

CAUSE NO. 93-009516

C. WAYNE BARDWELL  
and HAMPTON HOMES CORPORATION  
Plaintiffs

IN THE DISTRICT COURT OF

vs.

HARRIS COUNTY, TEXAS

FORD MOTOR COMPANY, NTW  
INCORPORATED and INTERNATIONAL  
AUTOMOTIVE CORP.

Defendants.

80TH JUDICIAL DISTRICT

FORD MOTOR COMPANY'S RESPONSE TO PLAINTIFF  
C. WAYNE BARDWELL'S FIRST INTERROGATORIES

Ford Motor Company ("Ford"), pursuant to Rule 33 of the Texas Rules of Civil Procedure responds to Plaintiffs' First Set of Interrogatories as follows:

EXPLANATORY NOTE

The instant action involves a 1984 Bronco II 4x4. However, in several discovery requests, Plaintiffs seek documents pertaining to the "Bronco II 4x2 and 4x4 (pre-production and production)," "Yuma," "Yuma Utility Vehicle" and "prototypes." Ford offers this Explanatory Note to clarify the various vehicles it has produced over the years which have carried the "Bronco" nameplate.

Ford has produced three "generations" of Bronco vehicles which are substantially different from the compact and unique Bronco II. The "Original Bronco" was a 4-wheel drive utility vehicle produced for the model years 1966 through 1977.

For the 1978 and 1979 model years, Ford offered a new and different vehicle, but kept the "Bronco" designation. This second generation vehicle was substantially larger than the original version and distinct in nearly all design and construction features. A third generation Bronco, introduced in model year 1980, still is in production. However, because of significant design changes, the model introduced in 1980 is substantially different from the 1978-79 model year Broncos.

The compact Bronco II was a completely different vehicle from any of the three Bronco generations that preceded it. The design, development and testing of the 4-wheel drive Bronco II

Plaintiff's Exhibit

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took place during a 3-5 year period before its introduction in 1983, as a 1984 model. Additional design and development work was undertaken with respect to the 2-wheel drive Bronco II which was introduced as a 1987 model. During these "pre-production" years, documents relating to prototype or experimental vehicles were generated. These pre-production documents are those which Ford equates to Plaintiffs' requests for Bronco II "prototype" or "Yuma Utility Vehicle" documents.

The Ford Explorer is a new and different vehicle line from the Bronco II and was introduced as a 1991 model. In connection with the development of the Explorer, Ford used the Bronco II for comparison purposes in some of the handling, stability and steering tests and evaluations. Ford objects to producing Explorer documents except for those containing Bronco II comparative test information because the Explorer is not at issue in this lawsuit and such information is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

In light of the vehicle differences, Ford objects to each Interrogatory which seeks information pertaining to vehicle lines other than the Bronco II on the grounds that it would impose an unreasonable and expensive burden for material which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Ford will respond to Plaintiffs' discovery requests for the following vehicles: (1) Bronco II 4x2 (pre-production and production levels); (2) Bronco II 4x4 (pre-production and production levels); and (3) Explorer documents with Bronco II comparison (4x2 or 4x4). By making available pre-production, Bronco II 4x2 and Explorer comparison information, Ford does not admit or imply that the documents are relevant or reasonably calculated to lead to the discovery of admissible evidence.

Ford is in the process of reviewing certain computerized information to determine whether any responsive information not previously provided exists and will supplement its responses with all responsive non-privileged and non-work-product protected information that Ford is able to identify through its review.

In responding to Plaintiffs' discovery, Ford has agreed to make available thousands of pages of documents. Ford offers Plaintiffs two options to obtain these documents.

First, upon written request, Ford will make available those documents which Ford believes are reasonably responsive to Plaintiffs' discovery without waiving any of the objections stated in Ford's discovery responses herein. Although Ford has made a good faith effort to identify documents with responsive information, due to the breadth of Plaintiffs' discovery and the complexity of the subject matter, Ford cannot possibly represent

that every document with some information which Plaintiffs may consider potentially responsive has been identified for production.

In the alternative, Plaintiffs may inspect and copy those documents which have been collected over a period of years through numerous expensive and time consuming searches in response to discovery propounded in Bronco II and other litigation. Documents located in these searches and not protected from disclosure by the attorney-client privilege, work-product protection, or both, are available in a central location in Phoenix, Arizona at the law offices of Snell & Wilmer.

Ford will make available copies of the documents described above subject to a protective order applicable to certain documents which Ford believes contain trade secret and other proprietary information belonging to Ford, and subject to Plaintiffs' agreement to pay for the copying costs of the selected documents.

To the extent that any Interrogatory seeks "all information," Ford objects to that Interrogatory as over broad and seeking information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, such an Interrogatory fails to define the information sought with reasonable particularity.

Regarding Ford's assertion of the attorney-client privilege and/or work-product protection in certain responses, Ford objects to Plaintiffs' effort to impose any obligation to disclose the circumstances and substance of the protected documents beyond the requirements of the Texas Rules of Civil Procedure. Ford will make available appropriate affidavits and indices supplying information regarding the documents for which Ford claims protection.

#### INTERROGATORIES

1. Provide the identity and location (name, address and telephone number) of any potential party to this lawsuit.

#### ANSWER:

Because this action was filed recently, discovery has not been completed, and Ford's investigation is continuing. From the information presently available, Ford believes that an unidentified female driver may have caused or contributed to the accident. However, at this time, Ford does not know the identity or location of this person. Other known parties already are

6. List any and all documents which relate to the Bronco II 4x2 and 4x4 (pre-production and production), Yuma or Yuma Utility Vehicle and/or prototypes which FORD MOTOR COMPANY claims or has specific knowledge no longer exists. For each such document provide:
- (a) a description of the document;
  - (b) the sources of the information used in describing the document; and,
  - (c) the names of anyone who reviewed the document or a description of the document prior to its being discarded or destroyed, specifically listing any members of the Office of General Counsel and the date of their review.

ANSWER:

The Bronco II documents retrieved through the numerous searches conducted by Ford have not been discarded or destroyed, and, therefore, Ford objects to this Interrogatory as argumentative and misleading to the extent it implies that any Bronco II documents were gathered, reviewed and then discarded to preclude their availability during litigation.

With respect to any document relating to the Bronco II, there are thousands of documents that were generated starting before 1980 and continuing through 1990. Given the enormous complexity of design and development of a motor vehicle, those documents number in the hundreds of thousands of pages and were generated by hundreds of Ford employees in many different locations throughout the Company. Similar volumes of documents were generated in the same time frame for the numerous other vehicles being designed and developed by Ford. In order to meet legitimate business needs such as storage space, Ford has a Corporate Records Management Program that specifies the length of time certain types of documents should be maintained and then discarded because no business purpose would be served by retaining them longer. Due to the volume of materials involved, and the passage of time, it is impossible for Ford to identify all of the documents relating to any given vehicle, including the Bronco II, that may ever have existed, and to identify those

which may have been discarded pursuant to the Corporate Records Management Program over the course of several years. Ford objects to this Interrogatory as over broad, not reasonably calculated to lead to the discovery of admissible evidence, unduly burdensome and beyond the scope of permissible discovery to the extent it purports to require Ford to attempt to construct such a list, or to attempt to identify anyone who may have reviewed a document prior to its being discarded.

Without waiving its objections, based on the lists submitted to Mr. Parrill in 1982 by various departments, Ford believes that the following Bronco II related documents were discarded pursuant to Ford's Corporate Records Management Program in the 1983-83 time frame. Due to the passage of time, personnel and organizational changes, Ford presently is unable to identify the individual who discarded a specific document nor can Ford attest to the accuracy or appropriateness of the document descriptions listed below, which are taken from the lists submitted to Mr. Parrill:

Bronco II LT215 Tire Delete (P.L. 84Y2-4-708) (03/15/81)  
Ranger 4x4 LT215 Tire Delete (P.O. 83Y6-4-705) (03/15/81)  
Bronco II Denver Market Research - Final Report (04/02/81)  
Ranger/Bronco II PPS Status Report (04/16/81)  
Bronco II Market Research Concerns - Response to Mr. E.A. Poling (05/22/81)  
Bronco II Hardpoint Change Letter #1 (06/13/81)  
Chief Engr. Hardpoint Letter (04/07/80)  
Bronco II Rear Spring Cost & Weight Reduction (08/14/81)  
Bronco II Weight Status (09/16/81)  
Bronco II Weight Status (08/14/81)  
Bronco II Weight Status (07/06/81)  
Bronco II Weight Status (04/03/81)  
Bronco II Weight Status (03/18/81)  
1983 Yuma Utility Proposed Functional Images Rg (07/13/79)  
Yuma Utility Preliminary Package (05/11/79)  
1983-1/2 Yuma Utility Final (10/08/80)

High Pressure Temporary Spare Tires (10/14/80)

Copy-overtime request for cart test, letter from  
R.I. Liljestrang to C.A. Freeman (06/24/82)

Original - Test Authorization from Compliance Development to  
TOES for above test.

Two (2) copies each of test cart run films as requested  
above. (X-9-293, Runs 1-11).

LTE Program Report - Product directional assumption  
revisions to utility to achieve desired index of 2.2.

LTE Program Report - 1983-1/2 Bronco II rear axle.

Telegram from H.W. Potoczak to H. Bickenbach, et al - Bronco  
II rear axle.

Memo from D.A. Chamberlain to D.J. Bickerstaff et al -  
Ranger 4x4/Bronco II ride height and tread charts.

Telegram from N.E. Johnson to H.W. Potoczak - Bronco II rear  
axle.

Letter from D.A. Chamberlain to D.J. Bickerstaff et al -  
Bronco II/Ranger (4x4) tread and ride height revisions.

Letter from R.B. Pittman to H.W. Potoczak - Bronco II rear  
axle.

Light Truck Program Assumptions - Bronco II/Ranger 4x4 tread  
and ride height revisions.

TAE response to L.T. Engineering Letter 83YU737-Bronco  
II/Ranger 4x4 track width and height revisions.

Front/Rear tread data

Weight status, due to tread change

Front Drive Axle Tread change cost

Front Drive Axle Tread change assumptions.

Program Report - To achieve stab. index of 2.2.

Spindle design life calculations

Bearing life calculations

Correspondence from the Timken Co. on bearing life.

Track revision assumptions

PCR 893229, to increase front drive axle tread width.

Reinstatement of 14" wheels to improve - BII - handling

Reduced offset 15" wheels for - BII.

L.R.S. memo to C.A.W. - Wheel changes for increase tread - BII

Goodyear Tire Co. handout - P205/195-AT tires changes - R-4x4, B-II

Center of gravity/stability index comparison - competitive; Ranger (4x2, 4x4) B-II

B-II FRT/RR jounce with various tires and tread width

Memo to F.N.P. - B-II lower lat. force P205 tires for evaluation

Memo to L.R.S. - Various Ranger (4x4) and B-II tires/wheels relative to APG speeds

Memo to C.A. White relative to various Goodyear AT tire ranking on handling with Bronco II

Memo to C.A.W. identifying Bronco II tire traction and how traction can be affected by reducing handling

Various memoranda from 7/30/82 meeting on Bronco II tire handling along with tire test data from MTS and Calspan Machines

Final Test Reports - Stability Index Determination

Stability Index Comparison between Glass Belted and Steel Belted Tires

In a further effort to respond, Ford would note that, in response to other discovery requests propounded by Plaintiffs in this litigation, Ford has stated that it has conducted a reasonably diligent inquiry for certain documents and/or document types referenced by Plaintiffs and has been unable to locate specifically responsive documents. Ford refers Plaintiffs to such discovery responses which are incorporated herein by reference.

7. List the names, titles and departments of any persons who in



after which all of the documents that had been collected were reviewed by Mr. Roger Stornant, Mr. Antoun and Mr. Max Moore. This set of documents then resided in Mr. Antoun's office for several years. At some later date, in the 1985 or 1986 time frame, the set of documents came into the possession of Mr. Alfred J. Darold, an engineer in Ford's Design Analysis Department. Sometime thereafter, in the first half of 1988, the set of documents was transferred to the office of Design Analysis Engineer Mr. Russell Galorneau for storage, where it was located in February 1992 by outside Counsel for Ford, Mr. Douglas Seitz and Mr. Darold. Presently, that original set of documents has been transferred to the offices of Snell & Wilmer in Phoenix, Arizona, and Plaintiffs' Counsel may inspect it there.

16. Identify and give a complete description of all of the databases which have been used by FORD MOTOR COMPANY to keep documents relating to the Bronco II 4x2 and 4x4 (pre-production and production), Yuma or Yuma Utility Vehicle and/or prototypes.

**ANSWER:**

Ford objects to this Interrogatory to the extent it invades the attorney work-product protection by seeking information pertaining to litigation support databases utilized by Ford's Counsel. Ford further objects to this Interrogatory as over broad, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence because the method of storage and retrieval of documents in no way is related to the matters at issue in this litigation.

17. Identify the individual or individuals and their department who were responsible for the FORD MOTOR COMPANY Corporate Record Retention Manual or policy in the years 1975 to 1992.

**ANSWER:**

Ford's document retention schedules are established by the Corporate Records Management Manual. Mr. Richard Matyn, now retired, was Administrator, Corporate Records Management, Engineering and Manufacturing Staff, between 1982 and 1991, and is familiar with Ford's Corporate Records Management Program.



**ANSWER:**

Ford will make available to Plaintiffs the claims related correspondence it received regarding accidents allegedly involving a Bronco II. In those instances where correspondence is not available, but an alleged accident is referenced in a document prepared by Ford's Legal Counsel or prepared by other Ford representatives in anticipation of litigation, Ford will disclose the vehicle type, owner's name and address, document date and nature of the claim to the extent this information is available from the document. Ford asserts the attorney-client privilege and attorney work-product protection to the remaining portions of these documents.

Lawsuits filed against Ford often fail to state clearly the basis for a claim, to specify the nature of the accident, or to identify clearly the alleged product defect. Because Ford is unable to identify accurately those claims which might be sought by this Interrogatory, Ford will make available to Plaintiffs' Counsel those Complaints retrieved from its open and closed files which seek damages for bodily injury allegedly sustained in an accident involving a Bronco II.

The information responsive to this Interrogatory, to the extent it is reasonably available, will be contained in the documents to be made available. Accordingly, Ford objects to being required to compile information equally available to Plaintiffs, and further objects to this Interrogatory as not reasonably calculated to lead to the discovery of admissible evidence, to the extent it requires Ford to ascertain the status of each claim. Additionally, settlements under confidentiality agreements are not subject to disclosure.

24. Identify by name, address, date of accident, description of accident and date of FORD MOTOR COMPANY'S notice, the first report, claim and/or lawsuit received by FORD concerning injury or death where a Bronco II was involved in a rollover.

**ANSWER:**

In response to Interrogatory No. 23, which response and objections Ford incorporates herein, Ford agreed to make available the legal Complaints from its open and closed files, and non-privileged claims correspondence pertaining to an accident involving the Bronco II that it has been able to locate. Plaintiffs can review the correspondence made available just as

Respectfully submitted,  
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ATTORNEYS FOR DEFENDANT  
FORD MOTOR COMPANY

#### CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been forwarded by certified mail, return receipt requested, to the following counsel of record on this 12th day of November, 1993.

Mr. Mike Johanson  
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easily as Ford and determine the chronological order of any "report or claim." Accordingly, Ford objects to being required to ascertain information equally available to Plaintiffs. With respect to lawsuits, Ford states that the first legal complaint alleging that a Bronco II rolled over of which it is aware was served on 12/14/84 in Gogliuzza v. Ford. Ford will make this Complaint available to Plaintiffs in response to Interrogatory No. 23.

25. Identify for each year from 1982 to present the total expense FORD MOTOR COMPANY projected for claims and litigation arising out of injuries caused by Bronco II rollovers.

ANSWER:

This Interrogatory is over broad and clearly is aimed to harass and annoy Ford rather than to propound legitimate and reasonable discovery. As phrased, this Interrogatory also invades the province of Ford's attorney-client privilege and attorney work-product protection and Ford also objects on those grounds. Without waiving any of these objections, if this Interrogatory is intended to obtain information related to the cost of design changes versus the cost of personal injury or cost of personal injury lawsuits, Ford is not aware of any such documents.

To the extent this Interrogatory seeks information pertaining to Ford's filings with the Securities and Exchange Commission, Ford states that such documents are publicly available and can be obtained by Plaintiffs from the SEC. To the extent this Interrogatory seeks information used by Ford to complete the documents submitted to the SEC, Ford objects that the Interrogatory is over broad, not reasonably calculated to lead to the discovery of admissible evidence and potentially invades the province of Ford's attorney-client privilege and attorney work-product protection.

26. Specify the projected sum of money it would cost FORD MOTOR COMPANY to recall all Bronco IIs currently on the road today.

ANSWER:

STATE OF MICHIGAN )  
                          ) SS:  
COUNTY OF WAYNE )

PAUL H. GARDNER, being duly sworn, deposes and says that he is an authorized agent of Ford Motor Company, and that he verifies the foregoing answers to Plaintiff C. Wayne Hardwell's First Interrogatories on behalf of Ford Motor Company; that the matters stated therein are not within the personal knowledge of deponent; that the facts stated therein have been assembled by authorized employees and Counsel of Ford Motor Company, and deponent is informed that the facts stated therein are true.

Paul Gardner

Subscribed and sworn to before me  
this 12 day of November, 1991.

Maria J. Less  
NOTARY PUBLIC

MICHIGAN  
NOTARY PUBLIC  
My Commission Expires 12/31/94

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