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) STATES
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EY,

v.

FORD MOTOR COMPANY,

Defendant.

) February 14, 2003
) 2:30 p.m.

TRANSCRIPT OF PROCEEDINGS - PRETRIAL
BEFORE THE HONORABLE ROBERT W. GETTLEMAN

APPEARANCES:

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SUMMARY:

Johnson v. Ford

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APPEARANCES (Continued):

For the Defendant: CAMPBELL, CAMPBELL, EDWARDS & CONROY, P.C.
1265 Drummers Lane, Three Glenhardie Corporate Center
Wayne, Pennsylvania 19087
BY: MR. WILLIAM J. CONROY

(Proceedings heard in open court:)

THE CLERK: 99 C 509, Sheila Johnson versus Ford Motor Company.

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THE COURT: Okay.

MR. LOWE: Good afternoon, your Honor. I'm James Lowe and with my partner Dennis Mulvihill and with John Kolb and Lisa Spelson from Goldberg, Weisman & Cairo. We're here today on behalf of the plaintiffs.

MR. KRIVICICH: Good afternoon, your Honor. John Krivicich on behalf of defendant Ford Motor Company along with my partner John Coleman.

And I would like to introduce Mr. Bill Conroy from Philadelphia who has filed an appearance pro hac vice in the last couple of days, your Honor.

MR. KOLB: I haven't seen that, your Honor.

MR. KRIVICICH: We'll be happy to get Mr. Kolb a copy.

THE COURT: Welcome aboard.

MR. CONROY: That's what I thought, too, your Honor.

THE COURT: I don't know how I want to title this ship though I can think of a few names.

This is here for a final pretrial conference. I'm going to tell you what we're not going to do today.

We're not going to get into jury instructions. They're a mess. They are a horror. I would not visit jury instructions even a fifth this thick on any jury. So you guys are going to

probably start this trial not having any idea what the jury instructions are. You couldn't agree on anything it looks like or almost anything. So I'm not doing that today.

We're not getting into exhibits today. We're not getting into voir dire today. You'll be given the voir dire on the day of trial.

I want to deal with the motions in limine and the motion for reconsideration and a counter motion for sanctions.

Why don't we do that first? Mr. Krivicich, you filed a motion for reconsideration. Maybe you should go first.

MR. KRIVICICH: Thank you, your Honor.

Your Honor, we filed a motion for reconsideration that was based on the depositions of a couple of engineers who Mr. Hayden alluded to at the time that he addressed the Court on January 17th. Those engineers are Mr. Hanson and Mr. Gordon. They filled in, so to speak, the testimony relating to what is and what -- what these ADAMS (phonetic) -- alleged ADAMS E350 model is and what it is not.

And the evidence is that in the fall of 1999, Mr. Hanson was asked to begin work towards any 350 model, and he took various data sets that were available to him from various E350 production models, different years, and literally cobbled them together.

That work was then shelved, and Mr. Gordon picked up the ball, so to speak, in the year 2000, and, at that point, he

did more work on that model. And as I think his testimony is uncontradicted, that at no point was the model complete, was it corroborated, was it verified, and I believe he likened it to being 20 to 25 percent complete at the time that he left it, and he also departed from that scene sometime in the year 2000.

All that testimony is offered to your Honor relative to the issue of whether or not Ford deliberately misled or intended to mislead anyone when it represented to the Court that there was no ADAMS E350 model for the subject vehicle, the subject

vehicle being the 1995 E350 involved in this case or the VM 127 platform as it's -- excuse me, the VM 158 platform of Econoline E350, otherwise known as the 1992 through 1996 model vehicle.

The testimony is otherwise set forth in the motion for reconsideration. It reiterates some of the points that your Honor has heard relative to the initial -- relative to the renewed motion for sanctions. It also reiterates, I believe, the lack of any prejudice to the plaintiffs, and it establishes that Ford had a reasonable good faith belief for its statements that no ADAMS model for the E350 Super Club Wagon existed because the modeling that was being attempted and that has been testified to by both Mr. Hanson and Mr. Gordon was not complete but was only the beginning of work on such a model, and it didn't represent any existing E350 production vehicle.

So the statements of Mr. Danke (phonetic) and Mr. Darryl (phonetic) upon which I relied, that there was no ADAMS

E350 model relative to the subject vehicle or the platform in question, were correct when viewed in connection with the judgment of these engineers who are, after all, the ones that the lawyers are consulting with. And those representations were then communicated to the Court through me based on the affidavit of Mr. Danke and the deposition testimony of Mr. Darryl.

So we're asking that the Court revisit the issue of the appropriateness of a sanction in this case with the understanding that given your Honor's ruling on January 21, the instruction that your Honor is being asked -- or your Honor has ruled will be given to the court really represents a fiction. There is no computerized handling and stability completed

testing of a production E350 vehicle. And to instruct the jury that Ford's testing in that regard represents testing of such a vehicle, and that that testing further shows that the vehicle is not safe and defective in handling and stability, is not only not accurate but a sanction out of all proportion to the mistake, and, I think, a mistake that was made in not initially identifying the existence of this testing.

So we're asking that your Honor reconsider the issue.

THE COURT: All right.

MR. LOWE: Thank you, your Honor. If the Court please --

THE COURT: Wait one moment. I want you to wait a minute. Steve is going to look for something.

(Pause.)

THE COURT: Okay. Go ahead.

MR. LOWE: Thank you again, your Honor.

Perhaps it is as striking to your Honor as it is to us that Mr. Hayden, who is central to this issue of the motion for reconsideration and plaintiffs' third motion for sanctions, did not even come here today. Instead, we see a new lawyer, one who has not appeared at any time in this case up until today. And it's very telling because Mr. Conroy's presence here today is absolutely related to plaintiffs' third motion for sanctions.

We spent in our brief approximately nine pages responding to defendant Ford's motion for reconsideration only to make sure that the record was clear that there is a response to all of the points that they raised.

But there was nothing new in the motion for

reconsideration that they hadn't argued to this Court repeatedly on January 17th and January 21st before this Court made its decision.

They have always argued that this wasn't relevant, that it was a mistake, that it's a box on wheels or a cobbled together vehicle, never dealing with the truth of the matter which was this was used by their employee Jeffery Gordon and actually run as part of his analysis on the stability of the E350.

But it didn't have to do with that. And this Court

recognized that it didn't have to do with whether or not this was a good or not a good E350 ADAMS model. The question was whether or not it was a willful and reprehensible effort to conceal those documents during discovery when they should have been produced.

Mr. Hayden said I think your Honor hit the nail on the head exactly in the December hearing where you said there is a difference between talking about the fact that there is no such thing as an E350 model and disclosing the fact that there is something out there that we really don't think is E350 modeling.

He's saying that's not the way we should be practicing, and he's absolutely right. It is not the way that Ford should be practicing or any participants in the discovery process in litigation should be practicing.

But now they come in arguing once again the exact same thing they've argued to your Honor before, that because this isn't really a good ADAMS model, their willful concealing of it throughout four years of having been asked for it should be

excusable.

And they then compound it with one lie -- and there is no other reason to call it something it is not -- and another one that we discovered which is the basis for our third motion for sanctions.

The first that I'm going to point out to your Honor has really no prejudice to the plaintiffs. But it reflects a

contempt for the entire judicial process, for the plaintiffs in this case, for the plaintiffs in other litigation with Ford Motor Company and for this Court personally because Mr. Hayden stood before you, your Honor, and said, in defense of Ford, in mitigation of what sanction Ford should have known was coming down because of what you had told him on Friday, watch yourself, Mr. Hayden, think about what you're saying to this Court, think about what representations your counsel over the years have made to the plaintiffs and to this Court and then come back Monday -- perhaps it was Tuesday -- the 21st, and tell us what you want to say.

So he comes back on the 21st of January, your Honor, and he says, "The thing that troubles me the most, of course, is what I said at the outset of my remarks on Friday, your Honor, that all of this could have been avoided simply by providing this information."

THE COURT: What are you reading from?

MR. LOWE: The transcript on pages 10 and 11 from the hearing of January 21st.

THE COURT: Tab number. Tab number what? The tab number you're reading from.

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MR. LOWE: Oh, yes. It would be Tab Number 16, your Honor, transcript pages 10 and 11. And I started reading at the bottom of page 10. And actually I made earlier reference also to a quote from him on page 10.

Again, by way of background, he's saying, Judge, please don't punish us, as Mr. Krivicich has now asked your Honor today, to consider this all a mistake. We had nothing to hide here. We could have easily provided this information.

And then he goes on, and I quote, and this is what he said to your Honor, "It was something that was provided voluntarily in the McGuire deposition. It was something we weren't really intending on hiding at all. It was just simply a question of somebody saying it wasn't relevant."

Well, the plaintiffs did not know as we sat here and listened to that argument, and I'm quite certain this Court did not know as we sat here and listened to Mr. Hayden say those words, that they were utterly false, that, in fact, Ford had not voluntarily produced Mr. McGuire or any aspect of his deposition. In fact, Ford had filed -- and that is Tab Number 18 -- a motion for protective order in the Baker case to protect Mr. McGuire from being deposed at all on any subject.

And it was argued strenuously in the Georgia Court that there was nothing that Mr. McGuire or any of the other witnesses sought to be deposed in the Baker case could possibly offer. At most, Mr. McGuire knew something about a press release or a meeting with NHTSA in August of 2001 that had absolutely nothing to do with the crash in the Baker case, and he couldn't possibly offer any other testimony that could be relevant to any other

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25 subject because he didn't have any knowledge on any other

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1 subject that could possibly be relevant.
2 And the judge in that case said -- and the transcript
3 is completely provided here for your Honor to review -- the
4 Court said, "I'm not accepting your arguments. I'm denying your
5 motion. And I'm not limiting the deposition to the subjects
6 that you say we should limit it to."
7 In other words, the judge allowed McGuire to be deposed
8 on all subjects. And it was only because of that ruling adverse
9 to Ford that we got the McGuire admission that, yes, there is an
10 ADAMS E350 model. And that was June 28, 2002. For the first
11 time, it slipped out of Ford's corporate mouth. And they had
12 hid it successfully in our case from 1999 to that date.
13 And then there was something else. And this one goes
14 to prejudice, your Honor.
15 That doesn't prejudice us. It's just consistent with
16 Ford's misrepresentations to the Court and to the plaintiffs,
17 and it's reprehensible in and of itself.
18 But now to something that absolutely relates to
19 discovery in this case and was to the prejudice of plaintiffs.
20 And I would start, I guess, with going to -- I guess we have to
21 start with Tab 13, your Honor, and the transcript of Donald
22 Thrasher's testimony which is at the beginning of Tab 13, the
23 transcript starting at the top of page 82.
24 Just to set the context up with you, I was deposing Mr.
25 Thrasher as Ford's 30(b)6 witness on the issue of driving

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testing. He was a fellow who said that he had done testing pursuant to Ford's P6101 methodologies for making sure that their vehicles were safe and stable vehicles, and that he had personally done these kinds of things.

And you'll recall, your Honor, that we have complained bitterly that there is not a piece of paper from all of those development tests that they supposedly did during the development, not only of the VM 58 E350, but of the VM 127 E350 15-passenger van either. There isn't a piece of paper relating to their development tests on this vehicle. And I'm talking about the P6101 tests that require approximately 50 different maneuvers of one kind or another.

And you'll recall that as part of a litigation strategy Ford hired their expert Don Tandy, a former Ford employee, to go out and not re-create the tests that they did, but to demonstrate P6101 maneuvers, and he videotaped them and instrumented them. And, of course, the suggestion to the jury would be this is how it looked back in the development of the VM 58, and this is what we did, and the idea was it's going to convey to the jury that this is somehow a re-creation of some documents that were mysteriously but unfortunately lost. The plaintiffs have not accepted that whatsoever.

But, in any event, we have these videotapes from Don Tandy which showed various P6101 maneuvers, one of which was a slalom test. So during the course of Mr. Thrasher's deposition,

we put the P6101 videos into a VCR, and I asked Mr. Thrasher

questions about them. And we got to the one dealing with what's called a slalom test.

THE COURT: When were these tests conducted?

MR. LOWE: 1998 by Ford and strictly for litigation, not at all for development of any product whatsoever, and that's in the testimony. They were done strictly as part of their defense of E350 litigation.

So I'm asking Mr. Thrasher about what we're seeing on a video. And we're looking at a slalom test. And a slalom test is nothing more than what this Court, I would assume, envisions. The vehicle goes between and around cones in a serpentine maneuver. And I was asking him questions, which we begin on the top of 82, about --

THE COURT: I've read it.

MR. LOWE: Okay.

If you've read it, you know that I said did it -- did you ever have any problem? You didn't use outriggers? No, we didn't use outriggers. Well, did you ever have any problem? Did you ever experience two-wheel lift? No, we never experienced two-wheel lift which is incipient rollover. Did you ever have a rollover? Did anything ever happen bad to any of the drivers during any of this P6101 testing?

And we're particularly looking at a slalom test which becomes all the more amazing in light of later testimony.

Your testimony is that to the best of your knowledge -- this is on page 83 of that transcript -- none of the Ford test drivers has been involved in a rollover accident with any of the light trucks at Ford? Answer: Not as it relates to this, no.

I said, well, how does it relate to anything else? He said broken pieces. I said, oh, but not -- not as to just going out and performing any kind of test evaluations on light trucks?

THE COURT: What did you understand he meant by broken pieces?

MR. LOWE: I guess, you know, you could have a crash into something and maybe something would happen. That's how I sort of interpreted it. I didn't know what he meant actually, and I still don't. But I think that may be what he meant.

Anyway, and then he added very gratuitously after he said correct, we never had a rollover. He said our vehicles don't roll over. And I moved to strike it as being gratuitous, but now we've got it.

THE COURT: Should I strike it?

MR. LOWE: No. Please don't.

Because now we only -- your Honor knows that by ourselves we would surely have sunk in the sea that has been created out of this litigation by Ford Motor Company. And the only reason that we are able to even stand here today is really on the shoulders of other lawyers like Mr. Davidson sitting in the back of this courtroom and Prince and Williams down in

Georgia, in Hinesville, Georgia, and Liberty County.

I mean, we're not powerful people here, Judge. We are trying to represent people who have legitimate claims, and we're trying to prove our cases, and we can't do it against the likes of them unless they play by the same rules we're forced to play by.

And so when a 30(b)6 witness comes in and he says, no,

we've never had a rollover, no, our vehicles don't roll over, we believe that because it's under oath, and it's Ford's testimony under oath.

So now, thanks to other lawyers, we find out that there's a fellow by the name of Richard Shetler (phonetic). Richard Shetler is a 65-year-old man who has been working for Ford Motor Company for a lot of years. But in 1990 or 1991, he had been a test driver for Ford for a grand total of about a year. And Richard Shetler test drove, guess what, the VM 58 E350 15-passenger wagon loaded with water dummies like we say you should when you test one of these things at gross vehicle weight. He goes out, and in a slalom test, what happens to him? He rolls over. When do we find out about this? In December or January of this year. Just now. He was deposed January 22nd or 23rd of 2003, I mean, long after we could have presumably gone out and asked every single driver if Ford's testimony was or was not truthful. We had no reason to think that they had lied to us under oath about this.

But Richard Shetler, deposed on January 22nd, says not only did he roll one of these at 40 miles an hour on road in a slalom test, but guess who was there watching him? Donald Thrasher. So not only can they not claim that Mr. Thrasher was a 30(b)6 witness but he couldn't really have all of the knowledge of Ford Motor Company, they can't even claim that he didn't have personal knowledge.

He told Mr. Shetler not to file a report. He told Mr. Shetler it was his fault that he didn't know how to correct the steering. And Mr. Shetler, by the way, buys into it lock, stock

and barrel. Mr. Shetler says it was all my fault.

What did Mr. Thrasher -- this is on page 59 of Shetler's testimony at Tab 14 -- what did Mr. Thrasher tell you to avoid rolling over of the vehicle in the future? Answer: Mr. Thrasher told me nothing to avoid rolling it over. Mr. Thrasher corrected my driving by saying that you hit your gate. If you start missing your gate, that the air compounds with each successive gate of the serpentine maneuver, which I dramatically proved out. And he says on page 57 just before that, well, as I said, it wasn't the vehicle's fault. It was mine.

Now, this is a test driver, and I suspect he's had a little more experience in a year of test driving the E350 than Duane Rush (phonetic) did on the morning of July 5th, 1996.

But it really isn't about them. What it's really about is another lie that goes directly to the heart of the discovery

that the plaintiffs could have created. And so, your Honor, at -- we have asked you before, and we are asking you again to make this right. We need for you, as our conscience of the judicial process, to make this right and to not let Ford get any benefit whatsoever from their deceit in this case in the discovery process.

It goes beyond anything I've ever seen, and I suspect it goes beyond anything this Court has ever seen, and it shouldn't stand.

Thank you, your Honor.

MR. KRIVICICH: Mr. Hanson is apparently a liar in terms of the purpose of his work for Ford Motor Company when he was asked to make efforts towards an ADAMS E350 model for a

future model year Econoline.

Mr. Gordon is apparently a liar when he testified that the work was terribly incomplete, an unverified, uncorroborated model.

Mr. Thrasher is a liar when he recalls or makes statements about observing the vehicles and their performance on the test track.

Mr. Shetler is a liar.

They're all liars, aren't they?

Well, that's the gist of their argument. At best, what you have here is fodder for some cross examination at trial. Sanctions are not imposed because there's conflicts in the

evidence.

Mr. Lowe has not challenged anything about the veracity or the truthfulness of what Mr. Hanson said or Mr. Gordon said about the incompleteness of the model upon which Mr. Danke and Mr. Darryl were relying in making the statements they did, upon which the office of the general counsel was relying in making the statements that they did about the existence of ADAMS modeling, upon which I was relying when I made representations to your Honor that this did not exist for the subject E350.

Only if we are taking the assumption that everybody is operating with ill motive, that everybody is operating with the intent to deceive this Court do you come to the conclusion that the plaintiffs have.

If their proof is so strong, if their proof is so good, then let them put it to the test in front of a jury, and let's see what the jury does with the testimony of Mr. Shetler and the

testimony of Mr. Thrasher and the conflict between those two gentlemen and the testimony of Mr. Gordon and Mr. Hanson as to what this ADAMS model truly is.

THE COURT: I'm sorry, Counsel. I would love to believe you. I would love to think that litigants come before this Court and have honest disagreements about discovery disputes and recollections of what is and what isn't and what may be.

But I'm really disturbed by this as you know. I was

disturbed the last time we were together, and I'm even more disturbed now than I was then.

I've rejected Ford's position that this was some innocent mistake. I believe from what I've seen -- and I don't know whether I have a totally complete record at the time. But if that's your response, that's your response. From what I've seen, it appears that Ford, as a corporation, uses people and lawyers to take certain positions.

Mr. Krivicich, I have no reason to doubt you believed what you said to me when you said it. I'll accept that. But in that case, you're being used by your client because it wasn't true. It wasn't true when you told me over and over again there were no ADAMS testing models when we know for a fact, and this was established last time, that we have ADAMS testing models existing throughout this period that you said there were none. That they weren't done because the vehicles were over a certain weight. We know that's not true. That they weren't done for model years after a certain date. We know that isn't true. That these latest revelations are just putting nails in the

coffin here.

Whether or not Mr. Hayden knew that McGuire was proffered, I don't know. Maybe he thought he was voluntarily submitted. Maybe he didn't know whether -- was he involved in that Georgia case at all?

MR. LOWE: No. But I can tell you Mr. Conroy's partner

was the lawyer.

THE COURT: Well, but he didn't make the representations.

MR. LOWE: I don't know whether he was.

THE COURT: But that's the problem I'm having here, Gentlemen and Ladies. I'm having the problem that one lawyer tells me one thing, and the facts are another. And then another lawyer tells me something, and the facts are another.

And I don't want to believe lawyers would come and risk their licenses and livelihoods and professional reputations by making false statements to a Court, but that's what is happening. Whether they're being set up by their client to do it, you know, it's a big company, and maybe they can do that sort of thing and hope they get away with it.

But what happened here it appears to me is that the plaintiffs either serendipitously or through great coordination among each other in separate cases got together and put the pieces of the puzzle together, and the picture that they paint is a very disturbing one and a very serious one. It almost boarders on criminal to be honest with you.

Somebody is lying here. Somebody is committing perjury it appears to me or at least may be committing perjury. When a

witness in my case says we don't have rollovers, and then there's another witness -- I haven't had an evidentiary hearing. Nobody has put this to a jury. Nobody has put this to a judge

on an evidentiary hearing basis. But I have a deposition where this guy says -- this test driver says he rolled the vehicle and Mr. Thrasher was present and talked to him about it, and then Thrasher says we don't have rollovers? What's going on here?

Can you tell me, Mr. Krivicich, what is going on here?

MR. KRIVICICH: Your Honor, the first I read that testimony was this morning.

THE COURT: Well, you tell me. What conclusion would you draw if you were sitting in my shoes right now?

MR. KRIVICICH: At best, your Honor, I think you need to assess the credibility of these gentlemen before you and then draw that conclusion.

THE COURT: I'm not going to have this type of fight in a trial on liability here about who's lied and who's committed perjury in discovery. That's not what cases are about. What cases should be about is whether this vehicle was safe or not. Instead, we're getting into discussions about who was telling the truth in discovery to mislead a litigant and to bury evidence, and that's what's happened here.

I can't tell you strongly enough how disturbing that is to a judge who wants to believe that people present things the way they see them. We have people taking different factual positions every day at trials. I don't have to tell you that. It doesn't mean they're committing perjury. It means they look at it in their own enlightened self-interest and sometimes not

so enlightened, and people view facts differently sometimes. Sometimes they're lying. Sometimes they're just mistaken. Sometimes they're skewed so much by their own self-interests that they really believe something is true that's not true.

That's not what I'm seeing here. I'm seeing a deliberate pattern. And, believe me, it took years for me to buy into this group of plaintiffs. I was giving them a lot of trouble. I bent over backwards in a sense. Well, maybe that's an overstatement. I was very skeptical of their continued complaints for years in this case about documents they weren't getting, including, particularly, the ADAMS model, but also these P6101 tests that disappeared after they have -- now it appears after there's a rollover, these documents disappear, and people are denying that it happened. And if weren't for this case in Georgia, we never would know about it. And what's to -- what if we had tried this case last fall and this comes out now?

No, this isn't the kind of thing that goes to a jury. This isn't fodder for cross-examination. I respectfully disagree with you, Mr. Krivicich. And I mean respectfully because I don't have any reason to believe that you purposely did it, that you purposely engaged in misconduct as a lawyer.

This is the stuff of Rule 37. That's what Rule 37 is for.

And I want to think about this a little bit because I am very, very close to granting the plaintiffs' request to

instruct the jury that Ford is liable in this case and this is a case of damages only.

I don't know any other appropriate sanction. I can't think of one right now that would fit the purposes of our discovery rules, that would uphold the integrity of the judicial system and the Court's orders and the manner in which cases should be litigated.

I come to this conclusion -- I said it last time -- with great reluctance. Great reluctance. Because I don't want to believe that lawyers misrepresent things to me. I don't want to believe a corporation like Ford does stuff like this. I don't want to believe it. I'm being convinced against my own instincts.

So I want to sleep on this over the weekend, and I'll let you know next week. I'm going to have to set this for a date. I'm still on trial in this case. It should be over -- it should go to the jury on Wednesday, and I will have Thursday at least relatively free, and that's the way it looks right now, and we'll have to come back and revisit this.

But that's where I'm leaning right now. I'm telling you. If there is an explanation for this, I'd like to know it, but I haven't seen it.

I know that they just filed their objections or their response to your motion to reconsider, which may have been ill-advised, yesterday. But if that's your -- if the response

is what you just told me, well, everybody is a liar, maybe you're right. Maybe everybody is a liar. Or at least enough of -- nobody is saying the test driver is a liar. Maybe they

are liars. Maybe there is a corporate collective responsibility here that has to be shouldered.

But it almost doesn't matter. If a litigant like Ford has engaged in this type of misrepresentation up to now, what am I supposed to do? Adjourn the trial and let them follow these leads?

I'm not going to do that. I told you. These people have been injured a long time ago, and it's time for them to get their day in court. I've set aside three weeks for this case, and I'm not going to change the trial date.

I am just astounded -- astonished to find that even at this late date I am learning that factual predicates on which I have based my discovery rulings and on which the plaintiffs have based their discovery pursuits is incorrect. I'm just flabbergasted. So I'm going to sleep on it, and we can deal with a couple of other minor things today.

But if you have a better response, I'm going to give you one more chance on this, to convince me, to proffer something to me to explain this. And don't try to say they didn't ask for it. They asked for it. And don't try to say you didn't tell me that there were -- that you told me there were incomplete ADAMS testings or unverified ADAMS testings. You

told me there were no ADAMS testings, and we know that those were just wrong. You also told me that these documents were destroyed. But then you have somebody saying, well, they were destroyed because our vehicles don't roll over in these tests.

It's a sad day, Mr. Krivicich. It really is. If it's a sad day in my view, it's a very sad day.

So if you want to file something Tuesday before I see you back here on Thursday, go ahead, and we'll have it out on Thursday, and I'll make a definite decision. And that's the way this case will proceed.

It will either proceed based -- your motion to reconsider is denied. The renewed motion for sanctions will be taken under advisement until I see you next. But it will either proceed, as I said before, with the type of instruction -- by the way, I thought Ford's instruction -- if I go that route, if I don't go all the way on this, I thought Ford's suggested instruction on the type of instruction I would give to the jury was more correct than yours. I'm not going to tell the jury you hid documents or anything like that. I'm just going to tell them you're instructed that there were tests that show it was unsafe.

But my thinking right now is beyond that, and the burden is on Ford, once again, to convince me why I shouldn't give them the relief that they seek in this renewed motion for sanctions.

It's breathtaking. It is literally breathtaking. All right. Enough.

There's two motions in limine here that I can deal with now. It's almost in scope rather de minimis considering the other.