

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

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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 15, 2001
12 : VOLUME III
13 Defendant. :
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:

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21 FOR THE DEFENDANT

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1801 California Street
Denver, CO 80202

22 COURT REPORTERS:

23 BARBARA STEINKE, RMR
24 ANGELA PRESTON, RMR
25 U.S. District Court
300 Virginia Street East
Charleston, WV 25301

EXHIBIT
NO. 3

1 Q. Now, in asking you about that, you said that they suspended
2 dynamic testing. Do you remember saying that?

3 A. Yes.

4 Q. What do you mean by they suspended dynamic testing?

5 A. Well, in April of 1982, a couple of months before Mr.
6 Bickerstaff left, Ford suspended testing of the Bronco II.

7 Q. Why?

8 A. They have testified that it was out of fear for the safety
9 of their test drivers.

10 MR. LEWIS: Thank you. That's all I have, Your Honor.

11 THE COURT: All right. Let me see counsel at the bench
12 a moment.

13 (At side bar.)

14 (Remarks were made off the record, after which the following
15 occurred:)

16 THE COURT: The court finds by a preponderance of the
17 evidence that the conspiracy has been shown to have existed
18 between Ford and its officers and agents designated in this case
19 as well as Mr. Bickerstaff and his company from July 1990 until
20 the year 1996, being the conspiracy alleged in the complaint,
21 and as a consequence coconspirator statements are admissible.

22 Now, I called you to the bench because I didn't know whether
23 you had anything else to offer in the way of a coconspirator
24 statement other than what may have come in for some other
reason....

1 MR. LEWIS: The only two things that I have left is the
2 one that you just took care of there and a Chewing statement
3 that you ruled we could use, but I haven't forgot to put it in,
4 and I asked them if they knew if it was in and they said they
5 didn't think so.

6 THE COURT: What I want to know is whether or not the
7 ruling, only now being made, you have been precluded from
8 presenting anything that you wanted to have presented
9 otherwise. I don't think anything was withheld on that account,
10 but it might have been and I wanted to be sure.

11 MR. LEWIS: I'm not sure I understand. I'm sorry.

12 THE COURT: I didn't know whether or not you had
13 offered anything that the court declined to receive because the
14 court had not made a determination that the conspiracy as
15 alleged existed for that purpose, that is, for that evidentiary
16 purpose, and if that's not been a problem, we don't need to
17 consider it.

18 MR. LEWIS: Just two.

19 THE COURT: Well, what two things have that been?

20 MR. LEWIS: One you reserved and one I just don't know
21 if I made the formal offer. There are just two pieces of paper.

22 THE COURT: There was one reserved, I remember now. It
23 was an exhibit.

24 MR. LEWIS: Yes, sir.

5 THE COURT: Well, I can look at it later and we'll see

UNITED STATES DISTRICT COURT
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AT CHARLESTON

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BRENDA R. GOFF, as :
 Administratrix of the Estate of :
 ROBERT ALLEN PENNINGTON, :
 Deceased, :
 Plaintiff, : CIVIL NO: 2:97-0341

v :
 FORD MOTOR COMPANY : MARCH 16, 2001
 : VOLUME IV

Defendants. :

-----X

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BEFORE THE HONORABLE JOHN COPENHAVER, JR.
UNITED STATES DISTRICT JUDGE
AND A JURY

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1 20th, 1990, couldn't have been in furtherance of it. He
2 testified the first payment in furtherance of the conspiracy
3 was October 31 of --

4 THE COURT: I have read the motion. I have already read
5 the motion. If you have something else to add, I will be happy
6 to hear it.

7 MR. STEWART: Just that, Your Honor.

8 THE COURT: Do the parties have anything further?

9 MR. LEWIS: No, sir.

10 THE COURT: The court on yesterday found by a
11 preponderance of the evidence that the conspiracy alleged in
12 the complaint began in July 1990 and extended until 1996. The
13 court finds that that time in 1996 was at least until June 13,
14 1996, which is the date of plaintiff's exhibit 5 and its
15 transmission by Mr. Bickerstaff to Mr. Brown at Ford.

16 The court finds that the letter of June 13, 1996, which is
17 plaintiff's 5, is a document that was prepared and transmitted
18 in the course of and in furtherance of the conspiracy and
19 accordingly plaintiff's 5 is admitted.

20 PLAINTIFF'S EXHIBIT 5, PREVIOUSLY IDENTIFIED, WAS
21 ADMITTED INTO EVIDENCE.

22 THE COURT: The court finds as well that plaintiff's 25,
23 being Mr. Bickerstaff's statements in the Chewing matter, is
24 also admissible as a co-conspirator statement made in
; furtherance of and during the course of the conspiracy.

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REPORTERS' CERTIFICATION

I, Barbara Steinke, Registered Merit Reporter, hereby certify that the foregoing pages 477 and 478 from the transcript of the trial in Civil Action 2:97-0341, Goff v. Ford Motor Company, is a true and accurate transcript from the record of proceedings in this matter.

April 16, 2001

Barbara Steinke

I, Angela Preston, Registered Merit Reporter, hereby certify that the foregoing pages 290, 534, and 537 from the transcript of the trial in Civil Action No. 2:97-0341, Goff v. Ford Motor Company, is a true and accurate transcript from the record of proceedings in this matter.

April 16, 2001

Angela Preston