sktblaw.com  
ROBERT BETTS, ATTORNEY AT LAW  
rbetts@sktblaw.com  
SEACREST, KARESH, TATE & BICKNESE, LLP  
56 Perimeter Center East, Suite 450  
Atlanta, Georgia 30346  
770.804.1800

INDEX

ITEM:	PAGE:
PROCEEDINGS COMMENCED	2137
Final Closing Argument by Mr. Butler	2137
JURY CHARGE	2180
VERDICT	2234
CERTIFICATE OF REPORTER	2242

PLAINTIFFS' EXHIBITS

NO.	DESCRIPTION	PAGE
290a	Mortality table	2231
312.179	Photograph of fireman putting out vehicle fire	2217
313.68	Photograph of road	2217
313.77	Photograph of road	2217
313.104	Photograph of Remington Walden (sealed)	2228
313.106	Photograph of Remington Walden (sealed)	2228
313.119	Photograph of Dakota at scene	2217
314.17	Photograph of Remington Walden (sealed)	2228
F	Material removed from Exhibit 701	2232

DEFENDANT CHRYSLER'S EXHIBITS

NO.	DESCRIPTION	PAGE
38	Aerial photograph of the scene	2217
71	Autopsy report	2217
103	Aerial photograph	2217
104.22	Photograph of road	2217

INDEX (CONTINUED)

DEFENDANT CHRYSLER'S EXHIBITS

NO.	DESCRIPTION	PAGE
104.24	Photograph of road	2217
104.27	Photograph of Dakota at scene	2217
104.29	Photograph of road	2217
104.44	Photograph of Dakota	2217
104.45	Photograph of Dakota	2217
104.48	Photograph of inside of Dakota	2217
104.49	Photograph of inside of Dakota	2217
104.51	Photograph of Dakota	2217
104.52	Photograph	2217
104.53	Photograph	2217
104.54	Photograph	2217
104.58	Photograph of Jeep Grand Cherokee	2217
104.59	Photograph of Jeep Grand Cherokee	2217
104.60	Photograph of Jeep Grand Cherokee	2217
104.61	Photograph of Jeep Grand Cherokee	2217
104.62	Photograph of Jeep Grand Cherokee	2217
104.63	Photograph of tire	2217
104.67	Photograph of Jeep Grand Cherokee	2217
104.68	Photograph of Jeep Grand Cherokee	2217
104.70	Photograph of Jeep Grand Cherokee	2217
104.76	Photograph of Jeep Grand Cherokee	2217
104.167	Photograph of Dakota	2217

INDEX (CONTINUED)  
DEFENDANT CHRYSLER'S EXHIBITS

NO.	DESCRIPTION	PAGE
308	Vehicle Crash Test Letter	2223
309-1	Graphic representation of components of vehicle	2224
309-2	Graphic representation of components of vehicle	2224
309-3	Graphic representation of components of vehicle	2224
309-4	Graphic representation of components of vehicle	2224
309-5	Graphic representation of components of vehicle	2224
309-6	Graphic representation of components of vehicle	2224
309-7	Graphic representation of components of vehicle	2224
309-8	Graphic representation of components of vehicle	2224
309-9	Graphic representation of components of vehicle	2224
309-10	Graphic representation of components of vehicle	2224
309-11	Graphic representation of components of vehicle	2224
309-12	Graphic representation of components of vehicle	2224
309-13	Graphic representation of components of vehicle	2224
309-14	Graphic representation of components of vehicle	2224

INDEX (CONTINUED)  
DEFENDANT CHRYSLER'S EXHIBITS

NO.	DESCRIPTION	PAGE
309-15	Graphic representation of components of vehicle	2224
309-16	Graphic representation of components of vehicle	2224
309-17	Graphic representation of components of vehicle	2224
309-18	Graphic representation of components of vehicle	2224
314	Compliance Report	2222
317	Vehicle Crash Test Letter	2222
324	04: Design Guidelines -- Fuel Supply -- General	2224
328	Vehicle Information Detail Report	2217
338	Photograph of Jeep Grand Cherokee	2217
344	Photograph	2217
362B	Picture of Liberty KJ, Grand Cherokee ZJ, Grand Cherokee WJ, Cherokee XJ	2217
363A	Picture of KJ, ZJ, WJ, and XJ	2217
366-45	Photograph	2217
366-61	Photograph	2217
366-63	Photograph	2217
366-73	Photograph	2217
2002	Proffer of Dr. Taylor	2228
2005	Photograph of page from flip chart	2230
2006	Photograph of page from flip chart	2230





1 because then we spend all of our time chasing rabbits and  
2 talking about things that are really not in dispute and  
3 don't get enough time to talk about what really is  
4 important in this case, which is damages. And I've been  
5 doing this a while. And I've made that mistake before.  
6 I'm going to try not to make it today.

7 I want to join everybody else as far as thanking you  
8 for your service as jurors. I know none of you all  
9 volunteered for this duty, but it is an important civic  
10 duty and I really do hope, we all really do hope that,  
11 when this case is over and you go home and you've rendered  
12 your verdict, you'll be glad that you had the opportunity  
13 to be here and to be of service to Decatur County and the  
14 State of Georgia and the United States of America.

15 I hope I haven't offended any of you. I know I've  
16 made a mistake on the Elmo machine. I was trying to hurry  
17 because Jeb kept telling me to sit down. I apologize for  
18 that. What was important about that was not what was on  
19 the exhibit, Mr. Olson's opinions, but what was not on  
20 there. And I hope I haven't offended any of you all by  
21 getting a little aggravated with the last -- the only two  
22 witnesses Chrysler put up -- well, the only one witness  
23 Chrysler put up from Chrysler, Mr. Chernoby, and their  
24 expert witnesses, Mr. Olson.

25 But this is not easy. This work is not easy. It's

1 kind of tough when you get the number 2 or 3 man of  
2 Chrysler, he never would tell us which, but he's at least  
3 number 2 or 3, who comes in here and will not even admit  
4 that an automaker, an automaker corporation, has a duty to  
5 warn of a danger if they know it's a danger.

6 It's incredible to me, inconceivable to me they  
7 wouldn't have done that. And Mr. Olson, I mean, the list  
8 of things that guy made up went on and on. It's kind of  
9 hard to tolerate. We'll talk about that a little bit  
10 longer.

11 I know that at times I went on too long and I'm sure  
12 Jeb did too. The problem is, as he said, I'll be brief  
13 about this, we cannot know what you're thinking. The way  
14 the system works, you all can't talk back to us, which  
15 probably is a good thing. But we don't know what you're  
16 thinking, what's important to you. We don't want to leave  
17 anything -- we don't want to run the risk of leaving any  
18 stone unturned, because the case -- this case is that  
19 important.

20 If I stumble in this closing argument, it will be  
21 largely because I'm weary and we've been at this for a  
22 long time. The team has been representing Lindsay and  
23 Bryan, has worked every day, including Saturdays and  
24 Sundays, for about as long as I can remember, although I  
25 took a Saturday afternoon off three weeks ago to go to an

1 engagement party.

2 And it's been a hard road. When you go up against an  
3 automotive corporation like Chrysler, they literally throw  
4 everything at you. I've been doing this automotive  
5 products liability work now for 30 years. June will mark  
6 the 30th year. I started when one of my partners, whose  
7 name is Bob Cheeley, from Buford, Georgia, his first  
8 cousin, who was a law student, was driving to Columbus to  
9 watch me try a case, a wreck case, and got killed by a  
10 defective product on his way to the courthouse. And his  
11 mother told me and Bob she wanted us to get justice for  
12 her son. And that was my first auto products case.

13 Thirty years I've been doing it. And there have been  
14 times that I wondered why I do it because it's  
15 excruciatingly difficult hard work. And the reason is  
16 because it really does make a difference. Mr. Bell put up  
17 those slides I think during Mr. Kam's cross-examination  
18 about NHTSA, where it talks about the improvements to  
19 automotive safety. I've been following this my whole  
20 life, frankly, long before I started having these kind of  
21 cases. And cars have improved drastically, especially in  
22 the last, let's see, 25 years, 23 or 25 years. Automotive  
23 safety has improved drastically. But I'm going to tell  
24 you something, ladies and gentlemen. You saw some  
25 evidence about NHTSA and the politics and money and

1 influences of NHTSA. Unfortunately, it doesn't matter  
2 who's in the White House, there's a real problem. But  
3 what really has improved automobile safety is what we're  
4 doing here today in this courthouse.

5 **MR. BELL:** To which I would object, and I have a  
6 short motion, please.

7 **THE COURT:** You can make your -- I'm going to  
8 overrule the objection and you can make your motion.

9 Tell you what, come on up.

10 (Bench conference commenced.)

11 **MR. BELL:** This is a blatant violation of motion in  
12 limine No. 9 that talked about sending a message, and  
13 that's exactly what this remark was intended to do. It's  
14 contrary to what this Court ruled, and moreover there's no  
15 evidence in the record of what Mr. Butler is saying.  
16 There's no witness that's been testifying about lawsuits  
17 like this and improving safety. We would move for a  
18 mistrial, Your Honor. We will not be able to recover from  
19 a remark like that in this case, which is for compensatory  
20 damages.

21 **THE COURT:** Okay. I'm going to overrule the motion  
22 and deny your motion, Mr. Bell.

23 (Bench conference concluded.)

24 **MR. JIM BUTLER:** What we do here is important. It's  
25 important to automotive safety, it's important to my

1 clients, it's important to everybody. It is important  
2 that Chrysler be held responsible. Mr. Harrell -- as  
3 Mr. Bicknese told you, Mr. Harrell from day one accepted  
4 responsibility. You heard Reverend McQuaid yesterday, the  
5 last witness, the last thing he said, I think, was  
6 Mr. Harrell at the scene was saying, I'm sorry, I'm so  
7 sorry, I'm just so sorry. He said the same thing to the  
8 State troopers at the scene, same thing that night when he  
9 was interviewed. He's never denied responsibility. He's  
10 serving time in Reidsville for his responsibility.

11 Chrysler has denied everything and still denies  
12 everything and has put up what is, in all candor, a  
13 dishonesty defense. Chrysler ought to be in Reidsville  
14 instead of Bryan Harrell.

15 **MR. BELL:** Your Honor, I have the same objection and  
16 the same motion.

17 **THE COURT:** Overruled.

18 **MR. JIM BUTLER:** Ladies and gentlemen, we asked --  
19 we're going to ask that you do full justice for Remi.  
20 Bryan and Lindsay are here, and we are here, and we've  
21 been working for three years to let people know about this  
22 danger. People do not know. Ms. Kelly, sitting right  
23 there -- where did you -- Bertha Walker, that's right,  
24 sitting right there where Mr. Jerry Butler is sitting,  
25 might have been up one row, see Mr. Butler out there, he

1 was a witness in this case, with the green shirt, she's  
2 sitting right there. She was drive -- she drove her 2000  
3 Grand Cherokee. She didn't know about where the gas tank  
4 was. She was one of the jurors, you remember in  
5 voir dire? Ms. Kelly sat I think right here, I believe.  
6 She drove a 2004 Ford Mustang. And if you remember the  
7 voir dire, she thought the gas tank was not in the rear.

8 **MR. BELL:** To which we object as not in the evidence  
9 and we would make the same objection.

10 **MR. JIM BUTLER:** It is in evidence, Your Honor.

11 **THE COURT:** I'm going to sustain the objection.

12 **MR. JIM BUTLER:** People don't know where their gas  
13 tanks are. People don't know about the danger. People  
14 don't know because Chrysler don't tell them. Chrysler put  
15 out all of these brochures, you saw all of these  
16 engineering documents where they talk about, they  
17 advertise where they've got midship gas tank. Midship gas  
18 tank is put there for protection from rear impact. That's  
19 what their own brochure says. Did you ever see a brochure  
20 about telling anybody, hey, your gas tank is in the rear?  
21 Never. Never in history.

22 Automakers have known this for 40 years. I've never  
23 seen any automakers advise that their gas tank was in the  
24 rear. Why not? They know. They've been knowing.  
25 There's no such thing as a Chrysler brochure saying we put

1 your gas tank back here for protection. Why not? They  
2 know. They've been knowing. The defense is fundamentally  
3 dishonest.

4 What do they do? Chrysler comes in here, denies  
5 responsibility, denies everything, makes up stuff,  
6 insinuates, implies, maybe even worse, that some of the  
7 Bainbridge citizens who testified before you, including  
8 Mr. Butler and Ms. Brown, were lying about what they  
9 heard.

10 I'm with Mr. Bicknese. In a horrific scene like  
11 this, people are going to see things and hear things and  
12 be in different places and remember different things.  
13 That doesn't mean any of them are lying. Ms. Brown and  
14 Mr. Butler weren't lying about being there and about what  
15 they heard.

16 What does Chrysler give us? Well, one thing, they  
17 won't answer any of these questions. Many questions  
18 Chrysler won't answer. That's two of them, three of them.  
19 And then they bring in their number 2 or number 3 guy and  
20 he says automakers have no duty to warn people of known  
21 dangers. Can you imagine something that horrible? That's  
22 Mr. Chernoby. That's inconceivable to me that the number  
23 2 or 3 guy from Chrysler would say such a thing. Somebody  
24 has got to tell them. That's wrong. I wrote wrong up  
25 here when I made a mistake. I'm going to write wrong up



1 here. This is Chrysler, and Chrysler is wrong.

2 That's the kind of attitude that kills people  
3 needlessly, that injures people needlessly, that strips a  
4 four-and-a-half-year-old boy from his mom and daddy and  
5 family and this community. That kind of attitude right  
6 there. That's why we're here.

7 Why do they deny everything? Well, like I told you,  
8 we have to spend time talking about things that should not  
9 be disputed instead of focusing on the real issue, which  
10 is damages.

11 Here's an example. Why did they call Steve Fenton?  
12 I sat there and I knew why. I've been here before. You  
13 all probably -- some of you all wondered, why did they  
14 call Steve Fenton. It's because they wanted to make it  
15 look like Chrysler had something to talk about. That's  
16 all. There are no reconstruction issues in this case. I  
17 mean, Fenton says delta-v 24, Buchner, from Tallahassee,  
18 and Whigham says delta-v 17.8. It don't make any  
19 difference.

20 We spent half a day with Steve Fenton. The car got  
21 hit in the rear. The gas tank was there. It should not  
22 have been there. Chrysler cannot honestly deny the gas  
23 tank should not have been there. Nobody puts it there  
24 anymore. Chrysler says it's absolutely safe. So if it's  
25 absolutely safe, why does no automaker sell any cars with

1 rear gas tanks anymore? It makes no -- the argument makes  
2 no sense. It should not have been there. It did not have  
3 to be there. But for -- it did not have to be there.  
4 Chrysler admits they could have put it -- they could have  
5 put it at the rear. I mean, in the midships.

6 The gas tank exploded. Remi burned alive. Mr. Olson  
7 himself admitted the gas tank caused the fire. "The  
8 location of the gas tank was the cause of the fire." I  
9 wrote it down on my legal pad when he said it, I wrote it  
10 back up here, and if you recall, I made him admit that he  
11 said that twice.

12 Now, all right. There's no dispute that the fire  
13 caused Remi's death. That's undisputed. They had a  
14 witness, Dr. Bennett from Billings, they didn't call him.  
15 They didn't call him because they didn't want to put him  
16 on that stand because they knew he was not a credible  
17 witness.

18 That's it. That's the whole case. There is no  
19 defense. But because Chrysler denies everything, you have  
20 to listen to more. What this means in lawyer talk, law  
21 talk, is simply this. The alternative design to a rear  
22 gas tank, this is what I told you, it's undisputed, is to  
23 put it midships. Okay? That's the alternative design.  
24 If it had been midships, it's undisputed there would be no  
25 fire. That means it's defective because the alternative

1 design would have avoided this result.

2 The fire burned Remi and the fire killed Remi. That  
3 means it was a Chrysler cause of the burning of the  
4 vehicle. That's the case. That took me a page-and-a-half  
5 of handwritten notes. That's the whole case. What are we  
6 here for? Because Chrysler denies responsibility and  
7 wants to make us chase rabbits so we don't spend the time  
8 talking about damages. That's why.

9 Olson is the only person who has suggested that maybe  
10 a midships tank might have been damaged in this wreck.  
11 Let's examine that. What did he say? He said there was a  
12 reasonable possibility that there might have been a  
13 puncture because the axle moved forward I think 6 inches.  
14 Well, Buchner disputes that. That's their figure,  
15 6 inches.

16 Has anybody shown you -- we had this -- we got the  
17 big BUC over there. We've had slide shows, we've had  
18 photogrammetry, we had all of kinds of stuff for Chrysler.  
19 Has anybody showed you how moving the axle on the driver's  
20 side up 6 inches could have punctured the gas tank? No.  
21 What does that mean? Is that means there's no evidence.  
22 There's no evidence of that, except Olson making up  
23 something for the first time yesterday. No, he did not  
24 say or Chrysler did not say in its disclosures about what  
25 Olson was going to say, that Olson was going to say a

1 midship gas tank would have been punctured. Olson in the  
2 15-paragraph opinions he typed up himself did not say, "My  
3 opinion is midship gas tank would have punctured." He  
4 admitted that.

5 In a four-hour deposition, 240-something pages, when  
6 I was asking him every way I knew to ask him what are all  
7 of your opinions, he didn't say one time that a midship  
8 gas tank would have been punctured.

9 Ladies and gentlemen, there's no evidence that -- no  
10 evidence that midship gas tank would have been punctured,  
11 and that's the case. Because Chrysler admits, Chrysler  
12 stipulates -- I'll show you again. We'll see the  
13 stipulation, No. 6. Chrysler stipulates as fact, as true  
14 fact, that it could have put the tank in the midship  
15 location.

16 Mr. Olson is simply not a credible witness. He was  
17 either hiding stuff before or making it up yesterday.  
18 He's a guy who always testifies for automakers, never for  
19 the consumer.

20 Basically all you've got from Chrysler itself, all  
21 Chrysler presented from Chrysler itself is to show one  
22 witness. Olson's a hired expert, Bennett's a hired  
23 expert. Chrysler put up one witness, Chernoby, and I  
24 don't believe anybody would find him very credible. He  
25 didn't say much of anything except I don't know, and we

1 don't have any duty to warn.

2 You did see four Chrysler witnesses. I -- I examined  
3 three of them, Jeb examined one of them, Mr. Teets. We  
4 presented those to you at the start of our case. I don't  
5 know if you remember this, but Chrysler's lawyers did not  
6 ask a single one of those Chrysler witnesses a single  
7 question. Zero.

8 As the judge has told you and will tell you again,  
9 what the lawyers say is not evidence. Lawyer talk is no  
10 substitute for evidence. Chrysler has been hiding behind  
11 its lawyers for way too long. How do you get at a  
12 corporation? How do you get through the cloud of lawyers  
13 and make it accept responsibility? There's only one way.  
14 There's only one way. If you can find a jury with the  
15 will to do it.

16 An example of making things up, I will show this one  
17 on the Elmo. Remember the -- the vehicles components and  
18 parts slide, you all remember that, of course, inner  
19 bumper. Chrysler's own document, the service manual calls  
20 it inner frame rail. I mean, they just made things up.  
21 They change the names of things. They told you that what  
22 you were seeing on the screen was inner bumper and outer  
23 bumper. Ladies and gentlemen, that's dishonest. That  
24 ain't what Chrysler ever called it. Chrysler engineers  
25 never called it that. Why did they do that? Because it

1           dawned on the Chrysler legal team that it's pretty bad  
2           when you don't have a bumper at all. It doesn't look  
3           good. That's the truth. You've got this piece of fascia.  
4           Ain't no bumper. Time to lift up this real bumper, but  
5           you saw the Explorer bumper. That's a bumper.

6           Why did they have -- Olson make this stuff up and the  
7           lawyers present it to you? Because of what Olson said in  
8           his deposition. There it is.

9           But it's not really a bumper. It's a trim piece.

10          Question, page 63:

11          "There's not even a bumper there, is there?

12          "There's a structural cross member that connects the  
13          two frame rails."

14          Now, you know he didn't call it an inner bumper or  
15          outer bumper because it's not.

16          Question: "It's a piece of sheet metal, isn't it?"

17          Answer: "It's a piece of sheet metal."

18          That's why you hear all that -- that's why you've got  
19          this made-up stuff about the bumper. Why is that  
20          important? Well, for this reason. I go back to, if I can  
21          find it, where I messed up during the -- during the  
22          examination of Mr. Chernoby late in the day when at my age  
23          I had gotten tired. Remember that? I said -- he agreed  
24          with me. He was wrong too. I think he was -- I don't  
25          know what was wrong with him. All of the Jeeps had a

1 safety related defect. ODI found that. That wasn't true.  
2 Only three of the four Jeeps with rear gas tanks had a  
3 safety related defect. Which one did not? The Cherokee.  
4 The Cherokee's got a real bumper.

5 This 1999 Jeep Grand Cherokee had almost no  
6 protection from rear impact and it had zero protection  
7 from underride. Chrysler's legal team -- I don't know  
8 what was going on there. They didn't realize the  
9 importance of that until later, apparently. And then they  
10 tried to say that this was not an underride wreck.

11 You remember the notes that Olson took in Fenton's  
12 deposition, quote, this was an underride wreck. This  
13 wreck on March 6, 2012 was an underride wreck.

14 Where is that Fenton -- the diagram that has the two  
15 vehicles running into each other. That's it. Can you  
16 back it up a little bit?

17 **MR. POSTON:** That's how the photo is.

18 **MR. JIM BUTLER:** I'll go with that. Look at this.  
19 What do you notice about this? What you notice is that  
20 the front of that truck is up under the back of that Jeep.  
21 What does that tell you? When this -- at this point in  
22 the impact, the gas tank has already been breached. The  
23 gas tank is way back here. This was an underride wreck  
24 and virtually all the damage that you see in this picture,  
25 you saw on all of those pictures of the Jeep after the

1 wreck was over, happened after the gas tank got hit.

2 That's just common sense. The gas tank is 11 inches from  
3 the back of the car.

4 In this picture the truck is already -- I don't know.  
5 I forget how far they said it was. 34 inches? I think  
6 somebody said -- I think Olson or Fenton, one of them  
7 said, the center point of the tire was 34 inches from the  
8 back. What was the first thing that got hit? The gas  
9 tank. And then the wreck continued and this damage was  
10 created.

11 Now, why -- why is that important? Because Chrysler  
12 keeps saying severe. I stopped counting at 24 how many  
13 times Mr. Fenton used that word. They wouldn't even -- a  
14 severe impact. A severe wreck. Well, there's a lot of  
15 damages to the Jeep. Virtually all of that damage is in  
16 front of the gas tank. The gas tank got hit first. And  
17 the reason there's so much damage to the Jeep is what  
18 Mr. Arndt told you, the back of the Jeep is soft. There's  
19 virtually nothing back there. That pickup truck went  
20 through that Jeep like a hot knife through butter.  
21 There's nothing back there to keep it from causing the  
22 damage. That's why it looks so bad.

23 So where are we? We have a Jeep that's soft in the  
24 back anyway. Not much back there except for the gas tank.  
25 And we have a wreck, and the damage looks real bad, and



1 Chrysler comes in and says, oh, this damage looks real  
2 bad. That must have meant that the wreck was severe. But  
3 the reason it looked so bad is because the back of the  
4 Jeep was so soft. They made the back of the Jeep soft and  
5 left the gas tank there anyway and then they tried to  
6 argue that as a defense. I hope I'm making sense. That  
7 doesn't seem to be quite straight with me.

8 With respect to whether the wreck was severe or not,  
9 we have conclusive evidence about how severe this wreck  
10 was. Not what the vehicles looked like, the Jeep with its  
11 soft rear end, physical evidence. What were the injuries  
12 from the impact.

13 Emily Newsome, nothing. Bryan Harrell, nothing.  
14 Remi Walden, fracture in his leg. That's it. I don't  
15 think anybody can barely call that a severe impact.

16 The rule -- the engineering principle is, Mr. Arndt  
17 talked about this, goes back at least to 1972. If the  
18 wreck is survivable, occupants should not be burned. That  
19 just makes so much sense. Engineering is just for defying  
20 common sense. If the wreck is survivable, the occupants  
21 should not be burned. The evidence in this case is  
22 undisputed that this wreck was survivable by, quote,  
23 everybody. Dr. Gaffney-Kraft told you that.

24 Nobody in Georgia disputes the truth that Remi Walden  
25 survived the impact and died in the fire. Nobody. Not

1 one witness. Not one witness you've heard disputes that.  
2 Not one. The only witness that was ever in this case that  
3 disputed that was Dr. Billings -- Dr. Benton from Billings  
4 Montana, who they -- Chrysler didn't want to put on the  
5 stand, the guy that got run out of the two states and  
6 masquerades as an official medical examiner when he's not.  
7 They didn't -- they would not even put him on the stand if  
8 that is undisputed.

9 All we have in -- I'll get to that in a minute. It's  
10 unbelievable, unbelievable to me that Chrysler would  
11 refuse to identify anybody that's an official corporate  
12 representative who can speak to you for Chrysler, for the  
13 corporation. They wouldn't even do that. They refused to  
14 bring anyone to explain why Chrysler designed this car,  
15 the old 301 standard, despite the fact the standard dating  
16 from 1974 wasn't adequate and despite the fact that  
17 Chrysler knew that NHTSA was going to install the 301  
18 standard. They designed the car to standard -- Teets,  
19 Cousino, and Olson all said designed to a standard that  
20 Chrysler knew was adequate, knew -- NHTSA had decided it  
21 was virtually useless because it wasn't saving any lives,  
22 and Chrysler knew was going to do away with it, kick it  
23 out the door because it wasn't any good. That's what they  
24 designed that car to. They acted as reckless. That is a  
25 conscious indifference to safety. That is wanton.

1 Chrysler brought nobody to explain to you why, if  
2 this rear gas tank is absolutely safe, Chrysler moved away  
3 from the rear. Nobody. Chrysler brought nobody to  
4 explain to you why they deleted, which means destroyed,  
5 the Rear Impact Tech Club database which had all the  
6 documents when they were studying the new real 301 crash  
7 test and its effect on rear impact and rear gas tanks.  
8 They got rid of the documents.

9 Why did they do that? Why do you reckon Chrysler got  
10 rid of all of the documents? They have studied the new  
11 301 crash test and rear impacts. There's only one reason  
12 to get rid of the documents, and that's because if we had  
13 the documents and you had the documents, Chrysler couldn't  
14 make any of the arguments, legal arguments, lawyer  
15 arguments you've heard during this trial.

16 Destroying documents is a bad thing. And that fact  
17 alone suggests that their defensive -- their arguments are  
18 not straightforward.

19 If this gas tank had been in the midships location,  
20 ladies and gentlemen, we would not be here today.  
21 Remington Walden would be alive and well.

22 Would you show the -- what's the number, Beth, of the  
23 midships under the Walden -- underneath showing the  
24 midships location?

25 There it is. You saw a bunch of comparatives.

1 That's where the gas tank would have been. Thank you,  
2 Mr. Poston.

3 Nobody said it would have been -- it would have been  
4 ruptured and caused the fire in this wreck. I'll talk  
5 just a minute again about the cause of the burn injuries  
6 and the cause of the death. Every witness who testified  
7 before you about that subject is an independent witness.  
8 Dr. Gaffney-Kraft, Ms. Champion work for the Georgia  
9 Bureau of Investigations. They're state employees. They  
10 work for us. We're taxpayers.

11 Trooper Brian Palmer, who is here, he's an  
12 independent witness. Captain King, who's here, he's not a  
13 paid witness. He's paid by you, the taxpayers of  
14 Decatur County. He's been with the fire department 30  
15 years. Mr. Butler, who is here. Ms. Brown, who was here.  
16 All of the people who are independent testified that there  
17 was life in that car before the fire killed Remi Walden.

18 I'm not going to repeat, because we have a lot of  
19 folks here today, what Captain King told you, that you  
20 will recall, what Captain King told you about how they  
21 found the body. I'm not going to talk about soot in the  
22 airways or carboxyhemoglobin either because I don't want  
23 to. Because there's no evidence from Chrysler that any of  
24 that made any difference. They refused to put up any  
25 medical evidence, because they knew if they did, nobody

1 would believe their witness.

2 One of the first things I saw happen in this case was  
3 in opening statement by Chrysler's lawyer when there was a  
4 very clear insinuation that Emily Newsome, now Strickland,  
5 who is here, is right there --

6 **MS. STRICKLAND:** Avery.

7 **MR. JIM BUTLER:** Avery. I'm sorry. I'm getting  
8 confused. That Emily did not try to go back to the Jeep  
9 to save Remi. It was subtle. I sat there stunned. I had  
10 to look it up on the record transcript last night and make  
11 sure I was remembering. That's the kind of thing when you  
12 get to Chrysler you voir dire on. That Emily didn't try  
13 to go back and save Remi.

14 The last witness, Reverend McQuaid, what did he tell  
15 you? He saw her trying to run back to the Jeep and Kelly,  
16 quote, intercepting her, close quote. That's what  
17 Reverend McQuaid told you. That's the kind of defense you  
18 get from Chrysler. Emily, whose nephew died, Chrysler  
19 said she didn't try to go back to the Jeep, which is a  
20 lie.

21 Chrysler knew that the midships gas tank location was  
22 much safer, they knew it from the Pinto experience, they  
23 knew it from internal memoranda like the Baker memo, they  
24 knew it from their own engineering documents.

25 Plaintiffs' Exhibit No. 148, please, Bob. I'm not

1 going to go through all of these. I know it's after  
2 lunch, you all are tired and you all have seen them all  
3 before. Flip to the page that has the -- I don't know  
4 what page it's on. But I'll bet Ms. Glen does.

5 Turn the Elmo on. We've got a hard copy. Look at  
6 this. This is 1990 Dodge engineering, nine years before  
7 this car was built. Fuel tank location. The fuel tank is  
8 located under the car beneath the rear seat, where it's  
9 forward of the rear suspension, that means the axle, and  
10 between the body side rails, giving it protection in the  
11 event the car is subjected to rear or side impacts.  
12 Remember Mr. Olson tried to talk about how if you put it  
13 midships then it's vulnerable to side impacts? Do you all  
14 remember that? Well, everybody in the world does it  
15 midship now. He even talked about how the drive shaft  
16 might damage a midship gas tank. Why does everybody put  
17 it there then? That's nonsense. They're making stuff up,  
18 ladies and gentlemen.

19 Giving it protection in the event the car is  
20 subjected to rear or side impacts. Chrysler knew. Then  
21 there's a 1996 Dodge Caravan brochure. Plaintiffs'  
22 Exhibit 94. What's that say? Right here. Fuel tank is  
23 mounted from impact protection ahead of the rear  
24 suspension and between the body side rails for protection.

25 Chrysler knew where you had to put a gas tank in

1 order for it to be protected from rear impact. Chrysler  
2 had been warned by customers like Ms. Friend and  
3 Mr. Persinger, by other wrecks like these 17 other similar  
4 wrecks you saw, but Chrysler ignored them all, did nothing  
5 about any of those warnings. Let me mention something  
6 about these -- I'll wait till I get to the note on that.  
7 I'll talk in a minute.

8 Chrysler's failure to heed the warnings of its  
9 customers from real world wrecks and from what it knew  
10 about the danger of rear gas tanks was reckless and was  
11 wanton. Remember Ms. Friend's letter about the child  
12 seat, booster seat. February 1998. That's over a year  
13 before this car was ever built. What was Chrysler's  
14 reaction to it? They ignored it. And what happened?  
15 Fourteen years and two weeks later Remington, in a booster  
16 seat, couldn't get out. They knew what was going to  
17 happen. That's reckless and that's wanton.

18 And if you'll remember the dates, I went through the  
19 dates with Mr. Arndt, the dates that Chrysler got notice  
20 of those 17 other similar wrecks. Sixteen of them were  
21 after -- after this car was built but before Remi died.  
22 Sixteen of them were in between that.

23 What did Chrysler do in reaction to those 16 warnings  
24 of similar wrecks? Nothing. They didn't want any  
25 documents. They didn't warn people. They didn't warn the

1 Waldens.

2 Now, Mr. Bell got up here and tried to talk about,  
3 before the Court sustained the objection, some of it got  
4 it so I didn't talk about it, talk about how many millions  
5 of vehicles were sold and how many other similar instances  
6 we present the Court -- and the Court admitted into  
7 evidence as if to imply that even though there's  
8 one-and-a-half million vehicles sold, there was only four  
9 other wrecks where rear gas tanks got punctured. There's  
10 no evidence of that. None whatsoever. Have you heard one  
11 witness from Chrysler testify?

12 **MR. BELL:** Your Honor, to which we object. It's the  
13 subject of the side motion.

14 **THE COURT:** I'm going to overrule the objection.

15 **MR. JIM BUTLER:** Have you heard one witness from  
16 Chrysler testify to you that Chrysler went down and tried  
17 to find every other similar incident? No. They didn't do  
18 that. They weren't about to do that. It's dishonest to  
19 say that we had one-and-a-half million vehicles on the  
20 road and there's only four other incidents where they made  
21 no effort to find them all.

22 After -- what did Chrysler do after all the warnings  
23 that it had and all the knowledge that it had? It  
24 designed the Grand Cherokee only to the 301 standard.  
25 Mr. Marchionne himself admitted that's not enough.



1 Have we got a video clip of that?

2 **MR. POSTON:** I do.

3 **MR. JIM BUTLER:** I've got a copy of the transcript  
4 here somewhere. I've got it right here. Well, you just  
5 have to accept my word for it. It's in evidence and you  
6 saw it. Mr. -- I asked Mr. Marchionne is it sufficient  
7 just to design -- got it? Okay. Good. Thank you.

8 **MR. POSTON:** I say that.

9 (The following questions and answers were shown to  
10 the jury via video.)

11 **BY MR. JIM BUTLER:**

12 **Q** Is it your position that merely complying with the  
13 federal minimum standard is all an automaker has to do?

14 **A** No, I don't think so. In fact, in some cases we  
15 have intentionally gone beyond the minimum safety standards.

16 (End of video excerpt.)

17 All right. If you'll remember from the video clip I  
18 showed you in opening statement and you saw the whole depo  
19 where you saw, or parts of the depo the Court admitted into  
20 evidence, Mr. Marchionne also admitted that compliance with 301  
21 is no defense at all. Does not exempt the plaintiff from  
22 liability.

23 So why did you hear so much talk about 301? It was  
24 not a defense. It's only a minimum standard. The chairman of  
25 the company admits that merely complying with 301 is not

1 enough. Why did we hear so much talk about 301? The answer is  
2 clear, because they don't have nothing to talk about. That's  
3 why.

4 Here's the problem. The evidence is undisputed.  
5 Nobody denies. Teets said it, Cousino said it, Olson said it,  
6 that they designed this car right here to the 301 standard, and  
7 the chairman admits that's not enough. That's why Remi is  
8 dead. They ran no vehicle-to-vehicle crash test, designed it  
9 to a standard that was no good. When they did want a crash  
10 test on this car, 1999 Grand Cherokee which mimicked the new  
11 301, 70 percent offset, 50 miles an hour, what did they do?  
12 Put that green cage, steel cage around the tank and put the red  
13 bumper beam behind it. Why did they do that? Because they  
14 knew in real world 50-mile-an-hour offset, which is what this  
15 was, Fenton says 51.3. 53. 70 percent offset wreck, the gas  
16 tank was going to be crushed. They knew it. They knew it when  
17 they sold it.

18 What did Mr. Estes tell you, the first witness in  
19 this case? In 199 -- isn't it true that in 1998 Chrysler knew  
20 that the gas tank on the 1999 Grand Cherokee would be crushed  
21 in rear impacts? His answer was, it changes shape. If that's  
22 what you mean by crush, yes. They knew it was going to happen.  
23 They sold it anyway. Sold it without the cage, they sold it  
24 without a bumper, without any protection. That's reckless,  
25 that's wanton. And every day after this -- this car, 1999 Jeep

1 Grand Cherokee, every day after this car was first sold, every  
2 day, yesterday, today, tomorrow, Saturday, Chrysler had under  
3 the law a continuing duty to warn people of the danger, and  
4 they breached that duty every day since 1999. They warned  
5 nobody.

6 That, the failure to warn, is also reckless and  
7 wanton. Let's talk very briefly about NHTSA. In his opening  
8 statements, Chrysler's lawyer mentioned President Obama five  
9 times. I missed it -- started counting after the third one and  
10 I was dumbfounded. Is there any evidence in this case that  
11 President Obama had anything to do with what Ray LaHood and  
12 David Strickland did when they cut a deal with Marchionne? No,  
13 none, zero. What is going on here? Why would that lawyer over  
14 there mention President Obama five times in his opening  
15 statements?

16 We just got through saying -- Mr. Bell said a little  
17 while ago before lunch, he said, quote, if you think this  
18 administration is lazy or does not care, close quote. Like  
19 we're taking on the administration of President Barack Obama.  
20 You all know what's going on here. We're all grownups. We  
21 understand what's going on. We're not criticizing President  
22 Obama. We're critical of Ray LaHood and David Strickland and  
23 Sergio Marchionne for cutting a deal. We'll talk about that in  
24 a minute.

25 But I'll tell you something. I agree with Mr. Kam.

1 The career professionals at NHTSA are dedicated people. They  
2 try to do what they can under budget, understaffed. They got  
3 one employee, this guy named Chan, who's in charge of  
4 monitoring 301 compliance and ten other standards. He spent  
5 one-tenth, one man, looking after 301 compliance. That's it.  
6 And understaffed, underfunded.

7           They tried to do a good thing. I'll tell you one  
8 thing about ODI, Office of Defects Investigation. You saw that  
9 Olson did his survey on those cars, I'm going to talk to you  
10 about that in a minute, and Mr. Bell put up a slide about the  
11 other peer vehicles ODI looked at, including these Jeeps. Of  
12 all of those cars that Mr. Olson said had rear gas tanks, all  
13 of those other peer vehicles that the Office of Defects  
14 Investigation looked at, guess how many ODI concluded had  
15 safety related defects? Three. Every one of them was  
16 Chrysler's Jeep. They didn't say the Mitsubishi or the Isuzu  
17 or any of the others had safety related defects because of the  
18 gas tank location. Only this one. This one and the Liberty  
19 and the prior Grand Cherokee. That's it. Unbelievable.

20           Chrysler sends a legal team to try to twist what  
21 we're saying into an attack upon President Obama and into an  
22 attack by the career professionals at ODI when it's the career  
23 professionals who said the same thing we're saying, defective,  
24 until they got overruled by the local office. Mr. Kam told you  
25 and I -- once again last night I ran out of time to re-learn

1 how to diagram a sentence, but the reason ODI closed the  
2 investigation is because the agency, which means the bosses,  
3 said shut it down. Cut a deal.

4 I've got a buddy in Columbus who has a bunch of  
5 sayings. One of them is if that don't kill you, you're already  
6 dead. And that's what I think about this Chicago deal. It's  
7 unbelievable. But it happens. Chrysler brought no one to deny  
8 it. Mr. Bell and Mr. Chernoby tried to make it look like,  
9 well, Chrysler folks meet with these folks all the time. This  
10 is just ordinary. This is normal.

11 I pointed out in cross-examination it's a big  
12 difference. There ain't one scrap of papers that was created  
13 as a result of this secret, private meeting in Chicago  
14 saying -- which will tell you and us and anybody else what that  
15 guy said at the meeting. And there's also another big  
16 difference. They were there to discuss the June 3, 2013 letter  
17 when ODI reached the engineering conclusion that this and two  
18 other Jeeps were defective, had a safety related defect.  
19 That's what the discussion was about.

20 Marchionne admitted in his Paragraph 7 of his  
21 affidavit, I went there to see if we could find a resolution  
22 without finding a defect. That's what they were there for.

23 So what you have up there talking about the  
24 engineering issue of whether these Jeeps are defective, you had  
25 two lawyers and a former city manager who served in Congress,

1 Ray LaHood. Who wasn't there? The career professionals of ODI  
2 were not there. The engineers were not there. They were not  
3 invited.

4           Jeb's job is to make sure I don't spend too much time  
5 on this stuff. I can talk about damages, so I need to get on  
6 with that. I need to make this point. Ladies and gentlemen,  
7 this is real important. Real important. As a matter of fact,  
8 it's so important I'm going to write it on the flip chart.

9           You have to find -- no, I won't. I won't waste time.  
10 You'll get the verdict form. You have to find  
11 Defendant Harrell liable. You have to render a verdict against  
12 Defendant Harrell. Why? Because he admits negligence and it's  
13 undisputed that his negligence caused the fractured leg. It's  
14 part of the damages. It's very important that you assign some  
15 percentage of fault to Defendant Harrell. We'll talk about  
16 that in a minute. If you do not assign some percentage of  
17 fault to Defendant Harrell, we would have wasted all of this  
18 time together. You have to do that. The law requires you to  
19 do that. But please do not let Chrysler escape its  
20 responsibility by putting a big percentage on Harrell.

21           I found my excerpt from Marchionne's depo. I  
22 misplaced it.

23           This business -- one other point. Chrysler's legal  
24 team kept talking about how other automakers are doing this,  
25 and you've heard me say a couple of times, I don't know about

1 you, but my mama often told me just because other kids are  
2 doing something stupid, don't mean it's okay for me to do it.  
3 Well, that's the first response.

4           The second response to that is, it ain't true. There  
5 weren't many vehicles in 1999 still being made with the rear  
6 gas tanks. There were some, but none -- there is no evidence  
7 from Chrysler that any of those other vehicles made in '99 with  
8 rear gas tanks were as vulnerable as this gas tank.

9           What did Mr. Olson tell you yesterday? He worked on  
10 the Mustang at Ford. The Mustang had two shields for its gas  
11 tank. What did he tell you about the Panther platform, the  
12 Crown Vic, the Town Car, and the Grand Marquis? It's 30 to  
13 40 inches from the back. Really -- I can't -- I can't tell you  
14 what it is, but he admitted it. I hope, but I can't say it.  
15 But he said 30 to 40 inches from the back. This gas tank is  
16 only 11 inches from the back.

17           Nobody in their right mind would get into one of  
18 these cars and put their child in the backseat of one of these  
19 cars if they knew what the truth was, if Chrysler had given  
20 them warning about what the danger was.

21           The judge is going to charge you about what we have  
22 to do to win the case, what Plaintiffs have to do. We have to  
23 prove that Chrysler's conduct was reckless, the Judge is going  
24 to charge you about that, or not and -- or wanton or that  
25 Chrysler failed to warn of a known danger. Any one of the

1 three. Not all of them, just any one of the three and we win.  
2 I respectfully submit to you the evidence is overwhelming that  
3 we should win on all three.

4           Let's talk about damages here. I don't know what  
5 Mr. Kirbo meant when he made a reference to the jobs that  
6 Remi's parents had, and I hope he didn't mean that Chrysler  
7 doesn't think life is worth much in Decatur County. People  
8 from small towns -- there's two components to the full value of  
9 life. There's the economic component, what somebody would have  
10 made, there's a noneconomic component, which is a lot more  
11 important. It's the value of life to yourself, the joy of  
12 living, all the things you do that bring joy to your life.

13           The economic component is the add-up-paychecks  
14 calculation. That's the least important. But people from  
15 small towns sometimes make it big. Sergio Marchionne, you  
16 remember early on in his deposition, he's from a small town.  
17 We've got -- we've got a federal judge, actually two federal  
18 judges who are from Bainbridge. One was my former partner  
19 appointed by President Barack Obama. We've got a Secretary of  
20 State who ran for Governor who's president of a college who's  
21 from Bainbridge, Georgia, Ms. Cox. We've got big -- we've got  
22 a guy who's a huge corporate businessman right here from  
23 Bainbridge, Al Quartermine (phonetic). People from small towns  
24 sometimes make it big.

25           And you remember what Mr. Chernoby told us. Remi



1 could have been anything: Fireman, an engineer, a lawyer, or a  
2 CEO of an automaker.

3 **MR. BELL:** Your Honor, to which I would object and  
4 renew our motion in limine and the motion previously made.

5 **THE COURT:** Overrule the objection.

6 **MR. JIM BUTLER:** The least important component of  
7 what a human being's life is worth is what they could have  
8 made if they kept living. We didn't put up in evidence  
9 about -- from an economist about Remi because Remi is only  
10 four-and-a-half years old. He's only four-and-a-half  
11 years old. Who knows what he would have become. But he  
12 could have become like Sergio Marchionne. Is that likely?  
13 No, of course it's not. But it's possible.

14 Mr. Kirbo got up here and asked you to return a  
15 verdict for wrongful death damages in the amount of \$1.3  
16 million. The mortality table is going to be in evidence,  
17 or is in evidence. It's real easy to read. This is out  
18 of the Georgia Code. That's why we use this one, it's in  
19 the code. It's automatically admissible. We don't have  
20 to fuss about it.

21 We use other tables that might be different or better  
22 for the plaintiff, but then you've got to fuss about them,  
23 so we just use this one. It's in the code. It's  
24 automatically admissible.

25 Remi would have lived about -- looks like -- he was

1 four-and-a-half, about 69 years or something. Let's say  
2 69 years. That's how old he would have been. He had 65  
3 years left. Okay?

4 You do the math. And I miss doing the math. Remi  
5 has already been dead 1,121 days. I counted those up.  
6 That's what he's missed already. But if he lived  
7 another -- lived to be 69, that's another, let's say, 65  
8 years, that's about another 20,000 days. If you do the  
9 math, what Mr. Kirbo is suggesting is that Remi's life  
10 would have been worth I think it's about \$57 a day.  
11 That's it. \$57 a day.

12 Also what Mr. Kirbo said Remi's life was worth,  
13 Marchionne made 43 times as much in one year.

14 **MR. BELL:** Your Honor, to which I would object again  
15 for the reasons stated. Same motions.

16 **THE COURT:** Overruled.

17 **MR. JIM BUTLER:** That proposal for Chrysler given to  
18 you today is itself undeniable proof of Chrysler's  
19 conscious indifference to life. The very idea of making  
20 that argument is itself proof of conscious indifference.

21 I think it tells us a lot about why Chrysler did the  
22 things they did. Designed this car to 301, which was  
23 useless, not telling anybody, not warning anybody, and  
24 taking out the warnings. The character of Chrysler  
25 corporation, if it wasn't revealed to you before today,

1 has been revealed to you today.

2 Let's get to the real important parts of life. I've  
3 got a buddy who likes to say it's important -- and he  
4 works all the time. Kind of like me. And he says this  
5 because he wants to remind himself and me that we need to  
6 try to remember this. He says work to live, don't live to  
7 work. Work to live, don't live to work.

8 The most important part of life is everything else.  
9 What did Remington Walden lose? He lost everything.  
10 Family, friends, activities, the joys of learning and  
11 growing up. He lost all the big things, maybe military  
12 service, education, dating, marriage, children. That's an  
13 overview of what Remi lost. I want to talk about what he  
14 lost because I think it's important to remember.  
15 Mr. Kirbo got up here and referred to Georgia's wrongful  
16 death statute as a, quote, crazy little concept, close  
17 quote. Crazy little concept. I've written articles about  
18 it. I think it's one of the noblest things I've ever  
19 read. In this society, we sanctify human life so much  
20 that if somebody is killed, there's a fault to another.  
21 The measure of damages is the value of the dead person's  
22 life, not to Bryan and Lindsay, but the person who died,  
23 to himself.

24 What did he lose? He lost a childhood of Christmas  
25 mornings, ballgames, tennis, spending time with his mom,

1 spending time with his dad, enjoying their love and their  
2 embraces. He will never know the joy and the experience,  
3 the joy and the heartbreak of his first love, he will  
4 never enjoy the years of dating, he will never enjoy  
5 learning to drive and getting a driver's license and  
6 feeling that freedom to go. He will never know the joy of  
7 hearing that one special girl say yes. He will never know  
8 what it's like to hear his wife telling him he's going to  
9 be a father.

10 He will never hear his parents say, Remi, we are so  
11 proud of you. He will never become his own man and learn  
12 to learn from his own mistakes. He will never get the  
13 experience and satisfaction of earning his first paycheck.  
14 He will never get to feel the joy of being a useful  
15 contributor to his family, to his community, and to his  
16 country.

17 He will never get a chance to build and carry through  
18 his entire life his own group of friends and enjoy their  
19 time together. He will never feel loss and grow from it.  
20 He will miss what most of us try not to take for granted  
21 each day, a cup of coffee, the sunshine, a beer or glass  
22 of wine -- for me tonight, hard liquor -- at sunset. He  
23 misses all of those things.

24 One of my favorite movies is the *Lonesome Dove*, where  
25 Gus McCrae talks about a warm glass of buttermilk in the

1 morning and a feisty old gentleman like myself. Remi  
2 Walden will never know either. He'll never know the joy  
3 of a feisty old gentleman, which is not a bad thing.  
4 He'll never get to watch his children grow up and live  
5 their lives.

6 What is life worth? What was his life worth? Nobody  
7 can really know. But anything was possible for this young  
8 man. He was smart, he was energetic, he was full of life,  
9 he was a kid, the kid with a permanent smile on his face.  
10 Nobody can know what he would have made in terms of money  
11 and nobody can know what he would have meant to his  
12 community and country in nonmonetary terms.

13 But we do know this. He lost it all and Chrysler  
14 took it from him. We know this also. We live in -- we  
15 have good luck to live in a society that values life where  
16 if somebody is adrift in the ocean in a boat, it doesn't  
17 matter who they are, how old they are, or what their  
18 station in life is, the Coast Guard is going to come after  
19 them no matter what the problem is. Where we spend  
20 billions of dollars as taxpayers to protect the lives of  
21 astronauts. We live in a society that values life. You  
22 are the conscience of your community. What life means is  
23 for you to decide. What importance you attach to it  
24 making a corporation face up to an accepted responsibility  
25 is for you to decide. I know, we all know, what Remi

1 would have done if he had been presented with the  
2 opportunity on March 6, 2012. The boy would have, if  
3 given the option, he would have said, I choose life.

4 I'm going talk in a minute about pain and suffering.  
5 How much time have I got left? Fifteen? I'll make it --  
6 Mr. Kirbo suggested \$50,000 for pain and suffering because  
7 Remi only lived about a minute. Let's start. We'll do  
8 this. Now, let's start thinking about what Remi went  
9 through.

10 (Pause for a minute.)

11 Time. How much you award for pain and suffering is  
12 up to you. The amount of damages you award for pain and  
13 suffering and for loss and death Judge Chason will charge  
14 you is up to your enlightened conscience what you think is  
15 right.

16 Now, I want to ask you to please do full justice for  
17 Remi, and -- and do not be swayed by who gets what. Do  
18 not be swayed by anything. Don't go back there and worry  
19 about who gets the money. That's not what your job is.  
20 Your job is to decide what is the appropriate amount  
21 according to your enlightened conscience. How much do you  
22 value pain and suffering? How much do you value his life?

23 Don't try to be the judge back there in the jury  
24 room. Remember, whatever you do, Judge Chason is going to  
25 review it. Other judges may review it as well. You do

1           what you think is right. You do what you think is right.

2           Let's have on the screen the PowerPoint.

3           If you walk in the Supreme Court of Georgia, you've  
4 got seven justices sitting behind the bench, and behind  
5 them is a marble wall --

6           **MR. BELL:** Your Honor, to which we would object. The  
7 slide is not in evidence. It's something from another  
8 courtroom that shouldn't be the subject of these final  
9 arguments.

10          **THE COURT:** I'm going to overrule the objection.  
11 It's -- this is closing arguments.

12          **MR. JIM BUTLER:** Thank you, Your Honor.

13          Behind the -- just over the justices' heads are the  
14 Latin words *fiat justitia ruat caelum*. I think that's how  
15 you pronounce *caelum*. And that means let justice be done  
16 though the heavens may fall. And I looked it up in the  
17 American Heritage Dictionary. Justice must be relied on  
18 regardless of the consequences.

19          That's what we ask of you, ladies and gentlemen. Do  
20 what's right. Justice will be done no matter what.

21          It's time to close, and I want to thank you for  
22 listening to us. Automakers should not be reckless,  
23 automakers should not disregard the consequences of  
24 dangers they create, automakers should warn of known  
25 dangers, and automakers should not say something as

1 dangerous as these Jeeps with rear gas tanks are, quote,  
2 absolutely safe. Automakers should not mislead the  
3 people. The people deserve a warning. Chrysler should be  
4 held responsible.

5 Who gets what is not your concern. Your only concern  
6 is to do justice, full justice.

7 Okay. I'm so tired I need a checklist to make sure I  
8 didn't forget something. Because I was afraid I would,  
9 he's checking off my checklist. And I have sat down in  
10 closing arguments before and forgot something, and I  
11 probably will today.

12 I've had a long career, but I haven't had many cases  
13 that presented an opportunity like this one. These are  
14 brave and resolute souls, Lindsay and Bryan. They didn't  
15 have to be here. They didn't have to be here. They're  
16 here because they want the people to be warned.

17 **MR. BELL:** To which we would object subject to our  
18 previous motions and motion in limine No. 9.

19 **THE COURT:** I'm going to sustain the objection.

20 **MR. JIM BUTLER:** Ladies and gentlemen, I respectfully  
21 submit that the people have a right to know. We ask for a  
22 verdict and recognize --

23 **MR. BELL:** Same objection, Your Honor, and same  
24 motion regarding the damages.

25 **THE COURT:** I'm going to overrule the objection.



1           **MR. JIM BUTLER:** We ask for a verdict, ladies and  
2 gentlemen, that recognizes the full value of human lives,  
3 the full value of Remi's life, and that can give meaning  
4 to his death. You're going to have this verdict form out  
5 with you. I'm going to show it to you on the screen.  
6 We're going to ask that you fill it out.

7           Notice I've circled yes, before or. We're going to  
8 ask that you find yes, that Chrysler acted with reckless  
9 or wanton disregard; yes, that it was Chrysler that caused  
10 damages; yes, Chrysler had a duty to warn and failed to  
11 warn and it was a proximate cause of damages; yes,  
12 Harrell's negligence caused damages.

13           We're going to ask you to return a verdict for pain  
14 and suffering in whatever amount you think is appropriate.  
15 We're going to ask for you to return a verdict for the  
16 full value of Remington Walden's life -- this is the hard  
17 part of what I do. Frankly, it's totally up to you all.  
18 But I hope you'll return a verdict that's meaningful. We  
19 ask that you return a verdict for the full value of  
20 Remington's life of at least \$120 million. The amount is  
21 totally up to you.

22           We ask, on page 2, you're supposed to state  
23 percentage of fault of each defendant. We ask that you  
24 put 1 or 2 percent on Harrell and 98 or 99 percent on  
25 Chrysler Group. We have a broken leg, we've got horrible

1 burn injuries, and we've got a death. Harrell caused the  
2 broken leg. Chrysler caused the burns and the death.

3 Bob, my son tells me I've been messing up on the Elmo  
4 again so I'm going to go back. He said you all didn't see  
5 that. I'll go back there. That's less than two years of  
6 what Mr. Marchionne made just last year. He made  
7 \$68 million last year.

8 **MR. BELL:** Your Honor, to which we would object and  
9 make the same objection, and the same motion.

10 **THE COURT:** Overruled.

11 **MR. JIM BUTLER:** Lindsay and Bryan have never  
12 flinched and they've never wavered. They could have  
13 avoided this, reliving all of this. But they have done  
14 what they believe to be their duty. Mr. Harrell did what  
15 he thought was his duty and accepted responsibility. The  
16 refusal by Chrysler to do its duty to warn and to accept  
17 responsibility has to end, and you can end it. You can  
18 declare Chrysler responsible. You can declare Chrysler  
19 was reckless or wanton and that Chrysler should have  
20 warned. You can do that. That's your power. That's your  
21 charge.

22 I respectfully submit to each one of you, that's your  
23 duty. Please do your duty. It's important. I know it's  
24 important because I have not always done everything that I  
25 should have done and possibly could have done to prevent

1 things like this from happening. I'm going to start  
2 working harder.

3 Do not let Chrysler leave Decatur County without  
4 being held responsible by your verdict. Do not let  
5 Chrysler leave Decatur County with a low verdict that  
6 disrespects the value of human life and the value of the  
7 life of Remington Cole Walden.

8 Thank you from all of us, and from Remington Walden.  
9 I have one last slide I want to show you, something I  
10 think is very appropriate for what you've got to do now.

11 One of my favorite sayings. Got it? This is from a  
12 Jewish text. Do not be daunted by the enormity of the  
13 world's grief. Do justly now. Love mercy now. Walk  
14 humbly now. You are not obligated to complete the work,  
15 but neither are you free to abandon it.

16 All we can do, all you can do, all I can do, all any  
17 of us can do in our lives is the best we can do, do the  
18 work that lies before us.

19 We are pleased and very proud to turn this case and  
20 this cause over to you. Thank you very much for  
21 listening.

22 Thank you, Your Honor.

23 **THE COURT:** Ladies and gentlemen, if you need to be  
24 at ease for a moment, we'll take about a five-minute  
25 break. If you'll go in the jury room.

1 (Jury excused from the courtroom.)

2 **THE COURT:** Ready to proceed? Bring them on out,  
3 please.

4 (Jury seated in jury box.)

5 **JURY CHARGE**

6 **THE COURT:** Be seated, please.

7 Members of the Jury, you have been considering the  
8 case of James Bryan Walden and Lindsay Newsome Strickland,  
9 individually and on behalf of the estate of their deceased  
10 son, Remington Cole Walden, as Plaintiffs, vs. Chrysler  
11 Group LLC, n/k/a FCA US LLC and Bryan Harrell, as  
12 Defendants, the civil Action No. 12-CV-00472.

13 You must consider this case as a lawsuit between  
14 persons of equal worth and equal standing in the community  
15 and between persons holding the same or similar positions  
16 in life. All persons stand equal before the law, and all  
17 persons are to be dealt with as equals in a court of  
18 justice. A business entity such as an LLC, like Chrysler  
19 Group LLC now known as FCA US LLC, is regarded as a person  
20 in this instance.

21 As you are aware, previously I asked the clerk and  
22 bailiffs to provide you with pencils and notepads for your  
23 use during trial. Notes are not evidence, only memory  
24 aids, and should not take precedence over your  
25 recollection. It is the duty of each juror to recall the

1 evidence, and while you may consider another juror's notes  
2 to refresh your memory, you should rely on your own  
3 recollection of the proceedings. Do not be influenced by  
4 the notes of other jurors, unless their notes help you in  
5 determining your own independent recollection. Notes are  
6 not entitled to any greater weight than the recollection  
7 or impression of each juror as to what the evidence may  
8 have been. As I told you earlier, after the trial is  
9 over, these notes will be collected and destroyed.

10 The Plaintiffs have the burden of proof, which means  
11 that the Plaintiffs must prove whatever it takes to make  
12 their case, except for any admissions by the Defendants.  
13 The Plaintiffs must prove their case by what is known as a  
14 preponderance of the evidence; that is, evidence upon the  
15 issues involved, while not enough to wholly free the mind  
16 from a reasonable doubt, is yet sufficient to incline a  
17 reasonable and impartial mind to one side of the issue  
18 rather than to the other.

19 Evidence is the means by which any fact that is put  
20 in question is established or disproved. Evidence  
21 includes all of the testimony of the witnesses as well as  
22 the exhibits admitted during the trial. It also includes  
23 any stipulations, which are facts agreed to by the  
24 attorneys.

25 I remind you that what the lawyers have said during

1 this trial is not evidence. Nothing they have said in  
2 their opening statements or their arguments or at any  
3 other time during the trial is evidence. Nor is anything  
4 that I might have done or said evidence in this case.

5 Evidence may be either direct or circumstantial or  
6 both.

7 In considering the evidence, you may use reasoning  
8 and common sense to make deductions and reach conclusions.  
9 Direct evidence is the testimony of a person who asserts  
10 that he or she has actual knowledge of a fact such as an  
11 eyewitness. Circumstantial evidence is proof of facts  
12 and/or circumstances that tend to prove or to disprove  
13 another fact by inference. There is no legal difference  
14 in the weight you may give to either direct or  
15 circumstantial evidence.

16 The parties have entered into the following  
17 stipulations that have been approved by the Court:

18 Number 1, Emily Newsome did not cause or contribute  
19 to Remington Walden's death.

20 Number 2, Remington Walden did not cause or  
21 contribute to his own death.

22 Number 3, Defendant Harrell admits he was negligent  
23 and that he caused the wreck.

24 Number 4, the Grand Cherokee's gas tank was breached  
25 and gas leaked from the gas tank in the subject collision.

1           Number 5, if gas had not leaked from the Grand  
2 Cherokee's gas tank, there would have been no fire in the  
3 subject collision.

4           Number 6, it was possible for Chrysler to have  
5 designed the 1999 Grand Cherokee with a gas tank located  
6 in front of the rear axle.

7           Where parties stipulate facts with the approval of  
8 the Court, there is -- that -- this is in the nature of  
9 evidence. You must take that fact or those facts as a  
10 given without the necessity of further proof.

11           Testimony has been given in this case by certain  
12 witnesses who are termed experts. Expert witnesses are  
13 those who because of their training and experience possess  
14 knowledge in a particular field that is not common  
15 knowledge or known to the average citizen. The law  
16 permits expert witnesses to give their opinions based upon  
17 that training and experience.

18           You're not required to accept the testimony of any  
19 witnesses, expert or otherwise. Testimony of an expert,  
20 like that of all witnesses, is to be given only such  
21 weight and credit as you think it is properly entitled to  
22 receive.

23           The jury must determine the credibility of the  
24 witnesses. In deciding this, you may consider all of the  
25 facts and circumstances of the case, including the

1 witness's manner of testifying, their intelligence, their  
2 means and opportunity of knowing the facts about which  
3 they testify, the nature of the facts about which they  
4 testify, the probability or improbability of their  
5 testimony, their interest or lack of interest in the  
6 outcome of the case, and their personal credibility as you  
7 observe it.

8 To impeach a witness is to show that the witness is  
9 unworthy of belief. A witness may be impeached by  
10 disproving the facts to which the witness testified.

11 In determining the credibility of witnesses and any  
12 testimony by them in court, you may consider, where  
13 applicable, evidence offered to attack the credibility or  
14 believability of any such witness. This would include  
15 evidence of Defendant Bryan Harrell's prior felony  
16 convictions which were admitted for the limited purpose of  
17 attacking his credibility for truthfulness. Such evidence  
18 may be considered by you for the sole purpose of your  
19 consideration of Mr. Harrell's personal credibility and  
20 character for truthfulness and is not to be considered for  
21 any other purpose, including your assessment of fault in  
22 this case. Except you may consider the guilty plea to  
23 homicide by vehicle in the first degree and reckless  
24 driving as an admission.

25 While you are determining the facts of the case, you



1           may find that there are conflicts in the evidence. If you  
2           do find conflicts in the evidence, it would be your duty  
3           under the law to reconcile these conflicts if possible.  
4           You should reconcile these conflicts without attributing  
5           perjury or false statements to anyone. You should  
6           reconcile these conflicts, if you can, as if each witness  
7           had spoken the truth.

8           As you know, very often one person will see things  
9           and remember things a little differently from someone  
10          else. This does not necessarily mean that one person is  
11          not truthful. It may mean only that each witness's  
12          recollections or perspectives are somewhat different. If  
13          you find that any parts of the evidence are in conflict --  
14          are in such conflict as to make it impossible for you to  
15          reconcile them, then you must believe the evidence that  
16          seems most reasonable, probable, and truthful to you  
17          because you, the jury, must determine the witnesses'  
18          credibility and the reasonableness of their testimony.

19          Your assessment of a trial witness's credibility may  
20          be affected by comparing or contrasting that testimony to  
21          statements or testimony of that same witness before the  
22          trial started. It is for you to decide whether there is a  
23          reasonable explanation for any inconsistency in a  
24          witness's pre-trial statements and testimony when compared  
25          to the same witness's trial testimony. As with all issues

1 of witness credibility, you the jury must apply your  
2 common sense and reason to decide what testimony you  
3 believe or do not believe.

4 When a party has evidence that rejects, or disproves,  
5 a claim or charge made against the party and he or she  
6 fails to produce it, or having more certain and  
7 satisfactory evidence, relies on that which is of a weaker  
8 and inferior nature, a presumption arises that the charge  
9 or claim is well founded. This presumption may be  
10 rebutted, however.

11 If a party fails to produce an available witness, the  
12 jury shall determine whether such a failure warrants the  
13 inference that the witness, if produced, would have  
14 testified to facts prejudicial to the party failing to  
15 produce the witness.

16 A deposition is a witness's sworn statement --  
17 testimony that -- start over. A deposition is a witness's  
18 sworn testimony that is taken before trial. During a  
19 deposition, the witness is under oath and the lawyers for  
20 each party may ask questions. A court reporter is present  
21 and records the questions and answers. Deposition  
22 testimony is entitled to the same consideration as live  
23 testimony, and you must judge it in the same way as if the  
24 witness was testifying in court.

25 Sometimes evidence is admitted for a limited purpose

1 or against some parties and not others. Such evidence may  
2 be considered by the jury for the sole issue or purpose  
3 against that party for which the evidence is limited and  
4 not for any other purpose.

5 The law provides that evidence of other similar  
6 incidents involving the product at issue in this case may  
7 be admissible and may be considered for the limited  
8 purpose of showing, if it does, Chrysler had notice of the  
9 alleged defect or that it acted recklessly or wantonly.  
10 Such evidence, if any, may not be considered by you for  
11 any other purpose.

12 You may consider this evidence if you find the other  
13 incidents are substantially similar. In order to be  
14 substantially similar, products involved in each incident  
15 need only share, one, a common design; two, common defect,  
16 and, three, common causation. This law does not require  
17 exact similarity.

18 By this instruction, the Court does not express any  
19 opinion as to whether the other incidents presented to you  
20 by Plaintiffs are or are not substantially similar.  
21 That's a matter solely for your determination.

22 Ladies and gentlemen of the jury, I charge you that  
23 in this case Defendant Bryan Harrell has admitted he was  
24 negligent in causing the car accident with the vehicle  
25 driven by Emily Newsome. The fact that Defendant Bryan

1 Harrell has admitted negligence does not mean he has  
2 admitted to liability in this case. Liability means both  
3 that Defendant Bryan Harrell was negligent and that his  
4 negligence was the proximate cause of the damages claimed  
5 by the Plaintiffs. Defendant Bryan Harrell will only be  
6 liable to the Plaintiffs to the extent his negligence was  
7 the proximate cause of the Plaintiffs' claimed damages.  
8 It is for you the jury to determine the extent to which  
9 Defendant Bryan Harrell's negligence was the proximate  
10 cause of the injuries claimed by the Plaintiffs.

11 Proximate cause means that cause which, in a natural  
12 and continuous sequence, produces an event, and without  
13 which cause such event would not have occurred. In order  
14 to be a proximate cause, the act or omission complained of  
15 must be such that a person using ordinary care would have  
16 foreseen that the event, or some similar event, might  
17 reasonably result therefrom. There may be more than one  
18 proximate cause of an event, but if an act or omission of  
19 any person not a party to the suit was the sole proximate  
20 cause of an occurrence, then no act or omission of any  
21 party could have been a proximate cause. When I use the  
22 expression "proximate cause", I mean a cause that, in the  
23 natural or ordinary course of events, produced the  
24 Plaintiffs' injury. It need not be the only cause, nor the  
25 last or nearest cause. It is sufficient if it combines

1 with another cause resulting in the injury.

2 When I use the expression "proximate cause" I mean a  
3 cause that, in the natural or ordinary course of events,  
4 produced the Plaintiffs' injury. It need not be the only  
5 cause, nor the last or nearest cause. It is sufficient if  
6 it combines with another cause resulting in the injury.

7 When two or more causes operate directly or happen  
8 together in bringing about an injury, there can be  
9 recovery against all of the responsible parties. The mere  
10 fact that the injury would not have been sustained if only  
11 one of the acts of misconduct had occurred does not of  
12 itself prevent or limit the other act from constituting  
13 the proximate case. If all acts of misconduct contributed  
14 directly and concurrently or together in bringing about  
15 the injury, they together constitute the proximate cause.  
16 The proximate cause of an injury may be two separate and  
17 distinct acts of misconduct of different persons.

18 A defendant may be held liable for an injury when  
19 that person commits a negligent act that puts other forces  
20 in motion or operation resulting in the injury when such  
21 other forces are the natural and probable result of the  
22 act that said defendant committed and that reasonably  
23 should have been foreseen by that defendant. When the  
24 injuries could not reasonably have been foreseen as the  
25 natural, reasonable, and probable result of the original

1 negligent act, then there can be no recovery as to that  
2 defendant. If the chain reaction that resulted from that  
3 defendant's alleged negligence, if any, meets the above  
4 tests, then the Plaintiffs may recover.

5 Defendant Harrell has raised what is known as an  
6 affirmative defense to the claims of the Plaintiffs,  
7 specifically that his negligence caused only some, but not  
8 all of the injuries sustained. As to that defense,  
9 Defendant Harrell bears the burden of proof by a  
10 preponderance of the evidence.

11 In order to recover damages from Chrysler Group LLC,  
12 the Plaintiffs must prove the following by a preponderance  
13 of the evidence.

14 Chrysler Group LLC failed to warn of a danger arising  
15 from the use of the subject 1999 Jeep Grand Cherokee after  
16 that danger became known to Chrysler Group LLC, or the  
17 subject vehicle was designed with a reckless or wanton  
18 disregard for human life, or the manufacturer recklessly  
19 or wantonly sold the vehicle knowing of or consciously  
20 disregarding the danger, and design of the product was a  
21 proximate cause of Plaintiffs' injury.

22 As to Plaintiffs' claims against Defendant Chrysler  
23 Group LLC that the 1999 Jeep Grand Cherokee was designed  
24 with a reckless or wanton disregard for life and that such  
25 misconduct was the legal cause of their alleged damages,

1 the time period which you are to consider is limited to  
2 the time when the vehicle was first sold.

3 Reckless conduct is conduct that manifests a  
4 conscious disregard for the safety of others.

5 Wanton conduct is that which is so reckless or so  
6 charged with indifference to the consequences that it is  
7 equivalent in spirit to actual intent.

8 Conscious indifference is defined as an intentional  
9 disregard of the rights of another, knowingly or willfully  
10 disregarding such right.

11 A product may be found to be defective because of its  
12 particular design. A product manufacturer is not required  
13 to ensure that a product design is incapable of producing  
14 injury, but the manufacturer has a duty not to recklessly  
15 or wantonly disregard human life in choosing the design  
16 for a product. I charge you that proof of nothing more  
17 than that a particular accident or injury would not have  
18 occurred had the product been designed differently is  
19 insufficient to establish a breach of the manufacturer's  
20 duty as to design or that the manufacturer acted with  
21 reckless or wanton disregard for human life.

22 To determine whether a product suffers from a design  
23 defect, you must balance the inherent risk of harm in a  
24 product design against the utility or benefits of that  
25 product design. You must decide whether the manufacturer

1 acted reasonably in choosing a particular product design  
2 by considering all relevant evidence, including the  
3 following factors:

4 The usefulness of the product; the severity of the  
5 danger posed by the design; the likelihood of that danger;  
6 the avoidability of the danger, considering the user's  
7 knowledge of the product, publicity surrounding the  
8 danger, the effectiveness of warnings, and common  
9 knowledge or the expectation of danger; the user's ability  
10 to avoid the danger; the technology available when the  
11 product was manufactured; the ability to eliminate the  
12 danger without impairing the product's usefulness or  
13 making it too expensive; the feasibility of spreading any  
14 increased cost through the product's price or by  
15 purchasing insurance; the appearance and aesthetic  
16 attractiveness of the product; the product's utility for  
17 multiple uses; the convenience and durability of the  
18 product; alternative designs for the product available to  
19 the manufacturer; and the manufacturer's compliance with  
20 industry standard -- industry standards or government  
21 regulations.

22 If you decide that the risk of harm in the product's  
23 design outweighs the utility of that particular design,  
24 then the manufacturer exposed the consumer to greater risk  
25 of danger than the manufacturer should have in using that



1 product design, and the product is defective. If after  
2 balancing the risks and utility of the product, you find  
3 by a preponderance of the evidence that the product  
4 suffered from a design defect, then the Plaintiffs are  
5 entitled to recover.

6 In determining whether a product was defective, you  
7 may consider evidence of alternative designs that would  
8 have made the product safer and could have prevented or  
9 minimized the plaintiffs' injury. In determining the  
10 reasonableness of the manufacturer's choice of product  
11 design, you should consider the availability of an  
12 alternative design at the time the manufacturer designed  
13 this product; the level of safety from an alternative  
14 design compared to the actual design; the feasibility of  
15 an alternative design, considering the market and  
16 technology at the time the product was designed; the  
17 economic feasibility of an alternative design; the effect  
18 an alternative design would have on the product's  
19 appearance and utility for multiple purposes; and any  
20 adverse effect on the manufacturer or the product from  
21 using an alternative design.

22 In determining whether a product was defective, you  
23 may consider proof of a manufacturer's compliance with  
24 federal or state safety standards or regulations and  
25 industrywide customs, practices, or design standards.

1 Compliance with such standards or regulations is a factor  
2 to consider in deciding whether the product design  
3 selected was a reasonable -- was reasonable considering  
4 the feasible choices of which the manufacturer knew or  
5 should have known. However, a product may comply with  
6 such standards or regulations and still contain a design  
7 defect.

8 A manufacturer has a duty to give an adequate warning  
9 of known or reasonably foreseeable dangers arising from  
10 the use of a product. The manufacturer owes this duty to  
11 warn to all persons whom the manufacturer should  
12 reasonably foresee may use or be affected by the product.  
13 A manufacturer's duty to warn may be breached by failure  
14 to provide an adequate warning of the product's potential  
15 dangers or failing to adequately communicate to the  
16 ultimate user the warning provided.

17 A product, however well or carefully made, that is  
18 sold without an adequate warning of such danger may be  
19 said to be in a defective condition. If you find by a  
20 preponderance of the evidence that the manufacturer did  
21 not warn or did not adequately warn when a warning should  
22 have been given, then you may find the product to be  
23 defective for that reason, and the Plaintiffs are entitled  
24 to recover.

25 A manufacturer's duty to warn arises when the

1 manufacturer knows or reasonably should know of the danger  
2 presented by the use of a product. Therefore, a  
3 manufacturer has a continuing duty to adequately warn the  
4 public of defects in a product even after that product has  
5 left the control of the manufacturer to be sold or  
6 distributed to the consumer.

7 Automobile accidents or collisions under ordinary use  
8 of an automobile are foreseeable events by an automobile  
9 manufacturer. If you find that the Plaintiffs have proved  
10 by a preponderance of the evidence that the automobile in  
11 question contained a design defect, or defect due to  
12 inadequate warning that was a substantial factor in  
13 causing the Plaintiffs' injuries to be more severe than  
14 they otherwise would have been from the accident or  
15 collision, then the defendant manufacturer is liable, and  
16 the Plaintiffs are entitled to recover, regardless of who  
17 was at fault in causing the accident or collision.

18 If you're unable to attribute responsibility for  
19 causing the injuries as between Bryan Harrell and Chrysler  
20 Group LLC but instead find that the injuries resulted from  
21 the combined acts of the two defendants, then on your  
22 verdict form you shall apportion your award of damages  
23 based on a total of 100 percent between Bryan Harrell and  
24 Chrysler Group LLC according to the fault of each  
25 defendant.

1 I charge you that under Georgia law no action for a  
2 claim due to injury to the person shall be eliminated  
3 because the person who suffered the injury then died. The  
4 claims which a deceased person possessed prior to death  
5 survive to that decedent's estate and may be brought by  
6 his personal representative acting in their capacity as  
7 executor or administrator of the decedent's estate.

8 In this case, Plaintiffs bring two different causes  
9 of action. As the mother and father of Remington Walden,  
10 Plaintiffs seek to recover damages for his death. As the  
11 Administrators of the Estate of Remington Walden,  
12 Plaintiffs seek to recover damages for his pain and  
13 suffering prior to death. I will now charge you on  
14 damages under Georgia law.

15 When a party is required to pay damages to another,  
16 the law seeks to ensure that the damages awarded are fair  
17 to all parties.

18 If you believe from a preponderance of the evidence  
19 that the Plaintiffs are entitled to recover, you should  
20 award to the Plaintiffs such sums as you believe are  
21 reasonable and just in this case.

22 If you find that Remington Cole Walden would have had  
23 future earnings, it would be for you to determine them,  
24 but there must be some evidence before you as to the  
25 amount of such earnings.

1           In considering the evidence, you should take into  
2 consideration that old age generally reduces the capacity  
3 to labor and earn money.

4           You may also take into consideration the proposition  
5 that the ability of Remington Cole Walden to earn money  
6 could have increased during some later periods of  
7 Remington Cole Walden's life, if it is authorized by the  
8 evidence.

9           You may determine the life expectancy of a person  
10 when the person's age is shown without any other direct  
11 evidence on the subject. In deciding this matter, you are  
12 also entitled to consider the evidence pertaining to the  
13 person's health, habits, surrounded -- surroundings, and  
14 method of living.

15           There is another way in which you may determine the  
16 life expectancy of Remington Cole Walden. There has been  
17 introduced into evidence a copy of the Annuity Mortality  
18 Table for 1949, Ultimate. If you desire to determine from  
19 this table the life expectancy of a person, look up that  
20 person's age in one column, and across from the age  
21 column, you will find the life expectancy of a person of  
22 that age. Life expectancy shown on any such table is  
23 merely a guide that you may follow while considering the  
24 evidence as a whole.

25           If you use the mortality table, you should take the

1 average annual loss of future income of Remington Cole  
2 Walden and multiply it by the number of years of his life  
3 expectancy. The result will give you the probable gross  
4 loss of future earnings. You should then reduce the loss  
5 to its present cash value by using a rate of interest of 5  
6 percent per annum as a reduction factor.

7 If you find that the Plaintiffs are entitled to  
8 recover for the wrongful death of Remington Walden, I  
9 charge you that the measure of damages for wrongful death  
10 is the full value of the life of Remington Walden, without  
11 deducting necessary or other personal expenses had he  
12 lived. This value consists of an intangible element  
13 incapable of exact proof.

14 In determining the measure of damages, you must  
15 determine the value of Remington Walden's life to himself,  
16 from his standpoint, had he lived, not the value of  
17 Remington Walden's life to his family and friends. The  
18 full value of the life of the deceased is not limited to  
19 the amount of money that could have or would have been  
20 earned had the deceased not been killed.

21 The intangible value of the life to which I have  
22 referred includes the value to the deceased of being alive  
23 and being able to enjoy life and living. You may consider  
24 evidence of Remington Walden's age, life expectancy,  
25 health, mental and physical development, family

1           circumstances, and your own experience and knowledge of  
2           human affairs. Such damages must be established by your  
3           enlightened conscious as fair and impartial jurors.

4           Damages for the full value of the deceased also  
5           include lost earnings. You may consider the gross sum  
6           that the deceased would have earned to the end of his life  
7           had the deceased not been killed, reduced to its present  
8           cash value. However, the full value of the life of the  
9           deceased is not limited to the amount of money that could  
10          have or would have been earned had the deceased not been  
11          killed.

12          Plaintiffs, as the administrators of the estate of  
13          Remington Walden, are entitled to recover such damages if  
14          you award them.

15          Pain and suffering is a legal item of damages. The  
16          measure is the enlightened conscience of fair and  
17          impartial jurors. Questions of whether, how much, and how  
18          long Remington Cole Walden suffered or will suffer are for  
19          you to decide.

20          Pain and suffering includes mental suffering, but  
21          mental suffering is not a legal item of damage unless  
22          there's physical suffering also.

23          Anxiety, shock, and worry are examples of what might  
24          be included under mental pain and suffering, and loss of  
25          capacity to work or labor, separately from earnings, may

1 be considered as an item causing mental suffering.  
2 Plaintiffs, as the administrators of the estate of  
3 Remington Walden, are entitled to recover such damages if  
4 you award them.

5 I want to emphasize that anything the Court did or  
6 said during the trial of this case was not intended to and  
7 did not intimate, hint, or suggest to you which of the  
8 parties should prevail in this case. Whichever of the  
9 parties is entitled to a verdict is a matter entirely for  
10 you to determine, and whatever your verdict, it must be  
11 agreed upon by all of you.

12 The Court's interest in the matter is that the case  
13 be fairly presented according to law and that you, as  
14 honest, conscientious, impartial jurors, consider the case  
15 as the court has instructed you and return a verdict that  
16 speaks the truth as you find the truth of the case to be.

17 Your verdict should be a true verdict based upon your  
18 opinion of the evidence according to the laws given you in  
19 this charge. You are not to show favor or sympathy to one  
20 party or the other. It is your duty to consider the facts  
21 objectively without favor, affection, or sympathy to  
22 either party. In deciding this case, you should not be  
23 influenced by sympathy or prejudice because of local or  
24 remote residence, economic or corporate status for or  
25 against any party.



1           Whatever your verdict in this case, it must be agreed  
2 to by each juror; it must be in writing, dated, and signed  
3 by your foreperson; and it must be returned and read in  
4 open court.

5           The Court has prepared a verdict form for your use  
6 that you may use. It's a two-page form, and I think the  
7 attorneys have referred to it. But the Court has prepared  
8 it so that it reads:

9           No. 1. "Do you find that Chrysler Group acted with a  
10 reckless or wanton disregard for human life in the design  
11 or sale of the 1999 Jeep Grand Cherokee and that such  
12 conduct was a proximate cause of damages for which the  
13 Plaintiffs may recover?"

14           And then there's a blank for you to write yes or no,  
15 in parentheses it says that. I would ask that you write  
16 yes or no and don't circle or X out one. Just write down  
17 yes or no on all three of these blanks.

18           But the second question is, "Do you find that  
19 Chrysler Group had a duty to warn and failed to warn of a  
20 hazard associated with the use of the 1999 Jeep Grand  
21 Cherokee and that such failure to warn was the proximate  
22 cause of damages to which the Plaintiffs may recover?"

23           Once again it's got yes or no, and I would ask that  
24 you answer yes or no. Write it out instead of circling  
25 your answers.

1           No. 3. "Do you find that Defendant Bryan Harrell's  
2 negligence, which he has admitted, proximately caused  
3 damage for which the plaintiff may recover?" Once again  
4 there's a blank for yes or no. If you'll write that  
5 answer.

6           No. 4. "State the amount of damages, if any, you  
7 find Plaintiffs are entitled to recover from the Defendant  
8 or Defendants you have found responsible for," and it's  
9 got pain and suffering and it's got a blank. And then the  
10 next line is full value of life of Remington Walden, and  
11 it's got a blank.

12           And then the fifth -- the second page -- states as  
13 follows: State percentage of fault of each defendant.  
14 The total must equal 100 percent. And it's got a  
15 percentage for you to allocate to Bryan Harrell and a  
16 percentage for you to allocate to Chrysler Group. And  
17 then you'll need to date it, and then your foreperson will  
18 need to sign it and it will be returned in open court.

19           Whatever your verdict is, it must be unanimous. One  
20 of your first duties in the jury room will be to select  
21 one of you to serve as foreperson who will preside over  
22 your deliberations and who will sign the verdict to which  
23 all 12 of you freely and voluntarily agree.

24           You should start your considerations with an open  
25 mind. Jurors should carefully consider all the evidence

1 in the case and deliberate with a view toward reaching a  
2 unanimous verdict consistent with your conscience --  
3 consciences and oaths as jurors. Avoid premature, fixed  
4 opinions. Consult with one another and consider each  
5 other's views. Each of you must decide this case for  
6 yourself, but you should do so only after a discussion and  
7 consideration of the case with your fellow jurors. Do not  
8 hesitate to change an opinion if convinced that it is  
9 wrong. However, you should never surrender honest  
10 convictions or opinions in order to be congenial or to  
11 reach a verdict solely because of the opinions of the  
12 other jurors.

13 At this time, I would ask that you go to the jury  
14 room, but do not begin deliberations. And then I'm going  
15 to ask that you come back out and then we'll start -- when  
16 I send you back, I'll tell you then you can start  
17 deliberations. But do not discuss the case or any  
18 deliberations now. And if all of you will go into the  
19 jury room.

20 (Jury excused from the courtroom.)

21 **THE COURT:** Any exception to the Court's charge,  
22 Mr. Butler?

23 **MR. JIM BUTLER:** Yes, Your Honor.

24 We would except the beginning of Chrysler's requested  
25 charge No. 21, which fell on the grounds that it's

1 argumentative. Not merely negligence does not ensure --  
2 does not necessarily make the manufacturer liable. It's  
3 also contrary to -- we think it's a misstatement of the  
4 law, and the law improperly stated in Plaintiffs' charge  
5 No. 14.

6 We would except the Court giving Chrysler's requested  
7 charge No. 23, a product manufacturer is not required to  
8 ensure that a product design is incapable of producing  
9 injury. That's argumentative.

10 We except giving -- the Court giving Chrysler's  
11 requested charge No. 32, also argumentative. The mere  
12 fact that the injury would not have been sustained,  
13 et cetera, we think is -- the charge said merely, that's  
14 kind of the gold standard of being argumentative.

15 I had some others but I don't have the -- I'm not  
16 complaining, but I don't have the Court's charge so I'm  
17 not sure how to identify them.

18 I think the Court gave a charge about discounting.  
19 We would except to it but I can't help the Court much  
20 because I can't remember exactly what the Court said. It  
21 didn't seem to be -- I couldn't tell if it's from the  
22 pattern charge or not.

23 We would except giving the charge to the effect  
24 that -- I charge you that proof of nothing more than  
25 the -- that the injury -- what did he say? Proof of

1 nothing more than an injury would not have occurred if  
2 designed differently is not grounds for holding Chrysler  
3 liable. I couldn't write fast enough to give you the  
4 exact language, but we think it's argumentative and I'm  
5 not real sure it's correct law.

6 Did the charge -- the Court give the charge about  
7 evidence or witnesses equally available to the parties?

8 **THE COURT:** Oh, you're questioning me?

9 **MR. JIM BUTLER:** I can't remember. I didn't hear it.

10 **THE COURT:** I did.

11 **MR. JIM BUTLER:** You did? Well, if the Court didn't,  
12 we except to that. I was listening for it and may have  
13 just missed it.

14 **THE COURT:** If I did, you except to it?

15 **MR. JIM BUTLER:** Huh?

16 **THE COURT:** You said if I did you --

17 **MR. JIM BUTLER:** If you did not.

18 **THE COURT:** I was going to say, you're the one that  
19 requested it.

20 **MR. JIM BUTLER:** Yes, sir. If you did, that's great.

21 **THE COURT:** I did.

22 **MR. JIM BUTLER:** We except the Court's giving of  
23 charge -- the one I just talked about, proof of nothing  
24 more. That is Chrysler's requested charge No. 24. We  
25 except to that as argumentative and we really don't think

1           it's good law.

2           I think I heard the Court give a charge about  
3 something to the effect that if the act or omission of  
4 someone not a party was the proximate cause, then, and I  
5 didn't write -- couldn't write fast enough to keep up with  
6 what the Court said. We would except to that as not  
7 adjusted for the evidence because there's no contention  
8 here that any acts of someone not a party caused anything.

9           We except to the Court's charge that the time period  
10 you should consider with respect to reckless and wanton is  
11 limited to the time period when the vehicle was first  
12 sold. That's inaccurate as -- I think that was a Chrysler  
13 charge. I'm not sure which one. But that's -- it's  
14 inaccurate as a matter of law, because the failure to warn  
15 subsequent to the time the vehicle was first sold is or  
16 can be itself reckless and can be itself wanton, which  
17 we've contended for a long time. Can't remember how long.  
18 We don't think it's -- we think it's inaccurate as a  
19 matter of law.

20           We except to the Court's giving of the charge about  
21 product manufacturer is not required to ensure, et cetera.  
22 That's argumentative.

23           We except to the giving of the *Banks Utility v. ICI*  
24 *Americas* charge because it's not adjusted to the evidence.  
25 It's a statute of repose case. We argued that in the

1           briefs that it's not a strict liability case and *Banks* is  
2           inapposite.

3           I know it's in the pattern charge, but if this case  
4           goes up on appeal, I want to try to figure out a way to  
5           get the appellate courts to address some changes in the  
6           law. So for that purpose only, we except the Court's  
7           giving of the charge about jury should consider compliance  
8           with regulations.

9           We also separately except the Court's giving of the  
10          charge about compliance and regulation because the  
11          evidence is undisputed in this case. The chairman of the  
12          defendant corporation has stated that compliance is not a  
13          defense at all.

14          We had a charge, and we're trying to figure out which  
15          one it was, but to the effect that failure to warn or --  
16          and/or breach of the continuing duty to warn can itself be  
17          reckless or wanton, and we except to the Court's failure  
18          to give that charge.

19          I've lost my verdict form. Let me look at it quick  
20          and make sure I'm right about this. Is -- let's see.  
21          Here it is. Is that it up there? Never mind about that.  
22          Yeah. The one we just excepted to has the time period,  
23          limited to the time period. Second paragraph, Defendant's  
24          requested charge number 16.

25          We except to the second paragraph because that's

1 contrary to law. We except to the first paragraph because  
2 that's Chrysler's lawyers' attempt to restate Plaintiffs'  
3 contentions, which is wrong, and they've stated them  
4 wrong. So we think that charge is an inadequate statement  
5 of Plaintiffs' contentions.

6 Thank you, Your Honor.

7 **THE COURT:** All right. Any exception to the charge  
8 from Chrysler?

9 **MR. WOLFF:** Yes, Your Honor. Thank you.

10 Your Honor, on behalf of Chrysler, we except to the  
11 Court's giving of the full pattern charge regarding the  
12 risk utility test and duty to warn because those are  
13 strict liability charges and the Court instructed the jury  
14 if they find a defect, the Plaintiffs may recover. This  
15 case of course requires a higher standard of misconduct.  
16 And although you in other places charged about willful --  
17 about wanton and reckless, those -- there are three  
18 charges in which -- two about the defect, sorry. You told  
19 them if they find -- here's how you determine the vehicle  
20 has a defect, and if you find a defect, the Plaintiffs may  
21 recover, and that's not adjusted to the law of this case.

22 We except to the Court's charge in its introduction  
23 to the claims made against Chrysler about the failure to  
24 warn because the Court charged a strict liability standard  
25 on failure to warn in that it's not conditioned by a



1 standard of conduct, negligence, reckless or wanton  
2 without a standard of conduct. That is a strict liability  
3 claim.

4 We object to the Court's charge on definition of  
5 reckless because it instructs the jury about safety where  
6 the statute that controls this case doesn't use safety, it  
7 is disregard for human life or disregard for life or  
8 property, not safety.

9 Your Honor, we object to the Court's -- except to the  
10 Court's charge about substantially similar incidents to  
11 the extent that the Court charged the jury on Plaintiffs'  
12 contentions regarding what is sufficient to establish a  
13 substantially similar incident. We don't think that's a  
14 correct statement of the law, but regardless of whether it  
15 is or is not, the jury should be allowed to determine for  
16 itself what is a substantially similar incident.

17 For reasons that we've previously argued to Your  
18 Honor, we except to the Court's charge regarding  
19 Bryan Harrell's admission. There was no evidence in this  
20 case that -- of the type that's permitted by Mr. Harrell  
21 trying to explain his plea. The type that's been allowed,  
22 I didn't understand what I was doing, for instance. I was  
23 pressured into it. There was no evidence about that. All  
24 he contends is what I said then isn't true, and that's not  
25 a ground for avoiding the admission that he made by

1 pleading guilty, which established both liability and  
2 proximate cause.

3 We object to the Court's -- except to the Court not  
4 giving our charges 28 and 29, which include the standard  
5 of conduct regarding the failure to warn. And in light of  
6 the multiple improper references to punishment, sending a  
7 message, other improper considerations in the case, we ask  
8 that you reconsider and give our charge -- our  
9 supplemental charge number 42, which instructs the jury  
10 not to punish, penalize, deter, or send a message by their  
11 verdict.

12 Thank you, Your Honor.

13 **THE COURT:** All right. Any exceptions?

14 **MR. BICKNESE:** Your Honor, we have no exceptions or  
15 objections.

16 **THE COURT:** All right.

17 Do you have, Mr. Wolff, a copy of your supplemental  
18 requested charge that --

19 **MR. WOLFF:** Yes, Your Honor, I do. I also have -- I  
20 know you didn't ask for it -- but I have our charges  
21 request number 23 and 25 which modify the strict liability  
22 charges for the standards of conduct.

23 **THE COURT:** Let me see those.

24 **MR. WOLFF:** That's 42.

25 **THE COURT:** All right. Bring the jury in, please.

1 (Jury seated in jury box.)

2 **THE COURT:** You all be seated, please.

3 Ladies and gentlemen, on the charge that I just gave  
4 you, I want to restate something to you. And this deals  
5 with the product design. And this is what I stated  
6 earlier. That if you decide that the risk of harm in the  
7 product's design outweighs the utility of that particular  
8 design, then the manufacturer exposed the consumer to  
9 greater risk of danger than the manufacturer should have  
10 in using that product design, and the product is  
11 defective. If, after balancing the risks and utility of  
12 the product, you find by a preponderance of the evidence  
13 that the product suffered from a design defect, then the  
14 Plaintiffs are entitled to recover.

15 And what I should have added in there, and I'm adding  
16 it in there now, and this is the law, is that, but only if  
17 you find by preponderance of the evidence that the  
18 manufacturer acted with a reckless or wanton disregard for  
19 life in choosing the design that it did.

20 All right. Also I'm going to add this charge to you.

21 The law authorizes you to award damages solely in an  
22 attempt to make a damaged party whole. You may not by  
23 your verdict and any award of damages seek to punish,  
24 penalize or deter a defendant from future similar conduct.  
25 You may not award a verdict to send a message or teach a

1 lesson to any party. Should you award damages to the  
2 Plaintiffs, the amount of your award is limited by the  
3 instructions that I previously gave you as to the proper  
4 measure of damages.

5 All right. If you would, go back into the jury room  
6 again. Do not begin your deliberations.

7 (Jury excused from the courtroom.)

8 **THE COURT:** Any exceptions to that, Mr. Butler?

9 **MR. JIM BUTLER:** Yes, sir, Your Honor. With respect  
10 to the sentence that's in the last paragraph of Chrysler's  
11 *Banks* charge number 23, we except that as contrary to the  
12 law generally, and specifically in a statute or repose  
13 case. And the additional charge about punish, penalize,  
14 what was Chrysler's number? I couldn't find my copy.

15 **THE COURT:** That was the one they handed up last  
16 night, No. 42.

17 **MR. JIM BUTLER:** Thank you, Your Honor. Plaintiffs  
18 except the giving of Chrysler's supplemental requested  
19 charge No. 42 on the grounds that it's wholly unnecessary.  
20 It refers to a claim not made, and the manner in which it  
21 was given draws undue emphasis to a claim not made. Thank  
22 you.

23 **THE COURT:** All right. Any exceptions?

24 **MR. WOLFF:** Thank you, Your Honor. We except only to  
25 the Court's failure to correct the strict liability charge

1 on the duty to warn, leaving it stated that a failure to  
2 warn constitutes a defect and if you find a defect,  
3 Plaintiffs may recover. Thank you.

4 **THE COURT:** All right. Mr. Bicknese?

5 **MR. BICKNESE:** Nothing further.

6 **THE COURT:** All right. If the attorneys would gather  
7 up the -- all the evidence. If you would gather up the  
8 evidence. I want to know what's agreed on and what's not  
9 agreed on from Defendant Chrysler's submissions, because  
10 we still have to deal with that.

11 **MR. JIM BUTLER:** We need to make a record about which  
12 exhibits Mr. Bell referred to in closing when Mr. Bell  
13 knew they were objected to and they were not admitted into  
14 evidence.

15 **THE COURT:** We need to do that now.

16 **MR. JIM BUTLER:** Yes, sir.

17 (Off the record.)

18 **MS. OWENS:** Your Honor, I have in my records that --

19 **THE COURT:** Just a minute, Ms. Owens.

20 **MS. OWENS:** Sorry.

21 **MR. JIM BUTLER:** Can we tell the folks here that they  
22 might want to leave because this is not a very  
23 particularly exciting part of the proceedings? If it's  
24 all right with the Court, I'll tell them.

25 **THE COURT:** Well, they can leave or stay or whatever.

1           **MR. JIM BUTLER:** Thanks, everybody, for coming, but  
2 we're messing with exhibits now, so if you want to go on  
3 home, that will be fine. Thank you.

4           **THE COURT:** You're welcome to stay.

5           **MR. JIM BUTLER:** You're welcome to stay.

6           **MS. OWENS:** Ready for me, Your Honor?

7           Your Honor, I have in my records that redacted 704  
8 has been admitted and Exhibit 65, the medical records of  
9 Ms. Newsome, has been admitted.

10          **MR. JIM BUTLER:** May I see those?

11          **MS. OWENS:** Sure.

12          **THE COURT:** What was the first one, Ms. Owens?

13          **MS. OWENS:** 704. That's Mr. Harrell's guilty plea to  
14 this offense that has been redacted pursuant to agreement  
15 with Mr. Bicknese.

16          Okay. Did our list match up as to what you have an  
17 objection to?

18          **MS. GLEN:** Yeah.

19          **MS. OWENS:** So, Your Honor, we're tendering, as I  
20 understand it, without objection Chrysler Group  
21 Exhibit 338.

22          **THE COURT:** Hold on a minute. All right.

23          **MS. OWENS:** 362b.

24          **THE COURT:** Three what?

25          **MS. OWENS:** 62b. 366-61; 366-63; 366-73; 366-45; 71;

1 313.119. That's a Plaintiffs' exhibit, Your Honor. 103,  
2 Chrysler Group Exhibit 103; Chrysler Group Exhibit 104.22;  
3 104.24; 104.27; 104.29; 104.44; 104.45; 104.48; 104.49;  
4 104.51; 104.52; 104.53; 104.54; 104.58; 104.59; 104.60;  
5 104.61; 104.62; 104.63; 104.67; 104.68; 104.70; 104.76;  
6 104.167; Plaintiffs' Exhibit 312.179; Plaintiffs'  
7 Exhibit -- I'm sorry, Chrysler Group Exhibit 344;  
8 Chrysler Group Exhibit 328; Chrysler Group Exhibit 38;  
9 Chrysler Group -- I'm sorry, Plaintiffs' Exhibit 313.77;  
10 Plaintiffs' Exhibit 313.68; 812b is already in;  
11 Chrysler Group Exhibit 363a. This was b.

12 **MR. JIM BUTLER:** What's the difference?

13 **MS. OWENS:** One has the names on them, one doesn't.

14 **MR. JIM BUTLER:** Okay.

15 **MS. OWENS:** So those are the ones.

16 **MR. JIM BUTLER:** I have a problem now that I look at  
17 one of these pictures, Your Honor, if I may make an  
18 objection to one of these, please. That's Plaintiffs'  
19 Exhibit 312.179, and here's the problem with it. I think  
20 the prejudicial value outweighs the probative value. The  
21 only witness who testified about that was Olson. He just  
22 testified that that was pictures from the scene. The  
23 reason Chrysler wants to put that in evidence is because  
24 it supports -- it would tend to support something Mr. Bell  
25 said in opening statement about firehoses blasting Remi's

1 body into the position in which he was found. Mr. Bell  
2 cross-examined Captain King about that. This photograph  
3 was not shown to Captain King.

4 The problem with allowing it in evidence now and the  
5 reason the prejudicial value -- the prejudice exceeds the  
6 probative value is this. The firehose theory was  
7 Dr. Bennett's theory. They didn't call Dr. Bennett. So  
8 submission of this particular exhibit is an attempt to put  
9 in Dr. Bennett's testimony when he didn't take the stand.  
10 That's my objection.

11 **MR. JEB BUTLER:** The exhibit number, Your Honor, he  
12 misread the first time. It's Exhibit 312.179.

13 **THE COURT:** Okay.

14 **MS. OWENS:** Your Honor?

15 **THE COURT:** Anything else?

16 **MS. OWENS:** Am I responding or can Mr. Brantley  
17 respond? That was the day I was out, Your Honor, so I  
18 don't know what happened.

19 **THE COURT:** He can respond.

20 **MS. OWENS:** Thank you, Your Honor.

21 **MR. BRANTLEY:** There was specific testimony by  
22 Mr. King about the firehose and how that might or might  
23 not move Remington Walden's body. So the issue is before  
24 the jury, and this is absolutely probative of that issue.  
25 It was testified as to a witness in the case yesterday, by



1 Mr. Olson, so we believe it is appropriate to admit the  
2 document and the jury can give it whatever weight it is to  
3 be given. The prejudicial -- I don't understand the  
4 prejudicial argument of it. It's a photograph of what  
5 happened on the scene that day and Captain King talked  
6 about that specific event.

7 **MR. JIM BUTLER:** Your Honor, the testimony of Captain  
8 King is unrebutted that this Bennett theory was  
9 impossible. He said the hose would be shooting up from  
10 below to knock Remi to that position when his chest was  
11 fused to the door.

12 Here's the problem. The only lawyers, the only  
13 people in the courtroom who have advanced this theory have  
14 been Chrysler's lawyers in opening statement and in their  
15 cross-examination of Mr. -- Captain King, who absolutely  
16 refuted the theory, and that's why the prejudicial value  
17 outweighs the probative value.

18 **THE COURT:** I'm going to admit it.

19 (Plaintiffs' Exhibits 312.179, 313.68, 313.77, and  
20 313.119 were received into evidence.)

21 (Defendant Chrysler's Exhibits 38, 71, 103, 104.22,  
22 104.24, 104.27, 104.29, 104.44, 104.45, 104.48, 104.49, 104.51,  
23 104.52, 104.53, 104.54, 104.58, 104.59, 104.60, 104.61, 104.62,  
24 104.63, 104.67, 104.68, 104.70, 104.76, 104.167, 328, 338, 344,  
25 362b, 363a, 366-45, 366-61, 366-63, and 366-73 were received

1 into evidence.)

2           **MS. OWENS:** All right. Your Honor, then we have some  
3 exhibits to which I believe objections will be made.

4           **MR. JIM BUTLER:** Yep.

5           **THE COURT:** Hold on a minute.

6           **MR. JIM BUTLER:** Hold on a minute. I didn't do --  
7 first I need to make a record of the exhibits which before  
8 closing arguments Chrysler counsel stated which exhibits  
9 they were going to refer to in closing arguments so that  
10 we didn't have to go through this process while the jury  
11 was in the jury room, and we relied upon that. And  
12 Chrysler represented that none of the exhibits they were  
13 going to use were in the stack of exhibits to which  
14 Plaintiffs had objected. Consequently, none of those  
15 exhibits were in evidence.

16           Then Chrysler counsel in closing argument referred to  
17 Chrysler Exhibit 324 -- excuse me, Chrysler Exhibit 62.

18           **THE COURT:** Okay. Let's -- I didn't -- why don't you  
19 start over with which exhibits.

20           **MR. JIM BUTLER:** All right. These are the exhibits  
21 that Chrysler used in opening statement after representing  
22 that they were not going to use them because they had been  
23 objected to by Plaintiff and not admitted. Closing  
24 argument.

25           **THE COURT:** I understand.

1           **MR. JIM BUTLER:** Yes, sir. Chrysler Exhibit 62;  
2 Chrysler Exhibit 5510, Chrysler Exhibit 104.99; Chrysler  
3 Exhibit 329; Chrysler -- that's all one document. The  
4 first, second, and fourth pages of Chrysler Exhibit 329.  
5 Chrysler Exhibit 91, first page; and then this diagram  
6 that Chrysler showed the jury, it doesn't have a number, I  
7 don't know what number it is, page 92 of Chrysler's slide  
8 show; page 93 of Chrysler's slide show; page, let's see,  
9 134 of Chrysler's slide show; page 143 of Chrysler's slide  
10 show. None of those were in evidence and we told them we  
11 objected to it. Those are the ones that Chrysler said  
12 they were not going to use. If we had known they were  
13 going to use them, we could have taken up our objections  
14 before argument was made. And we would except to the  
15 admission of any of these exhibits due to the  
16 misrepresentation and ask the Court to exclude them all.

17           **THE COURT:** Ms. Owens?

18           **MS. OWENS:** Your Honor, under OCGA 9-10-183, counsel  
19 is allowed to use in argument demonstrative and  
20 illustrative exhibits. Every one of the exhibits that  
21 he's talking about was testified to by a witness. They  
22 are simply illustrations of a witness's opinion, just like  
23 this flip chart. We could have written them all down on a  
24 flip chart. Technology has advantaged and we used slides  
25 that the witnesses used instead. They're simply graphic

1 illustrations of testimony that was given by witnesses and  
2 there's no error in allowing them to be used by counsel in  
3 argument.

4 And we're not going to tender them into evidence  
5 because I think allowing the restatement of the witness's  
6 opinion to go out with the jury would be continuing  
7 testimony, so we don't intend to offer them. But we do  
8 think it was proper to use them to illustrate the  
9 testimony and remind the jury what the testimony of the  
10 witnesses was.

11 **MR. JIM BUTLER:** If you're not going to tender them,  
12 we may be arguing about nothing except this. It was not  
13 proper to tell us that they were not going to use them and  
14 then use them. There's nothing the Court needs to do  
15 about it since it's not going to be tendered. There's  
16 nothing -- nothing the Court can do now, that I know of,  
17 but pose some kind of sanction. We're far enough along I  
18 won't ask for that.

19 **MS. OWENS:** I don't think I said that. But at any  
20 rate, it appears the issue is moot. So we'll move on with  
21 the ones we do have question about.

22 **THE COURT:** All right.

23 **MS. OWENS:** First one, Your Honor, is Chrysler  
24 Exhibit 53, which is a Decatur County EMS report for  
25 Emily Newsome. For the same reason that we asked for the

1 admission of her medical records earlier, we would ask  
2 that her EMS reports be admitted. It's authenticated by  
3 an affidavit from the records custodian that was provided  
4 to my office by Ms. May and it's relevant to earlier  
5 statements.

6 **MR. JIM BUTLER:** Totally irrelevant because it  
7 addresses the physical condition of somebody who is not a  
8 party and whose physical condition is not an issue in this  
9 case. And I'll renew my objections to the Emily Newsome  
10 medical records. Here's the problem. They are -- they  
11 are records that reflect --

12 **THE COURT:** We need to move on. I'm going to deny  
13 your renewed motion on Emily Newsome records. I'm not  
14 going to admit the EMS.

15 **MS. OWENS:** Thank you, Your Honor.

16 The next exhibit, Your Honor, is 64, which is the  
17 diagram prepared by the SCRT team.

18 **MR. JIM BUTLER:** It's hearsay and it's probative --  
19 prejudicial -- prejudice outweighs probative value because  
20 the testimony is undisputed in this case. The SCRT --

21 **THE COURT:** I'm going to deny that.

22 **MR. JIM BUTLER:** Yes, sir.

23 **MS. OWENS:** 62, Your Honor, which is an SCRT that  
24 shows the rotation of the vehicles at impact that was  
25 relied upon by Buchner and Mr. Fenton both testified to.

1           **MR. JIM BUTLER:** Same objection. That's not true.  
2           The SCRT team reconstruction was never completed.  
3           Mr. Buchner testified to that. It's unrebutted.

4           **THE COURT:** I'm going to deny that. I'm going to  
5           deny 62.

6           **MS. OWENS:** Your Honor, Exhibit 317 is a vehicle  
7           crash test letter regarding a rear moving barrier crash  
8           test date --

9           **MR. JIM BUTLER:** Which vehicle?

10          **MS. OWENS:** It's the 1999 301 rear impact compliance  
11          test on the --

12          **MR. JIM BUTLER:** No objection.

13          **THE COURT:** All right. Admitted. What number is  
14          that again?

15                 (Defendant Chrysler's Exhibit No. 317 was received  
16          into evidence.)

17          **MS. OWENS:** It was 317, Your Honor. And then the  
18          compliance report for the 1999 --

19          **MR. JIM BUTLER:** Same test or just certification?

20          **MS. OWENS:** That's the certification.

21          **MR. JIM BUTLER:** No objection.

22          **MS. OWENS:** Okay. That's 314.

23          **THE COURT:** Admitted without objection.

24                 (Defendant Chrysler's Exhibit No. 314 was received  
25          into evidence.)

1           **MR. JIM BUTLER:** Did somebody discuss these?

2           **MS. OWENS:** Yes, Mr. Chernoby did. 308 is another  
3 compliance test with the other size engine for the '99 WJ,  
4 and --

5           **MR. JIM BUTLER:** No objection.

6           (Defendant Chrysler's Exhibit No. 308 was received  
7 into evidence.)

8           **MS. OWENS:** And I believe 315 is the compliance  
9 report for that test.

10          **MR. JIM BUTLER:** No, no, no. This isn't a compliance  
11 report. This is continuing witness stuff. That's a  
12 discussion about the difference between the vehicles. It  
13 says discussion, it starts out, the '99 and all --

14          **MS. OWENS:** Okay. So we've got 314, 308, and 317  
15 admitted without objection.

16          **MR. JIM BUTLER:** No objection.

17          **MS. OWENS:** Next -- the next series, Your Honor, is  
18 109-1 -- I'm sorry, 309-1 through 18. These are the  
19 various --

20          **THE COURT:** 309 --

21          **MS. OWENS:** Dash 1 through dash 18. These are the  
22 graphic representations of the components of the vehicle,  
23 frame rails, cross-members and so forth that were  
24 testified to by both Mr. Fenton and Mr. Olson.

25          **THE COURT:** What's the objection to that?

1           **MR. JIM BUTLER:** Continuing witness rule for one.  
2           It's been shown to the jury but it's a continuing witness  
3           rule. That's just trying to send out Olson's slide show  
4           as an exhibit. I mean, he showed it to the jury. That's  
5           not proper to send out his testimony.

6           **THE COURT:** I'm not going to admit that. I mean,  
7           it's going to be admitted into evidence but it's not going  
8           to go out to the jury.

9           (Defendant Chrysler's Exhibits 309-1 through 309-18  
10          were received into evidence.)

11          **MS. OWENS:** Okay.

12          **THE COURT:** Let's make sure that doesn't go out in  
13          the stack to the jury room.

14          **MS. OWENS:** All right. Your Honor, the next one is  
15          Exhibit 324, which is design guidelines for fuel system  
16          that Mr. Chernoby and Mr. Olson talked about.

17          **MR. JIM BUTLER:** No objection.

18          **THE COURT:** No objection to 329 (verbatim)?

19          **MR. JIM BUTLER:** Don't put that --

20          **MS. OWENS:** I'm putting it over here. Sorry.

21          **THE CLERK:** This goes out to the jury?

22          **MR. JIM BUTLER:** Yes.

23          (Defendant Chrysler's Exhibit No. 324 was received  
24          into evidence.)

25          **MS. OWENS:** Yes. The next one, Your Honor, is



1 Exhibit 820a, which we need to get one without highlights  
2 on them, and will. This is peer and subject vehicle  
3 measurement data which measured the horizontal distance  
4 and the vertical distance from the bumper and the tank and  
5 the tank below the bumper that was testified to yesterday.

6 **MR. JIM BUTLER:** Objection. There's no substantial  
7 similarity, no attempt to show substantial similarity. It  
8 lists about two dozen vehicles, and the Court will take  
9 judicial notice that most of them are not substantially  
10 similar.

11 **THE COURT:** I'm not going to admit 820a.

12 **MS. OWENS:** Okay. Next, Your Honor, are three laser  
13 shots Mr. Fenton testified to. Two are of the Jeep Grand  
14 Cherokee X104.99 and 104.102.

15 **MR. JIM BUTLER:** We would object to these three, Your  
16 Honor, 104.102 --

17 **MS. OWENS:** The third one is of the Dakota, and it's  
18 104.110.

19 **MR. JIM BUTLER:** That one and 104.99. These are not  
20 photographs. This is stuff Fenton made up, this  
21 photogrammetry stuff.

22 **MS. OWENS:** It's laser scans, Your Honor.

23 **MR. JIM BUTLER:** Doesn't matter how he made it up.  
24 He made it up.

25 **MS. OWENS:** It's measurements.

1           **MR. JIM BUTLER:** It's the continuing witness rule.

2           **THE COURT:** I'm not going to admit them.

3           **MS. OWENS:** Next, Your Honor, is 360, which is the  
4 fuel tank roadmap that's been testified to. Plaintiffs  
5 first used it, I believe, in reference to one of their  
6 witnesses, and it's the -- 360A is the blown-up legible  
7 version of that one.

8           **MR. JIM BUTLER:** Same objection. Not substantially  
9 similar. We've got BMW 5 series, Buick LeSabre, there's a  
10 whole bunch of different vehicles. There are dozens of  
11 vehicles here not showing they're substantially similar.

12           **THE COURT:** I'm not going to admit it.

13           **MS. OWENS:** I'm sorry, Your Honor?

14           **THE COURT:** Not going to admit that.

15           **MS. OWENS:** Next is the 359, which is the vehicle  
16 survey photographs of aft axle fuel tanks testified to by  
17 Mr. Olson, I believe.

18           **MR. JIM BUTLER:** He didn't go through them. He  
19 absolutely did not go through them. He talked about it  
20 but never showed the exhibit. I kept waiting for him to  
21 show it. That's why I didn't cross-examine him on it,  
22 because he didn't use it.

23           **THE COURT:** I'm not going to admit it.

24           **MS. OWENS:** Not?

25           **THE COURT:** Not.

1           **MS. OWENS:** Sorry, Your Honor. I'm getting --

2           **THE COURT:** I need to get closer. I'm getting tired.

3           **MS. OWENS:** No, it's not you. I'm getting old and  
4           losing my hearing.

5           All right. That leaves us with -- back to 315 that  
6           Mr. Monaco tells me is safety documentation compliance  
7           report. It does say discussion, 1999 model year WJ is the  
8           vehicle and goes through and says it does meet --

9           **MR. JIM BUTLER:** Why do you want it?

10          **MS. OWENS:** It's a compliance report. It shows  
11          compliance. There were two tests done on different engine  
12          sizes, and this is the second one. You've already  
13          admitted the other one.

14          **MR. JIM BUTLER:** Yeah, this is a different kind of  
15          document. This has got all kinds of extraneous discussion  
16          and it's irrelevant because that Chrysler self-certified  
17          compliance with old 301 test is not in dispute. There's  
18          no reason to put in a document that shows --

19          **THE COURT:** I'm not going to admit 315.

20          **MS. OWENS:** That leaves us back with --

21          **MR. JIM BUTLER:** We don't object to that.

22          **MS. OWENS:** Okay. Let me just check and make sure  
23          that -- was there anything else? Your Honor --

24          **THE COURT:** What was the last document number? I  
25          don't think the court reporter got that.

1           **MR. JIM BUTLER:** The one -- 4 was the one I said  
2 don't object -- I don't object to and I think Ms. Owens  
3 took it back.

4           **MS. OWENS:** I think you said you had already admitted  
5 something.

6           **MR. JIM BUTLER:** Well, I've got something very  
7 similar. I'm not sure if it's the same thing.

8           **MS. OWENS:** We'll withdraw it.

9           **THE COURT:** Okay.

10          **MS. OWENS:** Your Honor, then we need to tender for  
11 the record only the Exhibits 2002 and attachments from the  
12 Taylor proffer yesterday, and the attachments are  
13 exhibits -- excuse me, I'm going to let Mr. Brantley do  
14 that part.

15          **MR. BRANTLEY:** The attachments are the exhibits  
16 referenced in the proffer, written proffer, which is  
17 Exhibit 2002.

18          **THE COURT:** All right.

19                 (Defendant Chrysler's Exhibit No. 2002 was received  
20 into evidence.)

21          **MR. JIM BUTLER:** All right. Your Honor, Plaintiffs  
22 have got Plaintiffs' Exhibits 313.104, 313.106, 314.17 for  
23 the Court record only. Those are the pictures of  
24 Remington.

25                 (Plaintiffs' Exhibits 313.104, 313.106 and 314.17

1 were received into evidence.)

2           **THE COURT:** Okay. And then we've already given the  
3 court reporter a list and Chrysler counsel has looked  
4 through all the Plaintiffs' exhibits that have been  
5 admitted without objection.

6           **MS. OWENS:** That's not exactly accurate. I'm going  
7 to weigh in now. Do you have the statutes in there, the  
8 compliance regulations that compliance is no defense?

9           **MR. JIM BUTLER:** I can't remember.

10          **MS. OWENS:** I know. I'm asking Beth.

11          **THE COURT:** You need to make sure. You said you gave  
12 it to the court reporter and the clerk doesn't have it so  
13 you need to make sure --

14          **MS. OWENS:** Your Honor, Plaintiffs' Exhibit 78 is a  
15 copy of 49 --

16          **MR. JIM BUTLER:** Do you object to it?

17          **MS. OWENS:** I do because it's not the same as -- the  
18 judge tells the jury the law, not this.

19          **MR. JIM BUTLER:** We'll withdraw that. 79?

20          **MS. OWENS:** And 79, same thing.

21          **MR. JIM BUTLER:** Withdraw it. 78 and 9. Not worth  
22 fighting about grounds for withdrawing it.

23          **MR. BRANTLEY:** We have two additional things to  
24 tender for the record but not to be admitted into  
25 evidence, Your Honor, which are Defendant's Exhibits 2006,

1 which is a copy of the Marchionne compensation flip chart  
2 utilized by the Plaintiffs in cross-examination of  
3 Mr. Chernoby and closing argument, and Defendant's  
4 Exhibit 2005, which is a copy of the flip chart used by  
5 Plaintiffs in closing argument where it has, number 1, how  
6 many --

7 **MR. JIM BUTLER:** He doesn't like your question.

8 **MR. BRANTLEY:** That's for the record, Your Honor.

9 Thank you.

10 (Defendant Chrysler's Exhibits 2005 and 2006 were  
11 received into evidence.)

12 **MR. JIM BUTLER:** Those are great questions.

13 Ms. Owens, you already looked through these; right?

14 **MS. OWENS:** I did not. Mr. Monaco did.

15 **MR. JIM BUTLER:** These are for the jury.

16 **THE COURT:** I want to make sure that all the  
17 attorneys for all the parties have reviewed the evidence  
18 before it goes out and that it complies with the Court's  
19 ruling of what's been tendered and what's to go to the  
20 jury room.

21 **MR. JIM BUTLER:** I was talking to Ms. Willis and I  
22 couldn't hear the Court, Your Honor. What did you say?

23 **THE COURT:** Okay. I said I want the attorneys for  
24 all the parties to go through the evidence before it goes  
25 back to the jury room to make sure that it complies with

1 what's been admitted and what can go out.

2 **MR. JIM BUTLER:** All right. Is this in or not?  
3 We're adding Plaintiffs' Exhibit 290a. That's the  
4 mortality table that's been admitted. What are these?  
5 Are these supposed to be admitted or not?

6 **THE CLERK:** I know they were tendered but I don't  
7 know.

8 **MR. JIM BUTLER:** That's not -- that's not for the  
9 jury. These are all -- those were not admitted --  
10 tendered for the jury. No, not for the jury.

11 (Plaintiffs' Exhibit No. 290a was received into  
12 evidence.)

13 (Off the record.)

14 **THE COURT:** All right. If everyone is ready to  
15 proceed. Mr. Butler, let the record reflect you had  
16 something to put on the record before we bring the jury  
17 out.

18 **MR. JEB BUTLER:** Yes, Your Honor, thank you so much.  
19 Plaintiffs' Exhibit 701 is a binder that became OSI  
20 materials. In consultation with Chrysler, Plaintiffs  
21 agreed to remove certain material from the binder. Now  
22 that that is done, the parties are in agreement that the  
23 binder marked as Plaintiffs' Exhibit 701 can go back with  
24 the jury, although Chrysler objected to it when it first  
25 came into evidence and I think they would reassert the

1 same objections they asserted then. The material that has  
2 been removed I've collected and marked Plaintiffs' Exhibit  
3 F, and I'd like to tender that for purposes of the record  
4 only.

5 **THE COURT:** Mr. Brantley?

6 **MR. BRANTLEY:** Maintain the original objection.

7 **THE COURT:** Everything else is accurate?

8 **MR. BRANTLEY:** Yes.

9 (Plaintiffs' Trial Exhibit F was received into  
10 evidence.)

11 **THE COURT:** All right. The attorneys for the parties  
12 have gone through and gotten the evidence together.

13 Do you have an objection to that, Mr. Bicknese?

14 **MR. BICKNESE:** I do not. I've looked at it and I'm  
15 okay with it.

16 **THE COURT:** Bring the jury out. What I'm going to do  
17 is bring them out and then I'm going to ask the alternates  
18 to go into a different room and then we'll proceed.

19 **MR. JIM BUTLER:** Are you going to have them  
20 deliberate this afternoon?

21 **THE COURT:** A little bit.

22 (Jury seated in jury box.)

23 **THE COURT:** Have a seat, please.

24 All right. Ladies and gentlemen of the jury, at this  
25 time what I would like to do is for the alternates, if you



1 would step out of the jury box, please. There's three of  
2 you.

3 Okay. Bailiffs, come around to this side over here.  
4 You're going to go to a different room.

5 All right. Ladies and gentlemen of the jury, this is  
6 the 12 of you now, and what I would like for you to do is  
7 go on into the jury room. And as you're going in, the  
8 bailiff is going to follow right behind you with the  
9 evidence to be considered by you as well as the proposed  
10 verdict form.

11 And again, one of your first duties will be to elect  
12 a foreperson to preside over your deliberations. So once  
13 you do that, then you'll be able to deliberate. So at  
14 this point if you would go on into the jury room.

15 (Jury excused from the courtroom to deliberate.)

16 **THE COURT:** All right. We'll be at ease.

17 (Recess taken.)

18 **THE COURT:** I'm going to bring the jury out and see  
19 if they're okay for the evening.

20 (Jury seated in jury box.)

21 **THE COURT:** Be seated, please. Ladies and gentlemen,  
22 I was just looking at the hour. Before I ask anything  
23 else, have you elected a foreperson?

24 **JUROR McINTYRE:** Yes.

25 **THE COURT:** Had you rather go on and just break for

1 the evening and come back in the morning --

2 **JUROR McINTYRE:** No.

3 **THE COURT:** Keep on deliberating?

4 **JUROR McINTYRE:** We're finished.

5 **THE COURT:** All right.

6 **JUROR McINTYRE:** We just finished. Your Honor, the  
7 jury has come to a verdict.

8 **THE COURT:** All right. Well, okay. If you would,  
9 hand the verdict to the bailiff or clerk, if you'll bring  
10 it to me.

11 (Verdict handed to the judge.)

12 **THE COURT:** All right. Madam Clerk, if you would  
13 publish the verdict. Start right there.

14 **VERDICT**

15 **THE CLERK:** In the matter above-styled, we the jury  
16 find as follows:

17 Do you find that Chrysler Group acted with a reckless  
18 or wanton disregard for human life in the design or sale  
19 of the 1999 Jeep Grand Cherokee and that such conduct was  
20 a proximate cause of damages for which the Plaintiffs may  
21 recover?

22 Yes.

23 Do you find that Chrysler Group had a duty to warn  
24 and failed to warn of a hazard associated with the use of  
25 the 1999 Jeep Grand Cherokee and that such failure to warn

1 was a proximate cause of damages for which plaintiffs may  
2 recover?

3 Yes.

4 Do you find Defendant Bryan Harrell's negligence,  
5 which he has admitted, proximately caused damages for  
6 which the Plaintiffs may recover?

7 Yes.

8 State the amount of damages, if any, you find  
9 Plaintiffs are entitled to recover from the Defendant or  
10 Defendants you have found responsible for:

11 Pain and suffering, \$30 million.

12 Full value of the life of Remington Walden,  
13 \$120 million.

14 State the percentage of fault of each Defendant  
15 (total must equal 100 percent).

16 1 percent Bryan Harrell, 99 percent Chrysler Group.

17 So say we all this 2nd day of April, 2015. Signed  
18 foreperson Deborah McIntyre.

19 **THE COURT:** All right. At this time I'm going to  
20 poll the jury.

21 Ms. Bianca Robinson. Where are you at?

22 Was that your verdict in the jury room?

23 **JUROR ROBINSON:** Uh-huh.

24 **THE COURT:** Ma'am, you need to answer, please.

25 **JUROR ROBINSON:** Yes.

1           **THE COURT:** Was it freely and voluntarily made by  
2 you?

3           **JUROR ROBINSON:** Yes, it was.

4           **THE COURT:** Is it still your verdict?

5           **JUROR ROBINSON:** Yes, it is.

6           **THE COURT:** All right. Jennifer Willis.

7           **JUROR WILLIS:** Yes, sir.

8           **THE COURT:** Was that your verdict in the jury room?

9           **JUROR WILLIS:** Yes, sir.

10          **THE COURT:** Was it freely and voluntarily made by  
11 you?

12          **JUROR WILLIS:** Yes, sir.

13          **THE COURT:** Is it still your verdict?

14          **JUROR WILLIS:** Yes, sir.

15          **THE COURT:** Lorenda Green.

16          **JUROR GREEN:** Yes, sir.

17          **THE COURT:** Was that your verdict in the jury room?

18          **JUROR GREEN:** Yes, sir.

19          **THE COURT:** Was it freely and voluntarily made by  
20 you?

21          **JUROR GREEN:** Yes.

22          **THE COURT:** Is it still your verdict?

23          **JUROR GREEN:** Yes.

24          **THE COURT:** Aja Renee Murray.

25          **JUROR MURRAY:** Aja.

1           **THE COURT:** Aja. Was that your verdict in the jury  
2 room?

3           **JUROR MURRAY:** Yes, sir.

4           **THE COURT:** Was it freely and voluntarily made by  
5 you?

6           **JUROR MURRAY:** Yes, sir.

7           **THE COURT:** Is it still your verdict?

8           **JUROR MURRAY:** Yes, sir.

9           **THE COURT:** I think I started on the second page  
10 instead of the first.

11           Willie Mitchell.

12           **JUROR MITCHELL:** Yes.

13           **THE COURT:** Was that your verdict in the jury room?

14           **JUROR MITCHELL:** Yes.

15           **THE COURT:** Was it freely and voluntarily made by  
16 you?

17           **JUROR MITCHELL:** Yes.

18           **THE COURT:** Is it still your verdict?

19           **JUROR MITCHELL:** Yes.

20           **THE COURT:** David Casagrande. Sir?

21           **JUROR CASAGRANDE:** Yes.

22           **THE COURT:** Was that your verdict in the jury room?

23           **JUROR CASAGRANDE:** Yes.

24           **THE COURT:** Was it freely and voluntarily made by  
25 you?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**JUROR CASAGRANDE:** Yes.

**THE COURT:** Is it still your verdict?

**JUROR CASAGRANDE:** Yes.

**THE COURT:** Terry Ann Lanier.

**JUROR LANIER:** Yes, sir.

**THE COURT:** Was that your verdict in the jury room?

**JUROR LANIER:** Yes, sir.

**THE COURT:** Was it freely and voluntarily made by  
you?

**JUROR LANIER:** Yes, sir.

**THE COURT:** Is it still your verdict?

**JUROR LANIER:** Yes, sir.

**THE COURT:** Linda Michelle Glisson.

**JUROR GLISSON:** Yes, sir.

**THE COURT:** Was that verdict in the jury room?

**JUROR GLISSON:** Yes, sir.

**THE COURT:** Was it freely and voluntarily made by  
you?

**JUROR GLISSON:** Yes, sir.

**THE COURT:** Is it still your verdict?

**JUROR GLISSON:** Yes, sir.

**THE COURT:** Melinda Conger.

**JUROR CONGER:** Yes, sir.

**THE COURT:** Was that your verdict in the jury room?

**JUROR CONGER:** Yes, sir.

1           **THE COURT:** Was it freely and voluntarily made by  
2 you?

3           **JUROR CONGER:** Yes, sir.

4           **THE COURT:** Is it still your verdict?

5           **JUROR CONGER:** Yes, sir.

6           **THE COURT:** Deborah McIntyre.

7           **JUROR McINTYRE:** Yes, sir.

8           **THE COURT:** Was that your verdict in the jury room?

9           **JUROR McINTYRE:** Yes, sir.

10          **THE COURT:** Was it freely and voluntarily made by  
11 you?

12          **JUROR McINTYRE:** Yes, sir.

13          **THE COURT:** Is it still your verdict?

14          **JUROR McINTYRE:** Yes, sir.

15          **THE COURT:** Alicia Riles.

16          **JUROR RILES:** Yes, sir.

17          **THE COURT:** Was that your verdict in the jury room?

18          **JUROR RILES:** Yes, sir.

19          **THE COURT:** Was it freely and voluntarily made by  
20 you?

21          **JUROR RILES:** Yes, sir.

22          **THE COURT:** Is it still your verdict?

23          **JUROR RILES:** Yes, sir.

24          **THE COURT:** Beverly Reed.

25          **JUROR REED:** Yes, sir.

1           **THE COURT:** Was that your verdict in the jury room?

2           **JUROR REED:** Yes, sir.

3           **THE COURT:** Was it freely and voluntarily made by  
4 you?

5           **JUROR REED:** Yes, sir.

6           **THE COURT:** Is it still your verdict?

7           **JUROR REED:** Yes, sir.

8           **THE COURT:** All right. Did I get all 12 of you? Any  
9 of the 12 I didn't get? I think I got all 12 of you.

10           All right. Ladies and gentlemen, that concludes your  
11 service for this week. And I want to thank you for being  
12 attentive and coming and going on time. It certainly  
13 makes my work easier when you do that.

14           Thank you for your service. And we'll -- if you need  
15 a jury certificate, you can get it from the clerk. I want  
16 you to leave your notebooks there on the corner and the  
17 clerk is going to destroy them. Please leave your badges.

18           And also what I wanted to tell you is that you are  
19 now free to talk or not talk about the case. It's totally  
20 up to you. It's your decision, it's your own personal  
21 decision. If you don't want to talk about it, you don't  
22 have to. But you are free to do so if you so desire.

23           If everyone will remain seated in the courtroom while  
24 this jury leaves the courtroom. Give your badges to the  
25 bailiffs and keep your books there. If you need a



1 certificate from the clerk, she's got them.

2 (Jury excused from the courtroom.)

3 **THE COURT:** Mr. Butler, I would request that you give  
4 me a proposed judgment on the verdict and get a copy of  
5 that to defense counsel as well and submit it to me.

6 **MR. JIM BUTLER:** Yes, sir.

7 **THE COURT:** All right. That will conclude the matter  
8 for today.

9 (Proceedings concluded.)

10 \* \* \*

CERTIFICATE OF REPORTER

STATE OF FLORIDA:  
COUNTY OF LEON :

I, LORI DEZELL, Court Reporter, certify that the foregoing is a true and correct transcript of the proceedings taken down by me in the case aforesaid. The exhibits attached hereto, if any, are copies of documentary evidence only and the physical evidence remains in the custody of the Clerk. This certification is expressly withdrawn and denied upon the disassembly or photocopying of the foregoing transcript or any part thereof, including exhibits, unless said disassembly or photocopying is done by the official undersigned court reporter and original seal and signature attached hereto.

Dated this 22nd day of June, 2015.



\*\*\*\*\*

GEORGIA, DECATUR COUNTY

I, CECILIA WILLIS, CLERK OF DECATUR COUNTY SUPERIOR COURT, do hereby certify that the within and foregoing transcript is the original copy filed in this office.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
CECILIA WILLIS, CLERK  
DECATUR COUNTY SUPERIOR COURT