

IN THE STATE COURT OF COBB COUNTY
STATE OF GEORGIA

KENNETH DAVID MELTON and * CIVIL ACTION

MARY ELIZABETH MELTON, *
Individually, and as *
Administrators of the Estate *
of JENNIFER BROOKE MELTON, *
Deceased, *
Plaintiffs, *

FILE NUMBER: 11-A-2652

versus

GENERAL MOTORS LLC and *
THORNTON CHEVROLET, INC., BILL *
HEARD CHEVROLET AT TOWN *
CENTER, LLC and DEI *
HOLDINGS, INC., *

COPY

Defendants. *

Transcript of the **CIVIL MOTION** proceedings in
the above-styled case on Thursday, February 7,
2013, before **THE HONORABLE KATHRYN J. TANKSLEY**, in
the State Court of Cobb County, Cobb County
Courthouse, Marietta, Cobb County, Georgia.

APPEARANCES OF COUNSEL:

FOR THE PLAINTIFFS: LANCE COOPER
Attorney at Law

FOR DEFENDANT GM: HAROLD FRANKLIN
Attorney at Law
FOR DEFENDANT DEI: IAN R. RAPAPORT
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E X H I B I T S

Exhibit Description Identified Admitted

(Exhibits retained by counsel)

TRANSCRIPT LEGEND

- (Interruption of thought)
- ... (Trailing off or did not complete thought)
- [sic] (In its original form)
- [phonetic] (As it sounds)

P R O C E E D I N G S

1
2 (February 7, 2013, in the State Court of Cobb County,
3 Marietta, Georgia.)

4 THE COURT: This morning we have a special set
5 motion, Melton and others versus General Motors and
6 Thornton Chevrolet.

7 Mr. Cooper, you're here on behalf of the
8 Plaintiffs; is that correct?

9 MR. COOPER: Yes, Your Honor.

10 THE COURT: Okay. And on behalf of General
11 Motors?

12 MR. FRANKLIN: Yes, Harold Franklin, Your
13 Honor, good morning.

14 THE COURT: Good morning. I'm ready whenever
15 you're ready to start, Mr. Cooper.

16 MR. COOPER: Thank you, Your Honor. May I
17 approach?

18 THE COURT: Do you have a book for me?

19 MR. COOPER: Yes, we've prepared a notebook
20 which, hopefully, will streamline the argument and
21 the issues before Your Honor.

22 THE COURT: Thank you.

23 MR. COOPER: Also a PowerPoint for the same
24 reason.

25 THE COURT: Okay.

1 MR. COOPER: We're here on -- to address a
2 motion to compel on our second interrogatories,
3 numbers one and two, and then our second request
4 for production of documents numbers two, six,
5 seven, and nine. And I'll talk about the specific
6 interrogatories and document requests in a moment.
7 But what I would like to do is start by giving Your
8 Honor a little bit of background on the case and
9 why what we're asking the Court to compel GM to
10 produce should be produced.

11 This is a case about Brooke Melton. This is
12 Brooke. She was a young, pediatric nurse at the
13 time of her death and I'm going to talk to you a
14 little bit about what happened to Brooke because
15 that gives the -- will hopefully give you an
16 understanding, Your Honor, of why this information
17 is critical and we need it, the information
18 documents that has not been produced yet.

19 She bought a 2005 Chevy Cobalt from Bill Heard
20 Chevrolet on August 31st of 2005. There is the
21 invoice. GM, at that time, knew that the ignition
22 switch in the Cobalt was defective. And here is
23 the -- we pulled from an exemplar vehicle, the key
24 cylinder and the ignition switch and it's pretty
25 straightforward. I mean, the way it works is it's

1 in the off position and you turn it on. This is
2 the ignition switch. One of the purposes of the
3 ignition switch is when the vehicle is on in the
4 run position, it has what they call a detent lever
5 in there to keep it from moving to the accessory
6 position. The accessory position is when you
7 listen to the radio and those sorts of things.

8 Well, the problem is if it goes in the
9 accessory position is, and the vehicle is driving
10 down the road is, the power steering goes off, the
11 engine turns off, and you lose your anti-lock
12 brakes. So GM knew at the time, and this is back
13 in 2004. One of their, and we don't have all of
14 the details yet because this is one of the things
15 we're asking Your Honor to compel. A gentlemen by
16 the name of Gary Altman reported an incident while
17 driving the vehicle. The driver's knee bumped the
18 key in such a manner as to turn off the ignition.

19 In other words, he's driving down the road in
20 drive and he hits the key chain and it moves it to
21 accessory, and he reports this to the GM higher-ups
22 and they begin an investigation back in -- if
23 you'll recall, this is in 2004. This is almost a
24 year before or, yeah, almost a year before GM sold
25 the Cobalt to Brooke. And so GM opens up this

1 report or this investigation, and they noted that
2 the -- they knew the system is defective and the
3 complaint is, again, vehicle can be keyed off with
4 a knee while driving. You're driving down the
5 road, you may bump the ignition or the key with
6 your knee and it turns the key from run into the
7 off position.

8 They do a root cause analysis and they
9 determine that it's a low key cylinder torque
10 effort problem. And what that means in layman's
11 terms is, when you have it in run, there's too
12 little of force to move it into accessory and that
13 -- the primary culprit of that is this black device
14 here, the ignition switch. There's a lever in
15 there, a detent, that the key has to go from run to
16 accessory and it just allows it to -- it's too
17 loose. There's not enough force; it allows it to
18 move to that position when you're just driving down
19 the road. So that's the basic problem and, again,
20 this is back in '04 and '05 when this is being
21 discussed. And this is essentially what happens in
22 early 2005.

23 They open up this investigation and they close
24 it with no action. And the main reasons are as
25 follows: these possible solutions were presented

1 to these committees, the lead time solutions were
2 too long, the tooling costs and piece price too
3 high. In other words, it was too expensive. And
4 none of the solutions seems to fully countermeasure
5 the possibility of the key being turned off while--
6 during driving.

7 So, essentially, what they're saying is we've
8 looked at it, it's going to take too long to fix
9 it, it's too expensive, and these solutions, they
10 don't fully countermeasure it. In other words,
11 they won't prevent this from happening in all cases
12 and so none of these solutions represents an
13 acceptable business case.

14 In other words, they knew this, and when they
15 sold the vehicle to Brooke, they hadn't fixed the
16 ignition switch, even though they knew back in '04
17 and early '05 that there was a problem. But for
18 business reasons, they chose not to fix it.

19 However, on October 3rd, 2005, GM chooses to
20 issue a technical service bulletin. What does that
21 mean? Well, at some point in 2005, between the
22 time that they closed the investigation, then they
23 sell Brooke her vehicle, and then in October 2005
24 someone within GM decides we're going to issue a
25 technical service bulletin, the ignition cylinder

1 effort is too low and it allows the vehicle to shut
2 off while driving. And what the bulletin is, is
3 they simply want to change the key so that there is
4 a -- you see there is a slot here. They want to
5 change it to where there is a circle in it so that
6 the key sits up higher in the key ring, hoping that
7 if it sits up higher, it won't cause people to hit
8 it as much and, therefore, won't cause the key to
9 turn off under these circumstances.

10 So they issue this technical service bulletin,
11 basically, to try to fix the problem; it doesn't
12 totally fix it. It's issued two months after
13 Brooke buys her Cobalt. It doesn't fix the defect.
14 It doesn't do anything to the ignition switch to
15 make the torque more. It just changes the slot in
16 the key. But GM never notifies Brooke and Thornton
17 never notifies Brooke. So Brooke drives her
18 vehicle for a few years in this defective condition
19 up until 2010.

20 We get now to 2010 and in March. Brooke has
21 car trouble. These are her notes that were found
22 after the crash. And on March 4th or 5th, the
23 engine in Brooke's Cobalt suddenly shuts off while
24 she's driving, which is the complaint back 2006, or
25 2005 to 2006, excuse me. And she writes her notes,

1 "suddenly shutting off while driving, am unable to
2 turn vehicle." Which is what happens when it goes
3 from on to accessory.

4 And this is Mr. Melton, he spoke with Brooke
5 about taking her car into Thornton Chevrolet and
6 he's asked by, I think it's GM's counsel, he's
7 asked by GM's counsel at his deposition, "tell us
8 what she told you when she called you." This is
9 Brooke calling Mr. Melton before the crash and
10 before she took the vehicle into Thornton. "Dad,
11 my car just cut off for no reason. I lost power
12 steering, I lost brakes" -- which is exactly what
13 happens. "I was able to steer it to the corner, I
14 turned the car off, turned it back on, power
15 steering returned. Everything seemed to be okay
16 and I proceeded on." And then he talks about her
17 taking it into Thornton Chevrolet, which she does
18 on March 6th, 2007, she takes it in for that
19 reason. Key gets stuck in ignition and --
20 THE COURT: You mean March 6th 2010?
21 MR. COOPER: March 6th, 2010, excuse me. I'll
22 be a little more slow here.

23 And Thornton looks at it and says, "Brooke,
24 the reason it's shutting off is you've got a fuel
25 injector problem." So they clean her fuel injector

1 telling her that's going to fix the engine shutting
2 off problem. The fuel injector doesn't fix the
3 problem because that has nothing to do with what
4 was going on with her vehicle; it's not the cause
5 the problem. The defective ignition switch is the
6 cause of the problem.

7 Now remember the TSB, the technical service
8 bulletin, General Motors has that in the system at
9 the time that it's serviced here, but they haven't
10 emphasized it to Thornton Chevrolet. They make the
11 service technicians go out and find the problem
12 with the vehicle. Well, the service tech misses
13 this.

14 So she drives off the lot on March 9th, having
15 made the exact complaint that the technical service
16 bulletin is supposed to address, and GM hasn't
17 adequately informed Thornton about it and Thornton
18 doesn't do anything about it. So she drives off
19 the lot being told, "we fixed your problem", when
20 they haven't fixed her problem. This is -- it's
21 returned to Brooke on March 9th of 2010. It still
22 has the defective ignition switch.

23 The very next day Brooke is driving her Cobalt
24 to her boyfriend's house on a rainy evening on
25 Highway 92, and this is the report from the police

1 officer. (As read) "Vehicle 1, the Cobalt, was
2 traveling north on 91, vehicle 2 was traveling
3 south on 92. Vehicle 1 was traveling too fast for
4 roadway conditions when she came in contact with
5 standing water on the roadway causing her to lose
6 control of her vehicle and it began to roll
7 counterclockwise and traveled into the lane."

8 So here's Brooke, she's driving down the road,
9 she loses control and comes into the oncoming --
10 goes into the oncoming lane and she's T-boned,
11 essentially, passenger side. Car ends up in the
12 creek, rolls down into the creek, and the collision
13 is so significant that she suffers traumatic
14 injuries and dies.

15 Well, this, it looks like a pretty standard
16 case, that she's just lost control of her vehicle
17 and that's what the parents thought, that she just
18 made a mistake that night and lost control of her
19 vehicle, and they accepted the conclusion.

20 Shortly after this, though, they received a
21 safety recall notice. It says "Jennifer Brooke
22 Melton," and Ken gets it, the father. Brooke's
23 parents --

24 THE COURT: What date is that? I'm sorry.
25 I've got it here.

1 MR. COOPER: They received this in March of
2 2010, within a few weeks of the crash.

3 THE COURT: Okay. Thank you.

4 MR. COOPER: A recall notice regarding the '05
5 Cobalt. Well, what's interesting here is, they
6 have recalled the vehicle because there is an
7 electric power steering problem. And you can see
8 here, General Motors had decided there is a defect
9 that relates to motor vehicle safety, it exists in
10 certain '05 Cobalt vehicles equipped with electric
11 power steering, which Brooke had, so they've
12 conducted a safety recall.

13 So Ken, the father, says, well, wait. My
14 daughter lost control, did she have a steering
15 problem that actually caused this? And so they
16 asked us to look into it and we subsequently filed
17 this lawsuit against General Motors and Thornton
18 here and it's assigned to Your Honor.

19 The initial belief is that this is a defective
20 power steering case. In other words, she's driving
21 down the road, her power steering goes out, her
22 electric power steering goes out because of this
23 defect in the system, and that caused her to lose
24 control and go into the oncoming lane.

25 However, we then download the black box data,

1 and I know Your Honor has been involved in other
2 product liability cases so I won't go into great
3 detail. But there is a black box in this vehicle
4 that you can download certain information and it
5 provides you with pretty detailed information of
6 what happened up to five seconds before the crash.

7 And what we find here in the black box data is
8 the vehicle power mode status at the time of crash.
9 Well, that's supposed to be running. It's always
10 supposed to be running because your vehicle is
11 running when you crash, the engine is on. Well,
12 her's is in accessory. So we discover that when
13 Brooke -- when the two vehicles crashed into each
14 other, her key was in the accessory position which,
15 of course, is the problem that they knew back in
16 '04 that they have never fixed with the ignition
17 switch.

18 We didn't know this. We weren't aware of the
19 technical service bulletin, so we're digging with
20 our experts to try and figure out what in the world
21 happened here. Why is this in accessory? And what
22 we see here is that the vehicle speed goes from 58
23 miles an hour, and it's a 55-mile-an-hour speed
24 limit, so she's traveling 3 miles out of the speed
25 limit. She's not speeding, 58. It goes to zero

1 three seconds before the crash.

2 What we believe that means in talking with our
3 experts is, that's when it shut off. She's driving
4 down the road and whatever happened -- she bumps it
5 with her knee, it shuts off just because the torque
6 is too low. All of a sudden, it's a rainy night on
7 Highway 92, she's driving down the road, pow, the
8 engine goes off. She loses power steering, she
9 loses anti-lock brakes, she's in an emergency
10 situation. And she loses control of her vehicle
11 and it goes over into the oncoming lane at about
12 three seconds, which is consistent with her having
13 to take time to steer, as the officer put it, to
14 get into that rotation, and the vehicle collides
15 with her about three seconds later when the impact
16 occurs. The anti-lock brake systems were invalid,
17 so this is what it appears happened with the key in
18 the accessory position, excuse me. The engine
19 shuts off, the power steering and anti-lock brakes
20 are locked.

21 So now we're looking at the ignition switch
22 and on September of last year, we served this
23 additional discovery, which is the subject of
24 today's motion, second interrogatories, second
25 request for production. And the first thing we're

1 asking for is other incident discovery.

2 Early on, we had focused on other incidents
3 involving the electric power steering going out,
4 and they've had over a thousand of those. And
5 that's relevant but that's not for today's
6 discussion.

7 But we wanted to know information regarding
8 the ignition switch problem that they issued the
9 technical service bulletin on and so we say
10 identify every lawsuit, claim, or complaint that
11 has been made against GM where it was alleged that
12 an injury or death resulted from a problem related
13 to, and then the TSB, and these are all the
14 affected vehicles that have essentially the same
15 ignition switch, including the Cobalt.

16 So we want to know what lawsuits, claims, or
17 complaints are out there that relate to this issue.
18 And then identify every lawsuit, claim, or
19 complaint that has been made against GM wherein
20 property damages, that's a typo, was alleged, which
21 resulted from a problem related to the TSB So it's
22 injury, death, or even property damage. And then
23 we asked for all documents relating to other
24 similar incidents being identified as incidents
25 which allegedly occurred as a result of the

1 defective conditions identified in the TSB
2 So obviously, it's limited and narrowly
3 tailored to the incidents involving this ignition
4 switch problem. And then all documents and
5 materials for the lawsuits, claims, or complaints
6 that we asked about.

7 So we've got incidents that happened that may
8 not result in lawsuit, claim, or complaint. And
9 then we have lawsuits, claims, or complaints. So
10 it's narrowly tailored to this issue, and this is
11 the discovery time line.

12 They respond on October 16th; they don't give
13 us any responsive information, nothing is produced.

14 Between December 13th, they say --

15 THE COURT: You don't have the answers to
16 those particular questions on your PowerPoint.

17 MR. COOPER: I think we do at page, yeah,
18 that's coming up. We'll get to that in just a
19 moment when we move forward.

20 THE COURT: I found it.

21 MR. COOPER: A couple of slides up on the
22 PowerPoint. Page 14 of the PowerPoint that you
23 have there on tab one, it's on page 14. It's kind
24 of hard to read in the small print, but we'll get
25 to it.

1 THE COURT: Well, if you would wait just a
2 minute because I found it.

3 MR. COOPER: Okay.

4 THE COURT: And I would like to review it,
5 briefly.

6 (Brief pause.)

7 THE COURT: Okay. Thank you. You can
8 proceed.

9 MR. COOPER: So between December 13th and
10 January 17th of this year, GM produced some
11 responsive documents. And then on January 17th,
12 they filed supplemental responses, which are at
13 page 14 of the PowerPoint that I just -- I believe
14 Your Honor just reviewed.

15 And they provided limited warranty claims
16 data. So as far as incidents, lawsuits, claims,
17 and complaints, they say there are none and what
18 they produced is this warranty claims data. And
19 all it is, is the vehicle number, model, year, sale
20 model, code, year, repairs, and claim total.

21 Apparently, this is what happened when consumers
22 brought their vehicle in to have the TSB -- or
23 brought their vehicle in and the technical service
24 bulletin work was done. There's no underlying
25 files. And in GM's responses, there's no incidents

1 or claims. All we have is this warranty data, and
2 this is all we have and that is, there's no
3 underlying documents, we just print this out.

4 Well, of course, for the most part, this is
5 useless to us because there's no underlying
6 information to figure out what these warranty
7 claims, who made the claims, what was done, what
8 was the complaint, and those sorts of things.

9 THE COURT: What is the time frame here, Mr.
10 Cooper? I can't read those dates.

11 MR. COOPER: So this time frame is for, we
12 believe this is for Cobalts. So, for example, this
13 is just a summary or a sample of what's on there,
14 but this is for model year 2005 Cobalt and the
15 repair order date here would be November, excuse
16 me, October 12, 2005. And there's a number of
17 these. This goes to October, excuse me, November,
18 no, would be December 20th, 2005. And there's a
19 few more pages of these. And so they did give us
20 the warranty claims data, but no other incidents,
21 claims, or any underlying documents. And so this
22 is their response, as Your Honor just read.

23 I think what's important is this is a
24 supplemental response. Now, we served them in
25 September, so they've had three or four months to

1 accumulate this information. They supplement the
2 response on January 17th. They say they've
3 conducted a thorough and a reasonable search,
4 through the paperwork kept in the ordinary course
5 of business and no responsive information or
6 documents were located.

7 And they say the same thing for interrogatory
8 number two. And for the document requests,
9 basically, they refer us back to their supplemental
10 responses to interrogatories number one and two,
11 and say, "We don't have anything else. We've given
12 you everything we've got."

13 We have a conference with GM's counsel on
14 January 28th, 2013, and they reiterate again, and
15 in order to try and resolve this before coming
16 before Your Honor, and they reiterate again there
17 are no responsive documents or claims or incidents.

18 We have in our file incidents that we have
19 received from third parties, including the federal
20 government. Where, for example, there's been a
21 claim -- and there's more than this, but we just
22 presented this, or provided this to Your Honor,
23 September 22, 2007, GM, there's a report. Stalling
24 at 50 miles-per-hour, could not repair, but promise
25 to fix if the occurrence repeated itself.

1 So here's a stalling report, which is exactly
2 the problem that the TSB involves. Another one,
3 June 29th, 2005, before they sold Brooke her car.
4 This is a complaint from a consumer, (as read) "As
5 my previous correspondence explained, a safety
6 situation had occurred three times with my new '05
7 Cobalt turning off while driving. The third time
8 was very close to an accident on a main road."

9 And then there's a summary -- there's a
10 paragraph here where it talks about to his
11 amazement, the key ring had a slightly larger link
12 from key to opener gadget, his knee hitting the
13 bottom of the opener gadget and caused the ignition
14 switch to shut off.

15 So, and let me preface this by saying this,
16 Mr. Franklin and I have gotten along on this case.
17 We have many cases together. This is not a Mr.
18 Franklin issue. This is a GM issue and what they
19 are telling him they do or don't have.

20 In this case, it was clear GM was telling him
21 "we don't have any incidents, we don't have any
22 claims, so this is our supplemental response. We
23 don't have anything else, so they need to just
24 withdraw their motion, and we'll move on."

25 Well, fortunately, we found information from

1 other sources which shows GM is not telling the
2 truth. And so we sent a third request for request
3 for production of documents on January 29th.

4 And the reason we did this is because we could
5 have come before Your Honor right now and sprung
6 this on them and said, listen, look at what we've
7 got, that they're not telling the truth.

8 But I've got a good enough relationship with
9 Harold and after talking with him, I thought, he
10 needs to know this. So I just sent a third request
11 saying, essentially, here's what we've got as far
12 as other incidents. Tell us about them. You just
13 told us a few days ago, through your clients
14 telling you, you don't have anything. You do have
15 information.

16 And to Harold's credit, he called me, I think
17 last week, and said, "I'm going to get to the
18 bottom of this because, obviously, what we provided
19 you is not everything we have."

20 GM has still not produced that information
21 even as of today. We asked them to do it last
22 week. They could certainly accumulate it within a
23 week and get it here before the hearing, but we
24 haven't heard anything from GM since we had this
25 conversation last week.

1 So, okay, we've got the lawsuit, these claims
2 that were made. But then we also have the
3 incidents involving GM employees, it's claims, but
4 it's also these incidents. And, again, going back
5 to October 29th, 2004, we deposed a GM corporate
6 representative last Friday who said this was an
7 incident.

8 Apparently, what happened was Gary Altman, a
9 GM employee, was driving an '05 Cobalt and his car
10 shut off on him because his knee or something hit
11 the ignition switch -- I mean, hit the key and it
12 turned it off. Well, certainly, there's underlying
13 documents regarding a GM employee having this kind
14 of a dangerous incident happen, but we haven't
15 gotten anything.

16 And then we found this through a GM document
17 that's been produced. When this was all going on
18 in 2005, and I know I'm throwing a lot at Your
19 Honor, that's why I prepared the PowerPoint. In
20 2005, when the '05 Cobalt was first introduced, you
21 know what happens with *Car and Driver*, they send
22 people out to drive the new vehicle to evaluate it.

23 Well, these people were driving the vehicle to
24 evaluate it and the engine shut off. And so there
25 start to be press reports about it and one of the

1 press reports says the GM spokesman said that two
2 GM employees driving Cobalts had experienced the
3 problem.

4 In other words, back in '05 -- maybe that one
5 of these is Mr. Altman, maybe not. But there are
6 fully at least two other incidents involving GM
7 having experienced this problem, it appears, before
8 they ever sold Brooke her car. So those are the
9 kind of incidents we are looking for. Obviously,
10 that would be critical information for a jury to
11 consider in determining the issue of negligence on
12 the part of General Motors.

13 And as I said, going back to R.P.D. number
14 six, it's very simple. All documents and materials
15 relating to other similar incidents being
16 identified as incidents which allegedly occurred as
17 a result of the defective conditions identified in
18 the TSB

19 These incidents are exactly that. They are
20 responsive and GM should produce all incidents like
21 that, including the two that were identified in the
22 press article.

23 This next R.P.D. is real long and convoluted
24 but, essentially, what it means is just produce all
25 the documents relating to the technical service

1 bulletin, because that's the problem we had with
2 our vehicle. But then we were more specific
3 because we just wanted to make sure that GM
4 understood what we were looking for, and this is in
5 our PowerPoint, as well.

6 GM's response is: we're going to give you some
7 limited information, but we're going to continue to
8 assert our objections. So they give us this
9 limited information but they continue to assert
10 their objections.

11 So we go through the documents, Your Honor,
12 and as you can see in the PowerPoint here and it's
13 at page -- these are the documents that GM did
14 produce in response to the TSB This is at page 19.
15 There's internal memos from General Motors'
16 engineers where they are evaluating this problem
17 back in 2004, 2005. And this gentlemen, I think
18 his name is Jeffrey Weaver, says, *(as read)* "I had
19 a chance to drive the Cobalt SS and attempt to turn
20 off the ignition during heel-toe downshifting.
21 Much to my surprise, the first time I turned off
22 the ignition was during normal traffic brake
23 application."

24 In other words, he's trying to say heel-toe,
25 that's in a manual car when you go back and forth.

1 He's saying, well, heck, it turned off when I was
2 just braking. "After that, I was able to do a
3 static reproduction of the condition. I've
4 attached photos of the condition with comments."
5 We don't have the photos or the conditions with
6 comments. This is an example of -- and we could go
7 on and on, Your Honor.

8 They've produced a number of documents, but
9 this is a highlight of information that we don't
10 have, which we believe warrants Your Honor
11 overruling their objections and just telling them
12 they need to fully respond to these requests. We
13 don't have the photos or the conditions with the
14 comments.

15 He also talks about -- he goes into great
16 detail about what happened. And then he says,
17 "Attached below is documentation of a RAMPISIS???
18 study performed to attempt to duplicate the real
19 world condition." In other words, Brooke's
20 condition. We don't have the study as far as what
21 they tried to do to attempt to duplicate it.

22 THE COURT: Do you have the date on that?

23 MR. COOPER: Yes, Your Honor. This is -- let
24 me get back here.

25 THE COURT: The year, at least.

1 MR. COOPER: 2005.

2 THE COURT: Thank you.

3 MR. COOPER: It says 2012, but I think that's
4 when GM actually printed the document.

5 MR. FRANKLIN: What's the Bates number on that
6 document?

7 MR. COOPER: I can't read it down there. I
8 can't read it, Your Honor.

9 This is another example. It appears as though
10 GM had a stalling assessment framework. In other
11 words, they were going to evaluate this problem.
12 This is March of 2005, before they sold Brooke's
13 vehicle, and they have this assessment they decide
14 to come up with where they talk about -- and this
15 is at page 20 of the PowerPoint, in the binder.
16 Where they examine the severity issues, they look
17 at subjectively, they look at subjective
18 application. They evaluate the current assessment
19 against similar investigations.

20 They had this whole analysis process that they
21 were apparently were undertaking for this product
22 investigation by Mr. Kaufman. Well, it's a one-
23 page document. It just stops. And there's nothing
24 that they've produced which talks about what they
25 did in assessing this within this stalling

1 assessment framework. So that's an example of --
2 it appears as though there are additional documents
3 that they've just chosen not to produce. And
4 here's something that's important.

5 This is Bates number 1, I think, 1771, Harold.
6 It's a document where they've redacted, and so
7 this is what was produced. It says engineering
8 concerns or benefits, no interface, tuning
9 required, concerns a few new components are needed.
10 They talk about the cost increase.

11 So it appears that what they are doing here is
12 evaluating what we need to do to this this problem,
13 what it's going to cost and, in my experience, this
14 looks like this is part of a larger committee.

15 In other words, and this is to be expected
16 within GM The engineers, or whoever it is, goes
17 before the committee and says, "We've evaluated
18 this. This is what we think it would cost. This
19 is the time it would take. These are the
20 recommendations we have."

21 But they've just given us this redacted
22 document which doesn't give us any context of what
23 the benefits, concerns, the lead time, and all, the
24 cost increase, what this all means based on this
25 document.

1 This is very important. This is X001,
2 ignition cylinder effort, next actions. The X001
3 is the Cobalt steering. And it's the ignition
4 cylinder, it's this, and they're talking about next
5 actions. And we don't have any context of this
6 document. We don't have the date. We don't have a
7 -- how it was presented. But it does contain
8 interesting information. It talks about a short-
9 term solution to service this. It's this add snap-
10 in plug, and, Your Honor, this is at page 21 of
11 your PowerPoint. I know it's difficult to read
12 there.

13 But this is the short-term issue. And that
14 is, we talked about it earlier, and that is to add
15 the little snap-in to make it a hole in here as
16 opposed to this long rectangle hole. So they're
17 going to add this part and they're going to issue a
18 service bulletin, but what they've also talked
19 about is they've got this long-term solution under
20 development to revise the ignition switch to -- as
21 the GM X191, which is apparently another vehicle.
22 So basically take the ignition switch from another
23 vehicle to increase the shut off effort by 200
24 percent and return to the slotted key.

25 In other words, what they were apparently

1 doing was they had this internal development going
2 on, which is, we're going to fix this ignition
3 switch to strengthen the shut off effort by 200
4 percent just to make it a lot harder to go from run
5 to accessory.

6 There's a timing on this, they're talking
7 about 2008. They're talking about a cost and the
8 tools. And we've looked at the documents and we
9 don't have anything regarding this long-term
10 development proposal. And, again, that's the type
11 of information in just looking at what they had
12 produced, it would be reasonable to expect they've
13 got underlying documents relating to this effort,
14 this long-term development effort to increase the
15 force level on the ignition switch.

16 Here's another example. This same ignition
17 cylinder efforts, it looks like on June 17th, and I
18 deposed a GM corporate representative last week and
19 he didn't know, really, anything about this. He
20 wasn't -- he just didn't know. He hadn't spoken
21 with anybody about it, apparently. June 17th, mock
22 up results. And it appears that what happened is
23 they actually took Cobalt vehicles. You have a
24 vehicle number here, and then they take the hole
25 with the key in the ring and they're changing the

1 hole and then they have a current production. And
2 it says here, through key CL to shut off, 0.2N-m,
3 and all that means in layman's terms, I believe I
4 understand it this way, it's just Newton meters is
5 just the force that they say it will take to move
6 the key from the on to the accessory position. And
7 it's some engineering technical term, it's Newton
8 meters. And that's too low, 0.1N meters is bad.
9 It's really easy.

10 So they're talking about here, on vehicle 116,
11 it appears as though they actually took a vehicle
12 and increased the detent effort the ignition cycle
13 with current production slotted key.

14 And to explain that to Your Honor, as I said
15 earlier, in this little black ignition switch,
16 there's a detent, which is just a little,
17 essentially, a metal device that sticks up and the
18 key has -- or the switch has to go up and over it.
19 And what they're trying to do is to make that
20 detent stronger or larger so when you're moving it
21 back, it's harder to get it up and over, so it
22 increases the force. And it doubles the amount of
23 force it takes to move it from -- to run to the
24 accessory position.

25 So from what we can tell they've actually

1 taken a car and put this revised ignition switch in
2 it and doubled the force, which is consistent with
3 the long-term project we talked about a moment ago.
4 We don't have anything, other than this. No
5 underlying testing documents, no communications,
6 nothing other than this document. And then the
7 ignition cylinder effort field info -- I've talked
8 about that enough.

9 So whatever they've produced yet, in response
10 to request number two, this TSB document, we have
11 no committee meeting documents. And we know that
12 GM, you know, they talked about committees, all
13 sorts of committees in these documents, but we
14 don't have any of the underlying documents where
15 there's a discussion about -- it's obvious they
16 chose not to go for this long-term solution.
17 Someone made that decision. Those decisions are
18 made in committees. Those committee meeting
19 minutes are normally preserved, and we don't have
20 anything about the decision-making process, which,
21 of course, goes to the reasonableness of the
22 manufacturer's decision.

23 Communications with suppliers. This is not
24 made by GM, so when they're changing the ignition
25 switch, like they have in the previous document,

1 they're talking to suppliers about what to do to
2 fix it, what to do to make it stronger.

3 The verification evaluation documents, these
4 short and long term solution documents, internal
5 communications, and the proposed solutions, all of
6 these -- or most of these, excuse me, are missing.

7 So then we get to number nine, which is
8 basically the design and testing documents of the
9 ignition switch. So we asked for design and
10 testing documents. GM says it preserves its
11 objections but it says we're giving you the design
12 and testing documents.

13 So I deposed the corporate representative last
14 Friday, Your Honor, Mr. Handy. And I pull out a
15 drawing, 12450250, and it's a drawing that they
16 produced in this case. This is not the design
17 drawing for the Cobalt. So I ask him: where is the
18 design drawing for Brooke Melton's vehicle? He
19 says, well, we haven't produced that. And he says
20 -- I think his reason is because we don't -- we no
21 longer have the design drawing for Brooke's
22 vehicle; we're going to follow-up on that.

23 But we don't even have the design drawing, and
24 why is that important? Because this design drawing
25 has the switch travel requirements and electrical

1 mechanization. What does that mean? This black
2 line, these are the forces required, these are the
3 technical specifications of the forces that are
4 required as the key moves from off to on.

5 So they do have drawings which actually talk
6 about the specifications. But they don't have the
7 drawing which talks about the specification for
8 Brooke's vehicle, which they should have and they
9 should produce. And so for that reason, again,
10 we're asking the Court to simply overrule the
11 objections and make them produce all responsive
12 documents. And, again, GM's representative, they
13 have them, but they haven't produced the design
14 drawing which contains technical specs for the '05
15 Cobalt. They produced one for a Saturn and one for
16 an '08 Cobalt.

17 And then testing documents because, obviously,
18 the question is: what did you do to test this
19 ignition switch, in particular, to test what the
20 forces were when it's in the wrong position in the
21 accessory position? Has GM tested this? The
22 answer before last week was, no, they hadn't
23 produced any documents showing that they tested
24 this condition.

25 We go up last week to take the corporate

1 representative of GM's deposition, and he admits
2 that GM has tested the ignition switch system and
3 determined the force it takes to move the key from
4 run to accessory. They've done that and they
5 haven't given it to us. And, apparently, they've
6 done it as part of an air bag investigation, but
7 they've done it. And this is last Friday and we're
8 now Thursday and we still don't have these
9 documents.

10 This is all in the context of our experts have
11 to be disclosed on March 1, less than a month from
12 now. This is critical information that they would
13 need. I say critical, it's important information
14 they would need, if its available, to evaluate the
15 ignition switch and GM's conduct in this case.
16 Still have not produced the documents; so we don't
17 have the actual design drawing for our ignition
18 switch.

19 We don't have the testing documents, which
20 they admit they have, showing the forces, and we're
21 requesting very simple relief. Just overrule the
22 objections and compel them to fully respond to our
23 discovery on these limited issues that are part of
24 the motion to compel.

25 We would ask that an order be entered

1 compelling them to produce the documents within 10
2 days, because we've got experts to disclose in less
3 than a month and they're going to need to look at
4 this information and evaluate it before we put them
5 up for deposition. Thank you.

6 MR. FRANKLIN: Thank you, Your Honor. There
7 was a lot of ground covered there. And Lance is
8 correct; we do work well together and certainly
9 this is nothing personal, at all. But I do want to
10 highlight several of the things that were said.

11 Let me say, Your Honor. You have a PowerPoint
12 presentation that talks a lot about the underlying
13 facts of the case. I know that today in both --
14 all the parties will have an opportunity to argue
15 their defect theories and what they think happened
16 in this case.

17 Our focus for today, though, Your Honor, there
18 are six specific requests, discovery requests.
19 There was a motion to compel that as filed a while
20 back and we have been working with Lance in order
21 to try to resolve any issues for the Court to see
22 if we could narrow down the issues for the Court to
23 address. We think that we have been able to do
24 that quite well and that there are not many issues
25 left. And I think there, perhaps, is a

1 misunderstanding about where things stand regarding
2 the discovery.

3 I will say, Your Honor, that GM is not
4 withholding documents that are responsive. GM has,
5 in fact, produced the documents that it -- that
6 resulted from its searches and has produced them,
7 and I want to speak about some of the specifics
8 that were mentioned.

9 One thing I want to correct is and, again,
10 Lance and I have had frequent conversations about
11 the discovery and he made a comment about the fact
12 that we had talked about that, and I think it was
13 that, you know, we have not produced everything
14 that we have; I did not say that.

15 What I said was I thanked him for sending me
16 some documents that he had obtained from NHTSA,
17 which included a letter generated by GM that went
18 to a customer. And I said that gives me reason to
19 believe that we will go back and see if there could
20 be something else. But I did not say that we have
21 documents that we have not produced. So I do want
22 to clear that up. And I do appreciate him sharing
23 that document with us.

24 Let me talk, Your Honor, about what is at
25 issue here. And I have copies of the discovery

1 requests at issue and I will bring those to Your
2 Honor, just for your reference. We have GM's
3 responses to Plaintiffs' second interrogatories and
4 second RFPs and GM's supplemental responses and the
5 supplemental responses to each of those documents,
6 Your Honor, if I may approach.

7 THE COURT: Yes.

8 MR. FRANKLIN: And they are in that order,
9 interrogatories, RFPs, and then the supplemental
10 responses to those.

11 Your Honor, this case began as a power
12 steering case. It has -- and we're not faulting
13 Plaintiff for this, but the defect theories have
14 shifted and the focus is now on the ignition switch
15 and the amount of torque required to turn the
16 ignition switch.

17 And so we have responded, GM has produced
18 almost 19,000 pages of documents in this case
19 already. Regarding these requests that I've just
20 handed to Your Honor, you will recall that there
21 was a consent order where the parties agreed to try
22 to resolve the issues and that to the extent any
23 issues remain, that Plaintiff would let us know
24 what those issues were, and they did that on
25 January 23rd. And so the issues for this Court's

1 consideration are interrogatory number one,
2 interrogatory number two, request for production
3 numbers two, six, seven, and nine; that's what
4 we're dealing with here.

5 And I'd like to call your attention to
6 interrogatory number one, Your Honor. You will see
7 that in that request, the Plaintiff is asking for
8 information about lawsuits, where it's alleged that
9 an injury or death resulted from the problems
10 discussed in the technical service bulletin.

11 Plaintiff chose to draft the request this precise
12 way and they said we want to know about deaths that
13 have resulted from the problem in these two TSBs.

14 You will see that General Motors responded,
15 Your Honor, and said that we have a database where
16 calls are taken from customers who claim that they
17 have a problem with their vehicles, and we said
18 that we will do that. We will search for and
19 produce any data regarding claims of personal
20 injury or death arising from a defect in the
21 ignition lock cylinder that caused a driver to
22 inadvertently turn off the ignition in a, and then
23 you see the scope of vehicles that are included.
24 Those area all the vehicles, Your Honor, that are
25 included within that -- the bulletin, the

1 information bulletin about this particular issue.

2 Portion b talks about lawsuits and not in suit
3 matters; Your Honor has probably heard that term
4 before, nisms, before. So we state precisely what
5 we will do. There is no objection whatsoever to
6 what GM said it would do. Plaintiff never said,
7 no, we want you to broaden it. No, we think you
8 should frame it differently.

9 We said what we would do. And I will tell you
10 that GM ran those searches, Your Honor. I'm happy
11 to share with you that for the prior searches, we
12 searched for the component steering, column,
13 ignition lock, and parts. We ran those searches.

14 For the lawsuits and nisms, we ran -- the
15 searches included electrical system or steering
16 system; the allegation was stall; the search terms
17 included ignition, electric, power, power steer,
18 and steer. It included all those parameters to try
19 to pull in any results that came back. And, your
20 Honor, we did not receive any results.

21 Again, this was an information bulletin that
22 went out. It was not a recall. And the results of
23 those searches, nothing came back with regard to
24 the lawsuit searches in interrogatory number one.

25 If you'll look, Your Honor --

1 THE COURT: All right. You're representing to
2 the Court that this issue was not a part of a
3 recall?

4 MR. FRANKLIN: Yes. That's correct. This
5 issue is not a part of a recall; that's correct,
6 Your Honor.

7 It was an information -- there was a recall
8 involving the power steering issue, that's a
9 separate issue from this issue. So you're correct;
10 it was not a recall involving in this. It was a --

11 THE COURT: It was not a technical service
12 bulletin.

13 MR. FRANKLIN: It was not -- it was an
14 information bulletin, which is similar to a
15 technical service bulletin, Your Honor, yes.

16 And so, Your Honor, again, it's not as if we
17 got documents and decided not to produce them.

18 There were no documents that resulted from those
19 searches and, again, in terms of the searches, you
20 see there in GM's response what it said it would
21 do.

22 We did supplement the response by making it
23 clear that nothing came back. And, again, we
24 produced 18,000 pages, more than that here, but
25 nothing came back from those searches.

1 If you look at interrogatory number two, Your
2 Honor, a very similar request. We ran those
3 searches and nothing came back; okay? What we have
4 done, though -- again, Lance brought it to my
5 attention, which I very much appreciate and we do
6 have a great working relationship.

7 This data that he found from NHTSA that
8 included this letter, and what I said is, thank you
9 for sharing that with me. I'm going to take this
10 back and we're going to redo these searches to find
11 out why that document did not result.

12 Now, Your Honor, I will say, also, that when
13 calls come in or in terms of how complaints are
14 generated, the whole process, you know, a lot
15 depends on what the customer says in terms of how
16 they describe the problem, how the complaints are
17 coded. And so all those things could explain why
18 that document that came from the NHTSA website was
19 not captured by the searches. And so that would be
20 an explanation as to why it would not result.

21 But it gave us a reason to go back and to
22 rerun the searches and try to look. Why didn't we
23 get this document when we ran these searches? But
24 GM has been very clear about how it ran searches.

25 There have never been any critique on how the

1 searches were run, and we've given over every
2 stitch of paper that has resulted from these
3 searches that we're discussing. And, again, there
4 was not --

5 THE COURT: Well, let me ask you a question.
6 If on interrogatory number one.

7 MR. FRANKLIN: Yes.

8 THE COURT: If someone had made a complaint,
9 such as the gentleman in the PowerPoint that was
10 produced from NHTSA data, that should come up in
11 this search; is that correct?

12 MR. FRANKLIN: Your Honor, I don't know. All
13 I can speak to is what searches were run. And,
14 again, the search --

15 THE COURT: Well, let's put it another way.
16 If an information service bulletin was issued by
17 GM, could we not assume that that didn't just come
18 out of thin air, that something prompted that
19 information service bulletin? So would not those
20 complaints or those issues have been a responsive
21 data to interrogatory number one?

22 MR. FRANKLIN: Your Honor, I understand your
23 question and appreciate it.

24 Let me mention that GM did produce documents;
25 that's how Plaintiff got the name of Mr. Altman.

1 GM produced PRTSS, and FPRs, those are documents
2 that had those details and so those were produced,
3 that did result. But it wasn't a lawsuit and it
4 wasn't a customer complaint.

5 Mr. Altman, I think, was an employee of GM, if
6 I'm not mistaken, and so GM has produced that
7 information.

8 THE COURT: The letter to GM was a customer
9 complaint.

10 MR. FRANKLIN: I'm sorry?

11 THE COURT: The letter to GM was a customer
12 complaint.

13 MR. FRANKLIN: Yes. There was a letter from a
14 customer, and this came from NHTSA's website and GM
15 corresponded with a customer about an issue that --
16 and I don't have those specifics with me right now.
17 But that is, again, a document that was provided to
18 us and that is precisely why we are going back and
19 looking for that document and trying to determine
20 why it did not come up during the searches.

21 But what I can assure the Court is that the
22 searches that GM said it would do, those searches
23 were run, and no documents resulted from lawsuits
24 and nism searches for that. Again, GM did produce
25 a document with Mr. Altman's information. He did

1 produce the PRTs that included details about these
2 complaints, if you will.

3 So I don't want the Court to be left with the
4 impression that GM has not produced information
5 about that incident. It has been produced. It was
6 discussed in deposition testimony last week and
7 that is, in fact, how Plaintiff is aware of it
8 because GM did produce it.

9 Your Honor, similarly with interrogatory
10 number two as we've mentioned --

11 THE COURT: So let me -- can I ask one more
12 question before you go on?

13 MR. FRANKLIN: Yes, Your Honor.

14 THE COURT: I'll save it for interrogatory
15 number two. Go ahead.

16 MR. FRANKLIN: Okay. Your Honor,
17 interrogatory number two, a very similar request.
18 Again, if you look at the response, you will see
19 what GM said it would do. There were no search
20 results and GM is rerunning those searches.

21 Let me -- I will mention this. You see that
22 the scope, Your Honor, of these searches, and these
23 are people affected by the recall, are the '05,
24 '06, and '07 Cobalt, the '06 and '07 Chevy HHR, the
25 '05 and '06 Pontiac Pursuit.

1 You see those vehicles listed there. We have
2 discovered that one of the model years was not
3 included. It was a clerical error when the
4 searches were conducted, so one of the model years
5 was not included and so that is being rerun. And
6 we will see if there are any results that arise
7 from the fact that that one model year out of these
8 eight or nine model years was not included with
9 these vehicles, so that is being done.

10 THE COURT: Well, I'm still puzzled by -- and
11 maybe because I don't understand your data system.

12 It seems to me that you should have some
13 interface with the information bulletin data, and I
14 find it hard to believe that GM would issue an
15 information service bulletin or do any of these
16 documents that were discovered without having
17 complaints. So there are complaints. So how can
18 you say there are none?

19 MR. FRANKLIN: Your Honor, I'm not saying that
20 there are none. And, again, what I said --

21 THE COURT: Well, your obligation is to
22 produce the information.

23 MR. FRANKLIN: Right, right.

24 THE COURT: Your obligation is not to say: I
25 entered these data inquiries and nothing came up.

1 MR. FRANKLIN: Your Honor, GM searches --
2 again, it's GM's position that it ran reasonable
3 searches and looked in the places where you would
4 expect to find this information.

5 Again, Your Honor, I want to make sure that
6 we're clear. GM has produced documents. You've
7 seen them on the screen there that discuss these
8 issues and that discuss where there was a complaint
9 by a customer. That's the FPR and the PRTSS, those
10 documents were produced.

11 What we're saying though, is that there does
12 not appear to be, or based on the searches there
13 was not a separate complaint. There was no
14 lawsuit. There was no not in suit matter claim
15 presented. But the information has been produced,
16 Your Honor. So there's no dispute about that. Mr.
17 Cooper will not dispute that we have produced the
18 document that he put up there on the screen about--

19 THE COURT: How is the data maintained that is
20 not litigation data?

21 MR. FRANKLIN: In GM's response, it talked
22 about its product allegation resolution center
23 database where there are calls that come in from
24 customers who have problems with their vehicles and
25 then arrangements are made for inspections. That

1 database was searched and, again, nothing came back
2 regarding this particular issue. And, again, the
3 search terms were exactly as is written here, and
4 I've read Your Honor what the search terms were in
5 terms of stalling, ignition, power, steering, all
6 those things were searched.

7 Now, we can certainly go back and there could
8 be different types of searches. You can include,
9 you know, different terms. And what you may find
10 is that you have lots of documents that come back
11 but that have nothing to do with this particular
12 issue, which is a stalling issue. We did search
13 for stalling with lawsuits and nisms and there were
14 none that came back related to this issue.

15 THE COURT: I appreciate that information --

16 MR. FRANKLIN: Yes.

17 THE COURT: -- Mr. Franklin, but I don't think
18 that answered my question or maybe I didn't ask my
19 question definitively enough.

20 MR. FRANKLIN: Okay.

21 THE COURT: Is there a separate data system or
22 maintenance for data that is not related to
23 litigation or product allegation resolution center?
24 In other words, is there some department that
25 maintains all the data that's the background for

1 every information bulletin, every TSB, every
2 recall?

3 MR. FRANKLIN: That information, Your Honor,
4 would include the PRTS database and the FPRs, which
5 have been produced. I'm not aware of any other
6 database --

7 THE COURT: What is the FPR?

8 MR. FRANKLIN: Product resolution tracking
9 resolution -- I apologize. The acronym, there are
10 many acronyms. I don't have that before me right
11 now. But the PRTS database and, again, this has
12 been discussed at length in depositions. We have
13 produced the -- those documents that resulted from
14 the searches, those have been produced. They have
15 been discussed at depositions, they talk about this
16 issue to the extent that a customer said something,
17 it's in there. We've discussed them at
18 depositions. So those documents have not been
19 withheld.

20 THE COURT: Okay.

21 MR. FRANKLIN: Okay. So, Your Honor, again,
22 that is what has happened.

23 But as I have mentioned, we're going back and
24 including the model year that was not included in
25 error, so that's being done. So that is happening

1 right now.

2 As far as, if you move on, Your Honor, to RFP
3 number two -- so we've talked about interrogatories
4 one and two. If you move to RFP number two, you
5 will see, Your Honor, that it's asking for
6 documents relating to those TSBS, it's the first
7 one and then they're issued a supplemental TSB that
8 included additional model years. And then, of
9 course, Plaintiff is asking for documents reviewing
10 the data, testing, and that kind of things on those
11 TSBS.

12 And you will see, Your Honor, what I will tell
13 you, if you look at the supplemental responses, we
14 have produced hundreds of pages in response to that
15 request. The Bates ranges, I'll read into the
16 record, go from 16022 through 17639, and 17750
17 through 17819. All those testing, design
18 documents, all those things were produced, you
19 know, with regard to that request that dealt with
20 those two information bulletins.

21 Again, an issue that Mr. Cooper is aware of, I
22 called Mr. Cooper -- I called Lance last week, last
23 Tuesday, in fact, and told him and thanked him for
24 sending me the NHTSA information and told him two
25 things. One, you know, there was a model year that

1 was not included and, two, there was an attachment.
2 These PRTS forms, you know, it's like an
3 investigation where they're looking into an issue,
4 whether it was generated from a customer or
5 internally, and we produced all of them that -- I
6 think there were about seven of them, and they've
7 been discussed in deposition. There's no dispute
8 about them having been produced.

9 But there was an attachment, an attachment to
10 one of these PRTSS, and we realized after the fact
11 that that separate attachment had not been included
12 in the production. So I said, "We're going to be
13 getting that to you and producing that. We're
14 sorry it's not going to happen before the
15 deposition. If you would like for us to -- if you
16 want to postpone the deposition, we can. If you
17 want us to bring -- and we recognize it's an
18 inconvenience to you, we will bring the witness to
19 Georgia so that you don't have to travel to
20 Detroit. Let us know what you want to do." Mr.
21 Cooper wanted to proceed and we did.

22 But that is an attachment to a PRTS that had
23 not been produced and it is being produced. There
24 is no dispute. We're not holding it back. We're
25 not saying we're not going to give that to you.

1 What we've said is, we realized after the fact that
2 that attachment to one of these PRTSS was not
3 produced. We're sending it to you. That did not
4 result from an inquiry. That was something that we
5 discovered and affirmatively said, hey, we're going
6 to get this to you.

7 THE COURT: Are you trying to suggest that
8 that is the only difficulty with the request for
9 production number two?

10 MR. FRANKLIN: Request for production number
11 two? No. We produced those 6-700 pages in
12 response to RFP number two regarding those
13 information bulletins and then, again --

14 THE COURT: So Mr. Cooper would agree with you
15 that everything has been produced except for that
16 one attachment that was left off?

17 MR. FRANKLIN: I'd have to wait to hear from
18 Mr. Cooper. I know that he said there were no --

19 THE COURT: That's not what it seemed like --

20 MR. FRANKLIN: Right.

21 THE COURT: -- when he was presenting his
22 side.

23 MR. FRANKLIN: Right. And so what I'm saying
24 is that we've produced all those pages, Your Honor,
25 and we've also committed to get him the attachment

1 that was omitted.

2 Mr. Cooper said that there were no committee
3 meeting minutes, no communications with suppliers,
4 evaluation documents, internal communications. I
5 believe that those documents, many of those
6 documents were included within those pages that we
7 talked about.

8 He did mention that there was a drawing
9 regarding the '05 Cobalt, the ignition switch.
10 That issue was discussed at length during the
11 deposition last Friday. And, again, I think the
12 testimony, Your Honor, we don't have the
13 transcript, but the testimony by Mr. Handy was that
14 that drawing was not a GM generated drawing, it was
15 something that would have been prepared by the
16 supplier. I have searched the GM -- we have
17 searched the GM system and that drawing was not
18 released into the GM system. And so that's why GM
19 doesn't have it.

20 Now, the supplier, Delphi, we would assume
21 would have it, but we don't have it. And so we are
22 not withholding something that we have. We do not
23 have it. It was never released into our system.

24 And so with regard to that particular drawing that
25 he's referring to, as Lance knows, Mr. Handy talked

1 about that at length and explained why it was not
2 in the GM system.

3 THE COURT: Do you have the documents here?

4 MR. FRANKLIN: I do not have the production,
5 Your Honor, with me. Again, we have produced over
6 18,000 pages. I have Bates numbers. But I do not
7 have the production with me here today, Your Honor.

8 The --

9 THE COURT: Do you have it, Mr. Cooper?

10 MR. COOPER: Not here, Your Honor.

11 MR. FRANKLIN: And so that's what GM is doing,
12 Your Honor. GM, again, is going back, rerunning
13 those searches. We are looking for the NHTSA
14 document to find out if we have it, if we've ever
15 had it, and why we didn't get -- why it did not
16 result from those searches that we did.

17 If you look, Your Honor, next at RFP number
18 six, again --

19 THE COURT: Can you describe to the Court how
20 GM maintains this kind of data?

21 MR. FRANKLIN: Your Honor, in terms of my
22 understanding, GM searches, and we have it in our
23 discovery responses, search the product allegation
24 resolution center database --

25 THE COURT: That's not what I asked you. When

1 GM starts looking at a problem that starts with
2 some little employee or some little complaint or
3 somehow or another and it goes all the way to an
4 information bulletin or a technical service
5 bulletin or a recall, how does GM maintain all that
6 data?

7 MR. FRANKLIN: Okay. There is a file, Your
8 Honor, related to the information bulletin and the
9 steps that led to the issuance of the information
10 bulletin, then we produced that here in this case.
11 Those files have been produced.

12 They include the PRTSS that we've talked
13 about, the FPRs that we've talked about and that
14 have been produced that lead up into the evaluation
15 of the issue, possible solutions to the issue,
16 letters that went to dealerships. You know, all
17 the information regarding the issue as it presented
18 to GM and GM's deliberation over the issue and
19 decision as to whether to issue an information
20 bulletin or whether it's a TSB or whether,
21 ultimately, a recall. That information is within
22 the file of the information bulletin and that has
23 been produced, both of those.

24 THE COURT: That's wonderful, I like that.
25 Thank you for giving the Court that information.

1 MR. FRANKLIN: Sure.
2 THE COURT: Why is it, then, that Mr. Cooper
3 thinks that some things should have been in that
4 file that are not, or not in the file that was
5 presented and produced to him?

6 MR. FRANKLIN: Right. My understanding of the
7 concern, Your Honor, and I certainly understand it.
8 I mean, that's why we were both, I was surprised as
9 I'm sure he was to the information from the NHTSA
10 website that showed a letter from GM to a customer
11 about an issue about a similar issue. That is
12 precisely why we are going back and saying, hey,
13 why didn't this come up when these searches were
14 done. And so we're looking for that --

15 THE COURT: What about the data that looks
16 redacted or the information where it looks like
17 it's a part of another, maybe, pages of documents
18 and the other pages aren't there?

19 MR. FRANKLIN: Okay.

20 THE COURT: What about that?

21 MR. FRANKLIN: Your Honor, we'd have to go
22 back and look at the particular document. I will
23 say, though, that we have produced the responsive
24 documents that resulted from the searches.

25 We do have another issue. Again, this is

1 something I also discussed or mentioned to Lance on
2 last Tuesday and then put on the record again in
3 the deposition.

4 There is a separate -- Lance was talking about
5 the fact that there was, you know, this -- there
6 was a separate investigation years after these
7 recalls. Again, not -- I'm sorry, I misspoke. Not
8 these recalls, this information bulletin about the
9 ignition switch issue in 2005, 2006. Years later,
10 there was a separate investigation into air bag
11 issues. This case does not involve deployment or
12 non-deployment of air bags, not a frontal
13 collision. That's not an issue in this case.

14 There was a separate investigation into air
15 bags, not deployment issues. That is something
16 that Mr. Handy looked at in preparing for his
17 deposition. And so it is because he did that that
18 we are producing that file into this separate air
19 bag investigation.

20 So we're not producing that because it was
21 responsive to this discovery about this ignition
22 switch issue. We're doing it because it was
23 something that Mr. Handy looked at. And I told
24 Lance on last Tuesday, hey, we're going to get you
25 that. Again, this is all part of the same

1 conversation. You won't have it before the
2 deposition. If you want to postpone, we can do
3 that, we'll bring the witness to Georgia, if you
4 want to proceed, that's fine, but we're going to be
5 getting that to you, but it's a separate issue.
6 And so that has been discussed.

7 So perhaps this document or in terms of -- and
8 I'm speculating here and I shouldn't do that. But,
9 you know, there could be things in that separate
10 investigation file, perhaps, that will -- it's
11 information that he might want.

12 I mean, that there was -- they did look into
13 some torque issues regarding the ignition switch
14 and so there will be that kind of interplay, or
15 there could be, and so we are going to produce that
16 because, again, Mr. Handy looked at it in preparing
17 for the talk about these issues in the deposition
18 notice, so we're doing it for that reason and there
19 is no dispute about it.

20 We're not saying we're going to withhold it,
21 we're saying -- and it was before the deposition
22 that I said, hey, Lance, these things we're going
23 to get to you and, you know, and so there's no
24 dispute about that. We're not fighting about
25 whether we should produce it or not, if you will.

1 THE COURT: Okay.

2 MR. FRANKLIN: So, Your Honor, RFP -- and let
3 me know if you want me to go into more detail.

4 But RFP number six deals with, again, it's
5 saying, okay, produce the documents regarding the
6 lawsuit searches. We did produce information
7 regarding -- and the Bates' number was 17738
8 through 17749, that's that warrantly information
9 that Mr. Cooper put up on the screen.

10 So we did produce documents in response to
11 that request and, again, however, we have agreed to
12 go back and to rerun searches again because of what
13 Mr. Cooper kindly brought to our attention, again
14 which we very much appreciate. We're redoing those
15 searches. But we have produced what came back and
16 have those Bates ranges that I just gave.

17 RFP number seven, Your Honor, same thing; we
18 produced those documents, 17738 was --

19 THE COURT: So that I don't lose track of
20 where we are. So you're again saying that number
21 six, request for production number six showed up
22 with no incidents?

23 MR. FRANKLIN: No, it did, Your Honor, it did.
24 We produced documents in response to that request.

25 THE COURT: Okay.

1 MR. FRANKLIN: The Bates range is 17738
2 through 17749. I think the spread sheet that had
3 warranty data and it's my understanding that when
4 certain parts are replaced at a dealership that
5 that's a type of information that is generated. It
6 is my understanding that there is no separate
7 document.

8 In other words, if someone, you know, brings a
9 vehicle in to have repair work done to replace part
10 of the ignition switch or to deal with an issue
11 addressed in the information bulletin, that that
12 information would be typed into the system at the
13 dealership and that data -- that that information,
14 the V.I.N. number and that kind of thing, goes into
15 this spreadsheet and that is a spreadsheet that we
16 have produced.

17 THE COURT: Hold on.

18 MR. FRANKLIN: So it is my understanding that
19 there are no separate documents like --

20 THE COURT: Hold on.

21 MR. FRANKLIN: Okay.

22 THE COURT: You've just told the Court that in
23 response to request for production number six that
24 you did produce information about similar
25 incidents. Because I understood there weren't any,

1 because your response, your supplemental response
2 says that your answer is, look at my answer to
3 interrogatory number one and two and the
4 supplemental response to interrogatory number one
5 and two.

6 MR. FRANKLIN: Okay.

7 THE COURT: Well, the response to
8 interrogatory number one and two is: there are no
9 documents.

10 MR. FRANKLIN: Okay.

11 THE COURT: So something is -- I'm missing
12 something there.

13 MR. FRANKLIN: Your Honor, one and two dealt
14 with lawsuits, nisms, PARS --

15 THE COURT: I'm only looking at your answer --

16 MR. FRANKLIN: Right. I understand.

17 THE COURT: -- Mr. Franklin. Your answer says
18 nothing about any data produced.

19 MR. FRANKLIN: Okay.

20 THE COURT: Do you want to look at your answer
21 real quick? Page eight, supplemental response for
22 request for production number six. It refers to
23 your responses to the interrogatories, and the
24 responses to the interrogatories say there are no
25 documents.

1 MR. FRANKLIN: One moment, Your Honor. I
2 guess that what I'm saying is that we produced --
3 it's not lawsuit or nism data, but we produced
4 warranty information regarding that. And, again,
5 this was discussed at Mr. Handy's deposition and
6 the Bates numbers that I read into the record are
7 the --

8 THE COURT: I would suggest, then, that you
9 file another supplemental response --

10 MR. FRANKLIN: Okay.

11 THE COURT: -- that's more explanatory as to
12 what you have produced with regard to response for
13 production number six. Because you're representing
14 that you did produce some other things, but your
15 formal responses don't show that.

16 MR. FRANKLIN: Thank you, Your Honor. We will
17 supplement that supplemental response to include
18 those Bates ranges that I just read into the
19 record, 17738 through 17749, and that's for six and
20 seven.

21 And, again, we agreed to rerun the searches,
22 that's the theme throughout all of this, Your
23 Honor, is we're -- because of everything that we've
24 discussed and in my discussions with Mr. Cooper, we
25 are rerunning these searches.

1 THE COURT: Can I ask another simple question?

2 MR. FRANKLIN: Yes.

3 THE COURT: Does GM have a person who has a
4 title like VP of litigation or --

5 MR. FRANKLIN: No, Your Honor, not that I'm
6 aware of.

7 THE COURT: So you just deal with general
8 counsel? Like, who do you interact with?

9 MR. FRANKLIN: Your Honor, the cases with all
10 the automotive manufacturers, there is counsel who
11 manages and is assigned a case and they, of course,
12 retain outside counsel.

13 THE COURT: So you don't have a particular
14 department that you deal with when you're trying to
15 deal with data?

16 MR. FRANKLIN: The product litigation
17 department.

18 THE COURT: Okay. The product litigation
19 department.

20 MR. FRANKLIN: Yes.

21 THE COURT: And so there's not, like, a
22 director or a VP of product litigation?

23 MR. FRANKLIN: Not by that title that I'm
24 aware of.

25 THE COURT: Is there somebody in charge of the

1 department?

2 MR. FRANKLIN: There is probably a head of
3 product litigation, yes.

4 THE COURT: Okay. That's what I'm trying to
5 ask, is there a head of product litigation.

6 MR. FRANKLIN: Well, there are --

7 THE COURT: Do you think that person is
8 probably very knowledgeable about what kind of
9 lawsuits are being brought up against GM all over
10 the country?

11 MR. FRANKLIN: I don't know, Your Honor, that
12 any one person would have, you know, knowledge of
13 all claims and lawsuits and things that are
14 brought.

15 GM has a robust system in place where there
16 are databases, there are data that have to be
17 maintained because of the TREAD Act, as Your Honor
18 is aware, and there are repositories that retain
19 information about every lawsuit that is brought,
20 every not in suit matter that is brought. These
21 customer complaints that come in, there are
22 databases with that information.

23 THE COURT: So you can say with certainty that
24 there has not been another lawsuit and the -- since
25 2005, with regard to this ignition shut off?

1 MR. FRANKLIN: Your Honor, what I can say with
2 certainty is that the searches and just as has been
3 put on GM responses were run --

4 THE COURT: That's not what I'm asking.

5 MR. FRANKLIN: -- and that there were no
6 lawsuits that resulted or no not in suit matters
7 that resulted from this issue regarding this
8 information bulletin, correct. I can say that.

9 Now --

10 THE COURT: Now, if you're going to rely on
11 your system --

12 MR. FRANKLIN: Right.

13 THE COURT: -- then you need to -- you can't
14 wiggle around with the words. You either have to
15 say, yes, Your Honor, there are no lawsuits because
16 I've searched my data and we can say, GM can say,
17 there are no lawsuits.

18 MR. FRANKLIN: Okay.

19 THE COURT: You can't just say, I've done the
20 search, and not answer the question.

21 MR. FRANKLIN: Well, Your Honor, as I
22 mentioned before, and I'm not trying to not answer
23 the question. I hope Your Honor is aware of that.
24 What I'm saying --

25 THE COURT: Well, I think that what I want to

1 -- what I have troubles sometimes with is I'm not
2 sure what your answering to the Court --

3 MR. FRANKLIN: Okay.

4 THE COURT: -- and what GM is answering to the
5 Court.

6 MR. FRANKLIN: Well, let me make sure I'm
7 clear.

8 THE COURT: And there becomes a point where
9 you stand for GM, so you rise or fall with GM.

10 MR. FRANKLIN: Your Honor, what I'm stating
11 and what I said before was that when complaints --
12 if complaints come in, a phone call or someone
13 writes a letter or there's a lawsuit or there's a
14 not in suit matter or a PARC, that goes into a
15 database.

16 THE COURT: I understand that.

17 MR. FRANKLIN: And --

18 THE COURT: What I'm asking is just to have a
19 simple, just don't deal with the not in suit matter
20 or the complaint. I just wanted to get an answer
21 from you, because it's a part of the discovery
22 that's been requested, would you agree? That, has
23 there been a lawsuit --

24 MR. FRANKLIN: Yes.

25 THE COURT: -- since 2005 against GM with

1 regard to the ignition cut off.

2 MR. FRANKLIN: It is my understanding, Your
3 Honor, I'm not aware of any. And all I can say is

4 --

5 THE COURT: All right. So GM --

6 MR. FRANKLIN: Right.

7 THE COURT: -- says there are none.

8 MR. FRANKLIN: No.

9 THE COURT: I'm not saying -- I don't want
10 what you know.

11 MR. FRANKLIN: Right.

12 THE COURT: I want what your client knows.
13 And you've got to answer for your client.

14 MR. FRANKLIN: Right. I understand that.

15 THE COURT: And you can't say, oh, I can't,
16 I'm not sure.

17 MR. FRANKLIN: Your Honor, in all fairness,
18 again, as I mentioned before in terms of complaints
19 coming in to GM, it depends on what the customer
20 says and how it's coded.

21 THE COURT: Mr. Franklin, Mr. Franklin, don't
22 willy-nilly around the data. GM either knows
23 whether they've had one or they haven't.

24 MR. FRANKLIN: Right.

25 THE COURT: There's no doubt about that.

1 MR. FRANKLIN: Right. I understand. GM, the
2 way they would know if they had one, would be to
3 search its databases. GM searched its databases --

4 THE COURT: All right. Well, then I will tell
5 you this, before we even go any further, because I
6 have a problem with your responses.

7 You're not going to be able to say: I've done
8 a search and there's no data. You're going to have
9 to say: I've done a search, there are no data, and
10 there are no lawsuits. There are no complaints.
11 There are no incidences.

12 MR. FRANKLIN: Right. Right. Your Honor,
13 with all due respect, I mean, I'm not all-knowing.
14 I'm not at GM. I'm not able to query databases
15 myself with --

16 THE COURT: You have to communicate with your

17 --

18 MR. FRANKLIN: Right.

19 THE COURT: -- client and tell your client --

20 MR. FRANKLIN: Right.

21 THE COURT: -- that you have to have that
22 information.

23 MR. FRANKLIN: And, Your Honor, the only way
24 that GM would know it would be to search its
25 databases and it did. And so --

1 THE COURT: Well, then, that's fine.

2 MR. FRANKLIN: Right.

3 THE COURT: Then there's got to be somebody at
4 GM that will then answer that question and tell
5 you: Mr. Franklin, you tell them there are no
6 lawsuits. And that's the answer that we need.

7 MR. FRANKLIN: Your Honor, if we, you know, if
8 we are to go back and say, let's expand the search
9 terms, let's include --

10 THE COURT: I'm not talking about search
11 terms, Mr. Franklin.

12 MR. FRANKLIN: Right.

13 THE COURT: I'm not talking about those. I
14 think that I could give you an analogy. I think if
15 we went to a lawnmower manufacturer and they had a
16 problem with the blade flying out from under the
17 lawnmower.

18 MR. FRANKLIN: Right.

19 THE COURT: And cutting people's legs off, and
20 a lawsuit was brought, I think the Court, based on
21 the discovery rules and what the plaintiffs would
22 want to know in that kind of situation, that kind
23 of case, the Court would expect and require the
24 manufacturer to answer a question as to whether
25 there have been any lawsuits. Not research our

1 data and that's our response. That's not a
2 response to the question. That's your method of
3 trying to answer the question.

4 MR. FRANKLIN: Right.

5 THE COURT: But that's not going to be the
6 answer to the question, so I want to make sure that
7 we are clear on that. So if you're going to count
8 on your assurances to me, then you've got to step
9 out and answer the question.

10 MR. FRANKLIN: Your Honor, if --

11 THE COURT: And what we're talking about are
12 these --

13 MR. FRANKLIN: Right. Lawsuits.

14 THE COURT: These issues where you just say
15 you searched it and no documents came up.

16 MR. FRANKLIN: Right.

17 THE COURT: But that doesn't answer the
18 particular question that was asked.

19 MR. FRANKLIN: Right.

20 THE COURT: And if that's true, no documents
21 came up, then by all means say, GM has no lawsuits.

22 MR. FRANKLIN: Right. What I can say, Your
23 Honor, and I understand your point.

24 If there's a, let's say --

25 THE COURT: You don't have to say it now.

1 MR. FRANKLIN: Right. Okay.

2 THE COURT: You're going to have to say it in
3 a supplemental response.

4 MR. FRANKLIN: Okay. I understand.

5 THE COURT: And then be held to that answer.

6 MR. FRANKLIN: Right. Right.

7 THE COURT: And if you don't answer again,
8 there might be consequences. So you've got to find
9 out the answer.

10 Because you're representing to the Court that
11 you've given every document.

12 MR. FRANKLIN: What we're representing to --

13 THE COURT: Except for the ones you've said
14 I've come up with some puzzling things and we're
15 going to do some additional searches.

16 I understand that you've done that and you've
17 been forthright and said you are going to do more
18 searches. And you've said that some attachments
19 showed up and you're going to work on finding
20 those. I'm not talking about that. I'm just
21 talking about the cases where you're trying to say
22 that there are no documents. Then you're going to
23 have to respond to the interrogatory as well.

24 MR. FRANKLIN: Right.

25 THE COURT: And step out and say: there are

1 no lawsuits, there are no complaints, there --
2 whatever your answer is.

3 MR. FRANKLIN: Well, let me say this, Your
4 Honor. What I would ask is, we're certainly happy
5 to work with Mr. Cooper.

6 GM has been clear from the very beginning in
7 terms of how it did what it did to run its
8 searches. Mr. Cooper may think that that's not
9 broad enough. And so we can reach an agreement
10 with him on what kind of searches he wants and
11 then, of course, whatever comes back from those
12 searches we can give. But, Your Honor --

13 THE COURT: I don't know that that's
14 necessary.

15 I'm not sure that it's ambiguous to say you
16 want every incident, every complaint, every
17 lawsuit. And I don't think that that's a difficult
18 term for anyone in this room or anyone at GM to
19 understand.

20 MR. FRANKLIN: Right. Well, Your Honor --

21 THE COURT: So I don't know that Mr. Cooper
22 has to define your searches. You have to define
23 your searches.

24 MR. FRANKLIN: Right.

25 THE COURT: You have to figure out with your

1 system what will provide you that information.

2 MR. FRANKLIN: Right. I understand. And
3 that's what was done in terms of -- based on this
4 allegation, which is not the original allegation.
5 How do we capture that and, again, we stated that
6 in the response and I understand. But you're
7 saying that, in other words, I take the Court to be
8 saying that, again, a customer whose car stalled
9 may say 'my car stalled'. But they may describe it
10 in some other way.

11 THE COURT: Well, that's why I tried to focus,
12 that's why --

13 MR. FRANKLIN: Right.

14 THE COURT: -- I tried to focus my comments --

15 MR. FRANKLIN: Right.

16 THE COURT: -- on the lawsuit.

17 MR. FRANKLIN: Right.

18 THE COURT: Because that's a little more
19 certain.

20 MR. FRANKLIN: Right.

21 THE COURT: That's a bigger issue. And it
22 does trickle down to where it would be more and
23 more difficult, I understand, for GM to produce
24 reliable data.

25 But on the big picture, the lawsuit complaints

1 that would rise to the level of alerting GM enough
2 to do investigation, to do an information bulletin,
3 then those types of complaints should be readily
4 available to GM, and GM should say they have them
5 or they don't. And I just don't -- I don't find it
6 responsive to just say "I searched".

7 MR. FRANKLIN: Right.

8 THE COURT: You have to --

9 MR. FRANKLIN: Or, Your Honor, to say: this is
10 how we searched. We searched the following --

11 THE COURT: That's not well enough, either,
12 no.

13 MR. FRANKLIN: And so Your Honor would want GM
14 to be able to say, to give an unqualified: there
15 are no lawsuits, whatsoever, relating to anything
16 having to do with this component. Is that what
17 Your Honor is asking for?

18 THE COURT: The ignition cut off.

19 MR. FRANKLIN: Excuse me?

20 THE COURT: The ignition cut off.

21 MR. FRANKLIN: The ignition cut off.

22 THE COURT: Yes, whatever the description is
23 that's in here that there are no lawsuits about
24 that.

25 MR. FRANKLIN: Is there a particular

1 description? You say ignition cut off. Do you
2 want stalling? I mean, what exactly -- I want to
3 make sure we do precisely as the Court wants us to
4 do it. So if we defined it, again, in the search--
5 THE COURT: The defective condition identified
6 in the TSB. Is that's what's in the
7 interrogatories? Whatever is in the interrogatory.

8 MR. FRANKLIN: Yes, it says resulted from a
9 problem related to the TSB. That could be
10 anything, Your Honor.

11 THE COURT: A lawsuit, again --

12 MR. FRANKLIN: Right.

13 THE COURT: A lawsuit, again, we're going to
14 go to the biggest one.

15 MR. FRANKLIN: Right.

16 THE COURT: I don't know if there's been a
17 lawsuit.

18 MR. FRANKLIN: Right.

19 THE COURT: There's now been one.

20 MR. FRANKLIN: Yes.

21 THE COURT: If there's one in the future --

22 MR. FRANKLIN: Right.

23 THE COURT: You, Mr. Franklin, or whoever the
24 lawyer would be, would have to produce information
25 about this case.

1 MR. FRANKLIN: Absolutely, and we would.

2 THE COURT: Okay.

3 MR. FRANKLIN: Absolutely.

4 THE COURT: I don't think it's hard for GM to
5 tell the Meltons whether or not there's another
6 lawsuit about the ignition cut off in the Cobalt.

7 MR. FRANKLIN: Okay.

8 THE COURT: Or these other similar ignitions.

9 MR. FRANKLIN: Ignition cut off.

10 THE COURT: I think that GM is a sophisticated
11 enough company. They build a line of really nice
12 cars, a lot of very complex, engineered machines
13 that are amazing. So they're not short of smart
14 people over there, or up there, or wherever they
15 are, at this point. I, myself, have driven GM cars
16 and owned them.

17 MR. FRANKLIN: Right.

18 THE COURT: But not at the present time. So I
19 don't want these other kinds of answers, that's all
20 I'm telling you.

21 MR. FRANKLIN: I understand completely, Your
22 Honor. I just want to make sure that I have
23 something concrete to be able to say in terms of
24 what is expected of us, and I think I've explained
25 how, you know, based on what someone says when they

1 call in or how, I explained how --

2 THE COURT: This is what the answer needs to
3 be.

4 MR. FRANKLIN: Okay.

5 THE COURT: And if this is the answer from GM.

6 MR. FRANKLIN: Okay.

7 THE COURT: On interrogatory number one, if
8 you look at the language of interrogatory number
9 one. You can look at it.

10 MR. FRANKLIN: I'm looking at it. It says
11 problems related to TSB --

12 THE COURT: Now, identify every lawsuit, okay.
13 It says identify every lawsuit.

14 MR. FRANKLIN: Right.

15 THE COURT: GM states there are no lawsuits,
16 claims, or complaints that have been made against
17 us wherein it was alleged that an injury or death
18 resulted from a problem related to the technical
19 service bulletin, blah, blah, blah, blah. That's
20 the answer you've got to have.

21 Or there are the following, or there were no
22 lawsuits, there were no claims. There were these
23 complaints that we've been able to determine from a
24 search, blah, blah, blah. That's all I'm asking.

25 MR. FRANKLIN: Okay. Your Honor, I think that

1 covers the topics for interrogatory number one.

2 Number two, RP two, six, seven, and then,
3 again, nine. I talked about the drawing that the
4 supplier document, Mr. Cooper was referring to,
5 again. Mr. Cooper knows --

6 THE COURT: So that -- all right. Have you
7 provided to -- I can understand where you may not
8 have that document, GM may not have it. It seems
9 unusual that you wouldn't maintain it, but I guess
10 that could happen. It's a supplier's document --
11 it's a supplier document that you would get from
12 the supplier and put it in your files.

13 Have you, in your responses, formally told Mr.
14 Cooper who has that document?

15 MR. FRANKLIN: Yes. Mr. Cooper is aware. We
16 identified the supplier and Mr. Handy testified, at
17 length, about the whole process and the fact that
18 it was not released in the GM system and that it's
19 a supplier-generated document that GM does not
20 have. Yes.

21 THE COURT: So you would be able to pursue
22 discovery with the other --

23 MR. FRANKLIN: Absolutely.

24 THE COURT: Okay.

25 MR. FRANKLIN: I think, Your Honor, that is --

1 that covers the topics that we were addressing
2 today.

3 Again, it's GM's position that there really is
4 no dispute. GM has certainly produced what it said
5 it would. GM has been up front about what searches
6 it would conduct and GM has given what resulted
7 from those searches. We're not fighting about
8 whether to hand over a document or not, so there's
9 not that type of dispute. We have said
10 voluntarily, before the deposition, that we are
11 going back and rerunning these searches and that
12 we'll give you whatever results.

13 So it's GM's position that there is no
14 dispute, no current dispute, Your Honor, for --
15 there's nothing to be compelled. GM appreciate's
16 Your Honor's instruction about the other incident
17 lawsuits, claims, et cetera, and GM will go back
18 and certify that issue as instructed by the Court.
19 And, Your Honor, that leaves, again, no issue to be
20 compelled by the Court and GM appreciates the
21 Court's time in hearing our position this morning.

22 THE COURT: Thank you, Mr. Franklin.

23 MR. COOPER: May I make a brief response, Your
24 Honor?

25 THE COURT: Yes, sir.

1 MR. COOPER: If Your Honor would turn to page
2 24 of the PowerPoint, if you have that in front of
3 you.

4 THE COURT: Okay.

5 MR. COOPER: This goes to this issue of the
6 drawing, I just wanted to point this out.

7 THE COURT: Hold on. Page 24? It is now in
8 front of me.

9 MR. COOPER: Excuse me?

10 THE COURT: I have it in front of me.

11 MR. COOPER: If you look at the top document
12 where it says design documents, this is a Delphi
13 drawing, and Ray deGiorgio, his name is on the
14 left-hand side there, in the middle of the graph
15 there. This is the type of drawing that GM should
16 have. And I understand they are saying they do not
17 have it.

18 Delphi is a Michigan company. Obviously, GM
19 has Delphi drawings because they have this one.
20 For whatever reason, they don't have the one for
21 Brooke's vehicle.

22 I would respectfully submit that if they don't
23 have it, it would simply take a phone call to
24 Delphi, because they are supposed to have it in
25 their system, they just don't. It would be simple.

1 A phone call to Delphi saying send us this drawing
2 because it is the subject matter. It is the design
3 drawing of the component, which is a subject matter
4 of this litigation.

5 So what I would have to do would be to get an
6 out of state subpoena issued in a Michigan court to
7 get -- and go through a two or three month process,
8 which would take a phone call, to get a document
9 that they should already have. And so I would
10 submit that that's a reasonable approach that GM
11 should take in this case.

12 Now with respect to --

13 THE COURT: How critical is that document?

14 MR. COOPER: How critical? It is the design
15 drawing. So it would contain the information that
16 we saw, I showed you, which is at the bottom of
17 this page, which contains the performance
18 specifications for the torque values for this
19 ignition switch. For this ignition switch, the one
20 in Brooke's vehicle.

21 THE COURT: The one that's on this page is for
22 which vehicle?

23 MR. COOPER: This one is for the Saturn Ion,
24 it's my understanding, is what Mr. Handy testified
25 to last --

1 THE COURT: Is it the same ignition switch?
2 MR. COOPER: It's my understanding it's not,
3 at least according to Mr. Handy.

4 THE COURT: And how was this one produced?
5 MR. COOPER: They produced it as part of the--
6 in response to number nine.

7 MR. FRANKLIN: It was a document that GM had
8 in its possession, Your Honor.

9 Let me just say that just because Mr. Cooper
10 believes that it should be in GM's system doesn't
11 mean that it is or that it should be.

12 Mr. Handy testified about the fact that it was
13 a Delphi generated document, it happened to have
14 had another document, another design drawing
15 document, but it did not have the one for this
16 particular vehicle. It was not --- he testified
17 that it was not released into GM's system, he
18 looked for it. And so Mr. Cooper's assertion that
19 it should be there, that's his position. That
20 doesn't mean GM has it. In fact, GM has stated
21 that it does not have it. And Mr. Cooper has
22 certainly been willing in this case, following a
23 prior deposition, to depose suppliers. And so with
24 his representation about the difficulty in getting
25 it from a supplier -- I'm not saying that GM is not

1 willing to ask for it, but GM doesn't have it at
2 this time.

3 But Mr. Cooper has certainly expressed his
4 intent to depose suppliers. And so if he intends
5 to do that, then requesting documents from them
6 would be no different, Your Honor. In fact, it
7 would be less cumbersome than taking someone's
8 deposition at a supplier. I must mention that.

9 THE COURT: That's pretty hard to ask for the
10 document and do the deposition at the same time.
11 Because you don't have any prior information about
12 what you're receiving.

13 MR. COOPER: And then going to --

14 THE COURT: Are you saying that you'll produce
15 it?

16 MR. FRANKLIN: Your Honor, it's not in GM's
17 custody, possession, or control.

18 What I can say is that GM will ask. GM is
19 happy to ask that it be provided.

20 THE COURT: Okay.

21 MR. FRANKLIN: But GM has no control over --
22 for all we know, Your Honor, for example, I don't
23 know that Delphi still has it. Perhaps they do.
24 But if they don't, GM does not control that. GM
25 cannot make Delphi give up something that it does

1 not have. So I don't know any of that. All I know
2 is that based on what Mr. Handy testified to, it is
3 not in GM's custody, possession, or control.

4 THE COURT: Well, Mr. Handy is the corporate
5 representative.

6 MR. FRANKLIN: Correct.

7 THE COURT: And what is his job title?

8 MR. FRANKLIN: He is with the field
9 performance assessment group. He was the designee
10 on the topics that were covered in the deposition
11 that related to the issues which, in these torque
12 issues, the deposition notice had nine topics. He
13 was GM's designee on those topics, and he was the
14 one who was able to talk about what GM had or
15 didn't have, what was supplier generated, what was
16 GM generated, what was in the system, and he did.

17 THE COURT: And that also was the group of
18 documents that were produced as background data
19 from the information services bulletin?

20 MR. FRANKLIN: Yes, absolutely. He testified
21 about all that.

22 THE COURT: The design document was not in
23 that information?

24 MR. FRANKLIN: No. That particular drawing
25 was not. It was --

1 THE COURT: And is it GM's position that this
2 design drawing would not be available some other
3 place than GM? Like, does GM have some master
4 place where they keep all the designs of each
5 vehicle?

6 MR. FRANKLIN: Not that I'm aware of, Your
7 Honor. All I can say is that --

8 THE COURT: That sounds strange to me.

9 MR. FRANKLIN: Okay.

10 MR. COOPER: I've never had a case where the
11 design drawings haven't been produced, and I've
12 been doing this for 23 years. And design drawings
13 are kept forever. And there are certain drawings,
14 there are certain information that is not.

15 And the only way we found this out was our
16 engineer on the case took the time to go through
17 it. He called me, or e-mailed me, and said they've
18 given you everything but the actual ignition switch
19 drawing.

20 THE COURT: The design department, or whoever
21 the creator of the Cobalt, somewhere, would have
22 all the drawings of everything that went in that
23 car, I would imagine.

24 MR. FRANKLIN: Your Honor, the witness
25 testified that Delphi did not release that drawing

1 in the GM system. I do not know why. I don't know
2 if that was unusual, but I know that that was the
3 testimony, as Mr. Cooper is aware, that it was not
4 released by Delphi into the GM system. It is
5 therefore not in the GM system. We are not saying
6 that --

7 THE COURT: So we're to assume that it has
8 something negative on it, then?

9 MR. FRANKLIN: I think that's unfair, Your
10 Honor, to make that assumption if it's not a
11 document that GM generated. It assumes that supply
12 documents --

13 THE COURT: It's a document that GM would have
14 looked at to issue an information services
15 bulletin.

16 MR. FRANKLIN: Your Honor, not being an
17 engineer, I don't know that. I don't know that
18 they would have looked at that particular document
19 to decide whether to issue an information bulletin.
20 I can't speak for that. I don't know that to be
21 the case.

22 THE COURT: What would Mr. Handy's responses
23 in regard to that be, Mr. Cooper? Did he say that
24 that's something they wouldn't even look at?

25 MR. COOPER: No. Because if you look at the

1 document, again, at the top of 24. The only name
2 on here is Ray deGiorgio, who was the design
3 engineer for the ignition switch for General
4 Motors.

5 THE COURT: He's not a Delphi employee?

6 MR. COOPER: No. So and just to make a point,
7 Mr. Handy is in the, essentially, the litigation
8 department. And that is, he goes out in involving
9 cases like this and testifies on behalf of GM as
10 their field engineer or corporate rep cases, so he
11 was not involved in the engineering -- or, excuse
12 me. The drawing or engineering of the ignition
13 switch itself. I think he was involved somewhat in
14 the steering system.

15 MR. FRANKLIN: The whole steering column, of
16 which the ignition switch is a part.

17 MR. COOPER: Yes, Mr. deGiorgio is still with
18 the company and I don't want to get into too much
19 detail, but the only name on here is the GM
20 engineer who designed the ignition switch and I'm
21 not saying -- I don't know whether they are
22 shooting straight or not, and it's extremely
23 unusual -- and even if they are shooting straight,
24 as I said, there --

25 THE COURT: Well, can we get an affidavit from

1 Mr. deGiorgio that --

2 MR. FRANKLIN: I've never spoken with Mr.
3 deGiorgio.

4 THE COURT: Well, maybe you can get an
5 affidavit that they don't have it.

6 MR. FRANKLIN: Well, Your Honor, Mr. Cooper
7 intends to depose Mr. deGiorgio. He has sent a
8 letter asking for his deposition.

9 We are in the process of coordinating
10 schedules, getting availability to make these
11 witnesses available so that Mr. Cooper can talk
12 with him directly about it.

13 THE COURT: Is he going to be under subpoena?

14 MR. COOPER: He can't be -- well, the only
15 way, since he's not a corporate representative, we
16 could subpoena him through this Michigan process.
17 And I guess that they would produce him
18 voluntarily. That would be what companies normally
19 do with the engineers who are involved in the
20 design of the product that's at issue.

21 THE COURT: And do you usually send along a
22 list of the documents that you want him to come
23 with?

24 MR. COOPER: Yes, Your Honor.

25 THE COURT: And so you're going to put this

1 document on that list?

2 MR. COOPER: Yes, Your Honor.

3 THE COURT: Well, we'll have to deal with it
4 after that.

5 MR. COOPER: Well, the problem we have is --
6 we'll deal with it. But we -- the whole reason for
7 requesting interrogatories is you can get this
8 information to your experts so that they can --
9 because our experts disclosures are due March 1.

10 THE COURT: Then we'll have to extend that
11 out.

12 MR. COOPER: Okay. Well, we'll -- okay.
13 We'll get the notice out and we'll put the specific
14 documents on there.

15 There are a couple of other points, and I
16 don't want to belabor this. But I think this is
17 important to note.

18 Harold is saying that they've discovered these
19 ignition switch testing documents as part of this
20 air bag investigation. And the way I understand
21 he's saying is they're not producing them because
22 they're responsive to our discovery. They're
23 simply producing them because, I guess, I'm not
24 sure why.

25 THE COURT: He said because Mr. -- is it Handy

1 or is it Hamby?

2 MR. COOPER: Handy.

3 THE COURT: Mr. Handy referred to them in his
4 deposition in some manner.

5 MR. COOPER: These are testing documents for
6 the torque of the ignition switch. And number nine
7 says all documents relating to the testing of the
8 ignition switch. And so this goes to this issue of
9 searching. And Your Honor brought that up, you
10 know, they're apparently limiting their searches so
11 much it's kind of like garbage in/garbage out.

12 If you limit it significantly, you're not
13 going to get a lot of the information that's
14 clearly responsive to the request. This critical
15 information is part of that. Mr. Handy had to
16 testify to it because he was a witness there and
17 when presented with a question, have you tested
18 this ignition switch, he had to answer, yes.

19 This information should have been produced
20 months ago. My concern now is they discovered it
21 weeks ago. Harold is saying they've produced all
22 responsive documents and information. It's now
23 Thursday of the hearing and we still don't have it.
24 And what that brings me to is what I would like to
25 do, respectfully, is submit Your Honor an order

1 overruling their objections, if they say they have
2 produced everything, Your Honor, and I made this
3 point to Harold earlier this week or late last
4 week, just withdraw your objections and say you've
5 produced everything. And I said the hearing won't
6 go forward.

7 In this case, since they're not withdrawing
8 the objection, what we would request is an order
9 that the objections be overruled, that they are to
10 produce all responsive information and documents as
11 Your Honor discussed, and they need to do it within
12 10 days.

13 So that would give us time, if we want to try
14 to hold on to the March 1 expert disclosure date,
15 because I don't want to lose our trial date, that
16 will give us time to get the information to our
17 experts and then we can move on on this issue.

18 And if they've produced everything, then we're
19 not going to come before you ever again on these
20 discovery requests. And I think that's a
21 reasonable solution to the issue that's before the
22 Court.

23 MR. FRANKLIN: Your Honor, first of all, in
24 terms of the documents that Mr. Cooper is referring
25 to, they did not come to light during Mr. Handy's

1 deposition. They are documents that I advised
2 Lance of prior to the deposition that we were going
3 to produce.

4 In response to request number nine, Your
5 Honor, GM was very specific about the documents
6 that it would search for and produce and it has,
7 and I've read the Bates ranges of all the
8 engineering information, the substance and
9 technical specifications, the design failure mode
10 analysis, the evaluation testing, all those
11 documents GM did produce.

12 As far as overruling GM's objections, Your
13 Honor, again as we've made clear to Lance in
14 letters and in conversation and in GM's responses
15 to the motion to compel, when there's a request
16 that asks for all documents relating to x, y, z, it
17 is necessarily so broad that if you interpret it,
18 you know, broadly, it could ask for everything
19 under the sun. Including, for example, my
20 communications with inside counsel, privileged
21 communications. And so what we do, because of the
22 all documents type of language, when it's that
23 broad, we assert privilege objections to the extent
24 that one might interpret it as calling for that
25 type of information.

1 However, what I have told Lance and what we've
2 represented is that we are not withholding
3 documents that we think, I mean, that are
4 responsive but we're going to withhold them as
5 privilege documents. We just assert those because
6 of the wording of the request itself. So I think
7 to ask because of how Plaintiff chose to word the
8 request and the fact that GM, in asserting the
9 appropriate defenses because of the breadth of the
10 request, that the objections should be struck Your
11 Honor.

12 This is -- Lance and I have many cases
13 together. These responses are no different than in
14 any other case. They are standard because of the
15 way the requests are worded. We have made it clear
16 that we are not withholding anything, it's because
17 of the wording of the request. And so I am
18 somewhat, I am admittedly surprised and shocked by
19 this position that the objections should be struck
20 because of that. GM has been up front about --

21 THE COURT: At this point, Mr. Franklin, you
22 either have responded to it, or you haven't.

23 MR. FRANKLIN: Yes.

24 THE COURT: If you respond and you say you've
25 responded in full --

1 MR. FRANKLIN: Yes.

2 THE COURT: -- then you could drop your
3 objection.

4 If you have something else that has to remain
5 as an objection at this point, after you say you've
6 responded, you've produced documents, you've
7 provided information. If you have something at
8 that point that you think you have to still object
9 to, it has to have more specificity than this does.
10 You have to explain why it's overly broad, why it
11 is unduly burdensome, or why it's not reasonably
12 calculated to lead to the discovery of admissible
13 evidence.

14 MR. FRANKLIN: Okay.

15 THE COURT: I think that's what the rules are.
16 If you want to feel as though you've answered the
17 questions, then you don't need your objection any
18 more.

19 If you want to clarify the terms that you've
20 answered it under, you can do that. Your answers
21 don't have a lot of specificity as it is. I would
22 find them in need of supplementation for that
23 reason.

24 MR. FRANKLIN: So what Your Honor is asking, I
25 understand Your Honor to be asking to go back and

1 clarify and to supplement its responses by stating
2 or explaining why the requests --

3 THE COURT: If you're leaving something out
4 because of that --

5 MR. FRANKLIN: Right.

6 THE COURT: If you want to maintain that
7 objection, then it has to be more specific than you
8 have at this point. Because you've produced a lot
9 of documents, so obviously you didn't think it was
10 entirely overly broad, unduly burdensome, or not
11 reasonably calculated to lead to discovery of
12 admissible evidence.

13 So you can't keep relying on the objection
14 without more specificity.

15 MR. FRANKLIN: Your Honor, with all due --

16 THE COURT: Because that means that you're
17 holding something back and you have grounds to hold
18 something back.

19 For example, if he asked for documents about a
20 2013 Chevrolet Cobalt, then you could exclude that
21 and you could specifically exclude that and say
22 that it's not reasonably calculated to lead to the
23 discovery of admissible evidence. So your answers
24 are going to have to be that way in order to
25 maintain that objection.

1 MR. FRANKLIN: Thank you, Your Honor, and if
2 you look at the responses, GM did say, we're going
3 to do this, that, and the other, but beyond this,
4 we object.

5 So we'll go back and clarify --

6 THE COURT: Well, it says will search -- your
7 answers are not written with certainty. Your
8 answers are written with ambivalence and ambiguity.
9 So I want some more specificity in your responses
10 and by all means, if you have grounds to object and
11 they're legitimate grounds, assert them. The Court
12 is not saying give those up.

13 But, like, for example, you said privileged,
14 that there would be privilege in some of these.

15 MR. FRANKLIN: Which ones are you looking at,
16 Your Honor?

17 THE COURT: I'm not looking at a particular
18 one. You said that some of these would have had a
19 privilege objection. I'm not sure we talked about
20 anything today that would have a privilege
21 objection. And if you're going to maintain a
22 privilege objection, then you're going to have to
23 do a privilege log.

24 MR. FRANKLIN: Your Honor, so requests that
25 say all documents relating to -- all documents

1 means if I sent an e-mail to my client. That's not
2 the kind of thing that we're talking about, I'm
3 assuming. I mean, when you say all --

4 THE COURT: Mr. Franklin, you know how to read
5 an interrogatory.

6 MR. FRANKLIN: Yes.

7 THE COURT: And that's not what Mr. Cooper has
8 asked for with regard to the 2005 -- and, moreover,
9 you didn't assert a privilege in most of these. So
10 I was just pointing out, you didn't assert
11 privilege in most of these.

12 MR. FRANKLIN: Your Honor, we did for those
13 instances where the request, as worded, called for
14 privileged information. Let me --
15 THE COURT: Which one is a privilege? Tell me
16 each response that has a privilege.

17 (Brief pause.)

18 THE COURT: Seven.

19 MR. FRANKLIN: I'm sorry?

20 THE COURT: Seven.

21 MR. FRANKLIN: Of the R.P.'s, Your Honor?

22 THE COURT: Yes.

23 MR. FRANKLIN: Okay. All documents and
24 materials for every lawsuit, claim, or complaint
25 that has been made against you. As Your Honor

1 knows, if there were, if there had been a lawsuit
2 against GM regarding the information bulletin or
3 the TSB, which are actually different documents.
4 But all documents, that would include, Your Honor,
5 for example, a litigation file that's going to
6 include many privileged documents and materials.

7 THE COURT: I understand that. But your
8 response is there are no documents.

9 MR. FRANKLIN: Correct.

10 THE COURT: So, say that. Don't say look at
11 this number and then say it's still overly broad.
12 You've responded to it. You say there are no
13 documents, so why are you still saying it's overly
14 broad? And if there are no documents, how can
15 there be a privilege to no document? Is there some
16 lawsuit that there are some privileged information,
17 then, by all means, keep it. It's your privilege.
18 But your answers are not consistent, they're not
19 specific to the interrogatories and the request for
20 production, Mr. Franklin.

21 MR. FRANKLIN: Your Honor, the one that you
22 cited, number seven.

23 THE COURT: Yes.

24 MR. FRANKLIN: In asking for that, it says all
25 documents and material. GM said it was going to

1 search for and produce and that kind of thing. At
2 that point, we were not aware of when we first
3 began, before we ever ran the searches, that there
4 were no documents and so, in our peril, had we not
5 asserted the privilege objection, then those files
6 that came back, we would not assert a privilege and
7 the entire litigation file would have been
8 discoverable --

9 THE COURT: This is your supplemental
10 response. There is a point in time where these can
11 be supplemented such that we can --

12 MR. FRANKLIN: Right.

13 THE COURT: -- have more information about
14 whether you're producing some documents, whether
15 there are no documents --

16 MR. FRANKLIN: Right.

17 THE COURT: -- whether you want to still say
18 you have an objection and you're going to have to
19 assert it, or you're going to lose it.

20 MR. FRANKLIN: Okay. All right. And, Your
21 Honor, I take it that this, in terms of what we are
22 doing here, would apply to both parties to the
23 extent that the Plaintiff has asserted any
24 objections, that they need to go back, also, and to
25 the extent that they, you know, are withholding

1 anything, that they would need to produce a
2 privilege log and to do these things; is that
3 correct?

4 THE COURT: If you want to move for that. But
5 you haven't moved for that, though. But, sure, you
6 have a right to do that. Any party can do that. I
7 don't have a motion here against Mr. Cooper's
8 client, though.

9 MR. FRANKLIN: We have been, Your Honor, all
10 on the same page about these types of issues for
11 many years. We've worked well together and there
12 are certain things that we just --

13 THE COURT: Well, I'm surprised that you
14 haven't been told before that the answers are too
15 ambivalent. I also understand why they are that
16 way.

17 But I think we can have more information
18 that's more definitive and specific.

19 MR. FRANKLIN: Okay. So, Your Honor, GM will
20 go back and supplement those responses to the
21 extent that we've produced all the documents and we
22 will make it clear which objections we are
23 maintaining and which we are not, if that is the
24 Court's order.

25 THE COURT: Right.

1 MR. FRANKLIN: Okay.

2 THE COURT: And 10 days.

3 MR. FRANKLIN: Your Honor, I think that that
4 is not realistic. It's not like someone can just
5 run next door and look in a box. You are talking
6 about millions, Your Honor, pages of documents,
7 databases, and it's not realistic to think that
8 within 10 days that all that can be gathered,
9 processed, and reviewed and produced, Your Honor.
10 I would ask for, as Your Honor had suggested,
11 perhaps adjusting the expert disclosure deadline of
12 Mr. Cooper giving his experts more time and, Your
13 Honor, allow more time for GM to be able to go back
14 and rerun searches as it has agreed to do. I would
15 ask, Your Honor, for a month to be able to do that,
16 and that the Court adjust the discovery, the
17 schedule, accordingly, as the Court has suggested
18 on adjusting the Plaintiffs' expert delegation
19 deadline.

20 THE COURT: Twenty days, split it up the
21 middle.

22 MR. FRANKLIN: Thank you, Your Honor.

23 MR. COOPER: So, Your Honor, the obligation --
24 may I submit a proposed order?

25 THE COURT: Sure.

1 MR. COOPER: Okay.

2 THE COURT: And Mr. Franklin can, too.

3 MR. COOPER: All right. Thank you.

4 THE COURT: That would be helpful.

5 MR. FRANKLIN: Thank you.

6 MR. COOPER: Oh, Your Honor, one other matter.

7 THE COURT: Well, Mr. Franklin, so we'll know
8 whether to wait on yours, are you going to present
9 a proposed order, too?

10 MR. FRANKLIN: Yes, Your Honor, yes.

11 THE COURT: Or you can just comment on his.
12 Whatever suits you. But I'd like to know whether
13 or not I'm going to hear from you, because I'll
14 wait before I do any order.

15 MR. FRANKLIN: Yes. Either comment on Mr.
16 Cooper's or submit our own to ensure that the same
17 rules apply for both lawyers.

18 THE COURT: And I bet Mr. Cooper would
19 voluntarily supplement his responses if you ask him
20 nicely.

21 MR. FRANKLIN: Lance, please supplement your
22 responses the same as we've been ordered to do.
23 Thank you.

24 MR. COOPER: Thank you, Your Honor. I had
25 something, but we'll take it up separately.

1 THE COURT: All right. Nobody from Thornton
2 wanted to be present?

3 MS. KALFUS: Shawn Kalfus from Thornton, Your
4 Honor.

5 THE COURT: Okay. So what's your name?

6 MS. KALFUS: Shawn, S-h-a-w-n (spelling),
7 Kalfus, K-a-l-f-u-s (spelling).

8 THE COURT: Thank you. And is this somebody
9 here, too?

10 MR. RAPAPORT: Ian Rapaport, I represent DEI
11 Holding.

12 THE COURT: Okay. Very well presented. Thank
13 you. Oh, let me go back on the record for one more
14 thing. I was just talking with my staff attorney
15 and I just want to make clear.

16 The Court has given enough detail from the
17 bench as to what I'm ordering on the discovery and
18 on the Plaintiffs' motion to compel. So I don't
19 want there to be any confusion later that the time
20 is going to run from the order being signed.

21 MR. FRANKLIN: Okay. That's from tomorrow,
22 Your Honor; correct?

23 THE COURT: Yes, sir.

24 MR. FRANKLIN: Thank you.

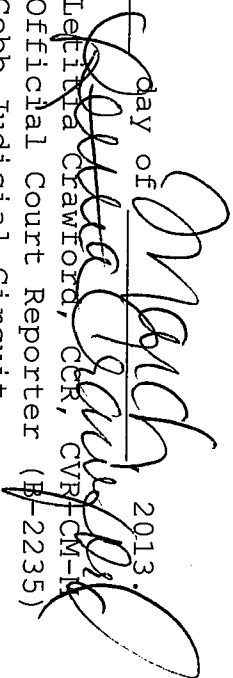
25 (Proceedings concluded.)

C E R T I F I C A T E

STATE OF GEORGIA)
COUNTY OF COBB)

I hereby certify that the foregoing pages represent a true, complete, and correct record of the proceedings taken down by me in the above-captioned matter; that the same was reduced to typewriting by me personally, or under my direction and supervision; and I further certify that I am not of kin or counsel to the parties in the case, am not in the regular employ of counsel for any of said parties, nor am I anyway interested in the result of said case.

This certification is expressly withdrawn and denied upon the disassembly or photocopying of the foregoing transcript, or any part thereof, including exhibits, unless said disassembly or photocopying is done by the undersigned official court reporter and the original signature and seal is attached thereto.

This the 19 day of March 2013.

Leffida Crawford, CCR, CVR-CM-R
Official Court Reporter (B-2235)
Cobb Judicial Circuit

My notary commission
expires April 3, 2016.

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