

EXPERT WITNESS REPORT - PRELIMINARY

Kline v. Loman Auto Group, Victoria Morgan-Alcala, et al.

PAUL VICTOR SHERIDAN, BS, MBA

30 November 2009

INTRODUCTION

1. My name is Paul V. Sheridan. I reside at Dearborn, Michigan. All facts and opinions recited in this report are either known to me personally as matters of fact, or represent opinions I have formed based upon my specialized education, specialized training, specialized experience, observations, knowledge, employment with Chrysler Corporation (hereafter “Chrysler”), involvement with DaimlerChrysler Corporation, involvement with Chrysler LLC, involvement with Chrysler Group LLC, work with Chrysler automotive and truck dealerships, review of substantial literature, review of parts, including Chrysler parts and vehicles, as well as parts, vehicles and literature of competitive automotive manufacturing companies such as General Motors, Ford, Toyota, et al.

2. I am currently engaged in the automotive safety consultation profession as a ‘General Automotive Safety Management Expert.’ I was certified as such by Judge Robert Childers in the matter of Mohr v. DaimlerChrysler, Circuit Court of Shelby County, Tennessee, in February 2005. My status was affirmed by the Court of Appeals at Jackson, Tennessee in July 2007. For fifteen years I have offered my safety consultations on Chrysler Corporation products. I have testified in this expert capacity in jury trial, sworn deposition and report:

a. In July 2005 I won the National Champion Award from the Civil Justice Foundation for my work as a General Automotive Safety Management Expert. I am the only person in history to win this award for contributions to automotive safety.

3. I am aware from my involvement in existing and previous litigation that Chrysler has settled and sealed many lawsuits, and paid substantial damages to plaintiffs who have been severely injured and/or killed as a direct result of Chrysler’s failure to adequately inform and failing to adequately protect the general public regarding the known safety defects that are inherent in the fuel system of their 1993 through 2004 model year versions of the Jeep Grand Cherokee and Jeep Grand Wagoneer sport utility vehicles.

4. I am aware that a lawsuit had originally been filed against Chrysler LLC, in the Superior Court of New Jersey, Morris County, alleging that this auto maker placed SUSAN MORRIS KLINE at grave risk by failing to adequately inform and failing to adequately protect her, her family and the general public, specifically regarding the known safety defects that are inherent in the fuel system of the 1996 Jeep Grand Cherokee sport utility vehicle:

a. I am aware that subsequent to this original lawsuit filing against Chrysler LLC, the auto maker filed for bankruptcy protection on April 30, 2009 in the U.S. Bankruptcy Court for the Southern District of New York seeking relief under Chapter 11 of the U.S. Bankruptcy Code.

b. Protection was granted on June 1, 2009 forming two entities Old Carco LLC and Chrysler Group LLC. Old Carco LLC has a value of zero. Both continue function at the original address: 1000 Chrysler Drive, Auburn Hills, MI 48326.

c. I am aware that Chrysler Group LLC denies any product liability responsibility for the 1996 Jeep Grand Cherokee sport utility vehicle, such as that previously owned and previously operated on February 24, 2007 by SUSAN MORRIS KLINE,

d. I am aware that subsequent inquiries from the United States Senate relating to paragraph 4c influenced a public relations announcement by Chrysler Group LLC which claim that it would assume product liability responsibility for “*all Chrysler LLC vehicles purchased before June 10, 2009 and involved in accidents after that date.*” This August 30, 2009 announcement did not offer revisions to honor the product liability responsibilities associated with the 1996 Jeep Grand Cherokee sport utility vehicle previously owned and previously operated by SUSAN MORRIS KLINE and was involved in an accident on February 24, 2007,

e. I am aware that defendant Loman Auto Group historically routinely sold and serviced the following vehicle brands: Ford, Subaru, Chrysler and Jeep. Under bankruptcy restructuring, Chrysler Group LLC “rejected” transfer of existing dealership franchises for 800 Chrysler, Dodge, Dodge Truck and Jeep dealerships. Loman Auto Group was rejected by Chrysler Group LLC, and is therefore no longer franchised to sell Chrysler or Jeep vehicles. However I am aware that Loman Auto Group sold and serviced the 1996 Jeep Grand Cherokee sport utility vehicle, which was previously owned and previously operated by SUSAN MORRIS KLINE and which was involved in an accident on February 24, 2007,

i. Having earned substantial revenue from the sale and service of Jeep vehicles, defendant Loman Auto Group is thoroughly familiar with the three engineering iterations of the Jeep Grand Cherokee sport utility vehicle: 1993 through 1999, 2000 through 2004, and 2005 through 2009 (See ¶ 5).

JEEP GRAND CHEROKEE – GENERAL PRODUCT HISTORY

5. Chrysler vehicle engineering programs are designated by two-letter codes. These codes change when modifications to the original engineering design occur, including relatively minor revisions. The term ‘Jeep Grand Cherokee’ is the brand name for the consumer market, which was based on internal engineering programs which were/are historically coded as follows:

- a. ZJ-Body: Produced for the 1993 through 1998 model years,
- b. WJ-Body: Produced for the 1999 through 2004 model years,
- c. WK-Body: Produced for the 2004 through 2010 model years,
- d. TBD-Body: Produced for the 2011 through ongoing model years.

6. The first iteration of the Jeep Grand Cherokee (ZJ-Body) was approved for production by management in 1987 for production in January 1992 as a 1993 model year vehicle:

a. The ZJ-Body was designed with the fundamental safety defect of locating the fuel tank behind the rear axle in what is called the “crush zone,” and without adequate shielding/protection from foreseeable real-world collisions,

- b. Upon the 1993 introduction of the ZJ-Body version of the Jeep Grand Cherokee, no other competitive sport utility vehicle was sold with a fuel tank behind the rear axle and without adequate shielding/protection from foreseeable real-world rear under-ride collisions,
 - c. Since introduction in 1993, the ZJ-Body version of the Jeep Grand Cherokee has been the focus of many fire-related deaths and/or severe injury accidents, and lawsuits that have been settled & sealed by Chrysler lawyers.
7. The second engineering iteration of the Jeep Grand Cherokee, the WJ-Body, was approved for production by Chrysler management in approximately 1995, for initial production in September 1998 as a 1999 model year introduction:
- a. Although a substantial number of parts/components were revised, the 1999 WJ-Body did not involve major revisions to case-relevant structural or overall vehicle layout/configuration,
 - b. The WJ-Body continued with the fundamental safety defect of locating the fuel tank behind the rear axle in the rear “crush zone,” and without adequate shielding/protection from foreseeable real-world under-ride collisions,
 - c. Upon the 1998 introduction of the WJ-Body version of the Jeep Grand Cherokee, no other competitive sport utility vehicle was sold with a fuel tank behind the rear axle and without adequate shielding/protection from foreseeable real-world under-ride collisions,
 - d. At the time of the 1998 introduction of the WJ-Body version of the Jeep Grand Cherokee, Chrysler Corporation had just been “merged” with DaimlerBenz to form DaimlerChrysler Corporation. To the best of my knowledge, no DaimlerBenz engineering inputs were incorporated into the WJ-Body version of the Jeep Grand Cherokee due to time constraints, etc.
 - e. Since introduction in 1998, the WJ-Body version of the Jeep Grand Cherokee has been the focus of many fire-related deaths and/or severe injury accidents, and lawsuits that have been settled & sealed by Chrysler lawyers.
8. The third engineering iteration of the Jeep Grand Cherokee, the WK-Body, was approved for production by Chrysler management in approximately 1999, for initial production in September 2004 as a 2005 model year introduction:
- a. The WK-Body represents a very substantial re-design of the Jeep Grand Cherokee. The fundamental safety defect of locating the fuel tank behind the rear axle in the rear “crush zone,” and without adequate shielding/protection, was eliminated by relocating the fuel tank to the middle portion of the vehicle, in front of the rear axle, and providing substantial shielding/protection from foreseeable real-world collisions,
 - b. At the time of program approval in 1999, the WK-Body benefited from the just-prior formation DaimlerChrysler Corporation, which allowed substantial incorporation of DaimlerBenz design and engineering inputs. It is well-known that incorporation of

substantial DaimlerBenz design and engineering inputs continues and is extended with the all-new 2011 version of Jeep Grand Cherokee, despite the fact that Chrysler Group LLC is no longer part of a DaimlerBenz “merger,”

c. Locating the fuel tank to the middle of the vehicle, in front of the rear axle, and providing substantial shielding/protection from foreseeable real-world collisions, is standard industry practice of twenty-five-plus years. To the best of my knowledge all DaimlerBenz sport utility vehicles have adhered to this location practice.

d. Since introduction for the 2005 model year, the re-design of the WK-Body version of the Jeep Grand Cherokee has not been the focus of any fire-related deaths and/or fire-related severe injury accidents, and has not been the focus of any fire-related death and/or severe injury litigation leading to that have been settled & sealed lawsuits by Chrysler or dealership defense lawyers,

i. Recent news media reports have claimed that “only one” WK-Body version of the Jeep Grand Cherokee has been involved in a “fire related death” since the 2005 model year introduction. This is completely false. The accident referenced by the news media occurred on October 11, 2007 in Florida, which involved a 2008 Jeep Grand Cherokee, did not have any fire related deaths. The accident report, that I only recently acquired shows that there was no fuel tank related fire, there was no other colliding or under-riding accident vehicle; this was a one-car rollover accident, involving ejection of the driver and passenger; death of the latter is attributed to “blunt force trauma.” From the police report it appears that the fuel tank in this WK-Body version remained intact.

CHRYSLER CORPORATE / ACQUISITION HISTORY

9. In 1998, Chrysler was acquired by DaimlerBenz AG of Germany to form DaimlerChrysler AG. DaimlerBenz was the original manufacturer of Mercedes-Benz automobiles. This acquisition was referred to by both Chrysler and DaimlerBenz executive management as a “marriage made in heaven” and a “merger of equals”:

a. During 1994/1995 Chrysler executive management discussed the merging of Chrysler with DaimlerBenz. The accounting firm of Goldman-Sachs International (GSI) was hired to do the financial study code-named “Project Blitz.” Project Blitz was presented to Chrysler management on October 4, 1995,

b. The August 6, 1997 proxy statement includes “*Interests of Certain Persons in the Chrysler Merger,*” which details that top Chrysler executives be compensated with cash and stock totaling “\$395 million.” It was later reported that ex-Chrysler CEO, Robert Eaton, received in excess of \$200 million after the “merger” of early 1998,

c. During the period when DaimlerChrysler Corporation was a subsidiary of DaimlerChrysler AG, open communications between the engineers, product planners, external suppliers, et al. of DaimlerChrysler of Auburn Hills, Michigan and Mercedes-Benz of Stuttgart, Germany were routine, and mandated by an internal program called “Post Merger Integration” (PMI):

- i. During PMI, Chrysler vehicles were shipped to Mercedes-Benz of Stuttgart, Germany for detailed review of engineering of components, systems and subsystems,
 - ii. During PMI, Mercedes-Benz vehicles were shipped to DaimlerChrysler of Auburn Hills, Michigan for detailed review of engineering of components, systems and subsystems (See ¶ 22 and ¶ 23 below).
- d. Owing to my expert consultations in the Jeep crashworthiness litigation of Gillespie v. DaimlerChrysler, during the time that DaimlerChrysler Corporation was a subsidiary of DaimlerChrysler AG and considered part of a “merger of equals”, DaimlerChrysler was ordered to provide a witness described by the court as:

“ . . . the person at DaimlerChrysler most knowledgeable about rollover testing conducted by DaimlerChrysler and rollover testing done by MercedesBenz.”

Shortly after this order was issued the Gillespie litigation was settled out-of-court.

10. In May 2007 DaimlerChrysler was sold into an affiliate of a private equity firm, Cerberus Capital Management, L.P., and renamed Chrysler Corporation LLC (“Chrysler LLC”) which then continued to produce and sell Chrysler, Dodge and Jeep vehicles:

- a. DaimlerChrysler AG retained 20 percent ownership in Chrysler LLC.

11. In April 2009, prior to a deadline demanded by the Obama Administration, the remaining 20 percent ownership of Chrysler LLC by DaimlerChrysler AG was sold to Cerberus Capital Management, L.P. Chrysler LLC then filed for bankruptcy protection on April 30, 2009 in the U.S. Bankruptcy Court for the Southern District of New York seeking relief under Chapter 11 of the U.S. Bankruptcy Code:

- a. DaimlerChrysler AG is now Daimler AG.

12. On June 10, 2009 Chrysler LLC was reorganized into Chrysler Group LLC as part of an “alliance” with foreign auto maker Fiat Group Automobiles S.p.A. based in Turin, Italy. Chrysler Group LLC continues to produce/sell Chrysler, Dodge and Jeep vehicles worldwide.

PAUL VICTOR SHERIDAN EDUCATION AND EARLY WORK EXPERIENCE

13. I hold a Bachelor’s of Science Degree (BS) in Mathematics and Physics conferred in 1978, by the State University of New York. I hold a Master’s in Business Administration (MBA) in General Management and Logistics conferred by Cornell University in 1980:

- a. During the first year of my studies at SUNY I simultaneously worked as ‘Assistant to the Director’ at the University Computer Center,
- b. During the last two years at SUNY I was promoted to ‘Chief Technical Assistant to the Engineer’ at the SUNY Nuclear Accelerator Laboratory,

c. During my studies at Cornell University I was employed as University Liaison by the Graduate School of Management, Department of Economics. I investigated and co-authored the aerospace portion of a national energy paper, commissioned by the Department of Energy (DOE). My report was based on extensive visitations and interviews with the aerospace engineers of NASA. My paper was presented to the U.S. Senate in 1979 by world-renown energy economist Professor Robert Lind.

SHERIDAN PROFESSIONAL AUTOMOTIVE EXPERIENCE – GENERAL

14. After graduation from Cornell University, I was hired by Ford Motor Company at their headquarters location in Dearborn, Michigan. I worked at Ford from 1980 to 1984. My responsibilities included program management, vehicle production planning, automotive product planning, and power train planning. I was promoted regularly, and earned several substantial salary increases during this 1981-1984 period.

a. Assignments also included Emissions Components Planning and Corporate Average Fuel Economy (CAFÉ) duties. These duties required existing and ongoing acquisition of expertise in automotive fuel systems design and testing.

15. In July 1984, I accepted an unsolicited promotional offer from Chrysler Corporation. The new position represented a significant increase in responsibility:

a. Work at Chrysler focused in two areas: (1) engineering programs management and (2) product programs management. Chrysler Personnel Policy did not require an engineering degree *per se* for assignment to these areas, but did require and utilized my extensive understanding and education in science and technology (see ¶ 13),

b. I am one of only three people in-history to receive the “Chairman’s Award” from Mr. Lee Iacocca during his tenure as Chairman and Chief Executive Officer. I received this award as a result of nomination by the Chassis Engineering department for my work on Dodge Truck exhaust systems engineering (Attachment A).

16. My Chrysler career spanned July 1984 to December 1994. I served Chrysler customers with work in product planning, program planning, and engineering programs management:

a. As Program Planning Manager I was central to the reformation of Engineering into “Business Groups.” I was co-author of the Business Group Charter, and organized presentation of this proposed organization to the highest levels of executive management. Upon approval eleven Business Groups were formed that divided the vehicle engineering duties:

Body Structures
Exterior Trim
Paint & Anti-Corrosion
Interior Trim

Climate Control
Body Electrical
Engine
Transmission & Driveline
Powertrain Components
Chassis Systems
Fuel Systems

I was assigned to the Paint & Anti-Corrosion, Body Systems, Chassis, and Fuel Systems Business Groups. The latter affirmed and extended my expertise in fuel systems design,

b. As Product Planning Manager I budgeted, organized and authored the 'Truck Dealer Visit Program.' I was responsible for solicitation/documentation of both Chrysler and competitive dealer-principal interviews and report summaries. This experience provided general and specialized expertise in auto dealer operations including showroom design, customer relations, and vehicle service procedures.

17. Owing to my experience, expertise and reputation, in 1987 I was promoted into Jeep and Truck Engineering (JTE) as an Engineering Programs Manager. I remained at JTE from September 1987 until February 1991. This assignment involved engineering programs management of all vehicle systems including but not limited to powertrain, chassis, electrical/electronic, body systems, and regulatory compliance. My responsibilities initially included the Jeep Grand Wagoneer, but were later dedicated to the Dodge pick-up trucks:

a. As Engineering Programs Manager, I was responsible for the work of hundreds of both Chrysler internal engineers, and external engineers at Chrysler suppliers,

b. In 1988 I was moved to the Engine Engineering Group with responsibility for both gasoline and diesel engine systems,

c. My work as Engine Programs Manager received recognition in *The Chrysler Times*, the only manager so-recognized (Attachment B).

18. I was regularly promoted in my responsibilities and compensation, and I received very positive job ratings on properly executed performance reviews during my career at Chrysler.

CHRYSLER INTERNAL AND EXTERNAL ORGANIZATION AND OPERATIONS

19. In 1990 the Chrysler vehicle product development process was reorganized into an internal organization called "Platforms." These vehicle Platforms include:

- a. Minivan Platform
- b. Small Car Platform
- c. Large Car Platform
- d. Truck Platform
- e. Jeep Platform

Individually these five Platforms were dedicated to each vehicle type and employ staff from product operations, engineering, procurement, design, manufacturing, etc. (Attachment C).

20. The Jeep Platform developed the 1996 Jeep Grand Cherokee which was previously owned and operated by SUSAN MORRIS KLINE:

a. These Platforms created the engineering and product content of the Chrysler branded vehicle product lines (Plymouth, Dodge, Chrysler, Jeep, etc) that are *now* sold & serviced by 4,000 independent dealerships. These are also sold in foreign markets by several hundred foreign independent dealerships.

b. Each Platform was led by an executive that functioned both in staff and line roles. The Jeep Platform, which developed the 1996 Jeep Grand Cherokee which was previously owned and operated by SUSAN MORRIS KLINE, was headed by Mr. Francois J. Castaing. Simultaneously, Castaing's line role was 'Executive Vice President for Engineering.' Mr. Castaing was simultaneously responsible for the product management decisions and resulting engineering executions respectively relating to the 1996 Jeep Grand Cherokee. Mr. Castaing is aware of the customary practices of the Detroit-based automotive industry, including the fact that management decisions and philosophies *precede* and delimit engineering design & development; the latter includes components and systems that support a range of vehicle functions from convenience features to safety requirements.

21. Replacement parts, warranty parts, and repair & retrofit procedures for the Chrysler brands are provided by the Service & Parts Division, trade-named MOPAR. Chrysler dealerships rely on MOPAR for components and procedures relating to safety defect recalls and safety-related retrofits. A majority of these parts are purchased from outside suppliers by MOPAR for resale to the Chrysler dealerships or directly to the customer:

a. Throughout my career at Chrysler I routinely received the MOPAR Service & Parts Bulletins which announce, update and describe the details of all approved vehicle maintenance, service, and safety procedures. The bulletins were regularly distributed both electronically and in hard-copy format to the-then 5,000 independent dealerships.

b. Defendant Loman Auto Group is thoroughly familiar-with and was a regular recipient-of the MOPAR Service & Parts Bulletins. This included distribution of the February 2002 safety recall bulletin entitled:

“Safety Recall No. A10 – Fuel Tank Blocker Bracket”

which involved the Jeep Grand Cherokee vehicle, and the inability of 71,000 production units of that vehicle to comply with the minimal regulatory requirements as set forth by, and defined as such by, the National Highway Traffic and Safety Administration (NHTSA) under “Federal Motor Vehicle Safety Standard (FMVSS) No. 301 – Fuel System Integrity”:

i. In this context, among others, Defendant Loman Auto Group is familiar with the optional sales code “XEE” offered by Chrysler for the Jeep Grand Cherokee to new car buyers entitled “Fuel Tank Skid Plate Shield.”

ii. In this context, Defendant Loman Auto Group is familiar with the fact that regarding Jeep Grand Cherokees, Safety Recall No.A10 states:

“Those vehicles that have already been repaired by having a skid plate installed do NOT require any additional service.”

c. Defendant Loman Auto Group is familiar-with and was a regular recipient-of the MOPAR Accessories Catalogs which included many Jeep Grand Cherokee safety retrofits, including but not limited to the fuel tank skid plate:

i. In this context, Defendant Loman Auto Group is familiar with the fact that the original new purchase sales code “XEE” offered by Chrysler to buyers entitled “Fuel Tank Skid Plate Shield” involves components that can be retrofitted to the 1996 Jeep Grand Cherokee which was previously owned and operated by SUSAN MORRIS KLINE. This retrofit would have offered shielding/protection for the exposed rear-mounted fuel tank from foreseeable real-world rear end underride collisions,

d. Defendant Loman Auto Group is also thoroughly familiar-with and was a regular recipient-of the MOPAR PARTS EXPRESSIONS trade magazine which frequently featured aftermarket activities such as recreational off-roading:

i. In this context, Defendant Loman Auto Group is familiar with the instructional videos offered through MOPAR entitled, “The World of Four-Wheeling: Off-Road and Winter Driving Techniques.”

22. Throughout my career at Chrysler, I performed duties pertaining to acquiring detailed knowledge-of and experience-with competitive automotive product (Ford, Toyota, etc.) These duties included drive-evaluations of competitive brands. These vehicles were managed by the Chrysler Competitive Cars Coordinator, and were also routinely evaluated by Chrysler executive management. The primary purpose of these drive-evaluations was identification and documentation of superior aesthetic and engineering design, and feature content. To the best of my knowledge, the practice of competitive drive-evaluations continues at Chrysler Group LLC to this day.

a. Competitive sport utility vehicles were routinely provided by the Competitive Cars Coordinator for evaluation by Chrysler management and engineering staffs.

23. Throughout my career at Chrysler, my duties included detailed review of competitive engineering of components, systems and subsystems. Competitive vehicles were fully dismantled by technicians from the Competitive Teardown Office. This “teardown” function is an integral part of the engineering and product development process. Its purpose is to accumulate detailed engineering information of competitive component and system design. The teardown process resulted in the following reports and review duties:

a. The Competitive Teardown Review: These formal reviews were presented by the engineering staffs, and frequently attended by Chrysler executive management.

- b. Competitive Teardown Report: Distributed throughout the Chrysler organization, including Chrysler executive management. These reports included detailed information about competitive components content, design, cost, weight, supplier sources, etc.
- c. Reviews by individual engineering or product planning personnel as part of their day-to-day responsibilities. The teardown components were displayed on vertically hung 4 x 8 sheets, for analysis and inspection by the individual engineering or product planning groups. This display area was referred to as "The Boards,"
- d. Competitive Teardown Office visits: Involve open, non-formal inspection, by both Chrysler employees and suppliers, on an as-needed basis,
- e. Competitive sport utility vehicles were routinely fully dismantled by technicians from the Competitive Teardown Office for evaluation by Chrysler management and engineering staffs.

As part of my duties at Chrysler I routinely provided managerial input on the selection of which competitive vehicles would be budgeted for teardown. To the best of my knowledge, the practice of Competitive Teardown Review continues at Chrysler Group LLC to this day.

SHERIDAN TRANSFER TO MINIVAN OPERATIONS

- 24. In February 1991, I accepted a Chrysler position as a Product Manager in the Minivan Operations group. My *general* duties included but were not limited to:
 - a. General business and product management of existing and future minivan models. Included co-authorship of the minivan Product Plan, and presentation of the Plan to Chrysler management,
 - b. Interaction with the other platforms to solicit and share inputs of design, development, and manufacture of Chrysler products,
 - c. Interaction with the internal organizations of engineering, legal, manufacturing, design, marketing, sales, customer relations, procurement, international planning, finance, consumer research, regulatory affairs, etc.,
 - d. Interaction with external organizations such as suppliers, market and consumer research companies, consulting companies, advertising agencies, etc.
- 25. My *specific* Minivan Operations responsibilities included body components, chassis systems, exterior ornamentation, product complexity and logistics, competitive products analysis, regulatory compliance planning, engine and transmission systems planning.
- 26. I remained in Minivan Operations until December 26, 1994.

SHERIDAN APPOINTMENT TO CHAIR SAFETY LEADERSHIP TEAM (SLT)

27. In Minivan Operations I developed extensive files relating to competitive products, including safety records/history. This fact was well-known to Chrysler management.

28. While in Minivan Operations I developed extensive files relating to the minivan product, market segment, safety, and regulatory compliance. In my 1991 employee job performance appraisal, supervisor Mr. Richard Winter made the following remark :

“(Mr. Sheridan) is very good at monitoring safety and regulatory needs.”

29. In 1992, Chrysler executive management appointed me to chair a first-of-its-kind management group called the Minivan Safety Leadership Team (SLT). The SLT was comprised of 15-plus representatives from engineering, manufacturing, marketing, finance, legal, international products office, regulatory affairs, procurement, design, competitive information, et al.:

- a. The January 27, 1993 letter which announced the formation and mandate of the SLT states the *“SLT activity will be formatted to be transferable/accessible to other platforms,”* such as the Jeep Platform (see ¶ 19).
- b. In my capacity as SLT Chairman, I routinely made presentations to middle and executive management groups.
- c. The three main areas of SLT analysis included but were not limited to:
 - i. Crash Avoidance
 - ii. Crash Survivability (“crash worthiness”)
 - iii. Other

The primary concern in the instant matter is the crash survivability/crashworthiness of the 1996 Jeep Grand Cherokee which was previously owned and operated by SUSAN MORRIS KLINE,

d. The SLT also analyzed safety systems that increased overall safety whenever a vehicle was being approached from behind, and therefore in potential danger of a rear-end collision (crash avoidance). The SLT unanimously recommended that a system called SROD, (side and rear object detection) be installed in Chrysler vehicles. SROD and associated safety systems were researched in 1994, and were graded as *“the best liked featured”* by the Chrysler Consumer Research department. SROD system was also qualified by a consumer quote:

“This should be mandatory!”

e. After executing all necessary internal documents, external supplier documents, and item entry into the product and engineering plans, the SROD system was unilaterally removed, without appropriate internal consultations, by Executive Vice President of Engineering Mr. Francois J. Castaing.

f. The SLT was abruptly disbanded by Chrysler executive management and legal staffs without explanation in October 1994 (Attachment D).

JEEP/TRUCK ENGINEERING (JTE) :
BACKGROUND AND KEY EVENTS OVERVIEW

30. Chrysler Corporation purchased American Motors Corporation (AMC) in July 1987. This purchase occurred at the request of Chairman Lee Iacocca for the specific and narrow purpose of acquiring the Jeep product line. All former AMC (and Renault) vehicle products were eventually dropped by Chrysler management; whereas the Jeeps remain on sale through Chrysler Group LLC to this day:

a. After acquisition of the Jeep products, Chrysler management approved the all-new ZJ-Body for production as a 1993 model year, which included the Jeep Grand Cherokee which was previously owned and operated by SUSAN MORRIS KLINE.

31. During the 1987 purchase of AMC I was employed in the Dodge Truck Operations Group, reporting directly to Mr. Herb VonRusten, who reported to Mr. Dale Dawkins, who reported to Mr. Jerome York, who reported to Chrysler Chairman Mr. Lee Iacocca:

a. Prior to acquisition I was the liaison between Chrysler and AMC responsible for the transfer/review of confidential documents and trade secret information which were used to “smooth” the organizational transitions inherent in a business acquisition of this size and scope. During these liaison duties I reported directly to, and only to, Mr. Jerome York, Executive Vice President of Chrysler Finance. This assignment involved visitations to AMC facilities prior to the July 1987 purchase. I was chosen for these duties on the basis of an established record of competence, loyalty and integrity. I was the first “Chrysler guy” to establish an office in a former AMC facility, at the American Motors Engineering Center, Plymouth Road, Detroit, Michigan. This facility was later renamed Jeep/Truck Engineering (JTE), where both Dodge truck and Jeep engineering were consolidated ‘under one roof.’

b. The knowledge and experience gained from these duties form part of the basis of my management expertise.

32. In September 1987 I was promoted into the newly formed JTE as an Engineering Programs Manager, with original responsibility for the Jeep Grand Wagoneer (SJ-Body), the Dodge Dakota pick-up truck (AN-Body) and the full-size Dodge Ram Van (AB-Body):

a. In this new position I reported to Mr. John C. Miller, who reported to Mr. Francois J. Castaing, then Vice President of JTE,

b. During 1987 and 1988 I was temporarily assisted by Mr. Gregory A. Netter, a former AMC engineer with extensive experience in the aftermarket and recreational uses of the Jeep product line, including but not limited to the nationally renowned off-road event called the “Jeep Jamboree,”

- c. During 32-b above Mr. Netter recounted to me, in writing and vocally, the details of the Jeep Jamboree event including but not limited to:
- i. Drive routes, both on-road and off-road,
 - ii. Jeep vehicle types traditionally used for the Jeep Jamboree and other off-road events, such as the Jeep Wrangler (YJ-Body), Jeep Cherokee (XJ-Body), Jeep Grand Wagoneer (SJ-Body), etc.,
 - iii. Jeep vehicle preparation and modifications necessary for safe event participation, including but were not limited to installation of fuel tank skid plates on the Jeep fuel tanks,
 - iv. Details on Jeep Jamboree and other off-road event participants, including but not limited to the participation of Mr. Francois Castaing, then Vice President of JTE,
 - v. Because Mr. Netter was a member of my staff I arranged a work schedule that allowed his participation in the Jeep Jamboree and other off-road events, which were in-place prior to the Chrysler acquisition of AMC.

33. As an Engineering Programs Manager I was responsible for the authoring and presentation of the 'Engineering Program Review Summary' for the Jeep Grand Wagoneer (SJ-Body), the Dodge Dakota pick-up truck (AN-Body) and the full-size Dodge Ram Van (AB-Body). These bi-monthly reviews included cost, investment weight, engineering design, engineering development, supply, manufacturing, and regulatory compliance status details. The recipient of and audience for my 'Engineering Program Review Summary' was Mr. Francois Castaing, Vice President of JTE:

- a. My JTE counterpart that was responsible for the 1996 model year Jeep Grand Cherokee (ZJ-Body) which was previously owned and operated by SUSAN MORRIS KLINE was Mr. Richard T. Scott, who reported to Mr. John C. Miller, who reported to Mr. Francois J. Castaing, then Vice President of JTE.

34. I reported directly/indirectly to Mr. Castaing for four years, from September 1987 to January 1991. From JTE and subsequent Chrysler assignments, and legal experiences including attendance at depositions of Mr. Castaing, I can report the following facts:

- a. Mr. Castaing does not possess a Bachelor's degree in any area of engineering,
- b. Mr. Castaing does not possess a Master's degree in any area of engineering,
- c. Mr. Castaing does not possess a Doctorate's degree in any area of engineering,
- d. Mr. Castaing does not possess a Professional Engineering Certification,
- e. In his May 19, 1999 deposition Mr. Castaing was forced to admit to 34-a through 34-e, claiming to possess a "diploma of engineer" degree from 1968,

f. Official Chrysler Personnel Office guidelines strictly require that all engineering positions have a Bachelor's level degree in engineering or a related subject (e.g. physics, mathematics, etc.) as a minimum education before an employment candidate is merely offered an employment interview. Despite this blatant violation of well-known Personnel Office guidelines, Mr. Castaing was retained in the position of Vice President of JTE, and therefore ultimately responsible for the 1993 model year Jeep Grand Cherokee (ZJ-Body) which was previously owned and operated by SUSAN MORRIS KLINE.

i. Implicit to this educational training/qualifications is knowledge and execution of 'Failure Mode Effects Analysis'(FMEA). To the best of my knowledge, at no time during ZJ-Body development did Mr. Castaing design or deploy an FMEA for any portion of its fuel system,

g. In light of 34-f, Executive Vice President of Chrysler Engineering Mr. Robert M. Sinclair, who possessed a Bachelor's and Master's degree and a Professional Engineering Certification, resigned from twenty-plus years of employment with Chrysler. In 1988 Mr. Castaing was promoted, to replace Mr. Sinclair, assuming the position of Executive Vice President of Engineering. Mr. Castaing was replaced at JTE by Mr. Bernard I. Robertson.

35. In 1987, during the Chrysler acquisition of AMC, I was aware of events occurring under Mr. Castaing that were known to members of his staff as **“shredding parties”**:

a. Prior to acquisition by Chrysler it was well-known that AMC was defending numerous lawsuits regarding alleged crashworthiness-related defects in its Jeep products. It was well known, and I have testified that the “shredding parties” involved the destruction of internal crash test documents that related to or potentially related to the numerous Jeep lawsuits,

b. It was well-known that certain AMC employees participated in this ‘destruction of evidence’ just prior to the acquisition by Chrysler in July 1987,

c. It was well-known that AMC employee Mr. Richard C. Swando who was a prior Chrysler employee, was threatened by Mr. Castaing with demotion or dismissal, over the his refusal to participate in the Jeep crash test document “shredding parties,”

d. It was also well-known that after acquisition of AMC Mr. Swando was transferred from JTE to the International Planning Group headed by Mr. Peter C. Badore. This transfer was characterized by ethics concerns voiced by Mr. Swando regarding the ‘destruction of evidence’ that occurred under Mr. Castaing during the AMC “shredding parties.”

36. In the severe injury litigation of Tenaglia v. Chrysler, Mr. Castaing was examined by plaintiff attorney Mr. Larry Coben regarding his professional managerial and engineering knowledge of Jeep vehicle crashworthiness. In this March 14, 1996 deposition Mr. Castaing testified as follows:

Coben: What does the term crashworthiness mean in terms of design of a product?

Castaing: I don't know. Tell me.

Coben: You don't know the phrase?!

Castaing: No.

Coben: Well, let me make sure I'm clear on this. As the chief engineer of the (Chrysler) company, are you at all familiar with the use of the phrase crashworthiness by the engineers of the company?

Castaing: Crashworthiness is so vague that you have to tell me what you intend by that.

I will re-emphasize that Mr. Castaing was the Jeep Platform Executive responsible for managerial and engineering decisions relating to development of the 1996 Jeep Grand Cherokee which was previously owned and operated by SUSAN MORRIS KLINE.

REAR END ACCIDENTS: THE WELL KNOWN "UNDER-RIDE" SCENARIO

37. When a rear colliding vehicle has a front bumper/structure height that is lower than the impacted vehicle, the static submersion that occurs is called under-ride:

- a. The issue of static bumper height mismatch has a history spanning approximately forty years and is well-known to all participants of the automotive industry, including but not limited to:
 - i. The original equipment manufacturers such as Chrysler, Ford, Toyota, etc. ,
 - ii. The United States Government safety agencies such as the National Highway Traffic Safety Administration (NHTSA), the National Transportation Safety Board (NTSB), etc.,
 - iii. The automotive insurance industry, including the Insurance Institute for Highway Safety (IIHS), etc.

By no later than 1991 I was added to the mailing lists of NHTSA and IIHS. This included frequent communications in my capacity as a Chrysler executive with IIHS director Mr. Brian O'Neill. I have maintained continuous contact with these organizations in my capacity as a General Automotive Safety Management Expert.

38. In a dynamic real-world accident scenario, the bumper height mismatch malady is exaggerated due to the further lowering of the front bumper/structure during the hard accident-avoidance braking of the colliding vehicle:

- a. The dynamic aspects of the real-world under-ride scenario are so well-known to the IIHS and their insurance company clients, that the latter has used simulation of this accident event type in their advertising:
 - i. In a television advertisement shown nationally by Allstate, a Toyota Camry vehicle is depicted under-riding a Dodge Durango sport utility vehicle during hard accident-avoidance braking,
 - ii. In a television advertisement shown nationally by Allstate, a Ford Taurus vehicle is depicted under-riding a Jeep Grand Cherokee (ZJ-Body), which was previously owned and operated by SUSAN MORRIS KLINE, during hard accident-avoidance braking,
39. To the best of my knowledge NHTSA has failed to address this well-known issue of under-ride in any of its safety regulations,
- a. In this historical context, in my opinion, the NHTSA Federal Motor Vehicle Safety Standard 301 (FMVSS-301) entitled “Fuel System Integrity,” has no practical or legal relevance to the instant matter,
 - b. Industry-wide awareness of the under-ride issue, and the FMEA and due care exercised by all sport utility manufacturers, except Chrysler w.r.t. the ZJ-body and WJ-Body versions of the Jeep Grand Cherokee, is the focus of the instant litigation.

THE SAFETY LEADERSHIP TEAM (SLT) ENDORSES THE REAL-WORLD

40. SLT duties included the monitoring of competitive safety activity. On March 16, 1993 I played a CBS News 60 Minutes television video tape wherein safety in rear end collisions, and competitive practices and attitudes toward safety were presented. American and Japanese manufacturers refused to be interviewed for the February 16, 1992 program. But MercedesBenz safety engineer Dr. Tom Bologna was interviewed, and stated:

“At Mercedes-Benz we test to see what is going on in the real world.”

The SLT unanimously endorsed this MercedesBenz interview comment regarding the “real world” and also unanimously agreed to the following concepts/realities:

- a. The NHTSA regulatory process was fatally flawed, and frequently did not formulate requirements that could be reasonably expected to protect our customers in foreseeable accidents,
- b. Merely complying with NHTSA so-called safety standards was not a moral or legally viable approach to the SLT mission of offering true safety leadership,
- c. Compliance with NHTSA regulations was merely a “starting point” that was required of all manufacturers, and the SLT would look instead to the “real world” for its guidance exercising due care and therefore protecting our customers

As SLT chairman I authored minutes of March 16, 1993 meeting which were distributed throughout the Chrysler organization, including Mr. Francois J. Castaing, then Executive Vice President of Chrysler Engineering. I was subsequently informed by Mr. Ronald S. Zarowitz, the representative from the Chrysler Regulatory Affairs Office, that:

“Castaing is livid”

Mr. Zarowitz also informed me that Mr. Castaing was demanding that all copies of the SLT meeting minutes for March 16, 1993 be *“retrieved and destroyed.”* I retrieved all copies of the SLT meeting minutes for March 16, 1993, but refused to destroy all of copies, retaining two copies in my SLT office files.

41. On December 16, 1994, Assistant Chrysler Corporate Counsel and Lead Product Liability Counsel Mr. Lewis H. Goldfarb ordered that my office be entered and all my office files and personal possessions be confiscated. At the time that Chrysler Security and Personnel representatives performed this “office raid” it was known that I was out-of-town for the Christmas holidays:

- a. As of this report, all of my personal possessions have still not been returned,
- b. All previous computer hard drive and computer floppy disk files have never been produced in-tact, despite fifteen-plus years of subpoena requests from plaintiffs,
- c. All previous office and safety files have never been produced in-tact, despite fifteen years of subpoena requests from plaintiffs. Failure to produce includes but is not limited to the following files relevant to the instant litigation (Attachment E):
 - i. “Safety Leadership Team – Meeting Minutes”
 - ii. “Rear Crash Survivability – General”
 - iii. “FMVSS – 301”
 - iv. “IIHS Bumper Tests”

42. Subsequent to the order issued by Mr. Goldfarb, I was sued without service or notification and was placed under an *ex parte* “muzzle order” by a Michigan judge:

- a. Chrysler legal representative Mr. Thomas Keinbaum later amended the original lawsuit to include a “damages” claim of \$82,000,000.00 for an 88-second interview I granted ABC News 20/20 regarding lack of crashworthiness in Chrysler vehicles. No other entity that participated in the 20/20 program was sued, just the former chairman of the Chrysler Safety Leadership Team, who had direct knowledge of Chrysler safety programs and defect issues (Paul Sheridan),
- b. The details of what motivated the \$82,000,000.00 “damages” claim, as well as the Chrysler practices/attitudes toward NHTSA are summarized in Attachment F.

OPINIONS AND CONCLUSIONS

O&C-1 At the time of its approval by Chrysler executive management the ZJ-Body iteration of the Jeep Grand Cherokee represented the only sport utility vehicle that located the fuel tank behind the rear axle, and in an unshielded/unprotected condition. During the engineering design & development phase, Vice President of JTE, Mr. Francois J. Castaing, and his staff were made aware of the dangers to Chrysler customers created by this “fundamental safety defect,” in both official JTE Engineering Program reviews and his ongoing/concurrent participation in recreational off-road events (See ¶ 32).

O&C-2 The issue of offering fundamental protection against direct collision impact to the ZJ-Body fuel tank during the real-world rear-end underride accident scenario focused discussion on the offering a fuel tank skid plate as standard equipment. Although not yet designed for the ZJ-Body, the fuel tank skid plate was in-use and available for the Jeep vehicles for at-least the ten years prior to ZJ-Body approval. The JTE staff discussion to offer the skid plate as standard equipment was rejected by JTE Engineering Programs Management on the following basis:

- a. The overall safety strategy deployed in the ZJ-Body program was to merely comply with NHTSA requirements, and use then-upcoming compliance as justification for not incurring the base vehicle cost increase (approximately \$35 in 1987).
- b. The skid plate as standard equipment would reduce overall corporate profits through elimination of two existing revenue sources:
 - i. Option profits resulting from the customer choosing the “Fuel Tank Skid Plate Shield,” option code XEE,
 - ii. Option profits resulting from the customer choosing the “Fuel Tank Skid Plate Shield,” through dealership sales via MOPAR,
- c. It was later openly admitted to the Jeep dealerships that use of the skid plate “repaired” issues related to fuel tank safety (See ¶ 21).

O&C-3 In my expert experience I have personally/professionally examined the consumer response to safety recalls. This response rate, or yield, is dependant on the safety issue involved and, although the precise statistics are claimed to be a “trade secret” by the automotive industry, it is well-known that the highest safety defect recall yield by far correlates to customer notices that involve the elimination/reduction of a vehicle fire risk:

- a. I am confident that if the SUSAN MORRIS KLINE family had been made aware of the salient facts contained in the main portion of this report and was offered, in a formal Chrysler recall, a retrofit that afforded the protection of a “Fuel Tank Skid Plate Shield,” they would have responded responsibly by having their 1996 Jeep Grand Cherokee retrofitted by a competent Jeep dealer (See ¶ 21-c-i):

OPINIONS AND CONCLUSIONS – con’t

i. The issuance-of and service response-to safety defect retrofit recalls is well-known to defendant Loman Auto Group. Approximately five years prior to the accident of February 24, 2007 that took the life of SUSAN MORRIS KLINE, defendant Loman Auto Group was notified of, and potentially performed fire-related retrofits of a competitive brand (e.g. Service Part Numbers 3W7Z-9B007-AA, 3W7Z-9B007-BA and 3W7Z-9B007-CA).

O&C-4 In an effort to alert the existing 1993-1998 ZJ-Body (and 1999-2004 WJ-Body) owners of the risk of fire related death of severe injury, I granted an interview with ABC News television which was aired on October 7, 2009:

a. In an effort to effect correction of the fundamental safety defect in 1993-1998 ZJ-Body and 1999-2004 WJ-Body vehicles, I participated in the authorship and submission of a petition to NHTSA which demands a full safety defect investigation of, and subsequent retrofit recall of these vehicles. Discussion of this petition was the focus of an ABC News follow-up which aired on October 9, 2009 (Attachment G).

O&C-5 I am of the expert opinion that if Chrysler management had exercised due care and issued a directive to Chrysler Engineering that a ZJ-Body FEMA be deployed to ascertain the failure modes associated with the underride accident scenario, the protection afforded by a “Fuel Tank Skid Plate Shield” would have emerged from the FMEA as one solution to the accident sequence of February 24, 2007 that took the life of SUSAN MORRIS KLINE.

O&C-6 I am of the expert opinion that a ZJ-Body FEMA, deployed to ascertain the failure modes associated with the underride accident scenario, would have confirmed that the ZJ-Body fuel tank location (behind the rear axle in the “crush zone” and without adequate shielding/protection from foreseeable real-world collisions) represented/represents a fundamental safety defect that is not contained in any other competitive sport utility vehicle:

a. The 2011 Jeep Grand Cherokee, which was reportedly heavily influenced by direct inputs/routine contacts from MercedesBenz engineers in Stuttgart, Germany, and will also use many MercedesBenz components, retains the WK-Body safety-prioritized design philosophy of the “real world” by continuing to fully shield the fuel tank and locating the fuel tank in front of the rear axle similar to the WK-Body, which has experienced no fire-related deaths or injuries since introduction in 2005.

O&C-7 In my expert experience and opinion, safety is not an engineering issue *per se*, safety is a management issue.