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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

NATASHA AUSTIN AND NICOLE AUSTIN,  
  
Plaintiffs,

-against- Index No. 10215/00

DAIMLERCHRYSLER CORPORATION,  
WESBURY JEEP EAGLE, INC.,  
MARIBEL ORTIZ, AS INTENDED  
ADMINISTRATRIX OF THE ESTATE  
OF JOSE A. SIERRA, DECEASED,  
GRACE H. EVANS AND LISA N.  
EVANS,  
  
Defendants.

\_\_\_\_\_ /

The videotaped deposition of  
LEONARD L. BAKER, a witness in the above-entitled  
matter, taken before Melinda S. Moore, (CSR-2258), a  
Notary Public, at 7799 Conference Drive, Brighton,  
Michigan, on September 29, 2005, commencing at or  
about 9:56 a.m.

APPEARANCES:  
  
Greene, Broilett & Wheeler  
BY: CHRISTINE D. SPAGNOLI  
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Santa Monica, California 90407-2131

Appearing on behalf of Plaintiffs

1 APPEARANCES, Continued:

2 Herzfeld & Rubin  
3 BY: MAUREEN FOGEL  
4 40 Wall Street  
5 New York, New York 10005

6 Appearing on behalf of Defendant  
7 DaimlerChrysler Corporation

8 Chrysler Corporation  
9 Office of the General Counsel  
10 BY: GREGORY D. McMAHON  
11 800 Chrysler Drive  
12 Auburn Hills, Michigan 48326

13 Appearing on behalf of Defendant  
14 DaimlerChrysler Corporation

15 VIDEO TECHNICIAN:

16 DANIEL S. CADY, Reitman Video Specialists  
17 (248) 344-4271

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E X H I B I T S

Deposition Exhibit No. 1  
8-21-00 Deposition of  
Leonard L. Baker  
Re: Butler vs. DaimlerChrysler  
Corporation, State of  
Georgia, Superior Court  
of Colquitt County  
Case No. 98-CV-665 with  
Attached Exhibits 1- 9

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Brighton, Michigan  
September 29, 2005

\* \* \* \* \*

VIDEO TECHNICIAN: We are now on the record. The time is 9:56 hours. This is tape one of the videotape deposition of Leonard L. Baker in the case of Austin vs. DaimlerChrysler being taken at 7799 Conference Center Drive, Brighton, Michigan. Today is Thursday, September 29, 2005. My name is Daniel S. Cady, legal video specialist from Judicious Video Services.

If the attorneys would now introduce themselves for the record, the reporter will then swear in the witness.

MS. SPAGNOLI: Christine Spagnoli, representing the plaintiffs.

MS. FOGEL: Maureen Doerner Fogel from Herzfeld & Rubin, representing DaimlerChrysler Corporation.

MR. McMAHON: Gregory McMahon, DaimlerChrysler Corporation.

\* \* \* \* \*

L E O N A R D L. B A K E R

after having been first duly sworn by the Notary Public, was examined and testified on his oath as

1 follows:

2 EXAMINATION

3 BY MS. SPAGNOLI:

4 Q Good morning.

5 A Good morning.

6 Q Could you tell us your name, please.

7 A Leonard L. Baker.

8 Q And, Mr. Baker, you are a retired mechanical  
9 engineer who was employed with the Chrysler  
10 Corporation for a number of years; is that right?

11 A Yes.

12 Q And your career there spanned, I believe, 1953 to  
13 about 1980. Am I right?

14 A Yes.

15 Q When you went to work for the Chrysler Corporation,  
16 you were an engineer; is that right?

17 A Yes.

18 Q And what were the positions that you held with the  
19 Chrysler Corporation?

20 A I started in '53 as a laboratory test engineer at  
21 the Missile Division. I advanced through the  
22 Missile Division to the chief engineer, Product  
23 Engineering. 1966, I transferred over to the  
24 Automotive Division, and was taken on as assistant  
25 chief engineer, Automotive Safety, and I held that

1 position, although the title changed to manager,  
2 Automotive Safety, and I retired late April, 1980.

3 Q All right. But your position in the Automotive  
4 Safety Office spanned from approximately 1966  
5 through 1980?

6 A Yes.

7 Q And you indicated that before you became affiliated  
8 with the Automotive Division, Automotive Safety  
9 Office, that you were chief engineer, Product  
10 Engineering. Tell us what that position involved.

11 A That was taking care of all the documentation and  
12 design dealing with re-entry vehicle systems towards  
13 the end which were the payoff load on a missile, and  
14 also we did, oh, proposal work for some of the Army  
15 missiles, various contracts.

16 Q All right. So your first span of your career at  
17 Chrysler involved the Missile Division and then you  
18 went to Automotive in 1966, correct?

19 A Yes.

20 Q And when you went to the Automotive Division, did  
21 you go right into the Automotive Safety Office?

22 A Yes.

23 Q And 1966, that was the year that the first enactment  
24 of the National Transportation Safety Act went into  
25 effect; is that right, approximately 1966?

1 A I don't recall the date of the act. The standards  
2 went into effect in 1968.

3 Q Okay. And so from the very beginning of your career  
4 in the Automotive Safety Office, you were working  
5 with government standards and testing related to  
6 automotive safety; is that right?

7 MS. FOGEL: Objection to the form. You can  
8 answer.

9 THE WITNESS: I had nothing to do with the  
10 testing other than keeping track of what took place.

11 Q (BY MS. SPAGNOLI): Okay. You were responsible for  
12 insuring that the vehicles manufactured by Chrysler  
13 complied with various standards?

14 MS. FOGEL: Objection to form. You can  
15 answer.

16 THE WITNESS: No.

17 Q (BY MS. SPAGNOLI): Okay. Did the Automotive Safety  
18 Office oversee compliance?

19 A No.

20 Q Okay. Tell us what your position at Automotive  
21 Safety Office involved in 1966.

22 A Reviewing outside material that was available on the  
23 subject, bringing in information dealing with  
24 accident statistics, working with the engineers in  
25 various areas from an advisory standpoint.

1 Q And were those functions things that you did during  
2 the time that you were with the Automotive Safety  
3 Office for those 14 years?

4 A Would you repeat that?

5 Q Sure. Those tasks that you outlined for us, the  
6 activities that you engaged in at the Automotive  
7 Safety Office, was that true during the time that  
8 you were there between 1966 and 1980, when you  
9 retired?

10 A Pretty much.

11 Q When you mention that you worked with engineers in  
12 an advisory capacity, can you give us some examples  
13 of the types of advice and work that you did in  
14 consultation with the design engineers.

15 A It might start with going over to the design area  
16 which we used to call Styling and looking at some of  
17 the models, interiors, things of that sort, putting  
18 out some information occasionally of possible  
19 interest to their activity relative to safety. It's  
20 hard to recall in a few words that many years worth  
21 of activity.

22 Q Right. Well, would it be fair to say that between  
23 1966 and 1980, when you left, that one of the roles  
24 that you had at the Chrysler Corporation was to  
25 provide the design engineers with suggestions for



1           how to improve the safety of Chrysler vehicles?

2                       MS. FOGEL:  Objection to form.  You can  
3           answer.

4                       THE WITNESS:  Many times it would be a case  
5           of whether they would ask for advice.  I mean, I  
6           wasn't pushing it; I was usually being involved as  
7           they would request information.

8    Q    (BY MS. SPAGNOLI):  It was a collaborative effort,  
9           though, right?

10   A    Absolutely.

11   Q    And as someone who managed the Automotive Safety  
12           Office, you gathered information from various  
13           sources about concepts, design ideas that might  
14           improve safety?

15   A    Not necessarily design ideas.  Mostly it was  
16           bringing in information dealing with the accidents  
17           taking place in the real world.

18   Q    So looking at accidents, learning from them, and  
19           then trying to apply what you learned to new  
20           designs?

21   A    Yes.

22   Q    Okay.  And during the time that you were with the  
23           Automotive Safety Office, I take it there were  
24           advancements made in some areas on safety that you  
25           participated in; is that right?

- 1 A Did you say advanced -- what?
- 2 Q Advancements were made on various designs of  
3 vehicles to improve safety, right?
- 4 A Certainly, yes.
- 5 Q For example, in 1966, seat belts were not commonly  
6 installed in vehicles at that point when you first  
7 joined the office; is that right?
- 8 A No, I think they were. It was a matter of where  
9 they were located, mostly starting in the front  
10 seats.
- 11 Q Okay. So there were advancements made in the 14  
12 years that you were in the Automotive Safety Office,  
13 improving seat belts and how they worked?
- 14 A To some degree, yes.
- 15 Q Okay. And then there would be padding, padding of  
16 dashboards, padding of other interior components to  
17 protect people in crashes, correct?
- 18 A Some degree.
- 19 MS. FOGEL: Objection to form.
- 20 Q (BY MS. SPAGNOLI): And another example might be  
21 collapsing steering columns. Was that something  
22 that was initiated in the late 60's, early 70's to  
23 protect people in crashes from hitting the steering  
24 column?
- 25 A Well, I think you've got to realize we weren't

1 necessarily the starter on many of these things.  
2 Many of them were the results of the engineers  
3 themselves being aware of them. They're not  
4 oblivious to the situations.

5 Q Right. But that was a function of your work in the  
6 Automotive Safety Office, correct?

7 A To assist in that respect, yes.

8 Q Okay. And with respect to -- with respect to fuel  
9 systems, there were also some advancements made in  
10 fuel system design between the late 60's and 1980,  
11 when you left; is that true?

12 A I presume so, yes. We were interested in fuel  
13 systems as with anything else.

14 Q And why were you interested with fuel systems in  
15 particular?

16 MS. FOGEL: Objection to the form.

17 Q (BY MS. SPAGNOLI): You can answer.

18 MS. FOGEL: You can answer.

19 THE WITNESS: Okay. Well, it was just  
20 another form of injury generation in a severe  
21 collision.

22 Q (BY MS. SPAGNOLI): Okay. As someone who reviewed  
23 accidents and statistics related to crashes of  
24 automobiles, you were aware of circumstances in  
25 which fuel systems were compromised in crashes and

1 leaks occurred and fires occurred, correct?

2 A That was a very low percentage of the injury type of  
3 accidents in the total population. It was a very  
4 small percentage, probably less than a half percent.

5 Q Well, you were aware that those types of accidents  
6 occurred, and when they did, they were very serious,  
7 weren't they?

8 A We were aware of it, certainly.

9 Q Okay. And one of the things that you looked at in  
10 the Automotive Safety Office was ways to protect the  
11 fuel system from being compromised in crashes,  
12 correct?

13 A The engineers were doing that, of course.

14 Q And you were assisting them, right?

15 A As needed.

16 Q Are you telling us that in the Automotive Safety  
17 Office you were not aware of the development of  
18 federal standards and testing that related to  
19 compliance with those standards?

20 MS. FOGEL: Objection to the form.

21 THE WITNESS: If I understood your earlier  
22 question, you asked if I was responsible for the  
23 testing; I was not. Testing was done by another  
24 group. We were aware of the tests going on when we  
25 were invited to participate in a presentation of the

- 1 test results.
- 2 Q (BY MS. SPAGNOLI): And when you say you were aware  
3 of tests going on, who would conduct the tests at  
4 Chrysler?
- 5 A The Impact Test Lab.
- 6 Q And they would notify the Automotive Safety Office  
7 when they were conducting tests?
- 8 A No. They would invite us to the presentation of the  
9 results of the test.
- 10 Q Okay. So you didn't actually go watch the tests.  
11 You would go see the outcome, the results?
- 12 A Yes.
- 13 Q Okay. And why was it that you as the manager of the  
14 Automotive Safety Office would go watch a  
15 presentation on the outcome of the testing?
- 16 A To keep us informed as to what we were doing and how  
17 we were progressing.
- 18 Q Okay. And did you provide feedback to the engineers  
19 when you would attend those presentations on  
20 testing?
- 21 A Not necessarily.
- 22 Q Did you do that on occasion?
- 23 A Could have, yes.
- 24 Q Okay. Do you recall in the early 1970's that there  
25 were tests to evaluate a proposed fuel system test

1           that the federal government had announced in 1970?

2                       MS. FOGEL:  Objection to the form.  You can  
3           answer.

4                       THE WITNESS:  I don't recall specifically  
5           those particular dates or that particular progress,  
6           no.

7    Q   (BY MS. SPAGNOLI):  Okay.  The fuel system test  
8           standard is Federal Motor Vehicle Safety Standard  
9           301.  Do you know that?

10   A   That's correct.

11   Q   Okay.  And do you recall that the Federal Motor  
12           Vehicle Safety Standards for fuel system was first  
13           proposed in late 1969 for -- and it required or  
14           proposed a fixed barrier impact test?

15   A   I do not recall that.  In fact, that doesn't quite  
16           sound right.

17   Q   Doesn't sound right to you that the initial  
18           government proposal was a fixed rear barrier at 30  
19           miles an hour?

20   A   No.

21   Q   Do you recall Chrysler tested vehicles to the  
22           proposed standard and found that its vehicle designs  
23           for -- could not meet that proposed standard?

24                       MS. FOGEL:  Objection to the form.  You can  
25           answer.

1                   THE WITNESS: I do not believe there were  
2                   any such tests involved with a rigid barrier 30 mile  
3                   an hour rear impact. The tests of the rear of the  
4                   vehicle were with a moving barrier at some lower  
5                   speed, but I don't recall now what it was, when it  
6                   first started.

7       Q     (BY MS. SPAGNOLI): Well, that's the standard that  
8                   ultimately was enacted in 1974, was a moving barrier  
9                   at a lower speed, but the initial government  
10                  proposal was a fixed barrier at a higher speed.

11                 MS. FOGEL: Objection to the form, no  
12                  question pending.

13                 THE WITNESS: I feel you're totally wrong  
14                  on that.

15       Q     (BY MS. SPAGNOLI): You do?

16       A     Yes, I do.

17       Q     Okay. You don't have a recollection of a test  
18                  proposal that was first -- not enacted, but first  
19                  proposed by Doug Toms, the head of the NHTSA,  
20                  National Highway Transportation Safety  
21                  Administration in 1969 --

22       A     No.

23       Q     -- that was then watered down to become --

24       A     No, I do not.

25       Q     -- a moving barrier?

1 A No.

2 MS. FOGEL: Objection to the form.  
3 Christine, just -- I want to also put an objection  
4 on the record that the reason that we're here today  
5 and the reason that the plaintiffs made the  
6 representation to the court they needed Mr. Baker's  
7 deposition was with regard to his information on an  
8 internal memo that he wrote in August of 1978, and I  
9 think we're getting a little far afield of the  
10 representation to the court as to why Mr. Baker's  
11 deposition was needed in addition to Mr. Banta.  
12 I'll let him continue to answer, but I think we're  
13 going, you know, really far afield of the reasons  
14 that were represented to the court that we needed to  
15 be here.

16 MS. SPAGNOLI: Okay. I'm just getting some  
17 background information on the witness's knowledge of  
18 fuel system standards and issues that do pertain to  
19 his work and the background information about the  
20 memo that he wrote.

21 Q (BY MS. SPAGNOLI): So just to be clear, Mr. Baker,  
22 you have no recollection that the government  
23 initially proposed a fixed barrier standard and then  
24 that was changed as a result of industry lobbying to  
25 a moving barrier?



1 MS. FOGEL: Objection to form. You can  
2 answer.

3 THE WITNESS: I have no such recollection.  
4 In fact, I question your accuracy on that.

5 Q (BY MS. SPAGNOLI): Okay. Well, you're entitled to  
6 question the accuracy. I'm asking you what you  
7 remember.

8 A I do not recall.

9 Q If you don't remember that -- okay. So your -- when  
10 did the government first enact and implement a fuel  
11 system test?

12 A I can't recall at this point. Most of the standards  
13 were enacted in 1968, in effect in 1968. I thought  
14 that standard was part of the original, but I just  
15 do not recall.

16 Q Okay. So whether or not I'm accurate, you can't --  
17 you don't know what the accuracy is of the enactment  
18 of the fuel system standard related to passenger  
19 vehicles; is that right?

20 MS. FOGEL: Objection to the form.

21 THE WITNESS: Not without going back over  
22 the records.

23 Q (BY MS. SPAGNOLI): Okay. At some point in time a  
24 standard was enacted that required a moving barrier  
25 test at 30 miles per hour; is that right?

1 A That sounds right.

2 Q Okay. To your knowledge, did Chrysler ever test  
3 vehicles to any different test requirement in the  
4 1970's?

5 A Our requirement was to have no leakage where the  
6 government did allow leakage at the end of the test.  
7 Whether there were tests at higher speeds, I cannot  
8 say; I cannot recall.

9 Q Were there any tests that you were familiar with  
10 before -- between 1975 and 1980 --

11 MS. FOGEL: Objection to the form.

12 MS. SPAGNOLI: Well, I wasn't done with my  
13 question.

14 MS. FOGEL: Okay. There was just a stop,  
15 so I thought you were done.

16 MS. SPAGNOLI: I wasn't done. I wasn't  
17 done. I was still talking. So let me finish -- let  
18 me restate my question.

19 Q (BY MS. SPAGNOLI): Between 1975 and 1980 were there  
20 any tests that you are aware of that Chrysler did  
21 with fuel systems and fuel tank locations  
22 alternative to behind the rear axle?

23 A I can't talk about any particular tests. I have no  
24 recollection of tests of any specific instances or  
25 cases.

1 Q Okay. In the 1975 through 1980 time period, where  
2 were the fuel tanks located on Chrysler vehicles?

3 MS. FOGEL: Objection to the form. You're  
4 asking about the whole --

5 THE WITNESS: Name a vehicle particularly.

6 MS. SPAGNOLI: Hold on one second.

7 MS. FOGEL: Objection the form. Let me  
8 just finish my objection. Is your question asking  
9 about the whole fleet of Chrysler vehicles?

10 MS. SPAGNOLI: Right.

11 THE WITNESS: You'd have to name a  
12 particular vehicle. I can't recall a general  
13 statement like that.

14 Q (BY MS. SPAGNOLI): Okay. Was there any vehicle  
15 between 1975 and 1980 at Chrysler that had a fuel  
16 tank located somewhere other than behind the rear  
17 axle?

18 A I believe the Omni/Horizon had a tank located  
19 forward of the axle because it was a front-wheel  
20 drive car.

21 Q Okay. So that's an example of a vehicle that had a  
22 tank at some location other than behind the rear  
23 axle?

24 A I believe so.

25 Q Before 1980?

1 A Yes.

2 Q Okay. Are there any others that you can think of  
3 that Chrysler manufactured in this 1975 to 1980 time  
4 period that had a tank somewhere other than behind  
5 the rear axle?

6 A No.

7 Q And am I correct, sir, that you personally  
8 recognized in the 1975 to 1980 time period that  
9 locating a fuel tank ahead of the rear axle provided  
10 good protection for a fuel system?

11 MS. FOGEL: Objection to the form.

12 THE WITNESS: I'm really hard pressed to  
13 indicate that we were strongly positioning a tank in  
14 any particular location. I can't recall ever  
15 advocating one position over another.

16 MS. SPAGNOLI: I'm going to move to strike  
17 your answer as nonresponsive to my question.

18 Q (BY MS. SPAGNOLI): Mr. Baker, am I correct that in  
19 the mid to late 1970's, as the manager of the  
20 Automotive Safety Office at Chrysler, you personally  
21 described placing a tank forward of the rear axle as  
22 being a location that provided good protection?

23 MS. FOGEL: Object to the form. Again,  
24 you're characterizing the question as the universe  
25 of DaimlerChrysler vehicles available at the time as

1           opposed to one vehicle over another. You can  
2           answer.

3       Q   (BY MS. SPAGNOLI): You can answer my question.

4       A   I'm going to ask you to repeat it.

5                   MS. SPAGNOLI: Okay. I'll ask the court  
6           reporter to read it back.

7                               (Record read as follows:

8                               "Q Mr. Baker, am I correct that  
9                               in the mid to late 1970's, as  
10                              the manager of the Automotive  
11                              Safety Office at Chrysler, you  
12                              personally described placing a  
13                              tank forward of the rear axle as  
14                              being a location that provided  
15                              good protection?" )

16                   MS. FOGEL: Again, I'm going to object.

17                   THE WITNESS: I don't recall in so many  
18           words that position.

19       Q   (BY MS. SPAGNOLI): You don't recall making that  
20           statement?

21                   MS. FOGEL: Again, objection with regard to  
22           the fact that you're not asking him about a  
23           particular vehicle; you're asking him about the  
24           universe of DaimlerChrysler vehicles available at  
25           that time.

1 Q (BY MS. SPAGNOLI): You can answer my question.

2 A Better repeat it again, please.

3 Q Sure. I'll restate it. Did you describe yourself  
4 that placing a tank ahead of the rear wheels  
5 provided good protection for the tank?

6 MS. FOGEL: Objection, same objection.

7 THE WITNESS: It would depend on the  
8 particular design and the particular vehicle and the  
9 purpose of the vehicle, and I think we have to get  
10 into a specific case.

11 Q (BY MS. SPAGNOLI): Well, sir, I'm asking you not  
12 about a specific case but if you have a recollection  
13 of personally describing a fuel tank location ahead  
14 of the rear wheels as providing good protection for  
15 the tank.

16 MS. FOGEL: Objection. We all know that  
17 his memo refers to specific vehicles, Christine.

18 MS. SPAGNOLI: You're testifying for the  
19 witness.

20 MS. FOGEL: Objection, the question is  
21 unfair and argumentative.

22 MS. SPAGNOLI: No, no, no. I'm sorry, what  
23 you're doing is inappropriate. Your objection is to  
24 form. It's noted. You do not need to go on at  
25 length and explain why you're objecting. Please,

1 I'd like to not have that go on because it distracts  
2 the witness and I keep having to go back and restate  
3 my question. I understand your objection. It's not  
4 an appropriate one to argue with me about.

5 Q (BY MS. SPAGNOLI): My question -- let's start over.

6 My question, Mr. Baker, is this: Did you  
7 describe yourself that the location of a tank ahead  
8 of the rear wheels provided good protection for the  
9 tank?

10 MS. FOGEL: Objection to the form, again,  
11 asking for the universe of documents -- universe of  
12 vehicles and not a particular vehicle. You're  
13 asking him a yes or no question that he can't  
14 answer.

15 MS. SPAGNOLI: I really need you -- you  
16 just said that. I am not going to answer your  
17 question. My question is appropriate. I'm not  
18 going to argue with you, and for you to keep  
19 interrupting and interjecting your comments is  
20 inappropriate. The objection is to the form.  
21 That's it, and that's where it should stop. And if  
22 you want to instruct him not to answer, that's fine.  
23 I haven't heard that and I'm not going to debate  
24 with you --

25 MS. FOGEL: I'm not --

1 MS. SPAGNOLI: -- about what you want my  
2 question to be.

3 Q (BY MS. SPAGNOLI): My question, sir, is did you in  
4 the mid-70's describe the location of a fuel tank  
5 ahead of the rear wheels as providing good  
6 protection for the tank?

7 A I can't put it in those words. It doesn't -- that  
8 doesn't ring true. If I said anything, I probably  
9 would have felt that the best location was over the  
10 rear axle, but I don't recall anything else.

11 Q Okay. I'm asking you if you remember making such a  
12 statement. Are you telling me you don't remember  
13 making -- remember making a statement?

14 A Not in the terms that you're expressing.

15 Q Okay. Now, you've read your depositions from the  
16 case involving the Butler vehicle, correct?

17 MS. SPAGNOLI: Excuse me. Off the record.

18 VIDEO TECHNICIAN: We are going off the  
19 record. The time is 10:22 hours.

20 (Off the record.)

21 VIDEO TECHNICIAN: We are back on the  
22 record. The time is 10:22 hours. Please continue.

23 Q (BY MS. SPAGNOLI): All right. Mr. Baker, I'm going  
24 to hand you your deposition from the Butler case  
25 that you gave in, I think it was, 1999, 2000.



- 1           You've read that?
- 2    A    I don't recall in terms of Butler, but I may have  
3           read it. I don't recall.
- 4    Q    Well, did you read two depositions that you gave  
5           previously in preparation for your deposition here  
6           today?
- 7    A    Yes.
- 8    Q    And is the one that I've handed to you that I've  
9           marked as Exhibit 1 one of the depositions that you  
10          recall reading?
- 11   A    Give me a minute to look at it and I'll maybe be  
12          able to tell you. Yes.
- 13   Q    Okay. Now, one of the things that was attached to  
14          that deposition -- and it's Exhibit 7, if you go to  
15          the back -- is a memo dated August 24, 1978,  
16          correct?
- 17   A    Yes.
- 18   Q    And this is a memo that you authored as manager of  
19          the Automotive Safety Office, correct?
- 20   A    Yes.
- 21   Q    And it describes the division as the Engineering  
22          Office, and was the Engineering Office an office  
23          that provided engineering support to all of the  
24          divisions within Chrysler?
- 25   A    The automotive divisions, not the truck. It was

- 1 strictly for automotive.
- 2 Q Okay. And you wrote this memo to Mr. Sinclair who  
3 was the Director of International Product  
4 Development, correct?
- 5 A Yes.
- 6 Q And you copied this memo to other people; is that  
7 right?
- 8 A I don't recall who was on the copy at this point. I  
9 see one on the back here. That was my boss.
- 10 Q Your boss, being Mr. Heins?
- 11 A Yes.
- 12 Q Now, do you see that in this memo you were  
13 discussing fuel system design for Chrysler passenger  
14 cars and trucks?
- 15 A Yes.
- 16 Q Okay. And you were asked -- you wrote in this memo  
17 and described in this memo designs and locations of  
18 fuel tanks, correct?
- 19 A Yes.
- 20 Q And on page 2, under Truck, under Fuel Tank  
21 Location -- would you look at that? The last  
22 sentence of the first paragraph states, "The  
23 approach used by Mitsubishi on the SP-27 of locating  
24 the fuel tank ahead of the rear wheels appears to  
25 provide good protection for the tank." Have I read

1 that accurately?

2 A Yes.

3 Q Okay. And when you gave your deposition in the year  
4 2000, on page 16, lines 15 through 20, you confirmed  
5 that you had described the fuel tank location ahead  
6 of the rear wheels, the approach used by  
7 Mitsubishi --

8 A I'm sorry, better give me a chance to catch the  
9 page.

10 Q Okay, page 16, lines 15 through 20. Let me read the  
11 question and answer into the record:

12 "Q Isn't it true, sir, that you described  
13 the approach used by Mitsubishi of locating the fuel  
14 tank ahead of the rear wheels as 'providing good'  
15 protection for the tank? You described the that  
16 way, didn't you, sir? Yes or no.

17 "A Yes."

18 Now, have I read that accurately?

19 A No, because I believe in my letter I said it appears  
20 to provide good protection.

21 Q Okay.

22 A And the way the question was presented to me on the  
23 deposition was -- sounded like it wasn't a question  
24 of speculation; it was factual.

25 Q Well, sir, I read your deposition testimony

1 accurately, did I not?

2 A Yes.

3 Q And you were asked, again:

4 "Q Isn't it true, sir, that you described  
5 the approach used by Mitsubishi of locating the fuel  
6 tank ahead of the rear wheels as providing 'good  
7 protection' for the tank? You described it that  
8 way, didn't you, sir? Yes or no."

9 Your answer was:

10 "A Yes."

11 Have I read it correctly?

12 A You've read it correctly.

13 Q Okay. Now, a few moments ago you told me that you  
14 may have actually preferred the over-axle location  
15 to a location ahead of the axle for a fuel tank; is  
16 that right?

17 MS. FOGEL: Objection to form. You can  
18 answer.

19 THE WITNESS: Yes.

20 Q (BY MS. SPAGNOLI): And why did you prefer the  
21 over-the-axle tank location?

22 A To get the additional protection in a side impact  
23 provided by the axle and the rear wheels.

24 Q Okay. And when did you first come to the opinion  
25 that an over-axle fuel tank location provided more

1 protection?

2 MS. FOGEL: Objection to the form, same  
3 objection as before. You can answer.

4 THE WITNESS: I don't recall a specific  
5 date.

6 Q (BY MS. SPAGNOLI): Well, sometime before you  
7 retired from Chrysler, right?

8 A Yes.

9 Q And is that an opinion you expressed while you were  
10 employed at Chrysler?

11 A I thought it appeared somewhere in this memo.

12 Q The memo being the 1978 memo?

13 A Second paragraph, although I didn't indicate the  
14 preference. I said, "The rear-wheel drive H-body  
15 scheduled for introduction in '83 will have the fuel  
16 tank located over the rear axle and beneath the  
17 floor pan."

18 Q Okay. That was related to fuel tank location that  
19 you were reporting to Mr. Sinclair in this memo,  
20 correct?

21 A Yes.

22 Q That was the plan at Chrysler as of 1978, right?

23 A For the H-body.

24 Q Okay. And the plan in 1978 for the rear-wheel drive  
25 H-body vehicles was to put the tank in a location

1           that would be more protected than a tank behind the  
2           axle, correct?

3     A     Yes.

4                     MS. FOGEL:  Objection to form.  You can  
5           answer.

6     Q     (BY MS. SPAGNOLI):  And the reason for putting the  
7           tank in a location that would be more protected than  
8           a tank placed behind the rear axle is that you  
9           wanted to get the tank removed from impact sources  
10          that might cause leaks in the tank, right?

11                    MS. FOGEL:  Objection to form, assumes  
12          facts not in evidence.  You can answer.

13                    THE WITNESS:  Again, this would depend on  
14          the degree of protection provided to the tank in a  
15          rear location.

16     Q     (BY MS. SPAGNOLI):  Well, in this memo, sir, you  
17           described several locations for tanks in both  
18           passenger vehicles and trucks and vans that would  
19           provide better protection in a crash than a tank  
20           behind the axle, right?

21                    MS. FOGEL:  Objection to form.  The memo  
22          speaks for itself.  It assumes facts not in  
23          evidence.

24                    THE WITNESS:  I was providing information  
25          to Mr. Sinclair, and I don't see in some of these

1 statements where I was giving any particular  
2 preference other than the fact that I was describing  
3 what was taking place.

4 Q (BY MS. SPAGNOLI): Well, sir, you did actually  
5 describe several locations as an improvement,  
6 providing more protection in a crash than a tank  
7 behind the rear wheels and rear axle, right?

8 MS. FOGEL: Objection to form, same  
9 objections as stated before.

10 THE WITNESS: Would you point out a  
11 particular place where that took place?

12 Q (BY MS. SPAGNOLI): Sure. For example, in the first  
13 paragraph, when you describe the --

14 A First paragraph where?

15 Q Under Fuel Language Location, Passenger Car, you  
16 described the fuel tank location that was going to  
17 be used for the Omni and Horizon, correct?

18 A Yes.

19 Q And you described, "This location provides the  
20 protection of all of the structure behind the rear  
21 wheels -- as well as the rear wheels themselves --  
22 to protect the tank from being damaged in a  
23 collision."

24 Have I read that accurately?

25 A Yes.

1 Q And the fuel tank location on those vehicles was a  
2 tank ahead of the rear axle and below the rear seat,  
3 correct?

4 A Because it was possible to do that, yes.

5 Q Right. And it was a good idea because it provided  
6 more impact protection to the tank than a tank  
7 behind the rear wheels, right?

8 A Yes, but it does not exclude any other option. I  
9 mean, I'm not exclusive on it. I'm giving the  
10 advantages of a specific location. Now, there are  
11 advantages in other locations as well and  
12 disadvantages. It depends on what we're talking  
13 about.

14 Q Well, sir, I asked you if you had described fuel  
15 tank locations that were different from behind the  
16 rear wheels as providing more protection in a crash,  
17 and you did so with respect to the Omni and Horizon  
18 tanks that were going to be located ahead of the  
19 axle so it would get protection in a rear crash,  
20 right?

21 MS. FOGEL: Objection to form. You can  
22 answer.

23 THE WITNESS: It didn't say rear crash. It  
24 said in a collision.

25 Q (BY MS. SPAGNOLI): Okay. Well, one of the types of



1 collisions that a fuel tank ahead of the axle would  
2 get better protection than a tank behind the rear  
3 axle is a rear-end crash, right?

4 A That would depend on what was around the tank, what  
5 type of crash and other crashes might be involved.  
6 You don't just exclude other types of collisions.  
7 You don't rule out side impacts and various others  
8 just at the expense of improving one area. You have  
9 to balance the whole system.

10 MS. SPAGNOLI: Move to strike as  
11 nonresponsive. That had nothing do with the  
12 question that I asked you, Mr. Baker.

13 Q (BY MS. SPAGNOLI): In comparing a fuel tank  
14 positioned ahead of the rear axle to one that's  
15 behind the axle, you would agree with me that it is  
16 a basic engineering concept that a tank ahead of the  
17 axle would be more protected in a rear crash, right?

18 MS. FOGEL: Objection to the form.

19 THE WITNESS: I can't say that in a broad,  
20 general statement anymore. I have to recognize the  
21 individual installation and how the surroundings --  
22 what the surroundings consist of.

23 Q (BY MS. SPAGNOLI): Well, you certainly thought it  
24 was an improvement in the Omni and Horizon vehicles  
25 in 1978, improved protection, right?

1 A Because it was --

2 MS. FOGEL: Objection to form again.

3 THE WITNESS: Because it was over the rear  
4 wheels. I've got that in -- right in the writing  
5 there, the protection provided by the rear wheels.

6 Q (BY MS. SPAGNOLI): Okay. So that was a tank that  
7 was better than what had been used before, more  
8 protection, right?

9 MS. FOGEL: Objection to the form.

10 Q (BY MS. SPAGNOLI): Right?

11 A Yes, it's over --

12 Q Okay.

13 A But you've been talking about in front of, and I'm  
14 saying over.

15 Q No, sir, the Omni and Horizon fuel tanks were in  
16 front of, weren't they? They weren't over the axle.  
17 They were in front of the axle, right?

18 MS. FOGEL: Objection to the form, assumes  
19 facts not in evidence. The memo speaks for itself.

20 Q (BY MS. SPAGNOLI): Right?

21 A I don't recall now.

22 Q Well, it says it right here in your memo.

23 A No, it doesn't.

24 Q "The front-wheel drive" -- I'm reading from, again,  
25 the first paragraph under Fuel Tank Location. "The

1 front-wheel drive configuration in Chrysler's Omni  
2 and Horizon allowed the fuel tank to be located  
3 beneath the rear seat. This location provides the  
4 protection of all of the structure behind the rear  
5 wheels -- as well as the rear wheels themselves --  
6 to protect the tank from being damaged in a  
7 collision."

8 Have I read that accurately?

9 A You've read it accurately.

10 Q Right. And --

11 A But I'm also going to point out that in the sense of  
12 what I was speaking here, it was considering it to  
13 be over the axle essentially or I wouldn't have  
14 talked about the protection of the rear wheels.

15 Q Okay.

16 MS. SPAGNOLI: Move to strike your answer  
17 as nonresponsive.

18 Q (BY MS. SPAGNOLI): First of all, you point out in  
19 this memo that the fuel tank in the Omni and Horizon  
20 was located beneath the rear seat, correct?

21 A Yes, and it could have been over the axle.

22 Q Are you telling me the rear seat in the Omni and  
23 Horizon was over the rear axle?

24 A Probably the rear of the rear seat was, yeah.

25 Q Okay.

- 1 A It was a very short vehicle.
- 2 Q You think the tank was over the axle in the Omni and  
3 Horizon?
- 4 A To some degree, yes.
- 5 Q Okay. Do you have a recollection of that or are you  
6 speculating?
- 7 A Well, I have a strong recollection at this point,  
8 that's for sure, but I'm going by what I've written  
9 back from 1978.
- 10 Q Okay. You don't describe the fuel tank in the Omni  
11 and Horizon as being over the axle in that  
12 paragraph, do you?
- 13 A It could very well be.
- 14 Q You don't describe it in your memo as being over the  
15 axle, do you?
- 16 A Not specifically, no.
- 17 Q Okay. In the next paragraph you do describe the  
18 rear-wheel drive H-body vehicle that was going to  
19 have a fuel tank over the rear axle and beneath the  
20 floor pan, correct?
- 21 A Yes.
- 22 Q And that was also a better location for protection  
23 in a crash, right?
- 24 MS. FOGEL: Objection to the form. You can  
25 answer.

1 THE WITNESS: Yes.

2 Q (BY MS. SPAGNOLI): And in the next paragraph you  
3 say that, "The question of whether M, R or J-Body  
4 cars should be converted to tank over axle prior to  
5 their phase-out is a matter under intensive study at  
6 this time." Have I read that accurately?

7 A Yes.

8 Q So in 1978 in the passenger cars the fuel tank  
9 location was intensively being studied, right?

10 A For considerations.

11 Q Right. And by 1980, when you left, had Chrysler  
12 made a determination that it would attempt to locate  
13 fuel tanks in passenger cars ahead of or above the  
14 rear axle going forward?

15 A I see above the rear axle. I don't see anything  
16 about ahead of the rear axle here at all.

17 Q The design direction in 1980 was to move the tanks  
18 in passenger cars somewhere other than behind the  
19 rear axles, right?

20 MS. FOGEL: Objection to form.

21 THE WITNESS: Yes.

22 Q (BY MS. SPAGNOLI): And that was to provide improved  
23 protection in crashes, correct?

24 MS. FOGEL: Objection to form.

25 THE WITNESS: It was an attempt to reduce

1 the risk of damage to the tank.

2 Q (BY MS. SPAGNOLI): In crashes, right?

3 A Depending on the ability to make the -- make the  
4 change.

5 Q Okay. But that was the goal, to improve protection  
6 of the tank in all kinds of crashes, right?

7 MS. FOGEL: Again, objection.

8 THE WITNESS: That's the wording as is  
9 shown here, yes.

10 Q (BY MS. SPAGNOLI): Okay. Now, in those -- if you  
11 go to page 2, you describe efforts to protect tanks  
12 that are behind the rear wheels where the design did  
13 not accommodate moving the tanks to another  
14 location. Do you see that?

15 A No. You'll have to tell me what paragraph you're  
16 looking at.

17 Q Page 2, second paragraph, under Structure.

18 A Second paragraph, I only see one paragraph.

19 Q The paragraph under Structure. It's the second  
20 paragraph on the page. The memo again, August 24,  
21 1978, you wrote, "In 1979 through 1983, the M, R and  
22 J model cars which have the fuel tank under the  
23 floor pan behind the rear wheels, structural  
24 reinforcement of the longitudinals on each side of  
25 the tank, shielding of any unfriendly surfaces

1 adjacent to the tank, and the design of straps and  
2 hangers to limit undesired tank movement will be  
3 employed."

4 Have I read that accurately?

5 A Yes.

6 Q And were those measures employed in those vehicles,  
7 to your knowledge, to protect tanks in crashes?

8 A I don't know.

9 Q Okay. You then in the memo describe your  
10 understanding of the efforts in the -- in protecting  
11 fuel tanks in trucks, correct?

12 MS. FOGEL: Objection to form. You can  
13 answer.

14 THE WITNESS: The material listed under  
15 Truck was information that I obtained from the truck  
16 personnel which were in a different area. They were  
17 not located in the automotive group. They were in a  
18 separate section, but I spoke with them and this is  
19 the information that they provided.

20 Q (BY MS. SPAGNOLI): You gathered information at  
21 Mr. Sinclair's request about fuel system design in  
22 the Truck Division and you reported what you learned  
23 in this memo, correct?

24 A Yes.

25 Q And the information that you gathered came from the

1 Truck Engineering Office, correct?

2 A Yes.

3 Q And you were told by the truck engineers that the --  
4 "The same principles regarding fuel tank location  
5 apply to truck design."

6 Have I read that sentence correctly?

7 A Yes.

8 Q And when you refer to those "same principles" in  
9 your memo under Truck, you are referring to the  
10 discussion on the prior page and a half related to  
11 fuel tank location in passenger cars, correct?

12 A Yes.

13 Q Okay. You describe in the next sentence that, "It  
14 is important that these larger fuel tanks are not  
15 only shielded from damage in a collision but do not  
16 break away from the truck and thereby spread fuel  
17 onto the read way."

18 Is that -- have I read that accurately?

19 A Yes.

20 Q And is that information you gathered from Truck or  
21 is it something you knew?

22 A It was based on field experience that the worst  
23 condition would, of course, be for the fuel tank to  
24 break away from the vehicle.

25 Q Okay. So that's something you yourself knew?



1 A From the field data, yes.

2 Q Okay. And then you say "The approach used by  
3 Mitsubishi on the SP-27 of locating the fuel tank  
4 ahead of the rear wheels appears to provide good  
5 protection for the tank."

6 Have I read that accurately?

7 A Yes, and the word "appears" is what I'm referring  
8 to, yes.

9 Q Right. And you then describe an effort or a plan at  
10 Chrysler to introduce a vehicle in 1982, a truck, in  
11 1982 that would have the fuel tank ahead of the rear  
12 wheels and under the rear seat, right?

13 A I believe the T115 was the beginning of the minivan.

14 Q Okay. And you then go on to say, "Chrysler is  
15 investigating" -- I'm down at the third paragraph.

16 A Where are you?

17 Q I'm looking at the third paragraph. It says  
18 "Chrysler is investigating fuel tank relocation  
19 ahead of the rear wheels for vans and multi-purpose  
20 vehicles, but present plans for pickups through 1983  
21 and MPV's and vans through 1985 have the fuel tank  
22 located behind the rear wheels."

23 Have I read that accurately?

24 A Yes.

25 Q And in 1978 you were told by truck engineers that

1           they were investigating alternative locations for  
2           fuel tanks for future models of trucks, MPV's and  
3           vans, right?

4    A    Well, it says vans and MPV's, yes.

5    Q    Okay.  And pickups?

6    A    No, it says plans for pickups have the fuel tank  
7           located behind the rear wheels.

8    Q    Okay.  And you were told that they were --

9                   VIDEO TECHNICIAN:  We are going off the  
10           record.  The time is 10:46 hours.

11                                   (Off the record.)

12                   VIDEO TECHNICIAN:  We are back on the  
13           record.  The time is 10:47 hours.  Please continue.

14                   MS. SPAGNOLI:  Okay.

15    Q    (BY MS. SPAGNOLI):  Mr. Baker, we were looking at  
16           the third paragraph under Truck, and we've read from  
17           the document, and my question was, in 1978, you were  
18           told by Truck Engineering that they were looking for  
19           alternative locations for the fuel systems on MPV's  
20           and vans and pickups, right?

21    A    No, that's not the way I read it.

22    Q    Okay.

23    A    I'm reading after "but."

24    Q    Okay.  "...present plans for pickups through 1983  
25           and for MPV's and vans through 1985 have the fuel

1 tank located behind the rear wheels?"

2 A Yes.

3 Q And you were advised that after 1983 for pickups and  
4 after 1985 for vans and MPV's, the goal was to have  
5 an alternative location?

6 MS. FOGEL: Objection to the form. The  
7 document speaks for itself.

8 THE WITNESS: I didn't read it that way at  
9 all.

10 Q (BY MS. SPAGNOLI): Okay. You then write, "In  
11 vehicles both with and without bumpers there is a  
12 concern with vertical height differences that create  
13 a mismatch with passenger car bumpers."

14 Have I read that accurately?

15 A Yes.

16 Q And is that a concern that you were aware of  
17 yourself or is it something you learned from Truck  
18 Engineering?

19 A I can't say at this point. It may have slipped in  
20 as something that I might have been concerned about.

21 Q Okay. And when you say that "there is a concern  
22 with vertical height differences that create a  
23 mismatch," what did that refer to?

24 A That the bumpers make contact in an impact, either  
25 front or rear, for that matter.

1 Q Okay. Well, for example, in a vehicle that has a  
2 tank behind the rear axle, and if it's a higher  
3 profile vehicle like a truck or a -- if it's a truck  
4 or a vehicle with a higher bumper, your concern was  
5 that a vehicle with a lower profile, a lower bumper  
6 height could come in underneath the higher vehicle  
7 in a rear impact, causing some damage to the tank,  
8 right?

9 A Yes.

10 Q And in those -- you then went on to write, "Where  
11 fuel tank location behind the rear axle is all that  
12 is feasible, a protective impact deflection  
13 structure may have to be provided whether or not a  
14 bumper is provided."

15 Have I read that accurately?

16 A Yes.

17 Q And when you referred to "a protective impact  
18 deflection structure," what were you referring to?

19 A Well, anything that would act as a structural  
20 protection, any sort whatsoever, whether it's side  
21 rails or something else that might be added.

22 Q Well, when --

23 A Or the bumper itself, for that matter.

24 Q Was the term "protective impact deflection  
25 structure" something that you coined that phrase or

1 was that one that you had heard at Chrysler?

2 A I'm sure it was something that I had put in.

3 Q Okay. And you were referring to generically some  
4 effort to keep a tank isolated from parts of another  
5 vehicle that might be coming in contact with the  
6 tank because of a difference in bumper heights,  
7 right?

8 A Yes.

9 Q Okay. And you hadn't actually designed such a  
10 structure for any particular vehicle, but you were  
11 just offering a suggestion that this is something  
12 that might be needed, if you couldn't move a tank  
13 out of that impact zone, right?

14 A It was a consideration that I was calling to  
15 attention, yes.

16 Q Okay. And it was a consideration that came about as  
17 a result of your own experience in analyzing field  
18 accident reports, right?

19 MS. FOGEL: Objection to the form.

20 THE WITNESS: No, I can't say that it came  
21 from the accident data. It came from a general  
22 recognition of the possibilities.

23 Q (BY MS. SPAGNOLI): Okay. A general recognition on  
24 your part having been involved in the Automotive  
25 Safety Office?

1 A I don't know whether it was that or what, but it was  
2 just an issue that I was calling attention to,  
3 that's all.

4 Q Okay. Well, I'm trying to make sure that I  
5 understand whether you were calling that --  
6 attention to that issue simply because Truck passed  
7 it along or it was something you had already been  
8 familiar with yourself.

9 A I don't recall.

10 Q Okay. And then you say in the next sentence of this  
11 paragraph, "An investigation whether to relocate the  
12 fuel tank or to provide impact deflecting structures  
13 is presently underway."

14 Have I read that correctly?

15 A Yes.

16 Q And that investigation was an investigation being  
17 conducted by the Truck Engineering people, right?

18 A As it was told to me, yes.

19 Q Okay. Did you ever see the results of that  
20 investigation?

21 A No.

22 Q So before you left Chrysler and retired in 1980, did  
23 anyone from Truck Engineering report to you as to  
24 the outcome of the investigation of relocating fuel  
25 tanks or providing impact deflecting structures?

- 1 A I did no follow-up on this with Truck. My work was  
2 almost totally with the automobile group, and I did  
3 not follow up on this.
- 4 Q Okay. And as of 1980, when you retired, had  
5 Chrysler accomplished a relocation of the fuel tanks  
6 in any of the vehicles that are referred to here,  
7 vans, multi-purpose vehicles, pickup trucks, that  
8 you know of?
- 9 A You'd have to go back to that first sentence as to  
10 what they told me, and that's the only information I  
11 can give you.
- 12 Q Okay. And do you know if such design changes were  
13 made after you left in 1980 on any Chrysler vehicle?
- 14 A I have no idea whatsoever.
- 15 Q Okay. If we look at the attachment to your memo,  
16 there is a drawing, 1980 through 1983 D, W 1-4 fuel  
17 tanks.
- 18 A Which one are we looking at? Oh, okay.
- 19 Q This drawing right here.
- 20 A The pickup?
- 21 Q Right. This is a pickup truck, and this came from  
22 Truck. You were given this drawing?
- 23 A No.
- 24 Q Where did come from?
- 25 A My associate, a fellow that worked for me drew those

1 up.

2 Q And you gave -- attached these to your memo; is that  
3 right?

4 A Yes.

5 Q And were these in order to give depictions to  
6 Mr. Sinclair of the fuel tank location issues?

7 A With respect to three vehicles, a van and a pickup,  
8 and a cab-over pickup, I guess you call it. Those  
9 were the three that were drawn.

10 Q Okay.

11 A And it was given the years as projected, I guess, or  
12 what was part of the projection.

13 Q Okay. Now, when you wrote this memo to  
14 Mr. Sinclair, if I understand the purpose of this  
15 memo, Mr. Sinclair had -- was asking for information  
16 in order to have a discussion with a Mr. Mochida; is  
17 that right?

18 A Yes.

19 MS. FOGEL: Objection to the form. You can  
20 answer.

21 Q (BY MS. SPAGNOLI): And who was Mr. Mochida?

22 A I do not know, other than he was representing the  
23 Mitsubishi company.

24 Q Okay. And Mr. Sinclair asked you to gather and  
25 present this information for Mr. Mochida concerning



1 Chrysler's current thinking about fuel system  
2 design, right?

3 A I prepared it for Mr. Sinclair. What he did with it  
4 after that, I have no idea.

5 Q Right. But you've described it as an attempt to  
6 present Chrysler's current thinking, correct?

7 A Current effort, yes.

8 Q Okay. And am I correct that in the introductory  
9 portion of this memo you actually referred to the  
10 Ford Pinto case as one of the considerations for the  
11 work being done at Chrysler?

12 MS. FOGEL: Objection to the form. Memo  
13 speaks for itself.

14 Q (BY MS. SPAGNOLI): Is that right?

15 MS. FOGEL: Assumes facts not in evidence.  
16 You can answer.

17 THE WITNESS: No, that doesn't -- the only  
18 thing that it called attention to the Pinto case was  
19 because this was a very highly publicized case.

20 Q (BY MS. SPAGNOLI): The work being done at  
21 Chrysler -- if we look at the second paragraph of  
22 your memo, you wrote "Not only are the impact  
23 performance requirements of MVSS-301 pertinent to  
24 the design approach but the significant increase in  
25 the last few years in the number of product

1 liability cases involving fuel system fires and the  
2 increase in the size of the awards by sympathetic  
3 juries has to be recognized."

4 Have I read that correctly?

5 A Yes.

6 Q And then you wrote, "In the Ford Pinto case the  
7 NHTSA Office of Defects Investigation selected  
8 arbitrary performance criteria of minimal or no fuel  
9 leakage when the test car is impacted in the rear by  
10 a full size car at 35 miles an hour as a basis for  
11 questioning the safety of a recall modification of  
12 the Pinto."

13 Have I read that correctly?

14 A Yes.

15 Q Now, in telling these things to Mr. Sinclair in your  
16 memo, were you alerting him to the context in which  
17 Chrysler's thinking about fuel tanks was evolving?

18 MS. FOGEL: Objection to form. You can  
19 answer.

20 THE WITNESS: I guess I was calling  
21 attention to the fact that 301 is not the only  
22 consideration in our concerns.

23 Q (BY MS. SPAGNOLI): Okay. And why was 301 not the  
24 only consideration?

25 A For the reasons I indicated in the second paragraph.

1 Q And were you communicating that just meeting 301 was  
2 not necessarily a -- should not necessarily be the  
3 goal, but to do more?

4 MS. FOGEL: Objection to the form.

5 THE WITNESS: I can't say at this time what  
6 I was thinking back then, other than the fact that I  
7 was calling attention to some things that were  
8 currently active, currently attention-getters.

9 Q (BY MS. SPAGNOLI): Okay. Attention-getters in the  
10 sense that there might be a concern about whether  
11 the fuel systems, even if they met 301, were going  
12 to protect the company from liability?

13 MS. FOGEL: Objection to form.

14 THE WITNESS: I would say yes.

15 Q (BY MS. SPAGNOLI): Okay. And up at the beginning  
16 of the paragraph, there are a number of people  
17 listed that were going to have this discussion with  
18 Mr. Sinclair and Mr. Mochida. Can you tell us who  
19 Mr. Vining was?

20 A I can't recall for sure at this point, but I believe  
21 he was involved with Manufacturing and he may have  
22 been over Engineering at the time. I just, you  
23 know, can't recall the detail.

24 Q Okay. I actually think you went through these names  
25 in your other deposition, and let me just --

- 1 A I did.
- 2 Q Okay -- see if we can refresh your recollection of  
3 who these people were.
- 4 A Well, in that deposition, I believe I said  
5 Manufacturing, but I just can't recall at this  
6 point.
- 7 Q Okay. Let's take a quick look. I thought I had  
8 their names somewhere here. Yeah, you described  
9 Mr. Vining as -- and I'm looking at page 26, was the  
10 executive in charge of Manufacturing for Chrysler  
11 Corporation.
- 12 A What line?
- 13 Q Page -- line five.
- 14 A Page --
- 15 Q Twenty-six.
- 16 A Oh, I'm on the wrong page.
- 17 Q I'm sorry about that. I may have sent you to the  
18 wrong page. I think I did.
- 19 A Okay.
- 20 Q Line 5 through 8, "...Mr. Vining was the executive  
21 in charge of manufacturing for Chrysler  
22 Corporation," correct? That's what you recalled at  
23 the time?
- 24 A Yes, that's what I said at that time.
- 25 Q Okay. And Mr. Jeffe was the executive in charge of

1           Engineering at Chrysler in 1978, right?

2    A    Yes.

3    Q    Okay.  And the individuals who participated in this  
4           discussion with Mr. Mochida were all executives of  
5           Chrysler then; is that right?

6    A    I have no idea who participated in any contact with  
7           Mr. Mochida.

8    Q    Okay.

9    A    I included them on the distribution list because I  
10          felt they were entitled to be updated.

11   Q    Okay.  These were -- the point is, sir, that you  
12          gave your memo to very high level executives at the  
13          company in 1978; is that right?

14   A    Mr. Vining was a high executive, I guess.

15   Q    Okay.

16   A    So was Mr. Jeffe.

17   Q    Right.  And did anyone criticize you for providing  
18          this information to the executives?

19   A    No.

20   Q    Did anyone tell you that you got this wrong when you  
21          wrote this memo in 1978?

22   A    No.  I had no feedback.

23   Q    Okay.  You never retracted any of the statements you  
24          made in this memo before you left the company, did  
25          you?

1 A No.

2 Q Okay.

3 MS. SPAGNOLI: All right. Mr. Baker, I  
4 have no further questions. But let me see if Frank  
5 is still here. Can we go off the record for a  
6 second.

7 VIDEO TECHNICIAN: We are going off the  
8 record. The time is 11:04 hours.

9 (Off the record.)

10 VIDEO TECHNICIAN: We are back on the  
11 record. The time is 11:07 hours. This will  
12 conclude the videotape deposition of Leonard L.  
13 Baker. We are going off the record. The time is  
14 11:07 hours.

15 (Deposition concluded at or  
16 about 11:07 p.m.)

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FURTHER DEPONENT SAYETH NOT:

\_\_\_\_\_

LEONARD L. BAKER

Subscribed and sworn to before me  
this \_\_\_\_day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County

My Commission expires: \_\_\_\_\_.

1 STATE OF MICHIGAN )  
 ) ss  
2 COUNTY OF MACOMB )

3 I, Melinda S. Moore, (CSR-2258), a Notary  
4 Public commissioned and qualified in and for  
5 the State of Michigan, do hereby certify there  
6 came before me on the date and at the location  
7 hereinbefore mentioned, the following named  
8 person, to-wit: LEONARD L. BAKER, who was by  
9 me sworn to testify truthfully concerning the  
10 matters in controversy in this cause; that he  
11 was examined upon his oath and his examination  
12 was reduced to typewritten form under my  
13 supervision; that the deposition is a true  
14 record of the testimony given by the witness.

15 I further certify that I am neither  
16 attorney or counsel for, nor related to or  
17 employed by any of the parties hereto or  
18 financially interested in the action.

19 IN WITNESS WHEREOF, I have hereunto set my  
20 hand and affixed my Notarial Seal this 8th day  
21 of October, 2005.

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Melinda S. Moore, Notary Public  
Macomb County, Michigan  
My commission expires: 9-6-2010