

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF WEST VIRGINIA
3 AT CHARLESTON

4 -----X
5 BRENDA R. GOFF, as :
6 Administratrix of the Estate of :
7 ROBERT ALLEN PENNINGTON, :
8 Deceased, :
9 Plaintiff, : CIVIL NO: 2:97-0341
10 v :
11 FORD MOTOR COMPANY : MARCH 19, 2001
12 : VOLUME V
13 Defendants. :
14 -----X

15 TRANSCRIPT OF JURY TRIAL
16 BEFORE THE HONORABLE JOHN COPENHAVER, JR.
17 UNITED STATES DISTRICT JUDGE
18 AND A JURY

19 APPEARANCES:

20 FOR THE PLAINTIFF:

21 A. CAMDEN LEWIS
22 MARK W. HARDEE
23 Lewis, Babcock & Hawkins, LLP
24 P.O. Box 11208
25 Columbia, SC 29211
MICHAEL BONASSO
Flaherty, Sensabaugh &
Bonasso
P.O. Box 3843
Charleston, WV 25338
JOHN R. TRIGG

26 FOR THE DEFENDANT

27 EDWARD C. STEWART
28 Wheeler, Trigg & Kennedy, PC
29 1801 California Street
30 Denver, CO 80202

31 COURT REPORTERS:

32 BARBARA STEINKE, RMR
33 ANGELA PRESTON, RMR
34 U.S. District Court
35 300 Virginia Street East
Charleston, WV 25301

1 March 19, 2001 9:25 a.m.

2 THE COURT: Good morning, ladies and gentlemen. Please
3 be seated.

4 MR. TRIGG: Yes. Good morning, Your Honor. Your
5 Honor, in checking the transcript, in the information I find
6 that some of the exhibits which I talked about with
7 Mr. Bickerstaff are not in, and I need, before Mr. Lewis
8 starts, to move their admission. They are defendant's 281,
9 which is the handling properties of light trucks, and I have
10 admitted just one page of that, which was referred to in the
11 testimony which is page 22. There are defendant's exhibit 302.

12 MR. LEWIS: No objection.

13 THE COURT: Page 22 is admitted, defendant's 281.

14 DEFENDANT'S EXHIBIT 281, PREVIOUSLY IDENTIFIED, WAS
15 ADMITTED INTO EVIDENCE.

16 MR. LEWIS: Yes, sir.

17 MR. TRIGG: The cover sheet and page 22, Your Honor.

18 THE COURT: All right. Please go ahead.

19 MR. TRIGG: Yes. Next is defendant's 302, the
20 financial information.

21 MR. LEWIS: No objection, Your Honor.

22 THE COURT: All right, it is admitted. It was
23 provisionally admitted before.

24 MR. TRIGG: That is my understanding.

25 THE COURT: And it is now admitted fully.

1 DEFENDANT'S EXHIBIT 302, PREVIOUSLY IDENTIFIED, WAS
2 ADMITTED INTO EVIDENCE.

3 MR. TRIGG: Thank you. Next is defendant Ford'S
4 exhibit 880, which are the first 20 pages of the Diaz
5 transcript, Your Honor.

6 THE COURT: 880 is which?

7 MR. TRIGG: First 20 pages of the Diaz transcript which
8 we discussed about financial information.

9 You want to see that?

10 MR. LEWIS: I didn't see that, they didn't show me that.

11 MR. TRIGG: We are going to talk, Your Honor, but I have
12 made the offer and we are going to make the offer. He may have
13 objection to several of those pages .

14 THE COURT: I understand that defendant's 880 would be
15 the first 20 pages.

16 MR. TRIGG: Diaz transcript.

17 THE COURT: Of Mr. Bickerstaff's testimony?

18 MR. TRIGG: Yes, of Mr. Bickerstaff's testimony.

19 THE COURT: All right. And you will discuss that at the
20 break?

21 MR. TRIGG: Yes, sir.

22 MR. LEWIS: Yes. I haven't seen that, I just need a
23 little bit of time, Your Honor.

24 MR. TRIGG: And, finally, defendant's exhibit 883,
25 which are the pages you and I talked about from the Diaz

1 transcript.

2 MR. LEWIS: No problem, Your Honor.

3 THE COURT: And what pages are those and what are they?

4 MR. TRIGG: They are all from Diaz, pages 48, 53 and
5 54, 56, 59 to 64.

6 THE COURT: Fifty-nine to 64?

7 MR. TRIGG: Correct, sir. 89 to 93 and 96 through 98.

8 THE COURT: Any objection?

9 MR. LEWIS: No, sir.

10 THE COURT: Defendant's 883 is admitted.

11 DEFENDANT'S EXHIBIT 883, PREVIOUSLY IDENTIFIED, WAS
12 ADMITTED INTO EVIDENCE.

13 MR. TRIGG: Thank you, Your Honor.

14 THE COURT: Ready to proceed with cross-examination of
15 Mr. Bickerstaff?

16 MR. LEWIS: Yes, sir.

17 THE COURT: Is he present?

18 THE WITNESS: Yes.

19 MR. TRIGG: I'm sorry, Your Honor, there was one more.
20 It's exhibit 50, pages from the Chewning.

21 MR. LEWIS: No problem, Your Honor.

22 THE COURT: What is defendant's 50?

23 MR. TRIGG: These are the pages, Your Honor. They are
24 from the Chewning transcript.

25 THE COURT: And from what portion of the Chewning

1 transcript, to what does it relate, whose deposition or
2 whatever?

3 MR. TRIGG: It was trial testimony and they are pages
4 being submitted by defendant Ford under the Rule of
5 Completeness and it's plaintiff's exhibit 50, we are submitting
6 additional pages, Your Honor.

7 THE COURT: Well, has plaintiff 50 come in?

8 MR. LEWIS: No, sir. They objected because it was the
9 whole transcript and they pared it down and they want to offer
10 some more. We have not offered 50 in, so that is perfectly
11 fine with us to use plaintiff's 50 number for this exhibit.

12 THE COURT: You want to give it a number for the
13 defendant?

14 MR. TRIGG: We will be happy to put a new number on it if
15 they would prefer. Either way.

16 THE COURT: I would prefer you put a new number on it
17 and if you have something that was different from the original
18 plaintiff 50, that way it would be clear on the record which is
19 which.

20 MR. TRIGG: We will do it. Just so it is clear, we did
21 offer it and we will take it out and put a new sticker on it.

22 MR. LEWIS: No objection to 884, Your Honor.

23 THE COURT: And as I understand it, defendant's 884 in
24 reality includes, does it, all of what was plaintiff's 50?

25 MR. LEWIS: No, sir. 884 is a part of 50.

1 THE COURT: Only part.

2 MR. LEWIS: Yes, sir.

3 THE COURT: I see. So any objection to defendant's 884?

4 MR. LEWIS: No, sir.

5 THE COURT: It is admitted.

6 DEFENDANT'S EXHIBIT 884, PREVIOUSLY IDENTIFIED, WAS
7 ADMITTED INTO EVIDENCE.

8 MR. TRIGG: Thank you, Your Honor.

9 MR. LEWIS: You ready, Your Honor?

10 THE COURT: Please go ahead.

11 MR. LEWIS: May it please the court.

12 CROSS-EXAMINATION

13 BY MR. LEWIS:

14 Q. Mr. Bickerstaff, how do you?

15 A. Fine. A little sleepy, yourself?

16 Q. Perfect. I notice this was put in evidence, those are some
17 of the books you did for some of your presentations.

18 A. Yes, sir.

19 Q. I walked back, Mr. Bickerstaff, and your lawyer said these
20 books were back here, and I picked up these. You see them?

21 A. Yes, sir.

22 Q. Are these some of the books that would have been in those
23 shelves?

24 A. They may be, sir. Depends on what they are.

25 Q. It is something with Volvo, World Class Premium Sleeper,

1 Sleeper QFD.

2 A. Yes, sir. There is a reason for that, sir.

3 Q. Yes, sir. Here is another one; here is another one. I
4 just picked them up. Here is another one. All of those in
5 those books you put on that stand.

6 Now, Mr. Bickerstaff, I believe that the last time I
7 talked to you was in December of 1998; do you remember that?

8 A. I do.

9 Q. A deposition.

10 A. Yes, sir.

11 Q. You remember that?

12 A. In London?

13 Q. Yes, sir.

14 A. Yes, sir.

15 Q. And you were living in Europe at that time.

16 A. Yes, sir.

17 Q. And you weren't living any particular place.

18 A. Yes, sir.

19 Q. And you had no plans to return to the United States.

20 A. I did not.

21 Q. And you had no income.

22 A. I had no personal income; no, sir.

23 Q. Now, I'm going to show you a document I believe --

24 MR. LEWIS: May I approach and give him the document?

25 Q. And I believe you have testified that you have gotten a

1 copy or seen this before when you were at Ford; did you not?

2 A. Yes, sir. It's got some of my writing on here.

3 Q. All right, thank you.

4 MR. TRIGG: May I have an exhibit number, please, Your
5 Honor?

6 MR. LEWIS: Sir?

7 MR. TRIGG: May I have an exhibit number?

8 MR. LEWIS: I'd offered it into evidence and you said
9 it wasn't to him.

10 MR. TRIGG: No, I didn't say it wasn't to him, it didn't
11 have a signature.

12 I have no objection, Your Honor, plaintiff's exhibit 32
13 or defendant's exhibit 32.

14 THE COURT: Just one moment.

15 MR. LEWIS: It's plaintiff's exhibit 32, Your Honor.

16 THE COURT: And are you offering it?

17 MR. LEWIS: Yes, sir.

18 THE COURT: And I understand there is no objection.

19 MR. TRIGG: No, there is not.

20 THE COURT: It is admitted.

21 PLAINTIFF'S EXHIBIT 32, PREVIOUSLY IDENTIFIED, WAS
22 ADMITTED INTO EVIDENCE.

23 BY MR. LEWIS:

24 Q. Mr. Bickerstaff, you remember back in December I asked you
25 if your lawyers were -- when you were at these depositions if

1 your lawyers were the same as Ford lawyers; do you remember
2 that?

3 A. I don't remember specifically, no. I assume they were.

4 Q. You assume they were?

5 A. Yes, sir.

6 Q. And didn't you also say, "Why wouldn't I assume Ford's
7 lawyers were my lawyers"?

8 MR. TRIGG: May I have a page reference, please, You
9 Honor?

10 MR. LEWIS: Page 56.

11 MR. TRIGG: Of what?

12 MR. LEWIS: His deposition. Why wouldn't I also
13 assume --

14 THE COURT: Just one moment. Mr. Bickerstaff's
15 deposition you say at page 56?

16 MR. LEWIS: Yes, sir.

17 THE COURT: And that's the deposition that was taken in
18 London in 1998?

19 MR. LEWIS: Yes, sir, December 21st.

20 THE COURT: In what case?

21 MR. LEWIS: This case.

22 THE COURT: Go ahead.

23 BY MR. LEWIS:

24 Q. Do you know who Mr. Anderson was?

25 A. Yes, sir.

1 Q. And who was he?

2 A. He was a lawyer for -- that I talked to early on.

3 Q. He was a Ford lawyer, right?

4 A. I believe so; yes, sir.

5 Q. And didn't you say, "Why wouldn't I also --

6 MR. TRIGG: Your Honor, I'm going to object to reading
7 from the deposition unless he asks the same question here in
8 court and there is some discrepancy. All he's doing is reading
9 from a deposition.

10 THE COURT: Ask the witness about those matters and if
11 the witness acknowledges, then there is no inconsistency and no
12 reason to read from the deposition.

13 MR. LEWIS: Yes, sir.

14 BY MR. LEWIS:

15 Q. Didn't you assume that Mr. Anderson was your lawyer because
16 he was Ford's lawyer?

17 A. I don't know really why. I just assumed these were the
18 lawyers that talked to me and I assumed, I believe at that
19 time, that they were my lawyers.

20 MR. LEWIS: Your Honor, this is a copy of the
21 deposition or the deposition from that time.

22 THE COURT: All right.

23 MR. LEWIS: Would you like to see it or do you accept
24 that?

25 MR. TRIGG: No, I believe you if you say it is.

1 BY MR. LEWIS:

2 Q. Would you turn to page 56. Do you see that?

3 A. Yes, sir. I'm at page 56.

4 Q. Line 23, you see that?

5 A. Yes, sir.

6 Q. And my question was, "Well, Mr. Anderson was Ford's
7 lawyers." And your answer was?

8 A. "Why wouldn't I also assume he was my lawyer."

9 Q. And the reason you say that is because you were in bed with
10 Ford, right? So you both had the same lawyer, right?

11 A. Sir, I have never been to bed with Ford.

12 Q. Yes, sir. Now, you also talked to the Ford lawyers about
13 your consulting money and contracts; didn't you?

14 A. I may have from time to time, sir.

15 Q. Because that was part of your compensation to be in bed
16 with Ford, right?

17 A. No, sir.

18 Q. And that compensation came up between 4 and 5 million
19 dollars; didn't it?

20 A. My compensation for consulting services?

21 Q. From Ford while you were testifying for Ford.

22 A. I don't remember the exact numbers, but I think my company
23 made something like 13 million dollars for consulting, several
24 million dollars from Ford Motor Company and a lot less for
25 specifically for litigation-related work, sir.

1 Q. Turn to page 37 of the deposition, would you, please? Do
2 you remember the first testimony you gave was in 1990; wasn't
3 it?

4 A. Yes, sir, I believe so.

5 Q. All right. Look at line 7. Do you see that the question
6 was. "How much money has David Bickerstaff and Associates,
7 whether it was incorporated or not, how much money has Ford
8 paid them since 1990?"

9 A. Yes, sir.

10 Q. And what was your answer?

11 A. "Since 1990, I don't know the exact number, several million
12 dollars."

13 Q. And then I said, "Would it be as many as 4 million
14 dollars?" And what did you say then?

15 A. It could be four or five, I don't remember exactly.

16 Q. So four or 5 million dollars; isn't that right?

17 A. Yes, sir.

18 MR. LEWIS: May I approach the bench and hand him a
19 document, Your Honor?

20 THE COURT: Yes.

21 BY MR. LEWIS:

22 Q. I'm going to show you a document about which we talked at
23 that time, Mr. Bickerstaff. Do you remember that document?

24 MR. TRIGG: Could I have an exhibit number so I know
25 what we are talking about?

1 MR. LEWIS: It's exhibit 20 to his deposition.

2 MR. TRIGG: What is the plaintiff's exhibit number,
3 please?

4 MR. LEWIS: Twenty-nine.

5 THE COURT: Is exhibit 20 to the deposition being
6 presented here as plaintiff's 29?

7 MR. LEWIS: Yes, sir.

8 BY MR. LEWIS:

9 Q. Do you remember that document?

10 A. Yes, sir. I have seen this document before.

11 Q. And I believe that as I understand it that Ms. Donna
12 Sebastian wrote that letter.

13 A. Donna Sebastian -- yes, sir, she did.

14 Q. And -- but you don't remember anything about it.

15 A. I have a vague recollection. I don't remember specifically
16 this letter, no.

17 Q. And when it says in there --

18 MR. LEWIS: Whoops, we would offer it into evidence,
19 Your Honor.

20 THE COURT: Any objection to plaintiff's 29?

21 MR. TRIGG: Yes, sir. If the witness has no memory of
22 it, Your Honor, it's just admitted as hearsay.

23 MR. LEWIS: Let me see if I can lay a foundation.

24 THE COURT: All right.

25 BY MR. LEWIS:

1 Q. Is this a letter that was written by your company to Ford
2 Motor Company on behalf of your company?

3 A. Well, it was a letter that was drafted, it appears, on
4 March 8th and since the initials at the bottom have G:/Donna,
5 it looks like Donna had drafted this letter.

6 Q. And was she a vice president of administration for your
7 company?

8 A. Yes, sir.

9 Q. And this is part of your company's records and would have
10 been a document at the time it was written kept in the ordinary
11 course of business?

12 A. It probably was, sir.

13 MR. LEWIS: I would offer it, Your Honor.

14 MR. TRIGG: No objection, Your Honor.

15 THE COURT: It is admitted.

16 PLAINTIFF'S EXHIBIT 29, PREVIOUSLY IDENTIFIED, WAS
17 ADMITTED INTO EVIDENCE.

18 BY MR. LEWIS:

19 Q. And it says in there that "due to the fact that David
20 Bickerstaff has gone to extreme measures," you see that?

21 A. Yes, sir.

22 Q. And you don't know what Ms. Donna Sebastian meant by that,
23 do you?

24 A. I don't know what she was thinking; no, sir.

25 Q. She knew that you had written the letter offering to be

1 prepared and testify "in Ford's favor;" didn't she?

2 A. Yes, sir. She had drafted that letter.

3 Q. She drafted it?

4 A. That was a fax that she had sent.

5 Q. Now, when we say that letter that was a fax, let's make
6 sure we're talking about the same letter, and that's exhibit
7 number 22 in this deposition, see that? That's the letter
8 we're talking about. She knew about that; didn't she?

9 A. Yes, sir.

10 Q. And the "extreme measures" that you took were the fact that
11 you sold your testimony, right?

12 A. No, sir.

13 Q. Now, I heard you say just a minute ago that she drafted
14 exhibit 22.

15 A. Yes, sir, it appears that way. I'm assuming it because of
16 the way the initials are at the bottom. I don't know for sure.

17 Q. You don't know for sure. In your direct testimony you said
18 that those were your words and you did it. Did you do it or
19 did Donna do it?

20 A. I don't remember -- I don't remember exactly how, but Donna
21 appears to have typed the letter. We probably had some
22 discussion, I don't know -- I don't remember.

23 Q. So you don't remember. So when you said that you inserted
24 "in Ford's favor" in that letter because of you being from
25 England, that wasn't true. That's what you said in your

1 direct, is that true or not true?

2 THE COURT: Is what true or not true?

3 BY MR. LEWIS:

4 Q. That you, David Bickerstaff, put the words, "in Ford's
5 favor" in exhibit 22. Did you or did you not put those words
6 in there?

7 A. I may have. I don't remember whether I specifically did it
8 or not.

9 Q. Did you approve that letter?

10 A. I talked -- I believe that I talked to Donna over the phone
11 and I asked her to send a fax. And I'm not sure if I saw it or
12 not before it was sent.

13 Q. Are you here today saying that you wrote the letter or you
14 didn't write the letter?

15 A. I had something to do with the letter being sent,
16 Mr. Lewis, but I don't remember -- I can't honestly say that I
17 remember approving that letter before it was sent.

18 Q. Do you remember testifying in the Cammack case versus Ford
19 Motor Company in the fall of 1995?

20 A. Yes, sir.

21 Q. The first time that any lawyer used this letter to
22 cross-examine you with, Mr. Turner?

23 A. I have a recollection of that, yes, sir.

24 Q. I'm going to show you your testimony from Cammack, okay?

25 Do you see that?

1 MR. TRIGG: Page, please?

2 MR. LEWIS: Sir?

3 MR. TRIGG: Page.

4 MR. LEWIS: I'm going to get you that. I'm sorry, I'm
5 not that far along yet.

6 BY MR. LEWIS:

7 Q. Let me turn you to volume 16 page 99, do you see that?

8 THE COURT: This is out of the transcripts in Cammack?

9 MR. LEWIS: Yes, sir.

10 BY MR. LEWIS:

11 A. Sir, it appears that pages 96 to 103 are missing.

12 Q. I'm sorry, here they are.

13 A. You want me to put them inside?

14 Q. Yes, sir. That will be fine.

15 You have page 99 there?

16 A. Yes, sir.

17 Q. Okay. And that was in the fall of 1995, first time that
18 you got the letter used to cross-examine you, right?

19 A. I believe so; yes, sir.

20 Q. And Mr. Turner at that time on line 10 --

21 A. Yes, sir.

22 Q. And he says, "Let me show you a copy of the June 20, 1990
23 letter from you to Mr. Sitz' law firm. Did you write that
24 letter?" And what did you say at that time?

25 A. I said I did, yes.

1 Q. And today do you say you did or not?

2 A. I didn't remember.

3 Q. Let's turn to --

4 THE COURT: Wait just one moment. Did you say -- when
5 you say "I didn't remember," to what are you referring? Are
6 you saying you don't remember now?

7 THE WITNESS: No, I didn't -- I don't remember as I say
8 here, I didn't remember whether I had written that letter or
9 not. This was quite a long time ago, I had forgotten about it.

10 BY MR. LEWIS:

11 Q. But at this time in this case you said, "I did, yes."

12 A. Yes, sir.

13 Q. Well, did you write it or not write it or don't you
14 remember?

15 A. I don't remember.

16 Q. I'm going to show you another document, Mr. Bickerstaff.

17 MR. LEWIS: May I approach the bench, Your Honor?

18 Q. When we were over in that deposition in December and we
19 talked about exhibit 6 there, too; do you remember that?

20 A. I don't remember, maybe we did.

21 Q. Do you know that that's a document that was sent to David
22 J. Bickerstaff from Snell & Wilmer in September 17, 1993?

23 A. That's what it says; yes, sir.

24 MR. LEWIS: We move it into evidence.

25 MR. TRIGG: No objection.

1 THE COURT: What's the number?

2 MR. LEWIS: It's our exhibit number 6, Your Honor.

3 THE COURT: It is admitted. Did I understand you to say
4 that your plaintiff's exhibit number 6 is also exhibit number 6
5 to the 1998 deposition?

6 MR. LEWIS: No, sir. It's exhibit 15 to the 1998
7 deposition.

8 THE COURT: Thank you.

9 PLAINTIFF'S EXHIBIT 6, PREVIOUSLY IDENTIFIED, WAS
10 ADMITTED INTO EVIDENCE.

11 BY MR. LEWIS:

12 Q. Do you see that document?

13 A. Yes, sir.

14 Q. Exhibit number 6, and it says in there, that paragraph
15 right here, it tells you what the judge in a case is requiring
16 that you give the other side with reference to your testimony;
17 isn't it? Do you want to take the time to read it?

18 A. Yes, please. Okay.

19 Q. That paragraph there said, "The order on expert testimony
20 requires that you submit a signed report." Do you see that?

21 A. Okay.

22 Q. So you are supposed to submit a signed report, okay?

23 A. Yes.

24 Q. And it goes on to say down toward the bottom, it says,
25 "Setting forth your compensation, hourly rate." Do you see

1 that -- do you see that?

2 A. Yes, sir.

3 Q. And that would be the exhibit number 7; wouldn't it? That
4 would be your agreement; wouldn't it?

5 A. Which is exhibit number 7?

6 Q. Up there it is. Can you read it on the screen. That's
7 your compensation; isn't it?

8 A. Yes, sir.

9 Q. All right. Now, let's go back to exhibit number --

10 THE COURT: And do I understand that exhibit 7 of which
11 you have referred is the same as plaintiff's 22 in this case?

12 MR. LEWIS: Yes, sir. I got them backwards, I
13 apologize, Your Honor. I got them backwards.

14 BY MR. LEWIS:

15 Q. Let's go back to exhibit 6. And the lawyer for Ford tells
16 you how to answer that; doesn't he? He says, "The
17 qualifications of a witness and compensation requirements can
18 be satisfied by simply attaching a copy of your curriculum
19 vitae and fee schedule." Do you see that?

20 A. Yes, sir. That's what it says.

21 Q. And he's telling you then don't send them exhibit number
22 22.

23 MR. TRIGG: Your Honor, I'll object.

24 THE COURT: Sustained.

25 BY MR. LEWIS:

1 Q. He didn't tell you to send exhibit number 22, did he?

2 A. No, sir. He says what it says on here.

3 Q. Fee schedule. And what you have is a per diem schedule.

4 A. Yes, sir.

5 Q. Not an hourly fee schedule.

6 A. That's right. I have a per diem fee schedule.

7 Q. Yes. Now, it also said in that letter that you're supposed
8 to send them a report; do you see that?

9 A. Yes, sir.

10 Q. And what the lawyers did for you from Ford is they wrote
11 your report; didn't they?

12 A. I think they may have drafted something for me to look at;
13 yes, sir.

14 MR. LEWIS: May I approach the bench, Your Honor?

15 THE COURT: Go ahead.

16 BY MR. LEWIS:

17 Q. Looking at this, Mr. Bickerstaff, Snell & Wilmer are the
18 lawyers for Ford; aren't they?

19 A. Yes, sir, they are.

20 Q. And they were the lawyers for Ford in this case right here;
21 aren't they? This letter that is sent to you is from them,
22 right, sir?

23 A. I'm sorry, I'm just looking at this.

24 Q. It's up at the top. It's a fax.

25 A. Yes, sir. It's not addressed to me.

1 Q. Yes, sir. Who is Mr. -- didn't they send you this document
2 and ask you to make corrections on it? They drafted your
3 report for you to send back to them didn't Mr. Haskins from
4 Snell & Wilmer?

5 A. Yes, sir.

6 Q. And it was faxed from Snell & Wilmer to you and, in fact,
7 the Snell & Wilmer lawyers were drafting your report to go to
8 the court in the case -- the Tracy case; weren't they?

9 THE COURT: Let's start over again.

10 MR. LEWIS: The Snell & Wilmer lawyers --

11 THE COURT: The first question you seem to be asking is
12 whether or not they faxed a report to you, and if you want to
13 ask that question do it, otherwise go on to your next question.
14 You have two questions in one.

15 MR. LEWIS: Okay, I'm sorry.

16 BY MR. LEWIS:

17 Q. You see exhibit 6-A?

18 A. Yes, sir.

19 Q. That was faxed to you from Snell & Wilmer; wasn't it?

20 A. Yes, it was. But this document has my handwriting on it.

21 Q. Yes, sir. We'll get to that.

22 A. Making notations. That's how I know I received it. It's
23 got my writing on it.

24 Q. And then you took the report that had been drafted for you
25 by Snell & Wilmer and made some corrections; is that right?

1 A. I took this particular document, this particular draft,
2 which may have been written in conjunction with my discussions
3 with them, and then I marked it up and sent it back to them,
4 yes.

5 Q. And then they -- looking at 6-B it looks like --

6 MR. LEWIS: Well, I will offer that into evidence. Is
7 there any objection to that?

8 MR. TRIGG: Which exhibit?

9 MR. LEWIS: 6-A is what I'm talking about.

10 THE COURT: Let me ask you about what you are referring
11 to when you say 6-A. Is this plaintiff's 6-A in this case?

12 MR. LEWIS: Yes, sir. Do you have any objection to
13 6-A.

14 MR. TRIGG: No, I do not.

15 BY MR. LEWIS:

16 Q. Then it looks like that they rewrote it again with your
17 corrections and sent it back to you and that is 6-B. Will you
18 agree with that?

19 A. I would like to see 6-B, sir. It appears to be, yes,
20 another draft. I haven't verified that it actually contains
21 all the things I had written.

22 Q. It does or does not?

23 A. I don't know. Do you want me to look?

24 Q. Sure. There may be some intervening drafts or other
25 drafts, but at least that is another draft of that letter from

1 Snell & Wilmer; is it not?

2 A. Yes, sir.

3 MR. LEWIS: We would offer that in as 6-B.

4 THE COURT: It is admitted.

5 MR. TRIGG: Has 6-A been admitted?

6 THE COURT: Is there any objection to 6-A?

7 MR. LEWIS: I thought I offered that, Your Honor.

8 THE COURT: You probably did, and it is admitted.

9 PLAINTIFF'S EXHIBITS 6-A & 6-B, PREVIOUSLY IDENTIFIED,
10 WERE ADMITTED INTO EVIDENCE.

11 BY MR. LEWIS:

12 Q. And then the final letter went out; didn't it,
13 Mr. Bickerstaff? And this time it was typed on your
14 stationery, correct?

15 A. Yes, sir. This doesn't appear to contain all the changes I
16 had made a note of, and which one is this, I'm sorry?

17 Q. This is the final one that went out. This should be the
18 final one that you signed; do you see it?

19 A. Yes, sir.

20 Q. And that's exhibit 6-C, correct?

21 A. Yes.

22 MR. LEWIS: Any objection?

23 MR. TRIGG: No.

24 THE COURT: Admitted.

25 PLAINTIFF'S EXHIBIT 6-C, PREVIOUSLY IDENTIFIED, WAS

1 ADMITTED INTO EVIDENCE.

2 BY MR. LEWIS:

3 Q. So as the sequence went, they sent you a draft, you made
4 corrections, they retyped it, then at the end you typed it on
5 your own stationery and sent it out; isn't that true?

6 A. Yes, sir.

7 Q. Now, when you got paid from Ford for your consulting
8 services or your testifying, did they mail you checks for that?

9 A. I believe normally they mailed checks, yes.

10 Q. And you got these testimony, these were faxed to you; is
11 that correct, these suggested reports and so they were faxed to
12 you by Ford lawyers; isn't that correct?

13 A. Are you saying faxed, f-a-x?

14 Q. Uh-huh.

15 A. Fax? Well, the original two drafts were faxed to me; yes.

16 Q. And did you get other reports faxed to you by -- suggested
17 reports faxed to you by Ford lawyers?

18 A. Yes, sir. Probably from time to time I did.

19 Q. And prior to exhibit 22 being presented to you in the Tracy
20 case, there were hundreds of Bronco rollover cases out there;
21 weren't there?

22 MR. TRIGG: Your Honor, I object to the form of the
23 question. And there is no evidence about exhibit 22 in Tracy.

24 MR. LEWIS: Wait a minute --

25 THE COURT: So far as time is concerned, pick a date, if

1 you will, and focus on the hundreds of Bronco that you are
2 referring to.

3 MR. LEWIS: Okay.

4 BY MR. LEWIS:

5 Q. Prior to March 20, 1995, there had been approximately 332
6 Bronco rollover settlements; hadn't there?

7 A. I was not aware there had been.

8 Q. You knew there were a lot.

9 A. I knew there were some, but I didn't know what the quantity
10 was.

11 Q. But you in your exhibit number 6-A, you identify about ten
12 of them that you were involved in.

13 A. Yes, sir.

14 Q. So you knew there were multiple cases out there; didn't
15 you.

16 A. I knew there were at least the number that I had testified
17 in; yes, sir.

18 Q. And you knew that Ford -- that you had requested that Ford
19 hire you in exhibit number 22; didn't you?

20 A. We're again referring to the one on the screen, sir?
21 That's exhibit 22?

22 Q. Yes, sir. Yes, sir.

23 A. Yes, sir. I identified to them what I thought my
24 compensation should be for work and testimony.

25 Q. And you said, "I would suggest you retain our services;"

1 do you see that?

2 A. Yes, sir.

3 Q. That is asking to be hired; isn't it?

4 A. Well, it's saying I would suggest. It's not -- it's just
5 saying suggest.

6 Q. Well, you're suggesting they hire you.

7 A. Yes.

8 Q. And you want to be hired.

9 A. I have no objection to being hired to do this work on the
10 basis that the -- my expectations set forth in this letter are
11 met.

12 Q. And you'll agree this letter is not a confirming letter
13 that you have been hired; is it?

14 A. It's not a final confirmation; no, sir.

15 Q. It's not even a preliminary confirmation; is it?

16 A. No, sir.

17 Q. So when you told Mr. Heiskell in Diaz the only document you
18 had was a confirming letter, that was not the truth, was it?

19 A. Well, it was my -- it wasn't a confirming letter from Ford
20 to me, but it was my letter to them identifying at the rates
21 that I expected. It was my written confirmation of the terms
22 under which I would -- I expected to be compensated.

23 Q. That is not a confirming letter, is it?

24 A. Well, confirmation from me to them or from them to me?

25 Q. Confirming means that there is an agreement; doesn't it?

1 I'm confirming that we have agreed. I'm confirming this. This
2 isn't confirming, this is asking for work.

3 A. It's not really asking for work, it's an expectation, sir.

4 Q. All right. Let's see. "I would suggest you retain our
5 services." Isn't that saying, please, I think it's important
6 for you to retain our services, I want to work for you. Is
7 that what it says?

8 A. Sir, it's just saying I would suggest. It's all it says is
9 what it says.

10 Q. And that's not confirming anything, is it?

11 A. It's, as I stated, it's my expectation.

12 Q. So when you told Mr. Heiskell that the only thing you had
13 was a confirming letter, that's not true, is it?

14 A. Well, it was the letter that confirmed my expectation to
15 them. I didn't have a letter in return from them confirming
16 that they would honor my expectation.

17 Q. Nor did you have a letter to say this is to confirm we have
18 agreed, something like that. You don't have anything like
19 that, do you?

20 A. No, sir. Only the payments.

21 Q. Well --

22 A. Along these lines.

23 Q. So when you told Mr. Heiskell that this was a confirming
24 letter, that was a partial truth; wasn't it? It wasn't the
25 whole truth?

1 A. I think that that was confirming my expectation. So in
2 that extent, you could say that this was a confirming letter
3 confirming back to Ford what I expected but not, I agree, not
4 that they confirmed back to me.

5 Q. What you were trying to do was to throw Mr. Heiskell off
6 track so he wouldn't try to get exhibit number 22; isn't it?

7 A. I had never had that thought, sir.

8 Q. As a matter of fact, I think, Mr. Bickerstaff, you have
9 admitted that you tell partial truths for Ford; haven't you?

10 A. Maybe I have said that in response to a question that
11 that's partially true, something that I have said before.

12 Q. Let's look at your deposition on page 84.

13 A. Of which document, sir?

14 Q. Sir?

15 A. Page 84 of which one?

16 Q. Looking at page 84.

17 A. I don't know the exhibit number.

18 Q. Of your deposition in this case.

19 A. Okay. Is that exhibit 18?

20 Q. Yes, sir. Do you see that?

21 A. Page 84, yes, sir.

22 Q. 84?

23 A. Yes, sir.

24 Q. And I asked you at the time, "Question. I want to make
25 sure, are you the guy that had responsibility for deciding

1 that -- deciding when the Bronco II was safe enough from a
2 handling and stability standpoint?"

3 A. Sir, can you excuse me a minute?

4 Q. Yes.

5 A. I have the wrong exhibit. Is this book what you want me to
6 refer to?

7 Q. Yes.

8 A. There is no exhibit number on it.

9 Q. That's correct. That is a deposition that we took in
10 December of 1998.

11 A. I have a lot of paper up here.

12 Okay, I have it now.

13 THE COURT: Now repeat that, if you would?

14 MR. LEWIS: Yes, sir.

15 BY MR. LEWIS:

16 Q. I asked you the question right there, "I want to make sure.
17 Are you the guy that had responsibility for deciding whether
18 the Bronco II was safe enough from a handling and stability
19 standpoint?" Do you see that?

20 A. Yes, sir.

21 Q. And your answer was, what?

22 A. "Not completely by myself. I would want to be satisfied
23 myself before recommending it was okay, but there were other
24 checks and balances in the system besides my own view point."

25 Q. All right. Then I turned you to your testimony in Mr. --

1 the Chewning case found at exhibit number 4 to that deposition.
2 Do you see that, which is exhibit number 25 in this case? Do
3 you see that?

4 A. I have what's on page 85, sir, of the other exhibit.

5 Q. I want you to turn to exhibit 4.

6 A. Exhibit 4.

7 Q. Which is exhibit 25 in this case, exhibit 4 to the
8 deposition.

9 A. Okay.

10 Q. And that was in the Chewning case, and I want you to see if
11 this time you were asked the question -- "I want" -- I asked
12 you, "I want to make sure. Are you the guy that had
13 responsibility for deciding when the Bronco II was safe enough
14 from a handling and stability standpoint?" And your answer
15 was, as you just testified.

16 "Not completely by myself. I would want to be satisfied
17 myself before recommending that it was okay, that there were
18 other checks and balances in the system besides my own view
19 point."

20 Now, looking at the Chewning one, at that time you were
21 asked by the lawyer in that trial, "And Mr. Bickerstaff, I want
22 this to be clear to the jury, are you the guy that had
23 responsibility for deciding when the Bronco II was safe enough
24 from a handling and stability standpoint?" And your answer in
25 that trial was what?

1 A. "Yes, I was."

2 Q. And then I asked you, "So when you answered, yes, I was, in
3 exhibit number 4 --"

4 MR. TRIGG: Your Honor, I object. Which transcript are
5 we in? Are we in the Chewning transcript now?

6 MR. LEWIS: No, we're in the Bickerstaff.

7 THE COURT: Are you talking about the Goff case?

8 MR. LEWIS: Goff case; yes, sir.

9 THE COURT: And where are you on it?

10 MR. LEWIS: We're on page 85.

11 BY MR. LEWIS:

12 Q. Looking at page 85, you got it?

13 A. Yes, sir.

14 Q. And I said, so when you answered, "Yes, I was" in exhibit
15 4, which is the Chewning transcript, you understand that,
16 right?

17 A. Yes, sir.

18 Q. "That wasn't true, was it?" And what was your answer?

19 A. "It is partially true."

20 Q. And then on -- and then what did you say again, twice you
21 said partially true; didn't you?

22 A. Yes, sir.

23 Q. What it is, Mr. Bickerstaff, is Ford is paying you to be
24 partially truthful, right?

25 A. No, sir.

1 Q. You take an oath to say the whole truth and nothing but the
2 truth; don't you?

3 A. Yes, sir.

4 Q. And when you testified in Chewning, you have admitted what
5 you called a partial truth, and that's what you got paid for;
6 wasn't it, Mr. Bickerstaff, partial truths?

7 A. No, sir.

8 THE COURT: Well, there is two questions again.

9 MR. LEWIS: Sir?

10 THE COURT: There are two questions again.

11 BY MR. LEWIS:

12 Q. You got paid a lot of money; didn't you, Mr. Bickerstaff?

13 A. My company was paid for the work that we produced; yes,
14 sir.

15 Q. Yes, sir. And you got paid all that money to tell partial
16 truths; didn't you?

17 A. No, sir.

18 MR. LEWIS: Nothing further.

19 REDIRECT EXAMINATION

20 BY MR. TRIGG:

21 Q. Now, Mr. Bickerstaff, you were asked about the fact that
22 the notebook -- specifically you were asked about one for Volvo
23 didn't contain the information; correct, sir?

24 A. Yes, sir.

25 Q. Do you remember being asked that?

1 A. Yes, sir.

2 Q. And that notebook doesn't contain any information; does it?

3 A. No, sir.

4 Q. Now, you were also shown a picture of the various
5 notebooks. Are all those notebooks empty?

6 A. No, sir.

7 Q. And why is the Volvo notebook empty?

8 A. Because Volvo would not give permission to release their
9 proprietary confidential work product that we produced for them
10 in a public forum.

11 Q. And when was it you did the work for Volvo?

12 A. '94, 1994.

13 Q. 1994?

14 A. 1995, maybe. I don't remember the exact years.

15 Q. I'm going to hand you just for your identification a letter
16 dated February 28, 2001. If you would read that to yourself?

17 A. I've read it.

18 Q. And what is the date of that letter?

19 A. February 28, 2001.

20 Q. So the work you did was in '94, correct?

21 A. Yes, sir.

22 Q. And did -- did you request permission to talk about the
23 Volvo work here in Court?

24 A. Yes, we did.

25 Q. And -- I don't want you to quote the letter, but what was

1 their response?

2 A. Their response was that they didn't want this information
3 to be given.

4 Q. So seven years after you did the work they are still not
5 willing to waive confidentiality?

6 A. Yes, sir.

7 Q. They believe it's their proprietary interest?

8 A. Yes, they did.

9 Q. Okay. All right. Another notebook which he showed you, is
10 that the work you did for GM - Volvo World Class Sleeper?

11 A. Yes, sir.

12 Q. Another notebook which is empty relates to the Volvo
13 sleeper; does it not, sir?

14 A. Yes, sir.

15 Q. And the other notebook he showed you relates to that same
16 project; does it not? I'll be happy to bring it up if you
17 didn't remember. Says World Class Sleeper.

18 A. That's a Volvo project.

19 Q. That's a Volvo and another notebook, it is called World
20 Class Premium Sleeper, is that also Volvo?

21 A. Yes, sir.

22 Q. Now, what is the reason that these notebooks do not contain
23 the contents of the notebooks when they were generated?

24 A. Because what we did for Volvo was extremely unique. We
25 showed them how to design a heavy truck that you actually see

1 on the road today without using a clay model. So we used
2 advanced computer aided design with a software package called
3 ALIAS with engineers. And with a few people we did what it
4 took a lot of people at Volvo to do and we showed them how to
5 operate in a new way and that new way evidently they still
6 think it's a proprietary method. We never did that for any
7 other client but Volvo.

8 Q. Are there any other clients that you contacted to ask them
9 if you could bring all your notebooks into court and have them
10 produce the information?

11 A. Yes, sir.

12 Q. And did any of the others say you could not?

13 A. Yes, sir.

14 Q. And what companies refused to allow you to talk about the
15 information and work which did for them?

16 A. I believe Exxon and a derivative company of Cooper and I
17 believe Alcoa.

18 Q. Okay.

19 A. And I don't remember the others.

20 Q. Will you just give us generally when did you the work for
21 Exxon?

22 A. In the early '90's.

23 Q. And the work you did for Exxon, are you allowed to say
24 generally what kind of work you did?

25 A. I can tell you generally.

1 Q. All right.

2 A. There was a new polymer that was being proposed to replace
3 certain plastics that were use in the car industry that would
4 be much lower cost and they were concerned that they could
5 produce in a high quality manner. And so I went to Texas and I
6 went through their facilities and identified what they would
7 have to do to meet the standards of the automotive industry in
8 order to be able to produce and sell that polymer.

9 Q. And did you recently ask for permission to produce that
10 information in court?

11 A. Yes, sir.

12 Q. And so if you did it in the early '90's, this would be some
13 ten years later, did they agree to give you permission?

14 A. No, sir.

15 MR. LEWIS: Your Honor, that's hearsay.

16 THE COURT: I take it the objection is appropriate;
17 isn't it, Mr. Trigg?

18 MR. TRIGG: Well, I think this witness knows that they
19 refused to give him permission to produce the information.

20 THE COURT: Well, it was what was stated and the Court
21 will sustain the objection to the response. You can try it
22 another way if you wish.

23 BY MR. TRIGG:

24 Q. Are you able, sir, to put the information concerning the
25 Exxon project in evidence?

1 A. No, sir.

2 Q. What is your understanding as to why?

3 A. It's considered proprietary and confidential.

4 MR. LEWIS: Your Honor, that's just backward hearsay.
5 The only way he could have got that would be through hearsay.

6 THE COURT: Sustained.

7 MR. TRIGG: Excuse me a minute, Your Honor.

8 Q. Now, do you still have in front of you the transcript from
9 this case, sir?

10 A. Yes, sir.

11 Q. All right. I'd like you to turn back to page 56, which is
12 the first page you were asked about, and I'm going to see if I
13 can put that on the Elmo. Now, he read -- Mr. Lewis read you
14 the last answer on that page which was, "Well, Mr. Anderson was
15 a Ford lawyer. Answer. Why wouldn't I also assume he was my
16 lawyer."

17 Let's go back to the testimony prior to that. And you were
18 asked on page 56. "Let me ask you this, you assumed that
19 Mr. Anderson was your attorney in the early stages of the
20 litigation; is that right?

21 "Answer. Yes.

22 "But you weren't paying him.

23 "Answer. Yes.

24 "You weren't.

25 "Correct, I wasn't paying him.

1 "And you assumed Ford was paying him.

2 "I would. That would be a natural assumption, yes.

3 "Why do you think Mr. Anderson was your attorney?

4 "Answer. Here I am in a room of lawyers and I assume --
5 I assume he is my lawyer. I'm a lay person, I have got no
6 knowledge of the law. I have never had any experience with the
7 law before. What else would I assume? I would assume he was
8 my lawyer."

9 Did you -- were you asked those questions and did you give
10 those answers?

11 A. Yes, sir.

12 Q. All right. Now, you did a lot -- had a picture of a lot of
13 notebooks; did you not, sir?

14 A. Yes, sir.

15 MR. LEWIS: I didn't hear the question, I'm sorry.

16 BY MR. TRIGG:

17 Q. In the picture that was shown, you had a lot of other
18 notebooks; did you not?

19 A. Yes, sir.

20 Q. And were there contents in all other notebooks?

21 A. Yes.

22 MR. TRIGG: May I approach the witness, Your Honor?

23 Q. Mr. Bickerstaff, I hand you what has been marked as
24 defendant Ford's exhibit 732 and ask you if you can generally
25 identify what that document is?

1 A. This is a review of American Sunroof Corporation about some
2 of the manufacturing.

3 Q. Are there contents in that notebook of the works which you
4 did?

5 A. Yes, sir.

6 MR. LEWIS: Your Honor, I object. This wasn't gone
7 into in cross-examination. All I wanted to point out was he
8 didn't tell us in the picture there were some empty volumes and
9 I only talked about four. I have no problem -- I'm sure most
10 of them are full. I just didn't understand why he didn't point
11 out some were empty. That's all I was questioning. I have no
12 problem that these are all full.

13 MR. LEWIS: Your Honor, the clear implication is that
14 Mr. Bickerstaff did no real work. That was the clear
15 implication of trying to introduce the empty notebooks and if
16 we're going to show that, I'm entitled to put in all the
17 notebooks that show that did he real work and I move their
18 admission.

19 MR. LEWIS: I have no problem that he did real work,
20 Your Honor. I just didn't understand why he wouldn't tell us
21 that some of them were empty. He's explained them. I'm
22 perfectly happy with his explanation.

23 THE COURT: The court will permit you to go through that
24 exercise to a very limited extent, but it is going to become
25 unduly cumulative if Ford has any notion about putting in the

1 volume of work that is exhibited in the picture. The witness
2 can testify to those facts.

3 If you want to go through some of those with him and find
4 out if they are examples of that which is set forth in the
5 photograph, you are permitted to do that.

6 BY MR. TRIGG:

7 Q. Mr. Bickerstaff, I am going to hand you what has been
8 marked as defendant Ford's exhibit 431 and ask you, sir, what
9 is that document?

10 A. That's a workbook on Identifying the Controlling
11 Significant Characteristics that we used when we were training
12 Ford's body chassis and engineering in June and July of 1989.

13 Q. All right. And what -- Identifying and Controlling
14 Significant Characteristics, that doesn't mean anything, sir,
15 to me. What does that mean?

16 A. It means what are the important points on the body of the
17 vehicle and on all the components that have to be correct to
18 have a car that doesn't have problems. So there are something
19 like 10,000 parts in a car all together and each one of
20 those -- more than half of those parts are produced by maybe a
21 hundred different suppliers and so the engineers have to know
22 what is the exact right thing to specify and how to go about a
23 process of understanding that, and they also have to know when
24 they get the information from the supplier, they have to know
25 how to interpret that information and they have to know if they

1 have to then go back to the supplier and say, that's not good
2 enough, we have to improve this or improve that.

3 So this was a course that I taught to thousands of Ford
4 engineers over all that this is what you are going to have to
5 do if you want to improve the quality of your cars.

6 Q. I also hand you defendant Ford's exhibit 430, is that the
7 same number I just gave you?

8 A. I'm sorry, this one is 431.

9 Q. 431, this is 430. What is that, sir?

10 A. This is a workbook, Identifying and Controlling Significant
11 Characteristics, April 14th, 1989.

12 Q. All right. And why are there two different notebooks?

13 A. Different dates, sir.

14 Q. And when you say these were done for thousands of
15 engineers, who are you referring to, sir?

16 A. I'm referring to thousands of engineers at Ford who are
17 responsible for designing and developing the new vehicles. And
18 we trained them up to a hundred at a time in a number of
19 sessions in a big auditorium and I think we invited some
20 suppliers also who were the key suppliers to come.

21 Q. Sir, I am going to show you a letter dated November 30,
22 1988 from Ford to you, and I'd like you to look at that first.

23 MR. LEWIS: I object, Your Honor. I never asked him
24 any questions prior to 1990, not a single one.

25 THE COURT: What's the date?

1 MR. LEWIS: 1988.

2 THE COURT: How is it relevant?

3 MR. TRIGG: It's relevant, Your Honor.

4 THE COURT: Can you tell me how it's relevant without
5 stating what it is or do you need to come to the bench?

6 MR. TRIGG: It's relevant because it is a letter and
7 it's one of the notebooks that are in the picture. It's a
8 letter that relates to those notebooks in the picture and the
9 significance of the work. And since they have implied that he
10 didn't perform services, I think it's relevant on that score,
11 Your Honor.

12 MR. LEWIS: Again, Your Honor, I only was looking at
13 them because he didn't explain why they didn't have documents.
14 I'm perfectly happy with his explanation, and I never asked
15 about that document or that book or anything before 1988.

16 THE COURT: If you wish to enter into some stipulation,
17 you are at liberty to do so when you say you are perfectly
18 happy.

19 MR. LEWIS: I'm satisfied at one time those books had
20 documents in them and they had to be returned to the owner.
21 They just never told us in the opening or when they put the
22 picture in evidence. I have no problem to that effect. I have
23 no evidence to the contrary, so I will be glad to stipulate
24 that they had documents in them when they were done.

25 THE COURT: Do you accept the stipulation?

1 MR. TRIGG: That's acceptable, Your Honor.

2 THE COURT: Very good.

3 MR. TRIGG: Thank you. Let me take back those
4 notebooks.

5 Q. Let me ask you, who was the project ASC Sunroof done for?

6 A. The American Sunroof Corporation.

7 Q. That's not a Ford client?

8 A. Well, they do business for Ford and Chrysler and just about
9 all the car companies, Mitsubishi and Honda and Toyota.

10 Q. And, Mr. Bickerstaff, how many -- how many total people
11 attended the Significant Requirements Seminars that you gave?

12 A. A couple thousand.

13 Q. And do you know what kind of breakdown there was in the
14 personnel?

15 A. They were all different kinds of people from engineering,
16 designers -- a lot of different people attended, generally from
17 the whole engineering community.

18 Q. Were there any management people?

19 A. Yes, there were.

20 Q. Let me show you this letter again. Does it refresh your
21 recollection as to how many management people came to these
22 seminars?

23 MR. LEWIS: Your Honor, we are going into this same
24 thing. We just entered into a stipulation. I didn't go into
25 any of this, none.

1 THE COURT: Mr. Trigg, has the point been covered now?

2 MR. TRIGG: No, Your Honor. I believe we need to
3 introduce exhibit 55.

4 THE COURT: The only thing you needed to counter were
5 the empty books and that's been made abundantly clear now by
6 stipulation.

7 MR. TRIGG: Okay.

8 THE COURT: And seems to me the point is covered.

9 BY MR. TRIGG:

10 Q. Let me see where I am here. Now, on -- you were also asked
11 about the money which was paid to Ford (sic) and let's look at
12 that testimony. It's on page 37 of your deposition in this
13 case, and I would just like to display it.

14 How much money -- "question. How much money has David
15 Bickerstaff and Associates, whether it was incorporated or not,
16 how much money has Ford paid them since 1990?

17 "Answer. Since 1990, I don't know the exact number.
18 Several million dollars.

19 "Question. Would it be as much as four million?

20 "Answer. It could be four or five, I don't remember
21 exactly."

22 Do you remember giving that testimony, sir?

23 A. Yes, sir.

24 Q. Was that accurate at the time you gave it?

25 A. To the best of my recollection; yes, sir.

1 Q. All right. You were asked about David Bickerstaff and
2 Associates being paid the money. Did you have other employees
3 in David Bickerstaff and Associates?

4 A. Yes.

5 Q. How many?

6 A. It varied from time to time, but as many as 20, maybe 25.
7 Depends on some part time people, some full time people.

8 Q. All right. In a general review of the one exhibit which
9 was admitted this morning concerning compensation of
10 Bickerstaff and Associates, it shows that your income was
11 around --

12 MR. LEWIS: Your Honor, I never went into any of this
13 on cross-examination. That was a document he put in and I
14 never asked any questions on this line of questioning.

15 THE COURT: How is it relevant? That is, how is it
16 relevant to the cross?

17 MR. TRIGG: It's relevant to the amount of money which
18 he was paid and the implication that he was paid for testimony.
19 I think it's relevant to show that it's not all money paid to
20 him personally.

21 MR. LEWIS: The question was how much money was David
22 Bickerstaff and Associates, whether it was incorporated or not,
23 how much money that Ford paid them since 1990. That's the only
24 -- that's what the question was, and I don't understand.

25 THE COURT: Anything further on the point, Mr. Trigg?

1 MR. TRIGG: No.

2 THE COURT: I am going permit you to make the inquiry.

3 MR. TRIGG: Pardon?

4 THE COURT: I'm going to permit you to make the inquiry.

5 MR. TRIGG: Thank you, Your Honor.

6 BY MR. TRIGG:

7 Q. Mr. Bickerstaff, how many people in 1990 to 1996 did you
8 have in your company?

9 A. In 1996, maybe ten.

10 Q. And during the period of time, during all that period of
11 time -- no, you misunderstood or I misunderstood your answer. I
12 said during the period from 1990 to 1996, how many people did
13 you have in the company?

14 A. It varied, okay? But at the peak, 20 to 25 maybe.

15 Q. And with respect to that, did you have other people who
16 also worked with you as an independent contractor?

17 A. Yes. I was including those actually.

18 Q. Okay. All right. And with respect to that, I notice in
19 exhibit 302 which went into evidence, I think it's -- I better
20 look so I don't misstate. Is it 320 or 302 just came in this
21 morning? It is 302.

22 In exhibit 302, it shows that your income was roughly --
23 well, rounded off, 250,000 dollars on the average during that
24 period of time. Where did the rest of the money go?

25 A. It went for rent, payroll, computer, campaign systems,

1 software, contractors, caterers, workbooks, presenting, taxes.

2 Q. All right. With respect to exhibits in the six series,
3 those are the exhibits regarding the report in the Tracy case
4 just so you know what I'm referring to, sir.

5 A. Yes, sir.

6 Q. All right. At that time did you believe there was anything
7 wrong with allowing the attorneys to prepare a draft of the
8 report?

9 MR. LEWIS: Your Honor, this is completely leading.
10 This is the lawyer testifying and getting a yes or no.

11 THE COURT: Sustained.

12 BY MR. TRIGG:

13 Q. All right. What was your feeling concerning the lawyers
14 sending you a report such as Mr. Haskins did?

15 A. Well, they were lawyers so they -- they would often take a
16 lot of information and summarize it into a form that would --
17 that would be helpful and I would -- my opinion was that I
18 would look at that, and I would see if it reflected my views,
19 if it was based on my conversations with the lawyers, if -- and
20 I would mark it up and modify it if I thought there was any
21 error, and I would send it back when I felt I was comfortable
22 with what was being stated and that it was true.

23 Q. Prior to that time, had you given depositions expressing
24 your opinions concerning the Bronco II?

25 A. Yes, I had.

1 Q. And was there a lot of information out there or was there
2 information out there concerning your opinions regarding the
3 Bronco II?

4 A. Yes, a lot of information.

5 Q. And had you had conversations with Mr. Haskins concerning
6 your opinions on the Bronco II?

7 A. I believe so, yes.

8 Q. Now, you were asked in the Chewning transcript a question
9 about whether you had sign-off responsibilities. And just so
10 we know what you are referring to, "Are you the guy that had
11 responsibility for deciding whether the Bronco II was safe
12 enough from a handling and stability standpoint?" And the
13 answer was "Yes, I was." Correct, sir?

14 A. Yes.

15 Q. That was on page -- it's a good question the page number is
16 cut off, but I think it's on page 2410.

17 MR. LEWIS: 2412.

18 MR. TRIGG: 2412, thank you.

19 Q. Sir, I'm going to hand you what has been -- pages 2406, 07,
20 08 and 09 and ask you to read those to yourself if you would,
21 please, sir, from the Chewning transcript.

22 A. Okay.

23 Q. Sir, with respect to sign-off responsibility, at the time
24 that you were with Ford, did you have sign-off responsibility
25 as it related to the handling and stability?

1 A. The sign off responsibility, actually the term "sign-off"
2 is a specific sequential series of events that occurs from time
3 to time throughout a program. So I -- before those sign-offs
4 would actually take place, I would have to be sure that we met
5 all the various requirements with the particular vehicle
6 components and the suspension and the handling of the vehicle.
7 So before we would actually have a vehicle that would be
8 evaluated by a group of final management who could say, well,
9 we don't agree with you, okay, I had to make sure that it had
10 met the requirements that I knew to exist.

11 So sign-off, it depends on when you talk about sign-off in
12 the general context, as that I'm signing off, for example, that
13 the components meet the requirements, that the handling meets
14 the requirements, that the testing is ready, or whether we talk
15 about these specific events called sign-offs where the
16 management also evaluates the vehicle and says, they're okay,
17 we're ready to go. That comes later.

18 So there are two kinds of context to the sign-offs.

19 Q. And page 2408 of the Chewning transcript I'd like to
20 display that to the jury if I may, sir.

21 THE COURT: I take it there is no objection.

22 MR. TRIGG: Do you have any objection if I display 2408
23 from the Chewning evidence?

24 MR. LEWIS: No, sir, it's in evidence.

25 THE COURT: You say it is in evidence?

1 MR. LEWIS: Yes, sir.

2 THE COURT: Please go ahead.

3 BY MR. TRIGG:

4 Q. All right, there you go. All right, were you asked the
5 following questions concerning design and release and what --
6 explain what it means by the use of those terms in the Ford
7 vocabulary. Do you see that, sir?

8 A. Yes, sir.

9 Q. You said, "Well, what that means is I didn't personally
10 draw the lines on the paper, but I basically directed what
11 would be done and directed my engineers what to do. We had
12 discussions that gave us various information, and I asked them
13 questions. They would go back and forth until we got what they
14 thought was the -- as a team was ideal.

15 "And then we would design that and package that, which
16 means we would make the things that we wanted to have on the
17 vehicle fit in the vehicle. And then we would produce through
18 the production design department -- they would produce drawings
19 and those drawings would have a title block which would say
20 that this part has to be produced by such and such a supplier.

21 "And then we would meet with the supplier and discuss
22 whether you could, in fact, make this, and we would produce
23 prototypes and then we would test them and if they passed the
24 test, we would then authorize that this level of design would
25 meet Ford's requirements, and then we would release it to Ford

1 purchasing and Ford purchasing would officially place the
2 business with a supplier and the supplier would then make those
3 components for production.

4 "And as a design release responsibility, we were
5 responsible to make sure the product that was actually produced
6 by the supplier actually met our requirements and
7 specifications and we also sought out any problems that
8 occurred with or concerns that occurred with actually putting
9 those together in Ford's assembly plant."

10 Did you give that testimony, sir?

11 A. Yes, sir.

12 Q. And then you went on to say, "So the release then, if I
13 understood you correctly, does that mean that you, after you
14 designed the suspension, that you had it tested and signed off
15 on it and said that this is okay?"

16 And the answer was, "That's correct."

17 Was that the testimony you gave, sir?

18 A. Yes, sir.

19 Q. Now, is that testimony which you gave, is that in
20 accordance with what you did at Ford?

21 A. Yes, sir.

22 THE COURT: Let me ask how much longer you are likely to
23 be with the witness?

24 MR. TRIGG: Unless my -- a few minutes, Your Honor.

25 Probably 10 or 15.

1 THE COURT: All right. If it's going to be 10 or 15,
2 we will recess now, ladies and gentlemen, for about 15 minutes.

3 (At 10:55 a.m. there was a recess until 11:21 a.m.)

4 MR. TRIGG: Thank you, Your Honor.

5 BY MR. TRIGG:

6 Q. Mr. Bickerstaff, I want to hand you again a copy of
7 defendant's exhibit 55. And, first, there's two letters. The
8 first one appears to be from Ford to you, correct, sir?

9 A. The first letter -- you mean the one in the back? The first
10 letter on top is from me to Ron Reger at Ford Motor Company.

11 Q. All right. Does that relate to the notebooks which we've
12 identified as defendant's Ford 430 and 431?

13 A. It relates to those -- this was -- let me just look.
14 This was a preprogram, a precursor to that.

15 Q. Precursor to these notebooks which are --

16 MR. LEWIS: Your Honor, we've already -- you've already
17 ruled it's over with. He is going back into notebooks and some
18 letter.

19 THE COURT: What is there about that that has not
20 already been fully covered?

21 MR. TRIGG: Your Honor, what hasn't been fully covered
22 I think is important to put in exhibit 55. I just wanted to lay
23 the foundation for the document before I moved its admittance.

24 MR. LEWIS: It was already moved and not allowed.

25 MR. TRIGG: I do not believe it was ruled on, Your

1 Honor. I do not believe the stipulation covers it. I think I'm
2 entitled to show, there is an allegation that Bickerstaff was in
3 bed with Ford starting in 1990, and I think I'm entitled to show
4 that he had significant consulting work prior to that time, and
5 this is just evidence of some of that.

6 MR. LEWIS: Your Honor, I never asked about before
7 1990. They covered all that in direct. He had other work
8 before 1990. I never went into that, not one date that I talked
9 about before 1990.

10 THE COURT: You said something about the document being
11 one that had been offered but had been refused?

12 MR. LEWIS: Yes, sir, I wrote it down.

13 MR. TRIGG: He said it was offered. I believe, Your
14 Honor, the more I thought about the stipulation, I don't believe
15 that it's covered, and I therefore would tender or move the
16 admittance of 55 and I just wanted to make sure --

17 THE COURT: Defendant's 55?

18 MR. TRIGG: Defendant's exhibit 55.

19 THE COURT: And is this the letter to Ron Reger?

20 MR. LEWIS: Yes, sir, it is.

21 MR. TRIGG: The letter to Ron Reger, and it also has
22 attached the letter from Ford to him which the letter is in
23 response to which is a letter kept by Mr. Bickerstaff in the
24 course of his business.

25 THE COURT: And this pertains to what period of time?

1 MR. TRIGG: 1988, Your Honor, and it relates to the
2 defendant's exhibits 430 and 431 which I also move their
3 admittance.

4 MR. LEWIS: I never asked him about those exhibits,
5 Your Honor.

6 THE COURT: With respect to the other half of that
7 exhibit, what does it purport to be?

8 MR. TRIGG: These?

9 THE COURT: No, no, not those, 55.

10 MR. TRIGG: Oh, 55, the other half of that exhibit,
11 Your Honor, it is the letter to Mr. Bickerstaff from Ford
12 concerning being a consultant on proposed contract for
13 conducting the workshops in Body Chassis Engineering, one dated
14 August 9th, '88, and Mr. Bickerstaff's letter is dated December
15 9th, 1988.

16 MR. LEWIS: Your Honor, that was all covered in direct
17 examination. They went all through that. I never asked a thing
18 about anything before 1988 -- 1990. Those books were went
19 into. All I asked were why were four books empty, and they have
20 explained that and I accept that explanation.

21 THE COURT: Doesn't that cover the point actually, Mr.
22 Trigg?

23 MR. TRIGG: No, sir. Not when he asked or alleges that
24 Mr. Bickerstaff was in bed with Ford starting in 1990, I believe
25 we are entitled to show that he had significant work, which this

1 is just one example, prior to that time.

2 MR. LEWIS: Your Honor, they wrote up on the board and
3 they had all the payments he got before 1990. They talked all
4 about that in their direct. I never went into that.

5 THE COURT: What further inquiry do you have along this
6 same line that would be covered by defendant's 55?

7 MR. TRIGG: Well, the only thing further, Your Honor,
8 if they are claiming I don't have foundation for the exhibits, I
9 would ask some further questions as to whether there was a
10 letter from his company and was --

11 THE COURT: Are you through with this area then?

12 MR. TRIGG: Yes, sir.

13 THE COURT: All right, go ahead.

14 MR. TRIGG: Do I need further foundation, Your Honor?

15 THE COURT: I don't know, depends on whether there is
16 an objection.

17 MR. LEWIS: No, sir. No, sir.

18 MR. TRIGG: He doesn't object on foundation?

19 MR. LEWIS: I do not object on foundation. I object
20 because it's all this new and continue to go into this and drag
21 this along and along, and I object on those grounds. I don't
22 object it's a letter when it says it was and so forth.

23 THE COURT: Thank you. Please go ahead.

24 MR. TRIGG: Your Honor, I would move the introduction
25 of defendant's exhibit 55 so I may talk about it with the

1 witness.

2 THE COURT: As I understand it, the letter is objected
3 to on grounds of relevancy but not on the ground of foundation,
4 and it is admitted.

5 (Defendant's exhibit 55 was admitted.)

6 BY MR. TRIGG:

7 Q. All right. Mr. Bickerstaff, I would like to refer just to
8 the front page of the Ford letter which is part of exhibit 55.
9 First, let's turn to the last page of the whole document. Is
10 that a letter from Ford, sir?

11 A. Yes, it is.

12 Q. And do you see a signature on there?

13 A. Yes.

14 Q. And whose signature is that?

15 A. I can't read the signature actually.

16 Q. Not the one from Ford, but the other one on it showing it as
17 accepted?

18 A. The one that shows it's accepted is mine.

19 Q. All right. Turning the front page of that letter, sir, does
20 that set forth the nature of the work you were being contracted
21 for in the Ford letter?

22 A. Yes, sir.

23 Q. All right. And they were going to have how many people
24 trained by you?

25 A. 2,200.

1 Q. 2,200, all right. And your letter December 8th provides for
2 consulting fees and providing notebooks or the workbooks to the
3 people?

4 A. That is for a pilot workshop, the first one.

5 Q. And was that done?

6 A. Yes, sir.

7 Q. As a result of the pilot workshop, did the follow-up
8 contract get executed?

9 A. Yes, sir.

10 MR. TRIGG: And, Your Honor, I would also move the
11 introduction of defendant Ford 431 and 430 which were talked
12 about, but I don't think formally moved for their admission.

13 THE COURT: 430 and 431?

14 MR. TRIGG: Yes, sir.

15 THE COURT: It has not been the practice to move those
16 notebooks into evidence heretofore. As I understand it, they
17 are simply notebooks that are former work that the defendant
18 would have done in these two instances for Ford.

19 MR. TRIGG: That's correct, in 1988 and '89, Your
20 Honor.

21 THE COURT: We already have a stipulation that covers
22 that and the jury has had those notebooks exhibited to them. It
23 seems to me that ought to be sufficient to cover the point.

24 MR. TRIGG: Okay.

25 THE COURT: Let me ask, if there is no objection, the

1 court will permit it in.

2 MR. LEWIS: I have an objection just like before. It
3 clutters up everything.

4 THE COURT: It seems to me that the matter has been
5 adequately covered.

6 BY MR. TRIGG:

7 Q. Mr. Bickerstaff, were you in bed with Ford Motor Company?

8 MR. LEWIS: Your Honor, I object. That's a leading
9 question.

10 THE COURT: I'm going to let you ask it. Go ahead.

11 Q. Were you, sir?

12 A. No.

13 MR. TRIGG: I have no further questions.

14 RECROSS-EXAMINATION

15 BY MR. LEWIS:

16 Q. Mr. Bickerstaff, you were an important witness for Ford,
17 weren't you?

18 A. I believe so, yes.

19 Q. Huh?

20 A. I believe so, yes.

21 Q. And it was important that you could show that you were very
22 competent as a person, right, and as an engineer?

23 A. Yes.

24 Q. And so 60 to 70 percent of your business came from Ford,
25 right?

1 A. Over a period of time, yes, sir.

2 Q. If Ford didn't send you business, you would be out of
3 business, right?

4 A. Well, I would have to go and find --

5 Q. Sir?

6 A. I would have to replace that business, yes, sir.

7 Q. And 60 percent of your business being gone means you are out
8 of business, doesn't it?

9 A. Well, it would have serious consequences, yes, sir.

10 Q. And you owed money for that business, didn't you?

11 A. I had debt in my business?

12 Q. Yes.

13 A. Yes, sir.

14 Q. And Ford was paying 60 to 70 percent of that debt, weren't
15 they?

16 A. I don't think so, sir.

17 Q. Well, if they are getting 60, 70 percent of the income
18 coming to your company, they are paying 60 to 70 percent of the
19 debt, aren't they?

20 A. No, sir, because the expenses to conduct that business were
21 substantial and a large part of that debt was actually paid off
22 from other means.

23 Q. Other means?

24 A. Yes, sir.

25 Q. So you would get some moneys from here and you would say

1 this is debt money and this is expense money, okay. Ford paid
2 most of your expenses, didn't they?

3 A. The income to the company?

4 Q. Yes, sir.

5 A. About maybe 75 percent of that went to the expenses of
6 operating the company, yes, sir.

7 Q. Yes, sir. And that's what you were doing, trying to build a
8 company, right?

9 A. I was, yes, sir.

10 Q. And you needed that Ford business, didn't you?

11 A. I didn't necessarily need that Ford business, but that Ford
12 business was good at the time.

13 Q. Yes, sir. And you sold your testimony to get that business,
14 didn't you?

15 A. No, sir.

16 Q. This Ford lawyer over here showed you the Chewning trial
17 testimony and asked you about the Chewning trial testimony. I
18 just want you to look at these two statements. One is from Goff
19 and one is from Chewning.

20 MR. TRIGG: Your Honor, I object to a partial
21 transcript. I prefer the actual transcript.

22 THE COURT: If what is set forth is accurate, you may
23 proceed with it.

24 MR. LEWIS: It is accurate, Your Honor.

25 Q. Now, in the Chewning trial, when you were being paid by

1 Ford --

2 MR. TRIGG: What page is that from, the Chewning trial,
3 please?

4 MR. LEWIS: It's from the exhibit they put in evidence
5 just now. It's from 2412, and Goff, it's 84 and 85.

6 Q. Do you see that, Mr. Bickerstaff? Can you read it okay?

7 A. Yes, sir.

8 Q. It says on the first question in Chewning when you were
9 being paid by Ford, "And Mr. Bickerstaff, I want this to be
10 clear to the jury." Do you see that?

11 A. Yes.

12 Q. And then in the deposition I took, I said, "I want to make
13 sure." Do you see that?

14 A. Yes, sir.

15 Q. Both -- both the question and both things want to make sure,
16 don't they? Don't they -- aren't they trying to make sure?

17 A. That's what it says on the second question, yes.

18 Q. And the first one, "Are you the guy that had responsibility
19 for deciding when the Bronco II was safe enough from a handling
20 and stability standpoint?" Do you see that?

21 A. Yes, sir.

22 Q. Now, that's the exact same question that was asked to you
23 after you weren't being paid by Ford in December of 1998, right,
24 the Goff deposition in this case? "Are you the guy that had" --

25 A. It's almost the same.

1 Q. -- "responsibility for deciding when the Bronco II was safe
2 enough from a handling and stability standpoint," those two
3 questions are the same, aren't they?

4 A. They are almost identical, yes, sir.

5 Q. Almost? Show me where they aren't identical.

6 A. The words aren't exactly the same.

7 Q. They aren't? "Are you the guy that had responsibility for
8 deciding when the Bronco II was safe enough from a handling and
9 stability standpoint?" "Are you the guy that had responsibility
10 for deciding when the Bronco II was safe enough from a handling
11 and stability standpoint?" What's the difference?

12 A. Well, that part of it is the same.

13 Q. Okay, thank you. And then what was your answer when you
14 were being paid by Ford? Answer?

15 A. "Yes, I was."

16 Q. And what was your answer down here in the Goff deposition?

17 A. "It was not completely myself. I would want to be satisfied
18 myself before recommending that it was okay, but there were
19 other checks and balances in the system besides my own
20 viewpoint."

21 Q. When you were being paid, your testimony was different,
22 wasn't it?

23 A. As far as I recall, sir, I continued to do work for Ford
24 through 1999.

25 Q. Yes, sir.

1 MR. LEWIS: No further, Your Honor.

2 MR. TRIGG: Nothing further, Your Honor.

3 THE COURT: Let me ask whether or not Mr. Bickerstaff
4 may be excused from the trial.

5 MR. LEWIS: Yes, sir.

6 MR. TRIGG: Yes, sir.

7 THE COURT: Mr. Bickerstaff, you may be excused from
8 the trial. Let me caution you, however, not to discuss your
9 testimony with any other witness in this case until the trial is
10 over, unless the court indicates otherwise to you. Thank you,
11 sir.

12 THE WITNESS: Yes, sir, thank you. Thank you.

13 MR. BONASSO: We next call Mr. Ray Wood.

14 ROBERT RAY WOOD, DEFENDANT'S WITNESS, SWORN

15 DIRECT EXAMINATION

16 BY MR. BONASSO:

17 Q. I'll wait until you fill your cup.

18 Would you please tell us your name, sir.

19 A. Robert Ray Wood.

20 Q. And Mr. Wood, where do you live?

21 A. I live in Rockford, Illinois.

22 Q. And what do you do there?

23 A. I am chairman and president of the Rockford Products
24 Corporation.

25 Q. And where are you from originally?