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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

DEPARTMENT N18 HON. GLENN SALTER, JUDGE

THOMAS JOSEPH SOULLIERE,)
)
 PLAINTIFF,) CASE NO: 30-2015-00790644
) CU-PL-CJC
 VS.)
)
 SUZUKI MOTOR AMERICA, INC.,)
)
 DEFENDANT.)
 _____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
APRIL 25, 2023

APPEARANCES:
FOR THE PLAINTIFF: THE TRIAL LAB
BY: GABE HOUSTON, ESQ.
330 MAIN STREET, SUITE 203-A
SEAL BEACH, CALIFORNIA 90740

SIMON LAW GROUP
BY: ROBBIE MUNOZ, ESQ.
34 HERMOSA AVENUE
HERMOSA BEACH, CALIFORNIA 90254

FOR THE DEFENDANT: FROST BROWN TODD
BY: RANDALL R. RIGGS, ESQ.
111 MONUMENT CIRCLE, SUITE 4500
INDIANAPOLIS, INDIANA 46204

(APPEARANCES CONTINUED ON NEXT PAGE.)

REPORTED BY: SUZANNE ONUKI, CSR NO. 13734
OFFICIAL REPORTERS PRO TEMPORE

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APPEARANCES: (CONTINUED)

FOR THE DEFENDANT: BOWMAN AND BROOKE LLP
BY: JORDAN TABAK, ESQ.
970 WEST 190TH STREET, SUITE 700
TORRANCE, CALIFORNIA 90502

BUTLER SNOW
BY: KATHLEEN CARRINGTON, ESQ.
150 3RD AVENUE S, SUITE 1600
NASHVILLE, TENNESSEE 37201

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M A S T E R I N D E X

APRIL 25, 2023

CHRONOLOGICAL/ALPHABETICAL INDEX OF WITNESSES

PLAINTIFFS' DIRECT CROSS REDIRECT RECROSS

(NONE)

DEFENDANTS' DIRECT CROSS REDIRECT RECROSS

(NONE)

EXHIBITS

EXHIBIT FOR I.D. IN EVD. WITHDRAWN
OR REJECTED

(NONE)

1 CASE NUMBER: 30-2015-00790644-CU-PL-CJC
2 CASE NAME: SOULLIERE VS. SUZUKI
3 ORANGE, CALIFORNIA APRIL 25, 2023
4 DEPARTMENT N18 HON. GLENN R. SALTER, JUDGE
5 APPEARANCES: (AS HERETOFORE NOTED.)
6 REPORTER: SUZANNE ONUKI, CSR 13734
7 TIME: 8:33 A.M.

8
9

10 (OUTSIDE THE PRESENCE OF A JURY.)

11 THE COURT: COURT WILL CALL SOULLIERE VERSUS
12 SUZUKI MOTOR OF AMERICA.

13 APPEARANCES.

14 MR. HOUSTON: GOOD MORNING, YOUR HONOR. GABE
15 HOUSTON ON BEHALF OF THE PLAINTIFF.

16 MR. MUNOZ: GOOD MORNING, YOUR HONOR. ROBBIE
17 MUNOZ ON BEHALF OF PLAINTIFF.

18 MR. RIGGS: GOOD MORNING, YOUR HONOR. RANDY
19 RIGGS FOR SUZUKI MOTOR CORPORATION.

20 MR. TABAK: JORDAN TABAK FOR SUZUKI MOTOR
21 CORPORATION.

22 MS. CARRINGTON: GOOD MORNING. KAT CARRINGTON
23 FOR SUZUKI MOTOR CORPORATION.

24 THE COURT: THE COURT HAS IN FRONT OF IT A
25 PROPOSED VERDICT FORM FOR THE SECOND PHASE.

26 HAVE YOU SEEN THIS, MR. RIGGS?

1 MR. RIGGS: YES.

2 THE COURT: ANY OBJECTIONS TO IT?

3 MR. RIGGS: NO.

4 THE COURT: VERY GOOD. THE COURT WILL USE
5 THAT.

6 I ALSO HAVE 3942. THE ONE I'VE BEEN GIVEN
7 THIS MORNING IS SLIGHTLY DIFFERENT. IT HAS AN EXTRA
8 SENTENCE AT THE END.

9 MR. HOUSTON?

10 MR. HOUSTON: YES, YOUR HONOR. THIS VERSION
11 THAT THE COURT HAS IN FRONT OF IT WITH THE EXTRA
12 SENTENCE AT THE END WAS PROPOSED BY MR. TABAK.
13 MR. TABAK ALSO PROPOSED TAKING OUT THE SENTENCE IN THE
14 SECTION B THAT TALKED ABOUT POTENTIAL HARM -- IT'S
15 EITHER B OR C -- POTENTIAL HARM TO MR. SOULLIERE. I
16 HAVE ACCEPTED MR. TABAK'S VERSION, WHICH IS THE ONE THE
17 COURT HAS IN FRONT OF IT.

18 THE COURT: SO I CAN DISCARD THE PRIOR ONE?

19 MR. HOUSTON: YES, YOUR HONOR.

20 THE COURT: DO YOU AGREE WITH THAT, MR. RIGGS?

21 MR. RIGGS: YES, YOUR HONOR.

22 THE COURT: VERY GOOD.

23 MR. HOUSTON, THERE'S A MOTION THAT WAS FILED
24 TO AMEND THE COMPLAINT. IT GOT SET FOR CALENDAR ON
25 MAY 25. ARE YOU WITHDRAWING THAT?

26 MR. HOUSTON: YES, YOUR HONOR.

1 THE COURT: THAT WILL BE DEEMED WITHDRAWN.

2 MR. HOUSTON, IS THERE ANYTHING ELSE WE NEED TO
3 TALK ABOUT THIS MORNING BEFORE WE GET STARTED WITH THE
4 JURY?

5 MR. HOUSTON: YES, YOUR HONOR. I PRESENTED --
6 AFTER CONSIDERATION OF MY COMMENTS TO THE COURT
7 YESTERDAY AND THINKING ABOUT IT OVERNIGHT, THE
8 FOUNDATION FOR FINANCIAL CONDITION IS EXTREMELY
9 IMPORTANT AT THIS PHASE, AND I PROPOSED A STIPULATION
10 FOR THE COURT TO READ. I PRESENTED THAT WITH -- TO
11 MR. TABAK ADMITTEDLY THIS MORNING. I TRIED TO GET IT TO
12 HIM LAST NIGHT. IT DID NOT SEND FROM MY COMPUTER OR MY
13 PHONE. IT IS A -- AN AMENDED VERSION OF CACI 106 THAT
14 DEFINES WHAT A STIPULATION IS. AND THEN I PRESENTED
15 PROPOSED LANGUAGE FOR STIPULATION BELOW.

16 MR. TABAK'S IN THE PROCESS OF REVIEWING IT
17 NOW. IT MAY BE PREMATURE RIGHT THIS SECOND FOR THE
18 COURT TO INQUIRE WITH MR. TABAK AS I DON'T BELIEVE HE
19 WOULD'VE HAD SUFFICIENT TIME TO REALLY GO OVER IT AND
20 DISCUSS WITH COUNSEL. BUT THERE IS A PROPOSAL BEFORE
21 THE COURT FOR A STIPULATION TO BE READ BY THE COURT TO
22 THE JURY REGARDING THE FINANCIAL CONDITION OF SUZUKI.
23 IN THE ALTERNATIVE, I HAVE DARYL ZENGLER ON READY TO
24 CALL IN VIA ZOOM TO TESTIFY LIVE, IF NECESSARY.

25 THE COURT: MR. TABAK?

26 MR. TABAK: YOUR HONOR, I JUST NEED A FEW

1 MOMENTS TO REVIEW IT. I THINK WE CAN GET IT WORKED OUT
2 BEFORE --

3 THE COURT: SURE.

4 MR. TABAK: -- THE JURY'S CALLED IN.

5 THE COURT: AND ANYTHING ELSE, MR. HOUSTON?

6 MR. HOUSTON: THE ISSUE OF EXHIBIT -- OR NOT
7 EXHIBITS -- DEMONSTRATIVES AND A POWERPOINT. I SHARED
8 MY POWERPOINT WITH MR. RIGGS LAST NIGHT OR YESTERDAY IN
9 COURT BEFORE WE ADJOURNED. HE VOICED SOME OBJECTIONS TO
10 EXHIBITS, WHICH I HAVE VOLUNTARILY WITHDRAWN. I HAVEN'T
11 HEARD ANYTHING ELSE REGARDING ANYTHING FROM THE COURT OR
12 COUNSEL REGARDING OBJECTIONS TO DEMONSTRATIVES OR
13 ANYTHING ELSE THAT IS INCLUDED IN THAT POWERPOINT. I'D
14 BE HAPPY TO SHOW THE COURT IF IT WOULD LIKE TO REVIEW
15 IT, BUT I'D LIKE TO KNOW WHAT MY AVAILABILITY IS TO USE
16 THE POWERPOINT DURING MY CLOSING.

17 THE COURT: MR. RIGGS?

18 MR. RIGGS: YESTERDAY I HAD ABOUT 15 OR 20
19 SECONDS TO LOOK AT THE FIRST PART OF MR. HOUSTON'S
20 POWERPOINT. I DID VOICE OBJECTIONS AND THEN THINGS
21 MOVED QUICKLY AFTER THAT.

22 AS WE LEFT THE COURTHOUSE, BEFORE WE EVEN GOT
23 BACK TO OUR HOTEL, WE E-MAILED MR. HOUSTON AND SAID,
24 PLEASE SEND US THE POWERPOINT SO WE CAN LOOK AT IT. AS
25 WE STAND HERE, I HAVE STILL NOT SEEN IT. I OBJECT TO
26 THE POWERPOINT.

1 MR. HOUSTON: I NEED TO CLEAR THAT RECORD,
2 YOUR HONOR. I STOOD WITH MR. RIGGS AT THIS PODIUM AND I
3 GAVE HIM AS MUCH TIME AS HE WANTED. MR. RIGGS, WHEN HE
4 WAS DONE, WALKED AWAY FROM THE PODIUM. I DID NOT LIMIT
5 HIM THE TIME.

6 I DID RECEIVE AN E-MAIL LAST NIGHT ASKING ME
7 TO SEND MY WORK PRODUCT OVER TO COUNSEL SO THEY CAN
8 REVIEW IT. I ELECTED NOT TO DO THAT, HAVING ALREADY
9 SHOWN THEM WHAT MY POWERPOINT WAS. I DON'T BELIEVE IT'S
10 AN OBLIGATION OF MINE TO SHARE MY WORK PRODUCT OVERNIGHT
11 WITH THEM, LAYING OUT AN OUTLINE OF MY CLOSE. I DID
12 UPFRONT PROVIDE THAT OPPORTUNITY TO MR. RIGGS TO REVIEW
13 IN ITS ENTIRETY. AS LONG AS HE WANTED TO REVIEW MY
14 POWERPOINT, HE HAD THE OPPORTUNITY TO DO SO. HE TOOK
15 THAT OPPORTUNITY AND WHEN HE WAS DONE, HE WALKED AWAY.

16 THE COURT: WHY DON'T YOU SHOW IT TO HIM NOW.

17 MR. RIGGS, WHAT'S THE PROBLEM? YOU GAVE THAT
18 FACIAL EXPRESSION THAT YOU DO EVERY ONCE IN A WHILE THAT
19 YOU SEEM TERRIBLY DISTRESSED.

20 MR. TABAK: WELL, I AM, BECAUSE THERE'S BEEN
21 MISREPRESENTATION. I MEAN, I HAD 15 OR 20 SECONDS
22 STANDING AT THE PODIUM TO LOOK AT IT AND THEN THE COURT
23 CALLED US BACK TO -- IN SESSION AND I HAD NO OTHER
24 OPPORTUNITY. I IMMEDIATELY ASKED TO BE ABLE TO REVIEW
25 IT SO I COULD REVIEW IT WITH MY CO-COUNSEL TO SEE IF I
26 HAD ANY OBJECTIONS. I'M NOW UNDER THE GUN TO DO THAT.

1 I DON'T THINK IT'S FAIR, AND I UNDERSTOOD THE COURT'S
2 RULINGS WERE THAT WE WOULD SHARE THOSE IN ADVANCE AND
3 NOW THAT'S BEEN --

4 THE COURT: WHY DON'T YOU --

5 MR. RIGGS: -- CHANGED.

6 THE COURT: -- TAKE A LOOK AT IT, SEE WHAT IS
7 IT IS.

8 HOW LONG IS THIS POWERPOINT? HOW MUCH IS IT?

9 MR. HOUSTON: IT'S LESS THAN 20 -- AFTER I
10 TOOK OUT -- IT'S 18 PAGES OR SOMETHING AND MOST OF --
11 THREE OF THEM ARE CALENDARS, JUST BLANK CALENDARS WITH A
12 DATE CIRCLED. IT'S NOTHING MORE SUBSTANTIVE THAN THAT.
13 THAT'S ALL I HAVE. HE CAN LOOK AT WHATEVER HE WANTS TO
14 SEE THERE.

15 THE COURT: WHY DON'T YOU TAKE A QUICK LOOK AT
16 IT, MR. RIGGS.

17 (RECESS.)

18 THE COURT: WE'RE BACK ON THE RECORD. WE'RE
19 OUTSIDE THE PRESENCE OF THE JURY.

20 MR. RIGGS, DID YOU HAVE A CHANCE TO LOOK AT
21 IT?

22 MR. RIGGS: I HAVE, YOUR HONOR.

23 THE COURT: AND YOUR VIEWS?

24 MR. RIGGS: MR. HOUSTON HAS INDICATED HE'S
25 WITHDRAWING ALL THE SLIDES THAT SHOW PHOTOGRAPHS OF
26 SUZUKI WITNESSES WITH THEIR TESTIMONY, WITH THE

1 EXCEPTION OF ONE FROM MR. KUDO, I BELIEVE IS CORRECT.

2 MR. HOUSTON: YOU MEAN -- GO AHEAD, MAKE YOUR
3 RECORD.

4 MR. RIGGS: I THINK I'VE STATED THAT
5 CORRECTLY.

6 THERE ARE OTHER SLIDES, THOUGH. THERE'S FIVE
7 SLIDES THAT MAKE REFERENCE TO POWERBALL WINNINGS,
8 LOTTERY SALES, THAT USE A CALENDAR FOR DAILY AND ANNUAL
9 SALES NUMBERS AND IMPROPERLY FOCUS ON PROFITS AND SALES
10 WORLDWIDE OUTSIDE THE STATE OF CALIFORNIA. THESE
11 SLIDES, I BELIEVE, ARE IN DIRECT CONFLICT WITH 3942(B),
12 (C), AND THE ADDITIONAL PARAGRAPH THAT WAS ADDED.

13 SPECIFICALLY, 3942(B) SAYS THAT PUNITIVE
14 DAMAGES MUST HAVE A REASONABLE RELATIONSHIP TO THE
15 CONDUCT THAT HARMED MR. SOULLIERE.

16 3942(C) TALKS ABOUT THAT THE COURT -- THE JURY
17 IS NOT ALLOWED TO MERELY CONSIDER THE FINANCIAL
18 RESOURCES OF SUZUKI IN MAKING THESE, WHICH THESE
19 CERTAINLY SUGGEST -- THESE SLIDES SUGGEST AND I PRESUME
20 THE ARGUMENT WOULD TOO.

21 AND AS I SAY, THE ADDITIONAL PARAGRAPH, WE
22 DISAGREE TO STIPULATE TO AS IT MAY NOT BE USED TO PUNISH
23 AND/OR IMPACT THE CONDUCT -- CONDUCT THAT IMPACTS
24 PERSON'S OTHER THAN PLAINTIFF, OTHER THAN MR. SOULLIERE.

25 SO I WOULD OBJECT TO THOSE SLIDES AS BEING
26 OUTSIDE THE PURVIEW OF WHAT'S PERMITTED TO BE ARGUED FOR

1 PUNITIVE DAMAGES AND IN CONFLICT WITH 3942.

2 THE COURT: MR. HOUSTON, ANY COMMENTS?

3 MR. HOUSTON: YES, YOUR HONOR. SUZUKI MOTOR
4 CORPORATION DOESN'T DISTINGUISH BETWEEN WITHIN
5 CALIFORNIA AND OUTSIDE THE CALIFORNIA SALES. THE ONLY
6 THING THAT WE CAN GO AFTER IS THE CORPORATION ITSELF FOR
7 ITS REVENUES AND/OR PROFITS. THERE'S NO WAY TO
8 DISTINGUISH MOTORCYCLE DIVISION VERSUS ANY OTHER
9 DIVISION. THERE WOULDN'T BE A WAY TO BUY SHARES IN JUST
10 A MOTORCYCLE DIVISION OR ANYTHING LIKE THAT.

11 THERE'S NOTHING IN MY POWERPOINT THAT SAYS
12 POWERBALL OR LOTTERY. IN FACT, COUNSEL AT COUNSEL TABLE
13 ASKED ME WHAT CERTAIN CRYPTIC LETTERS MEANT AND I HAD TO
14 EXPLAIN IT TO THEM. THEN THEY ASKED ME WOULD I BE
15 SHOWING THAT TO THE JURY, AT WHICH POINT I HADN'T -- I
16 HADN'T MADE MY DECISION UP ON THAT YET. AND AFTER
17 TALKING WITH MR. MUNOZ ABOUT IT, I WILL NOT EVEN BE
18 SHOWING THOSE CRYPTIC LETTERS UP TO SUGGEST THAT.

19 THE COURT: WHY DON'T YOU SHOW THE COURT
20 EXACTLY WHAT ONES THAT YOU'RE PROPOSING.

21 MR. HOUSTON: IF I COULD, YOUR HONOR, I'D LIKE
22 TO SHOW THE COURT THE ENTIRE POWERPOINT, THE --

23 THE COURT: BRING IT IN.

24 MR. HOUSTON: -- FIRST PAGE, SECOND PAGE,
25 THIRD PAGE, FOURTH PAGE. THIS IS A KUDO COMMENT THAT
26 MR. RIGGS, I BELIEVE, WAS REFERENCING AND I MAY STILL

1 KEEP IN HERE. THIS HAS BEEN WITHDRAWN. THIS PAGE HAS
2 BEEN WITHDRAWN. THIS PAGE HAS BEEN WITHDRAWN. THIS
3 PAGE HAS BEEN WITHDRAWN. THIS PAGE HAS BEEN WITHDRAWN.

4 THIS IS THE -- THIS IS THE PAGE THAT COUNSEL
5 WAS ASKING ABOUT, THE YELLOW PART ON THE BOTTOM, WHICH
6 MY INTENTION IS TO SHOW IT TO THE JURY LIKE THAT. AND
7 THEN -- OH, IT'S NOT OVER. I'M SORRY. AND THAT'S THE
8 FINAL SLIDE, YOUR HONOR.

9 THE COURT: MR. RIGGS?

10 MR. RIGGS: THOSE ARE MY OBJECTIONS. I
11 BELIEVE THAT THE SLIDES I IDENTIFIED ARE IMPROPER AND
12 CONFLICT WITH 3942. I THINK THE --

13 THE COURT: WHICH SLIDES IN PARTICULAR? WHY
14 DON'T WE GO THROUGH ONE BY ONE AND IF YOU HAVE AN
15 OBJECTION, THEN WE'LL TALK ABOUT IT REAL QUICK.

16 MR. RIGGS: ALL RIGHT. THANK YOU.

17 THE COURT: SO LET'S GO BACK TO NUMBER 1. ANY
18 OBJECTION? MR. RIGGS, ANY OBJECTIONS?

19 MR. RIGGS: OH, I'M SORRY. NO.

20 THE COURT: THEN GO TO 2.

21 MR. RIGGS: NO.

22 THE COURT: 3?

23 MR. RIGGS: NO.

24 THE COURT: 4?

25 MR. RIGGS: NO.

26 THE COURT: 5?

1 MR. RIGGS: YES. IT'S WITHDRAWN.
2 THE COURT: HE'S WITHDRAWN 6 AND 7.
3 MR. RIGGS: RIGHT, WITHDRAWN, WITHDRAWN.
4 THE COURT: HE'S WITHDRAWN 8, 9, 10.
5 MR. RIGGS: NO -- NO OBJECTION.
6 MR. HOUSTON: THIS IS SLIDE 11.
7 THE COURT: THAT'S SLIDE 11. THAT'S FINE. I
8 DON'T UNDERSTAND THAT ONE.
9 MR. RIGGS: I DON'T UNDERSTAND. I DON'T KNOW
10 WHAT'S THE...
11 THE COURT: THAT'S 12. THAT'S 13.
12 MR. RIGGS: I THINK THIS IS OBJECTIONABLE IN
13 THAT IT FOCUSES ON JUST A CALCULATION FOR TOTAL -- IT'S
14 OBVIOUSLY A SETUP FOR TOTAL SALES FOR THE YEAR. I WOULD
15 OBJECT TO THAT.
16 THE COURT: I DON'T SEE ANY NEED FOR 14.
17 MR. HOUSTON: I'M SORRY?
18 THE COURT: I DON'T SEE A NEED FOR 14.
19 MR. HOUSTON: IS THAT TO SAY I CAN'T SHOW THIS
20 TO THE JURY?
21 THE COURT: PULL IT.
22 MR. RIGGS: SAME OBJECTION.
23 THE COURT: SAME WITH 15, PULL IT.
24 MR. RIGGS: OBJECTION HERE FOR THE REASONS
25 STATED.
26 THE COURT: REASONS BEING?

1 MR. RIGGS: IT FOCUSES ON GLOBAL SALES. THERE
2 WAS NO DISCOVERY DONE ON -- NO REQUEST FOR MOTORCYCLE
3 SALES IN CALIFORNIA. THAT'S -- DISCOVERY COULD HAVE
4 BEEN DONE. IT WASN'T. THAT'S NO EXCUSE TO THEN EXPAND
5 IT TO GLOBAL SALES. THIS IS AN IMPROPER MEASURE AND HAS
6 NO RELATION TO CONDUCT THAT AFFECTED MR. SOULLIERE.

7 THE COURT: YOU MAY SHOW IT.

8 OKAY. NEXT PAGE. ANY OBJECTION TO 17?

9 MR. RIGGS: NO.

10 THE COURT: 18?

11 MR. RIGGS: I DO OBJECT TO THIS. I GUESS -- I
12 GUESS 17 AND 18, TO THE EXTENT THAT THE 1 PERCENT -- 17
13 JUST SAID 1 PERCENT, BUT IN CONTEXT WITH 18, I WOULD
14 OBJECT TO THOSE BECAUSE, AGAIN, YOU'RE LOOKING AT GROSS
15 SALES WHICH HAS NO RELATIONSHIP TO CONDUCT AFFECTING
16 MR. SOULLIERE. THESE ARE FOR SALES FOR AUTOMOBILES,
17 PERSONAL WATERCRAFT, ALL KINDS OF PRODUCTS THAT HAVE
18 NOTHING TO DO WITH MOTORCYCLES.

19 THE COURT: I UNDERSTAND. I'M GOING TO LET IT
20 SHOW. WE'LL TALK AFTERWARDS IF THE JURY COMES BACK WITH
21 A VERDICT ON THIS.

22 MR. RIGGS: THE SAME OBJECTION HERE TO 19.

23 THE COURT: UNDERSTOOD.

24 YOU CAN SHOW THAT ONE.

25 MR. RIGGS: I OBJECT TO \$1 BILLION. THIS
26 DIRECTLY CONFLICTS WITH 3942 (C). THAT FOCUSES ON --

1 IMPROPERLY ON THE FINANCIAL RESOURCES OF SUZUKI.

2 THE COURT: PULL 20.

3 MR. RIGGS: SAME OBJECTION, IT'S GOT THE SAME
4 \$33.37 BILLION ON HERE. I OBJECT TO THAT.

5 THE COURT: YOU CAN SHOW 21.

6 MR. RIGGS: I THINK PERCENTAGE, FOCUSING
7 MERELY ON PERCENTAGE WITHOUT A --

8 THE COURT: I AGREE. PULL 22.
9 23?

10 MR. RIGGS: AGAIN 23, IT'S GOT --

11 THE COURT: PULL 23.

12 MR. RIGGS: NO OBJECTION.

13 THE COURT: THAT'S 24 AND 25.

14 MR. RIGGS: NO OBJECTION.

15 I HAVE SOME OBJECTION ABOUT THE -- LOOKING
16 PURELY AT PERCENTAGES OF SALES WITHOUT ANY CONTEXT FOR
17 RELATIONSHIP TO JOEY SOULLIERE.

18 THE COURT: AS I SAID, WE'LL TALK ABOUT THAT
19 IF THEY COME BACK WITH A VERDICT.

20 I'LL LET IT. YOU CAN PUT IN NUMBER 26.

21 ANYTHING ELSE, MR. HOUSTON?

22 MR. HOUSTON: NO, YOUR HONOR.

23 THE COURT: VERY GOOD.

24 (DISCUSSION HELD OFF THE RECORD.)

25 THE COURT: COUNSEL, WE'RE GOING TO BRING THE
26 JURORS THROUGH FOR THE PURPOSE OF GOING UPSTAIRS TO GET

1 THEIR NOTEBOOKS AND THEN THEY WILL RETURN. OKAY?

2 (DISCUSSION HELD OFF THE RECORD.)

3 THE COURT: WHILE THE JURORS HAVE GONE
4 UPSTAIRS, COUNSEL, DO YOU -- HAVE YOU AGREED ON WHAT
5 WE'RE GOING TO DO IN TERMS OF THE EVIDENTIARY PORTION?

6 MR. TABAK: YES, YOUR HONOR. WE AGREED TO THE
7 CONTENT OF THE STIPULATION DEALING WITH SUZUKI'S
8 FINANCIAL INFORMATION.

9 THE COURT: DO I HAVE THAT STIPULATION?

10 MR. TABAK: NO. I CAN PROVIDE IT TO YOU.

11 THE COURT: HAVE YOU SEEN THIS, MR. HOUSTON?

12 MR. HOUSTON: YES.

13 THE COURT: I HAVE IN FRONT OF ME A ONE-PAGE
14 DOCUMENT. IS THIS THE DOCUMENT THAT YOU'VE SEEN,
15 MR. HOUSTON?

16 MR. HOUSTON: YES, YOUR HONOR.

17 THE COURT: COURT'S UNDERSTANDING THAT THE
18 PARTIES HAVE STIPULATED TO IT.

19 OFF THE TOP OF YOUR HEAD, DO YOU REMEMBER THE
20 JURY INSTRUCTION FOR STIPULATIONS?

21 MR. HOUSTON: 106, YOUR HONOR. THIS ONE
22 ORIGINALLY HAD 106 AT THE TOP OF IT FOR THAT REASON
23 BECAUSE THE VERY FIRST SENT- -- TWO SENTENCES -- THREE
24 SENTENCES WERE PULLED OUT OF 106.

25 THE COURT: VERY GOOD.

26 I THINK THEY'RE COMING BACK NOW.

1 (IN THE PRESENCE OF A JURY.)

2 THE COURT: COUNSEL MAY BE SEATED.

3 LADIES AND GENTLEMEN OF THE JURY, THERE ARE
4 TWO THINGS I'M GOING TO READ TO YOU. THE FIRST IS A
5 STIPULATION, THEN I HAVE AN INSTRUCTION TO READ TO YOU,
6 AND THEN THE COUNSEL WILL ARGUE. FIRST I'M GOING TO
7 READ THE STIPULATION.

8 THE ATTORNEYS FOR BOTH SIDES CAN AGREE THAT
9 CERTAIN FACTS ARE TRUE. THIS AGREEMENT IS CALLED A
10 STIPULATION. NO OTHER PROOF IS NEEDED AND YOU MUST
11 ACCEPT THOSE FACTS AS TRUE IN THIS TRIAL.

12 THE PARTIES HAVE STIPULATED TO THE EVIDENCE OF
13 THE DEFENDANT SUZUKI MOTOR CORPORATION'S FINANCIAL
14 CONDITION. PLAINTIFF'S FORENSIC ECONOMIST EXPERT, DARYL
15 ZENGLER, HAS OPINED ON THE FINANCIAL CONDITION OF SUZUKI
16 MOTOR CORPORATION BY REFERENCE TO THE ANNUAL REPORT
17 AND/OR AUDITED FINANCIAL STATEMENTS FOR THE YEARS 2021
18 AND 2022.

19 MR. ZENGLER HAS DETERMINED SUZUKI MOTOR
20 CORPORATION'S NET SALES, OPERATING PROFIT, ORDINARY
21 PROFIT, PROFITS BEFORE INCOME TAX, PROFIT AND NET INCOME
22 ATTRIBUTABLE TO THE OWNER. THESE FIGURES AND CATEGORIES
23 WERE TAKEN DIRECTLY FROM THE SUZUKI FINANCIAL DOCUMENTS
24 WHICH ARE OBTAINED FROM SUZUKI MOTOR CORPORATION'S
25 INVESTOR RELATIONS WEBSITE. MR. ZENGLER'S CALCULATIONS
26 ARE INCLUDED IN MR. ZENGLER'S ECONOMIC FINANCIAL

1 CONDITION REPORT, EXHIBIT 176-F.

2 THE FOLLOWING IS THE SUMMARY OF THE RESULTS OF
3 MR. ZENGLER'S OPINION REGARDING SUZUKI MOTOR
4 CORPORATION'S FINANCIAL CONDITION IN 2022, CONVERTED TO
5 UNITED STATES DOLLARS:

6 NET SALES, \$33,749,038,452.

7 OPERATING PROFIT, \$2,387,685,584.

8 ORDINARY PROFIT, \$2,738,663,778.

9 PROFIT BEFORE INCOME TAX, \$2,762,473,318.

10 PROFIT, \$1,958,432,284.

11 NET INCOME ATTRIBUTABLE TO OWNERS OF THE
12 PARENT, \$1,592,597,060.

13 THE PARTIES STIPULATE MR. ZENGLER'S OPINION IS
14 AN ACCURATE REPRESENTATION OF SUZUKI MOTOR CORPORATION'S
15 FINANCIAL CONDITION FOR THE YEAR 2022.

16 NOW, YOU MUST DECIDE THE AMOUNT, IF ANY, THAT
17 YOU SHOULD AWARD JOEY SOULLIERE IN PUNITIVE DAMAGES.
18 THE PURPOSES OF THE PUNITIVE DAMAGES ARE TO PUNISH A
19 WRONGDOER FOR THE CONDUCT THAT HARMED THE PLAINTIFF AND
20 TO DISCOURAGE SIMILAR CONDUCT IN THE FUTURE.

21 THERE IS NO FIXED FORMULA FOR DETERMINING THE
22 AMOUNT OF PUNITIVE DAMAGES AND YOU'RE NOT REQUIRED TO
23 AWARD ANY PUNITIVE DAMAGES.

24 IF YOU DECIDE TO AWARD PUNITIVE DAMAGES, YOU
25 SHOULD CONSIDER ALL OF THE FOLLOWING FACTORS IN
26 DETERMINING THE AMOUNT:

1 HOW REPREHENSIBLE WAS SUZUKI MOTOR
2 CORPORATION'S CONDUCT? IN DECIDING HOW REPREHENSIBLE
3 SUZUKI MOTOR CORPORATION'S CONDUCT WAS, YOU MAY
4 CONSIDER, AMONG OTHER FACTORS, WHETHER THE CONDUCT
5 CAUSED PHYSICAL HARM, WHETHER SUZUKI MOTOR CORPORATION
6 DISREGARDED THE HEALTH OR SAFETY OF OTHERS, WHETHER JOEY
7 SOULLIERE WAS FINANCIALLY WEAK OR VULNERABLE AND SUZUKI
8 MOTOR CORPORATION KNEW JOEY SOULLIERE WAS FINANCIALLY
9 WEAK OR VULNERABLE AND TOOK ADVANTAGE OF HIM, WHETHER
10 SUZUKI MOTOR CORPORATION'S CONDUCT INVOLVED A PATTERN OR
11 PRACTICE, AND WHETHER SUZUKI MOTOR CORPORATION ACTED
12 WITH TRICKERY OR DECEIT.

13 IS THERE A REASONABLE RELATIONSHIP BETWEEN THE
14 AMOUNT OF PUNITIVE DAMAGES IN JOEY SOULLIERE'S HARM THAT
15 SUZUKI MOTOR CORPORATION KNEW WAS LIKELY TO OCCUR
16 BECAUSE OF ITS CONDUCT?

17 IN VIEW OF SUZUKI MOTOR CORPORATION'S
18 FINANCIAL CONDITION, WHAT AMOUNT IS NECESSARY TO PUNISH
19 IT AND DISCOURAGE FUTURE WRONGFUL CONDUCT? YOU MAY NOT
20 INCREASE THE UNIT AWARD ABOVE AN AMOUNT THAT IS
21 OTHERWISE APPROPRIATE MERELY BECAUSE SUZUKI MOTOR
22 CORPORATION HAS SUBSTANTIAL FINANCIAL RESOURCES.

23 AND PUNITIVE DAMAGES MAY NOT BE USED TO PUNISH
24 SUZUKI MOTOR CORPORATION FOR THE IMPACT OF ITS ALLEGED
25 MISCONDUCT ON PERSONS OTHER THAN JOEY SOULLIERE.

26 THAT IS THE STIPULATION OF FACTS AND THAT IS

1 THE INSTRUCTION.

2 AT THIS POINT IN TIME, COUNSEL HAVE AN
3 OPPORTUNITY TO ARGUE FOR AND AGAINST PUNITIVE DAMAGES.

4 MR. HOUSTON?

5 MR. HOUSTON: YES, YOUR HONOR, BUT BEFORE WE
6 DO, I'D ASK THE COURT FOR PERMISSION TO PUBLISH FOR
7 COURT, COUNSEL, AND JURY EXHIBIT 176-F THAT WAS
8 REFERENCED IN THAT.

9 THE COURT: ANY OBJECTION, COUNSEL?

10 MR. RIGGS: NO, YOUR HONOR.

11 THE COURT: YOU MAY PUBLISH IT.

12 MR. HOUSTON: THANK YOU, YOUR HONOR. IT'S ON
13 THE SCREEN NOW.

14 I'D ASK THE COURT TO RECEIVE 176-F INTO
15 EVIDENCE.

16 THE COURT: ANY OBJECTION?

17 MR. RIGGS: NO, YOUR HONOR.

18 THE COURT: IT'S ADMITTED.

19 (EXHIBIT 176-F WAS ADMITTED INTO EVIDENCE.)

20 MR. HOUSTON: MAY I?

21 THE COURT: YOU MAY.

22 MR. HOUSTON: OKAY. I TOLD YOU FOLKS AT THE
23 BEGINNING OF THIS, WITH YOUR PERMISSION, I WOULD ASK YOU
24 FOR A SECOND PHASE, AND THAT'S WHERE WE ARE. AND THE
25 REASON WHY THEY'RE SO DIFFERENT -- WELL, I ALSO TOLD YOU
26 THE OTHER DAY THAT I WOULD NEED TWO HOURS OF YOUR TIME

1 AND THAT WAS A DRASTIC OVERESTIMATION. BECAUSE OF THE
2 STIPULATION YOU JUST HEARD, I'M ONLY GOING TO REQUIRE
3 ABOUT A HALF-HOUR OF YOUR TIME. AND THEN COUNSEL'S
4 GOING TO REQUIRE PROBABLY 15 MINUTES, AND THEN ME
5 PROBABLY ANOTHER FIVE OR SO. SO THIS IS GOING TO MOVE A
6 LOT FASTER THAN I ASKED YOU FOR EVEN ON FRIDAY.

7 SO AT THE BEGINNING I HAD TOLD YOU, WITH YOUR
8 PERMISSION, I WAS GOING TO ASK FOR A SECOND PHASE. AND
9 THEY ARE DIFFERENT. THE PHASES ARE VERY DIFFERENT.
10 YESTERDAY'S PHASE WAS A COMPENSATORY PHASE TO HELP JOEY
11 TO FIX WHAT COULD BE FIXED, TO HELP WHAT COULD BE
12 HELPED, AND TO MAKE UP FOR THINGS THAT COULD NOT BE
13 HELPED OR FIXED.

14 AND THIS TODAY IS NOT A SECOND BITE AT THE
15 APPLE FOR US. THAT'S NOT WHAT THIS IS ABOUT. I CAN'T
16 TELL YOU HOW MUCH MR. SOULLIERE APPRECIATED WHAT YOU
17 FOLKS DID YESTERDAY. I CAN'T PUT IT INTO WORDS. AND IT
18 WAS THE MOST DIFFICULT THING FOR HIM NOT TO BE ABLE TO
19 GO OUTSIDE AND TALK TO YOU FOLKS, WHICH WITH YOUR
20 PERMISSION, AGAIN, HE WOULD LIKE TO DO AND I WOULD LIKE
21 TO DO AND COUNSEL WOULD LIKE TO DO WHEN THIS IS ALL
22 OVER, WHEN WE CAN FINALLY TALK TO YOU.

23 BUT YESTERDAY, BECAUSE WE STILL HAVE -- WE'RE
24 STILL IN THIS POSITION, WE COULDN'T TALK TO YOU. AND
25 THE POINT BEING THAT WE CAN'T TELL YOU HOW MUCH WE
26 APPRECIATE YESTERDAY, BUT TODAY IS FOR A DIFFERENT

1 PURPOSE. TODAY IS FOR CHANGE.

2 THE PURPOSE OF PUNITIVE DAMAGES ARE TO PUNISH
3 A WRONGDOER FOR THE CONDUCT THAT HARMED THE PLAINTIFF
4 AND TO DISCOURAGE SIMILAR CONDUCT IN THE FUTURE.

5 TODAY -- TODAY IS WHAT THIS IS ABOUT, THIS WHOLE CASE,
6 IN MANY RESPECTS. THERE'S JOEY AND THEN THERE'S CHANGE,
7 AND TODAY IS ABOUT CREATING THE CHANGE TO FIX THIS, TO
8 LET THE CORPORATION KNOW THAT THEIR PAST BEHAVIOR IS NOT
9 ACCEPTABLE, BUT MORE IMPORTANTLY, TO ENCOURAGE THE
10 CORPORATION TO CHANGE MOVING FORWARD.

11 THIS IS NOT ABOUT JOEY SOULLIERE. WELL, LET
12 ME STATE THAT MORE ACCURATELY. THIS IS NOT ABOUT
13 COMPENSATING JOEY SOULLIERE. THIS IS ABOUT SM- --
14 SUZUKI MOTOR CORPORATION'S CONDUCT THAT LED TO HIS
15 INJURY. THEIR CONDUCT IS WHAT THIS ASK IS ABOUT, THAT
16 LED TO MR. SOULLIERE'S INJURY.

17 I DON'T WANT YOU TO ASSUME HOW OR WHEN
18 ANYTHING YOU AWARD, IF ANYTHING, WILL GET PAID. OKAY?
19 YOU'RE AN APPRAISER OF AN EVALUATION AS TO -- AS TO WHAT
20 IT WILL TAKE TO GET SUZUKI TO LISTEN TO WHAT YOU SAY, TO
21 WHAT YOUR FEELINGS ARE REGARDING THEIR CONDUCT, FOR
22 PUNISHMENT IN THE PAST AND DETERRENCE MOVING INTO THE
23 FUTURE.

24 THIS WAS AN INSTRUCTION -- PART OF AN
25 INSTRUCTION JUDGE SOULLIERE -- OR EXCUSE ME, JUDGE
26 SALTER -- I'M SORRY -- JUST READ TO YOU, AND I KNOW IT'S

1 A LITTLE BIT EASIER TO HAVE THIS STUFF. YOU ACTUALLY
2 WILL HAVE THE INSTRUCTION FOR YOUR REVIEW AS WELL, SO
3 YOU'LL HAVE THE WHOLE -- THE WHOLE INSTRUCTION. BUT
4 3942 STATES YOU SHOULD CONSIDER ALL OF THE FOLLOWING
5 FACTORS IN DETERMINING THE AMOUNT:

6 HOW REPREHENSIBLE WAS SUZUKI MOTOR
7 CORPORATION'S CONDUCT? IN DECIDING HOW REPREHENSIBLE,
8 THERE ARE THINGS TO CONSIDER. WHETHER THE CONDUCT
9 CAUSED PHYSICAL HARM. WE KNOW IT DID. WHETHER SUZUKI
10 MOTOR CORPORATION DISREGARDED THE HEALTH AND SAFETY OF
11 OTHERS. WE KNOW THEY DID. WHETHER SUZUKI MOTOR
12 CORPORATION'S CONDUCT INVOLVED A PATTERN OR PRACTICE.
13 WE KNOW IT DID. AND WHETHER SUZUKI MOTOR CORPORATION
14 ACTED WITH TRICKERY OR DECEIT. I SUBMIT TO YOU THAT
15 THEY DID.

16 I HAVE BEEN ANGRY ABOUT THIS CASE FOR A LONG
17 TIME. I'VE BEEN ANGRY AT ALL SORTS OF THINGS. MY
18 CLIENT AND I HAVE GOTTEN ANGRY AT EACH OTHER ABOUT THE
19 INJUSTICE HE'S FELT ABOUT THIS PROCESS. I'VE BEEN ANGRY
20 AT THE MOTORCYCLE ITSELF. I'VE BEEN ANGRY AT OPPOSING
21 COUNSEL AT TIMES. YOU'VE PROBABLY SEEN THAT. I'VE BEEN
22 ANGRY AT SO MANY THINGS FOR SO MANY YEARS, AND IT'S
23 GOTTEN ME NOWHERE. NOWHERE. ANGER DOESN'T GET YOU
24 ANYWHERE. IT'S A HEAVY BURDEN TO CARRY. AND I DON'T
25 WANT YOUR ANGER. I'M NOT ASKING YOU FOR YOUR ANGER.

26 I TRIED TO FIGURE OUT WHY I WAS SO ANGRY.

1 IT'S NOT MY CASE. IT'S HIS CASE. I DIDN'T GET HURT
2 TRAGICALLY. HE DID. AND I CAME TO THE CONCLUSION THE
3 ANGER THAT WAS BUILDING INSIDE OF ME WAS BECAUSE I CARE
4 SO MUCH. I CARE. I CARE ABOUT SELF-PRESERVATION FIRST
5 AND FOREMOST. WE'RE HUMAN. I DON'T WANT TO GET HURT.
6 I WAS A MOTORCYCLE RIDER. I ACTUALLY HAD A VERY SIMILAR
7 COLLISION TO THIS. IT'S IRRELEVANT TO THIS.

8 MR. RIGGS: OBJECTION, YOUR HONOR.

9 THE COURT: SUSTAINED.

10 MR. HOUSTON: I CARE ABOUT --

11 MR. RIGGS: OBJECTION, YOUR HONOR --

12 THE COURT: SUSTAINED.

13 MR. HOUSTON: I'M NOT ASKING YOU TO BE ANGRY.
14 I'M ASKING YOU TO CARE. I DON'T WANT YOU -- I DON'T
15 WANT YOUR ANGER TODAY. I DON'T WANT YOU TO VIEW THIS IN
16 LIGHT OF ANGER AND PUNISHMENT EVEN THOUGH THAT IS WHAT
17 THIS SAYS. IT'S TO PUNISH AND DETER. I WANT YOU TO
18 FOCUS ON DETERRENCE MORE THAN ANGER. OKAY? YOU MAY BE
19 ANGRY AND THAT'D BE OKAY, BUT THAT'S NOT WHAT I'M ASKING
20 YOU FOR. I'M NOT ASKING YOU TO BE ANGRY BECAUSE IT'S
21 GOTTEN ME NOWHERE. AND IN THE END, REALLY, WHAT -- WE
22 CAN'T CHANGE THE PAST, RIGHT? WE KNOW WHAT'S HAPPENED.
23 I WANT TO CHANGE THE FUTURE SO IT DOESN'T HAPPEN AGAIN
24 TO ANYBODY ELSE. OKAY?

25 AND WHEN YOU FOLKS GO BACK -- I DON'T KNOW
26 WHAT IT LOOKED LIKE FOR YOU IN THAT ROOM YESTERDAY. I

1 DON'T KNOW. I KNOW WHAT I'VE HEARD IN THE PAST, AND
2 THERE'S OFTENTIMES HEATED DEBATE IN THE DELIBERATION
3 ROOM. AND I WOULD SUGGEST TO YOU IF THERE WAS
4 YESTERDAY, THIS PROCESS IS GOING TO BE SIMILAR. BUT
5 I'LL ALSO SUBMIT TO YOU THAT IT'S GOING TO BE MORE
6 UNCOMFORTABLE TO YOU IN THIS PROCESS THAN IT WILL BE FOR
7 THEM AT FIRST. AT FIRST. OKAY.

8 AND WHAT I MEAN BY THAT IS YOU'RE GOING TO GO
9 BACK INTO DELIBERATIONS AND I SUSPECT YOU'RE GOING TO
10 HAVE ENERGETIC DISCUSSION. SOME WILL SAY IT'S TOO MUCH
11 THAT I'M ASKING FOR AND SOME WILL SAY IT'S TOO LITTLE.
12 AND I KNOW YOU HAD -- THERE'S A SPLIT, AND I RESPECT THE
13 SPLITS YESTERDAY IN TERMS OF WHAT PEOPLE ALL AGREED TO.
14 BUT AT THE END OF THIS, YOU'RE GOING TO COME UP WITH A
15 NUMBER, MAYBE. YOU MIGHT COME UP WITH ZERO. YOU DON'T
16 HAVE TO COME UP WITH A NUMBER, BUT I'M GOING TO ASK YOU
17 TO COME UP WITH A NUMBER. AND FOR YOU FOLKS, IT MAY
18 CREATE A SENSE OF EMOTION, OF DEBATE OR ARGUMENT OR
19 WHATEVER IN THE JURY DELIBERATION ROOM, BUT FOR THEM,
20 IT'S GOING TO BE A NUMBER ON A LEDGER. IT'S JUST GOING
21 TO GO ON THE BOARD. OKAY?

22 AND THEN THAT'S THE POINT WHERE IT MAY HURT
23 THEM. MAY, DEPENDING ON WHAT NUMBER YOU PUT ON THERE,
24 BECAUSE AT THAT MOMENT WHEN YOU GIVE THEM THAT NUMBER,
25 THEY HAVE TO DECIDE HOW THEY'RE GOING TO TELL THEIR
26 SHAREHOLDERS, HOW THEY'RE GOING TO JUSTIFY THIS. OKAY?

1 YOU GET TO DECIDE WHAT THAT NUMBER IS, SO WHEN
2 I SAY IT'S GOING TO HURT YOU MORE THAN THEM, THAT'S AT
3 FIRST. YOU GET TO DECIDE HOW THEY RECEIVE THE MESSAGE
4 YOU'RE SENDING OR RECEIVE THE SUGGESTION YOU'RE SENDING.

5 BE KIND TO EACH OTHER. BE KIND. AGAIN, I'M
6 NOT ASKING FOR ANGER. I DON'T WANT YOU FIGHTING BACK
7 THERE. THAT'S NOT WHAT THIS IS ABOUT. OKAY? LISTEN TO
8 EACH OTHER. COME TO AN AGREEMENT OF SOMETHING THAT
9 MAKES SENSE FOR THE 12 OF YOU. I'LL GET TO THAT IN A
10 SECOND.

11 WE KNOW IN THIS CASE SUZUKI WAS LOOKING AT
12 OTHER AUTO MANUFACTURERS. THERE'S A -- ACTUALLY, IF I
13 MAY, YOUR HONOR, I'D LIKE TO PUBLISH A PORTION OF THE
14 TRIAL TRANSCRIPT ON PAGE -- IT WAS FROM APRIL 14. IT'S
15 MR. KUDO'S TESTIMONY THAT WAS REFLECTED ON THE SLIDE,
16 BUT I'D JUST LIKE TO PUBLISH IT, THE TRANSCRIPT ITSELF,
17 IF POSSIBLE.

18 THE COURT: COME ON.

19 MR. HOUSTON: OKAY.

20 MR. KUDO, ON APRIL 14TH, WAS ASKED ABOUT
21 LOOKING AT OTHER MANUFACTURERS AND HOW SUZUKI MADE UP
22 THEIR DECISION, AND THIS IS A PART OF HIS TESTIMONY.
23 AND YOU CAN HAVE IT READ BACK. IT'S ON APRIL 14, PAGE
24 140 TO 141, AND HE WAS ASKED:

25 "Q WELL, WHAT YOU'RE TELLING YOUR
26 COLLEAGUES IS THAT IF WE DON'T DO THIS RECALL,

1 WE CAN FACE WHAT HAPPENED TO OTHER
2 MANUFACTURERS; TRUE?

3 "A WE NEED TO CONSIDER THESE HISTORIES,
4 HISTORY EVENTS OR HISTORY PENALTIES TO STUDY
5 ABOUT THE POSSIBILITY OF RECALL RELATED TO THIS
6 BRAKE SYSTEM.

7 "Q AND YOU WERE LOOKING AT WHAT HAPPENED
8 TO OTHER MANUFACTURERS TO DETERMINE WHAT SUZUKI
9 SHOULD DO; CORRECT?

10 "A WELL, AS A CAR MANUFACTURER AND
11 MOTORCYCLE MANUFACTURER, WE LOOK AT OTHER
12 COMPETITORS' SITUATION REGARDING RECALL, AND
13 IT'S EVEN MY RESPONSIBILITY TO UNDERSTAND THE
14 SURROUNDING CONDITION OF RECALL OR QUALITY
15 MATTER AND KEEP THAT INFORMATION FOR FUTURE
16 DISCUSSION."

17 SO THEY'RE LOOKING AT OTHERS AND OTHERS ARE
18 LOOKING TO THEM AS TO WHAT IS APPROPRIATE TO DO WHEN
19 THEY DETERMINE A SAFETY-RELATED DEFECT IS PART OF ONE OF
20 THEIR PRODUCTS. AND YOU SAW THAT ALSO IN THE KUDO MEMO,
21 EXHIBIT 71. AND THERE'S DOCUMENTS YOU CAN GO BACK --
22 WHEN I SAY THIS IS OF THE -- THE CONDUCT OF SUZUKI AS IT
23 RELATES TO MR. SOULLIERE, THERE'S AN EXHIBIT 42 FROM
24 NOVEMBER, I BELIEVE, OF 2012, FIVE MONTHS BEFORE JOEY'S
25 COLLISION. THE KUDO MEMO IS EXHIBIT 71. THAT WAS IN
26 APRIL, SIX WEEKS BEFORE JOEY'S COLLISION. THESE THINGS

1 TALK ABOUT THEIR CONDUCT LEADING UP, RESULTING IN
2 MR. SOULLIERE'S INJURY. I CAN DIRECT YOU TO THOSE
3 EXHIBITS IF YOU WANT TO REVIEW THEM.

4 BUT ULTIMATELY I'LL TELL YOU -- I SUGGEST TO
5 YOU THE PEN IS MIGHTIER THAN THE SWORD. YOU'VE HEARD
6 THAT BEFORE, AND IT'S NEVER BEEN MORE TRUE FOR ME
7 TODAY -- THAN TODAY. I'VE BEEN SABERING AROUND FOR
8 EIGHT YEARS KNOWING THIS DAY WAS COMING, BUT I CAN'T DO
9 ANYTHING ELSE. I CAN DO NOTHING ELSE. I CAN SABER
10 AROUND AND POKE AND SHAKE IT AT THEM ALL I WANT. I HAVE
11 NO POWER. YOU FOLKS DO. YOU HAVE ALL THE POWER. WITH
12 THE FLICK OF A PEN, YOU CAN CREATE CHANGE, BUT ONLY IF
13 YOU CARE ENOUGH TO DO SO. AND I NEED YOUR HELP AND I'M
14 ASKING YOU TO PLEASE HELP ME IN THIS REGARD.

15 HOW MUCH? THIS IS GOING TO BE A THEME FOR THE
16 NEXT COUPLE OF MINUTES, THE POWER OF ONE. HOW MUCH?
17 DON'T GET TOO MARRIED TO THE SCREEN BECAUSE I'M GOING TO
18 BRING IT BACK THIS WAY, BUT IT'S A LITTLE EASIER. IT'S
19 GOING TO BE THREE -- THREE ISSUES WE'RE GOING TO TALK
20 ABOUT, ALL INVOLVING THE POWER OF ONE. ONE DAY. ONE
21 DAY OUT OF A YEAR. YOU SAW AN EXHIBIT 176-F AND FROM
22 THE JUDGE'S -- FROM THE JUDGE'S INSTRUCTION, ONE DAY
23 TOTAL SALES, 33 BILLION --

24 MR. RIGGS: OBJECTION, YOUR HONOR. IMPROPERLY
25 FOCUSES ON SALES GLOBALLY FOR REASONS PREVIOUSLY STATED
26 ON THE RECORD.

1 THE COURT: OVERRULED.

2 MR. HOUSTON: ONE DAY TOTAL SALES,
3 33,749,038,452. THAT COMES TO 92,460 -- \$92,463,000 PER
4 DAY, SEVEN DAYS A WEEK. THAT'S WHAT THEY MAKE. AND I
5 SUGGEST TO YOU THAT WE START THERE.

6 MR. RIGGS: OBJECTION, YOUR HONOR. MISSTATES
7 TESTIMONY. IT'S NOT WHAT THEY MAKE. IT'S WHAT THEY
8 SELL.

9 THE COURT: YOU MAY PROCEED, COUNSEL.

10 MR. HOUSTON: NOBODY WANTS TO LOSE A DAY OF
11 REVENUE. I GET THAT. NOBODY. MR. SOULLIERE WAS OUT OF
12 WORK FOR FIVE YEARS. HE DIDN'T WANT TO LOSE A DAY AND
13 HE LOST FIVE YEARS BECAUSE OF THIS. I'M ASKING WE START
14 THE ANALYSIS AT ONE DAY. START THE ANALYSIS THERE.
15 WILL ONE DAY -- WILL ONE DAY GET THEIR ATTENTION? I
16 DON'T KNOW. I DON'T KNOW. WILL ONE DAY SERVE TO PUNISH
17 AND DETER? WILL IT DETER FUTURE CONDUCT? IF WE IMPOSE,
18 SAY, JUNE 8TH OF THIS YEAR -- THAT WILL BE THE TEN-YEAR
19 ANNIVERSARY FOR MR. SOULLIERE. JUNE 8TH, WHAT'S THAT, A
20 MONTH FROM NOW? ONE DAY. BY THE 9TH THEY'VE MADE IT
21 BACK.

22 I CERTAINLY SUBMIT TO YOU THAT ANYTHING LESS
23 WILL NOT -- IF YOU CUT THAT IN HALF, THEY MAKE THAT
24 MONEY BACK BEFORE LUNCH OR THEY -- BY LUNCHTIME, THEY'VE
25 RECOVERED. ANYTHING LESS THAN THAT, THEY'RE FINDING IT
26 IN THE COUCH IN THE LOBBY. OKAY? I SAY WE START THE

1 ANALYSIS AT ONE DAY.

2 JOEY, AS I SAID, HAS TO DEAL WITH THIS THE
3 REST OF HIS LIFE. I'M ASKING TO START IT AT ONE DAY'S
4 SALES.

5 ALTERNATIVELY, WE CAN LOOK AT 1 PERCENT. WHAT
6 DOES THAT MEAN? 1 PERCENT. THEY WILL STILL GET 99
7 PERCENT OF THEIR REVENUES.

8 MR. RIGGS: OBJECTION, YOUR HONOR. FOCUSES ON
9 GROSS SALES. IMPROPERLY FOCUSES ATTENTION AWAY FROM --
10 THE COURT: COUNSEL, YOU'LL HAVE AN
11 OPPORTUNITY TO MAKE THAT PITCH TO THE JURY.

12 MR. HOUSTON: THE DEMONSTRATIVE ON THE BOARD,
13 THEY GET TO KEEP EVERYTHING IN THE GREEN. 1 PERCENT OF
14 THEIR SALES.

15 LET'S GET A DIFFERENT DEMONSTRATIVE. THERE'S
16 ABOUT 93 SEATS IN THE ROOM. 93. WITH THE -- WITH THE
17 WOODEN CHAIRS, THERE'S A HUNDRED OF THEM. TAKING AWAY
18 ONE CHAIR, ABOUT 1 PERCENT OF ALL THE CHAIRS YOU SEE IN
19 THIS ROOM, DID IT CHANGE THE ROOM FOR YOU? DID IT
20 CHANGE THE DYNAMICS OF THIS ROOM? NOT AT ALL.

21 1 PERCENT, \$337 MILLION. THEY STILL GET TO
22 KEEP 99 PERCENT OF THEIR SALES.

23 I KNOW THESE ARE BIG NUMBERS, FOLKS, BUT THIS
24 IS A BIG CORPORATION AND THE PURPOSE IS TO DETER FUTURE
25 CONDUCT. OKAY?

26 AND I'LL SORT OF GET TO THE PUNCH LINE HERE.

1 THIS IS THE NUMBER I THINK IS MOST APPROPRIATE. OKAY.
2 THE NEXT NUMBER -- WELL, LET ME SAY IT THIS WAY: WHEN I
3 SAID THIS IS THE NUMBER I THINK IS MOST APPROPRIATE,
4 IT'S BECAUSE I THINK THAT'S THE NUMBER THAT'S MOST
5 LIKELY TO ACCOMPLISH THE GOALS FOR PUNISHMENT AND
6 DETERRENCE FOR THIS CORPORATION. I DON'T WANT YOUR
7 ANGER. I WANT YOUR CARE.

8 THE NEXT NUMBER IS A RIDICULOUSLY LARGE NUMBER
9 THAT I'M NOT ASKING YOU FOR, BUT I'M ASKING YOU TO PUT
10 IT IN CONTEXT AS TO WHAT IT MIGHT MEAN FOR SUZUKI.
11 OKAY? IT'S A BILLION DOLLARS. A BILLION DOLLARS. PUT
12 IT IN CONTEXT. I'M NOT ASKING YOU FOR THE NUMBER. I'M
13 ASKING YOU TO CONSIDER WHAT THAT NUMBER WOULD MEAN TO
14 SUZUKI.

15 21'S OKAY?

16 SO A BILLION DOLLARS, BUT I'M GOING TO DO
17 SOMETHING BEFORE I GET BACK TO A BILLION DOLLARS. OKAY?

18 10 PERCENT OF THEIR TOTAL SALES IS \$3.37
19 BILLION. 10 PERCENT IS \$3.37 BILLION. RIDICULOUS
20 NUMBER, OKAY? BUT WHY WOULD I BRING THAT UP? BECAUSE
21 OF THE 10 PERCENT FIGURE.

22 MR. TABAK WENT AFTER DR. WAGNER ON THE STAND
23 ABOUT JOEY'S 10 PERCENT CHANCE OF HIM LOSING HIS LEG AND
24 HE MINIMIZED THAT PERCENTAGE OF BEING A RATHER
25 INSIGNIFICANT NUMBER. DO YOU THINK THEY WOULD HAVE THE
26 SAME ENTHUSIASM FOR 10 PERCENT BEING AN INSIGNIFICANT

1 NUMBER WHEN IT CAME TO THEM LOSING REVENUES? DO YOU?
2 BECAUSE I'LL TELL YOU, UNLIKE LOST REVENUES, A LEG
3 DOESN'T GROW BACK, RIGHT? BUT THAT'S 10 PERCENT.
4 THAT'S A RIDICULOUS NUMBER. I SAID 1 BILLION. I DIDN'T
5 SAY 3.37 BILLION. I SAID 1 BILLION.

6 SO WHAT DOES 1 BILLION LOOK LIKE? \$1 BILLION
7 IS LESS THAN 3 PERCENT, LESS THAN 3 PERCENT OF THEIR
8 TOTAL SALES. IT'S 2.96 PERCENT. OKAY? \$1 BILLION.
9 IT'S A VERY LARGE NUMBER. WOULD THAT PUNISH AND DETER?
10 I SUBMIT TO YOU IT ABSOLUTELY WOULD, BUT I DON'T THINK
11 THAT'S AN APPROPRIATE NUMBER BECAUSE IN THIS CASE, IN
12 CASES LIKE THIS, OUR JOB IS NOT TO DESTROY, IT'S TO
13 DETER AND, I THINK THAT NUMBER DOES TOO MUCH TO SUZUKI.
14 OKAY?

15 SO ULTIMATELY, I'VE GIVEN YOU THREE OPTIONS,
16 POWER ONE -- REALLY TWO. LET'S DISCOUNT -- PUT THE
17 BILLION DOLLARS ASIDE. NINE OUT OF 12, IT'S THE SAME
18 ISSUE AS YESTERDAY. OKAY? I WOULD LOVE UNANIMOUS. I
19 WOULD LOVE UNANIMOUS, BECAUSE THAT'S THE MESSAGE THAT
20 CAN BE HEARD AND RECEIVED. BUT THE LAW ONLY REQUIRES
21 NINE OUT OF 12. OKAY? SO WHEN NINE OF YOU AGREE ON A
22 NUMBER WITH KINDNESS, WRITE THE NUMBER DOWN AND SUBMIT
23 IT, AND YOUR JOB IS DONE. THE GRAPHIC YOU SEE.

24 SUZUKI KNEW THIS DAY WAS COMING. OKAY. THEIR
25 DOCUMENTS SHOW IT. EXHIBIT 71, WHICH IS THE KUDO MEMO,
26 STATED, IF WE DON'T RESPOND ACTIVELY AND THE PROBLEM

1 COMES TO LIGHT, THE COURTS AND NHTSA WILL DEMAND
2 DISCLOSURE OF DOCUMENTS AND WE WILL BE IN A SITUATION
3 WHERE SUZUKI KNEW ABOUT THE PROBLEM AND DID NOTHING TO
4 RESPOND AND WE WON'T BE ABLE TO DEFEND OURSELVES. THEY
5 TRIED.

6 IT GOES ON TO SAY IF THE PROBLEM BECOMES
7 PUBLIC IN THE FUTURE, THE HEAD OFFICE WILL BE HELD TO
8 ACCOUNT. AND IT SAYS PENALTIES WILL BE IN IMPOSED,
9 WHICH IS WHAT I FOCUSED ON, THAT PHRASE, PENALTIES WILL
10 BE IMPOSED. BUT IT GOES ON. IF YOU READ THAT KUDO MEMO
11 IN THAT CHART, IT SAYS PENALTIES WILL BE IMPOSED FOR
12 NEGLECTING THE OBLIGATION TO REPORT SAFETY ISSUES. AND
13 THAT'S AN IMPORTANT PART HERE BECAUSE WE WANT TO DETER
14 THAT SAME FUTURE BAD CONDUCT.

15 YOUR VERDICT CAN CONVERT THEM AND THIS IS MY
16 HOPE. THIS IS MY HOPE FOR TODAY. YOUR VERDICT ON A
17 SUBSTANTIAL PUNITIVE DAMAGES AWARD, MY HOPE IS THAT THEY
18 GO FROM BEING A FIRM THAT DOESN'T -- THAT NO LONGER SAYS
19 THIS IS NOT A SAFETY ISSUE TO BEING AN AMBASSADOR IN THE
20 INDUSTRY AS TO WHAT TO DO WHEN YOU RECOGNIZE A POTENTIAL
21 SAFETY DEFECT EXISTS. I WANT THEM TO BE AN AMBASSADOR.
22 I DO NOT WANT TO DESTROY THEM. I DON'T. I WANT YOUR
23 KINDNESS. I WANT YOUR CARE. I WANT YOU TO SEND THEM
24 NOTICE, YOU NEED TO CHANGE, THIS IS NOT ACCEPTABLE. AND
25 YOU GET TO DECIDE WHAT VALUE THAT IS TO MAKE THAT HEARD.

26 AND THAT CHANGE HAS MEANING AND PURPOSE. AND

1 CARE AS OPPOSED TO ANGER WILL CARRY WITH YOU LONGER.
2 ANGER IS FLEETING. CARE WILL STAY WITH YOU. WHEN YOU
3 COME BACK TODAY AND THINK ABOUT WHAT YOU'VE DONE, HOW
4 MUCH YOU'VE AWARDED, IF ANY, YOU'LL KNOW, DID I -- IF
5 YOU DID IT OUT OF CARE, IT'LL STAY WITH YOU. I DID IT
6 FOR THE RIGHT REASONS.

7 AT THIS POINT, I TOLD YOU I NEEDED ABOUT 20
8 MINUTES OF YOUR TIME AND THAT'S WHAT I NEEDED. MY VOICE
9 IS SPENT. THAT'S ALL I CAN DO. YOUR VOICE IS THE ONLY
10 ONE THAT MATTERS AT THIS POINT. THAT'S IT. YOU'VE BEEN
11 HERE FOR -- I THINK TODAY IS FIVE WEEKS -- WELL, FOR US,
12 IT'S FIVE WEEKS. I THINK FOR YOU, THIS IS FOUR WEEKS.
13 IT'S BEEN A LONG TIME. YOU'VE PAID ATTENTION. I AM
14 ETERNALLY GRATEFUL ON BEHALF OF JOEY FOR WHAT YOU DID
15 FOR HIM YESTERDAY. I'M GRATEFUL FOR YOUR EFFORTS THAT
16 YOU PUT IN TO DATE. I'M ASKING YOU FOR ONE MORE STEP,
17 ONE DAY, 1 PERCENT, AND I SUBMIT TO YOU THAT'S THE RIGHT
18 NUMBER.

19 YOUR VOICE IS THE ONLY ONE THAT MATTERS AND WE
20 KNOW IT MATTERS. YOU KNOW IT MATTERS. YOU KNOW IT WILL
21 MATTER. I NEED YOUR HELP. I NEED YOUR HELP TO PROTECT
22 MOTORCYCLE RIDERS LIKE JOEY, TO PROTECT INNOCENT PEOPLE
23 ON THE STREETS THAT SHARE THE STREETS WITH THESE
24 MOTORCYCLES --

25 MR. RIGGS: OBJECTION, YOUR HONOR. GOLDEN
26 RULE.

1 THE COURT: SUSTAINED.

2 MR. HOUSTON: I NEED YOUR HELP TO PREVENT
3 SUZUKI FROM EVER DOING THIS AGAIN WHEN THEY REALIZE
4 THEIR PRODUCT --

5 MR. RIGGS: OBJECTION, YOUR HONOR.

6 THE COURT: SUSTAINED.

7 MR. HOUSTON: I PROMISED I'D GET THIS TO YOU
8 AS QUICKLY AS I COULD. I THINK I'VE LIVED UP TO MY
9 PROMISES THROUGHOUT THIS TRIAL AND YOU FOLKS HAVE
10 DELIVERED YESTERDAY IN A WAY THAT WAS COMPELLING.

11 THANK YOU.

12 THE COURT: THANK YOU, MR. HOUSTON.

13 MR. RIGGS?

14 MR. RIGGS: GOOD MORNING. IN DETERMINING THE
15 PROPER AMOUNT OF PUNITIVE DAMAGES, WHICH IS WHY WE'RE
16 HERE THIS MORNING, IF ANY, YOU MAY NOT ONLY CONSIDER
17 SUZUKI MOTOR CORPORATION'S SIZE, WEALTH, OVERALL PROFITS
18 AND REVENUES. ANY AMOUNT YOU AWARD MUST BE REASONABLY
19 RELATED TO MR. SOULLIERE'S HARM.

20 AS I ASKED YOU IN VOIR DIRE AND AGAIN IN
21 OPENING, ALL SUZUKI'S ASKED FOR IS A LEVEL PLAYING
22 FIELD. NO SYMPATHY FOR THE PLAINTIFF, NO EMOTION SHOULD
23 INFLUENCE YOUR DECISIONS, NO ANGER.

24 PUNITIVE DAMAGES ARE AN EXTRAORDINARY REMEDY.
25 THEY'RE RARELY ALLOWED. THEY'RE RESERVED FOR SPECIAL
26 CIRCUMSTANCES. THEY'RE NOT INTENDED TO COMPENSATE

1 MR. SOULLIERE. YOU'VE ALREADY DONE THAT AND EXTREMELY
2 WELL. PUNITIVE DAMAGES ARE ONLY JUSTIFIED IF NECESSARY
3 TO PUNISH A PARTY FOR MALICIOUS OR OPPRESSIVE CONDUCT,
4 CONDUCT THAT ACTUALLY RESULTED IN HARM TO MR. SOULLIERE,
5 AND TO DISCOURAGE SIMILAR CONDUCT IN THE FUTURE.

6 FRAUD HAS BEEN TAKEN OFF THE TABLE, AS YOU
7 KNOW. WE'RE TALKING ABOUT MALICE OR OPPRESSIVE CONDUCT
8 AS IT RELATES TO THE CIRCUMSTANCES AND HARM THAT
9 OCCURRED TO MR. SOULLIERE.

10 PLAINTIFF'S NOT AUTOMATICALLY ENTITLED TO
11 THESE DAMAGES SIMPLY BECAUSE HE'S FOUND SUZUKI LIABLE
12 FOR COMPENSATORY DAMAGES. YOU MAY NOT AWARD PUNITIVE
13 DAMAGES MERELY BECAUSE YOU FOUND IT MORE LIKELY THAN NOT
14 THAT THE PRODUCT WAS DEFECTIVE OR THAT SUZUKI WAS
15 NEGLIGENT. IF SUZUKI MADE A MISTAKE OR AN ERROR OF
16 JUDGMENT ON AN ISSUE ON WHICH PEOPLE CAN DISAGREE,
17 PUNITIVE DAMAGES COULD NOT BE JUSTIFIED JUST ON THAT
18 BASIS. IT'S A HIGHER STANDARD FOR PUNITIVE DAMAGES,
19 CLEAR AND CONVINCING.

20 EVEN IF YOU FIND PUNITIVE DAMAGES WOULD BE
21 JUSTIFIED, YOU HAVE THE DISCRETION NOT TO AWARD THEM.
22 \$11 MILLION SENDS A SIGNIFICANT MESSAGE.

23 I THINK IT'S IMPORTANT TO ALSO POINT OUT THIS
24 IS NOT AN INVESTIGATION THAT SUZUKI CONDUCTED JUST FOR
25 SHOW AND NO GO. SUZUKI DID INITIATE A VOLUNTARY RECALL
26 AT A GREAT EXPENSE.

1 COULD I HAVE EXHIBIT 115-B? AND CAN I HAVE UP
2 AT THE TOP JUST THE TOTAL COST?

3 THIS IS IN EVIDENCE. THIS WAS THE DOCUMENT
4 PRESENTED BY MR. MATSUMOTO TO THE QUALITY COUNTERMEASURE
5 COMMITTEE.

6 WHEN THE DECISION WAS MADE, SUZUKI WAS FULLY
7 AWARE THAT THE COST WOULD BE OVER 6 BILLION YEN, WHICH
8 USING THE EXCHANGE RATE AGREED UPON BY PLAINTIFF'S
9 ECONOMIST WOULD BE AN EXCESS OF \$40 MILLION --
10 \$49 MILLION. THAT WAS NOT AN INSIGNIFICANT AMOUNT.

11 YOU CAN TAKE THAT DOWN. THANK YOU.

12 MR. HOUSTON'S JUST MADE REFERENCE TO
13 MR. KUDO'S MEMO WHICH WAS A -- HE'S CALLED A RISK
14 BENEFIT. AGAIN, THAT'S THE TYPE OF THINGS THAT
15 CORPORATIONS DO WHEN THEY ARE DECIDING ON COURSES OF
16 ACTION. THEY HAVE TO EVALUATE, IF WE DO THIS, WHAT ARE
17 THE CONSEQUENCES? IF WE DO THIS, WHAT ARE THE
18 CONSEQUENCES? YOU'VE SEEN THAT. IT'S BEEN EXPOSED TO
19 YOU. IT HASN'T BEEN HIDDEN FROM YOU. THIS IS WHAT GOES
20 ON IN EVERY SIGNIFICANT CORPORATION WHEN FACED WITH
21 QUESTIONS ABOUT FUTURE ACTIVITIES.

22 IT'S IMPORTANT TO REMEMBER AND REMIND YOU THAT
23 THIS RECALL THAT SUZUKI DID DO WAS VOLUNTARY. NEITHER
24 NHTSA -- YOU HEARD, NATIONAL HIGHWAY TRAFFIC SAFETY
25 ADMINISTRATION. NEITHER NHTSA HERE IN THE UNITED STATES
26 OR ANY GOVERNMENTAL AGENCY FORCED SUZUKI TO DO THIS

1 RECALL. SUZUKI DECIDED TO DO IT ON ITS OWN FOR THE
2 BENEFIT OF ITS CUSTOMERS WITHOUT ANY COMPULSION OR
3 MOTIVATION AND KNOWING FULL WELL THAT IT WAS A
4 SIGNIFICANT INVESTMENT IN TIME AND EXPENSE AND
5 REPUTATION AND IT DID IT ANYWAY.

6 AND EVEN IF YOU THINK IT SHOULD HAVE BEEN DONE
7 SOONER, AND APPARENTLY YOU DO, IN HINDSIGHT, IF YOU
8 THINK THAT WAS AN ERROR TO WAIT, THAT'S NOT EVIDENCE OF
9 MALICIOUS CONDUCT ON THE PART OF SUZUKI OR OPPRESSIVE
10 CONDUCT BY SUZUKI. THE TRUTH IS THIS WAS -- AS YOU'VE
11 HEARD, THIS WAS THE MOST CHALLENGING AND DIFFICULT
12 PROBLEM SUZUKI HAD ENCOUNTERED IN OVER 30 YEARS, AND
13 THAT WAS ACCORDING TO MR. KUDO WHO SPENT HIS ENTIRE
14 CAREER THERE. NO ONE IN THE MOTORCYCLE INDUSTRY HAD
15 EVER SEEN ANYTHING LIKE THIS OR EVEN IMAGINED THAT YOU
16 COULD BE GENERATING HYDROGEN GAS INSIDE A COMPONENT PART
17 OF A MOTORCYCLE.

18 AND THE COMMENT THAT WAS BROUGHT TO YOUR
19 ATTENTION BY MR. HOUSTON THAT MR. KUDO WAS LOOKING TO
20 OTHERS IN THE INDUSTRY, OF COURSE HE WAS. HAS ANYBODY
21 ELSE SEEN THIS? HAS ANYBODY ELSE FOUND OUT THAT THEY'VE
22 GOT A GAS GENERATOR ON THEIR MOTORCYCLE? NO, NO ONE
23 DID. AND IF THEY DID, IS IT -- DID ANYBODY ELSE GET IN
24 A SIMILAR SITUATION? AND IF SO, WHAT DID THEY DO? DID
25 THEY DO A RECALL? DID THEY DO A SERVICE BULLETIN?

26 MR. HOUSTON: OBJECTION, YOUR HONOR. ASSUMES

1 FACTS NOT IN EVIDENCE. THIS IS IMPROPER ARGUMENT.

2 THE COURT: SUSTAINED.

3 MR. RIGGS: IF YOU DECIDE TO AWARD PUNITIVE
4 DAMAGES, THE AWARD SHOULD BE NO GREATER THAN THE AMOUNT
5 YOU FIND NECESSARY TO PUNISH AND DETER SUZUKI FROM THE
6 HARM CAUSED TO MR. SOULLIERE. IF YOU THINK THE CONDUCT
7 THAT HARMED MR. SOULLIERE COULD HARM SOMEONE ELSE, THOSE
8 PEOPLE HAVE THE RIGHT TO BRING THEIR OWN LAWSUITS, BUT
9 THEIR CLAIMS ARE NOT AT ISSUE IN THIS CASE. THEY'RE NOT
10 RELEVANT TO YOUR DELIBERATIONS. THEY CANNOT BE FACTORED
11 INTO YOUR DECISION CONCERNING ANY AMOUNT OF PUNITIVE
12 DAMAGES IN THIS CASE. YOUR FOCUS MUST REMAIN ONLY ON
13 MR. SOULLIERE'S HARM AND CURRENT CONDITION AND LIKELY
14 CONDITION GOING FORWARD.

15 CAN I HAVE 3942 UP, PLEASE? JUST CAN YOU
16 EXPAND THAT LAST SENTENCE? THANK YOU.

17 JUST TO REMIND YOU, AS YOU CONSIDER YOUR TASK,
18 PUNITIVE DAMAGES MAY NOT BE USED TO PUNISH SUZUKI FOR
19 THE IMPACT OF ITS ALLEGED MISCONDUCT ON PERSONS OTHER
20 THAN JOEY SOULLIERE. NO ONE ELSE.

21 THANK YOU.

22 IN ADDITION TO THE COMPENSATORY --
23 COMPENSATORY AWARD THAT YOU'VE ALREADY ASSESSED, WHEN
24 CONSIDERING ANY ADDITIONAL PUNITIVE DAMAGES, YOU SHOULD
25 BE MINDFUL OF THE FACT THAT SUZUKI IS AN INTERNATIONAL
26 COMPANY WITH SIGNIFICANT ASSETS, BUT THE LAW DOESN'T

1 ALLOW YOU TO INCREASE YOUR AWARD SIMPLY ON THAT FACT,
2 AND CERTAINLY YOU'VE BEEN ENCOURAGED TO DO SO.

3 COULD I HAVE SECTION C HIGHLIGHTED AND BLOWN
4 UP?

5 IN VIEW OF SUZUKI MOTOR CORPORATION'S
6 FINANCIAL CONDITION -- THIS IS PART OF THE INSTRUCTION
7 THE COURT HAS GIVEN YOU AND YOU'LL HAVE IN THE JURY
8 ROOM -- WHAT AMOUNT IS NECESSARY TO PUNISH IT AND
9 DISCOURAGE FUTURE WRONGFUL CONDUCT? THAT'S APPROPRIATE.
10 BUT YOU MAY NOT INCREASE THE PUNITIVE AWARD ABOVE AN
11 AMOUNT THAT IS OTHERWISE APPROPRIATE MERELY BECAUSE
12 SUZUKI CORPORATION HAS SUBSTANTIAL FINANCIAL RESOURCES.
13 AND YET MOST OF MR. HOUSTON'S COMMENTS WAS ABOUT
14 BILLIONS OF DOLLARS OF SALES. NOT INCOME, NOT PROFIT,
15 SALES. THERE MUST BE A REASONABLE RELATIONSHIP BETWEEN
16 THE AMOUNT OF PUNITIVE DAMAGES AND THE HARM THAT SUZUKI
17 KNEW WAS LIKELY TO OCCUR TO MR. SOULLIERE BECAUSE OF ITS
18 CONDUCT. AND AGAIN, THAT'S PART OF THE INSTRUCTION.

19 CAN I HAVE SECTION B, PLEASE?

20 YOU MUST CONSIDER IS THERE A REASONABLE
21 RELATIONSHIP BETWEEN THE AMOUNT OF PUNITIVE DAMAGES AND
22 MR. SOULLIERE'S HARM THAT SUZUKI MOTOR CORPORATION KNEW
23 WAS LIKELY TO OCCUR? SUZUKI DIDN'T KNOW THAT
24 MR. SOULLIERE WAS GOING TO BE INJURED. AS I SAY, SUZUKI
25 HAD NO REASON TO BELIEVE THAT HARM WAS LIKELY TO OCCUR
26 TO MR. SOULLIERE OR ANYONE ELSE.

1 I'LL REMIND YOU THAT THE EVIDENCE IS AT THE
2 TIME OF THE RECALL, WHEN IT WAS INITIATED IN OCTOBER OF
3 2013, SUZUKI HAD NOT BEEN MADE AWARE OF ANY INJURIES
4 RELATED TO THE SPONGY BRAKE COMPLAINTS THAT IT WAS
5 INVESTIGATING. IT WAS CONVINCED THAT IN THOSE RARE
6 INSTANCES WHERE A BRAKE WOULD BE ABLE TO DEVELOP A
7 SPONGY FEEL, IN THOSE INSTANCES, THE RIDER WOULD BE ABLE
8 TO IMMEDIATELY RECOGNIZE IT PRIOR TO BEGINNING THE RIDE.
9 NO EVIDENCE, NO KNOWLEDGE, NO NOTICE OF INJURIES, AND
10 THE BELIEF THAT WE'RE INVESTIGATING A SPONGY BRAKE THAT
11 CAN EASILY BE IDENTIFIED BEFORE YOU RIDE THE BIKE?
12 BASED ON THAT EVIDENCE AND UNDERSTANDING SUZUKI HAD
13 CONCERNING THE NOTICEABILITY OF THIS SPONGY BRAKE, IT'S
14 JUST NOT ACCURATE TO CLAIM THAT SUZUKI WILFULLY
15 DISREGARDED THE HEALTH OR SAFETY OF MR. SOULLIERE.

16 YOU SHOULD ALSO CONSIDER THE FACT THAT SUZUKI
17 HAD NO MALICE FOR MR. SOULLIERE. IT WAS INVESTIGATING
18 COMPLAINTS ABOUT SPONGY BRAKES, A CONDITION THAT WAS
19 OCCURRING ON AN EXCEPTIONALLY SMALL PERCENTAGE OF THE
20 UNITS SOLD IN THE UNITED STATES. AND AS YOU HEARD,
21 THOSE COMPLAINTS DID NOT BEGIN TO ACTUALLY ACCUMULATE
22 UNTIL 2012, WITHIN A YEAR OF HIS PURCHASE AND ACCIDENT.
23 NOT 2004, AS PLAINTIFF'S COUNSEL TRIED TO INSINUATE BY
24 DISCUSSING THE BRAKE MEMO. EVEN PLAINTIFF'S OWN EXPERT,
25 MR. HYATT, AGREED THAT A SPONGY BRAKE WOULD DEVELOP
26 SLOWLY AND WOULD NOT SUDDENLY GO FROM A GOOD BRAKE TO NO

1 BRAKE.

2 THIS EVIDENCE, I THINK, MUST BE RELEVANT -- IS
3 RELEVANT AND MUST COMPEL YOU TO CONSIDER THAT SUZUKI WAS
4 NOT MALICIOUS IN ITS ACTIONS REGARDING THE SPONGY BRAKE
5 COMPLAINTS, ITS INVESTIGATION, AND THE TIMING OF ITS
6 DECISION TO INITIATE THE RECALL.

7 AS YOU KNOW, YOU'VE READ THE NOTICE THE 573
8 NOTICE TO NHTSA. SUZUKI DID NOT RECALL THE FRONT BRAKE
9 MASTER CYLINDERS FOR SUDDEN FAILURES CAUSED BY
10 DISRUPTION OF THE PRESSURE SEAL AND THEY DIDN'T RECALL
11 IT ON THAT BASIS BECAUSE THERE WAS NO EVIDENCE THAT IT
12 WAS HAPPENING. AS MR. MATSUMOTO TESTIFIED, SUZUKI NEVER
13 FOUND ANY HARD CORROSION BYPRODUCT IN ANY MASTER
14 CYLINDER IT INSPECTED, AND THOSE THAT HAD CORROSION
15 INSIDE OF THEM ONLY HAD A SOFT GEL THAT WAS NOT CAPABLE
16 OF DISRUPTING THE SEAL.

17 IT'S TRUE MR. HOUSTON FOUND A SPREADSHEET OF
18 SERVICE REQUESTS, JUST SHORT BLURBS ON A DOCUMENT, THAT
19 SEEMED TO REPRESENT THERE WAS FIVE INSTANCES OF PRESSURE
20 BEING LOST WHILE RIDERS WERE RIDING THEIR MOTORCYCLES.
21 BUT YOU'VE HEARD THAT EXPLAINED THAT DURING THAT
22 INVESTIGATION, BECAUSE THAT WAS SO -- SUCH AN OUTLIER,
23 THOSE WERE INCONSISTENT WITH THE SPONGY BRAKE
24 COMPLAINTS. MR. KUDO ACTUALLY INVESTIGATED THOSE
25 SPECIFICALLY TO FIND OUT ARE WE -- IS THERE SOMETHING
26 ELSE GOING ON HERE?

1 AND YOU HEARD THE EVIDENCE, YOU HEARD THE
2 TESTIMONY OF THOSE FIVE THOSE OUTLIERS, NONE OF THEM
3 WERE RELATED TO THE FRONT BRAKE MASTER CYLINDER. NONE
4 OF THEM WERE RELATED TO A SPONGY BRAKE. ONE OF THEM WAS
5 A REAR BRAKE, A COMPLAINT ABOUT A REAR BRAKE. THREE OF
6 THEM WERE ABOUT CALIPERS THAT HAD NOTHING TO DO WITH
7 THIS CONDITION AND ONE WAS ABOUT A ROTOR.

8 THE EVIDENCE IS SIMPLY NOT THERE TO SUGGEST
9 THAT SUZUKI WAS MADE AWARE OF BRAKES SUDDENLY FAILING
10 PRIOR TO MR. SOULLIERE'S ACCIDENT. AND THAT INCLUDES
11 THE FOUR OSIS THAT YOU HEARD ABOUT, THE VIDEOS OF THESE
12 OTHER RIDERS. AS YOU KNOW, THE JUDGE ONLY ALLOWED YOU
13 TO CONSIDER THOSE FOR PURPOSE OF NOTICE TO SUZUKI. BUT
14 THERE'S NO EVIDENCE THAT SUZUKI EVER ACTUALLY SAW OR
15 HEARD ABOUT THOSE EVENTS UNTIL AFTER IT DID THE RECALL.
16 IT DID THE RECALL VOLUNTARILY WITHOUT EVEN HAVING THAT
17 INFORMATION AVAILABLE TO IT. INFORMATION THAT WAS
18 PROVIDED TO AN INDEPENDENT DEALER DOWN THE STREET OR
19 ACROSS THE COUNTRY. THAT'S NOT INFORMATION THAT SUZUKI
20 JAPAN HAD. INFORMATION THAT THE AMERICAN DISTRIBUTOR
21 HAD. IT'S SIMILAR. THAT'S NOT NOTICE, THAT'S NOT
22 INFORMATION THAT SUZUKI JAPAN HAD. YOU CAN'T -- YOU
23 CAN'T AUTOMATICALLY TRANSFER THAT BECAUSE THAT'S NOT HOW
24 THE SYSTEM WORKED.

25 THESE -- THIS INFORMATION, THESE INCIDENTS
26 THAT YOU WERE SHOWN AND DISCUSSED ARE NOT EVIDENCE OF

1 WILLFUL DISREGARD OF THE SAFETY OF MR. SOULLIERE AND YET
2 THAT'S A STANDARD THAT YOU HAVE TO FIND IN ORDER TO
3 AWARD PUNITIVE DAMAGES.

4 BOTH MR. KUDO AND MR. MATSUMOTO TESTIFIED THAT
5 SUZUKI DID NOT BELIEVE THAT IT WAS POSSIBLE FOR THE
6 FRONT BRAKE TO SUDDENLY DIMINISH OR FAIL DURING A RIDE.
7 THEY'D NEVER SEEN IT IN ANY OF THE EVIDENCE THAT THEY
8 HAD COLLECTED. AND IT WOULD BE INAPPROPRIATE AND,
9 FRANKLY, UNFAIR TO PUNISH SUZUKI FOR NOT ACTING ON A
10 THEORY OR NOT ACTING ON IT QUICK ENOUGH BECAUSE IT WAS A
11 MERE POSSIBILITY TO THEM. AND EVEN MR. HYATT, WHO WAS A
12 SPONSOR OF THIS THEORY AND TRIED TO BRING IT TO YOU, HE
13 HAD NEVER ACTUALLY SEEN IT AND COULD NOT DUPLICATE IT.
14 IN FACT, DIDN'T TRY TO DUPLICATE IT. MR. HYATT EVEN
15 SAID IF HIS THEORY COULD HAPPEN, IT WOULD BE SO RARE AND
16 RANDOM THAT HE DIDN'T WANT TO WASTE HIS TIME TRYING TO
17 DUPLICATE IT.

18 AND IN THAT CONTEXT, THINK ABOUT THIS AS YOU
19 DELIBERATE. IS IT FAIR TO PUNISH SUZUKI FOR NOT ACTING
20 ON A THEORY THAT EVEN MR. HYATT, THE AUTHOR OF THIS
21 THEORY, DIDN'T WANT TO SPEND HIS TIME TRYING TO
22 DUPLICATE? THAT'S NOT FAIR. THAT'S NOT REASONABLE.

23 ONE FINAL THOUGHT FOR YOUR CONSIDERATION. YOU
24 WILL REMEMBER THE REPORT PREPARED AND SUBMITTED BY
25 MR. MATSUMOTO TO THE QUALITY COUNTERMEASURE COMMITTEE.
26 THAT WAS IN OCTOBER OF 2013. MR. MATSUMOTO WAS NOT A

1 DECISION-MAKING MEMBER OF THAT COMMITTEE, BUT HE
2 PREPARED THE REPORT THAT THE COMMITTEE REVIEWED WHEN IT
3 DECIDED TO DO THE RECALL.

4 A PRIMARY PURPOSE OF PUNITIVE DAMAGES, AS YOU
5 HEARD FROM MR. HOUSTON, IS TO DETER FUTURE CONDUCT. BUT
6 YOU CAN SEE ON THAT VERY DOCUMENT -- IT'S 115-B. YOU
7 CAN SEE ON THAT DOCUMENT SUZUKI HAD ALREADY ENGAGED IN
8 SELF-CRITICAL ANALYSIS AND HAD INSTITUTED NEW POLICIES
9 AND PROCEDURES GOING FORWARD.

10 CAN I HAVE 115-B UP, PLEASE? AND IF YOU COULD
11 FOCUS ON THE BOTTOM LEFT BOX.

12 AS YOU CAN SEE, IN OCTOBER OF 2013, WHILE
13 DECIDING TO DO THE RECALL, SUZUKI HAD ALREADY INSTITUTED
14 CHANGES. WE WILL ADD THE FOLLOWING MENTION TO SES,
15 SUZUKI ENGINEERING STANDARD, S OF BRAKE DESIGN, OCTOBER
16 2013. PLACE THE RETURN HOLE AT THE TOP OF THE MASTER
17 CYLINDER. ANY PRODUCT WHICH HAS PRESENTED A PROBLEM
18 SHALL BE COLLECTED WITH THE CONDITIONS AS IN THE
19 PROBLEM. WE WILL CARRY OUT AN FMEA IF ANY NEW STRUCTURE
20 IS ADOPTED. APPLICATION TO OTHER MODELS OR OTHER
21 PROCESSES. FMEA, SOME OF YOU MAY KNOW, IS A FAILURE
22 MODE AND EFFECT ANALYSIS --

23 MR. HOUSTON: OBJECTION, YOUR HONOR. ASSUMES
24 FACTS NOT IN EVIDENCE.

25 THE COURT: OVERRULED.

26 MR. RIGGS: OCTOBER OF 2013, SUZUKI HAD

1 ALREADY INITIATED CHANGES BASED UPON ITS OWN
2 SELF-ANALYSIS. LET'S LOOK AT THE BOX NEXT TO THAT.

3 WELL, BEFORE WE DO THAT, GO TO THE LEFT. IF
4 YOU WOULD, MS. HALL, ALL THE WAY TO THE LEFT OF THAT
5 LINE WHERE IT SAYS "PREVENTION OF REOCCURRENCE," TO THE
6 LEFT. TO -- YEAH, FURTHER TO THE LEFT. THERE. CAN YOU
7 HIGHLIGHT -- CAN YOU HIGHLIGHT THAT?

8 THESE THREE BOXES ON THE REPORT ARE ALL PART
9 OF PREVENTION OF REOCCURRENCE. THIS IS SPECIFICALLY
10 WHAT THE DETERRENCE THAT MR. HOUSTON IS ASKING YOU TO
11 AWARD DAMAGES FOR AND YET SUZUKI WAS ALREADY ON BOARD
12 WITH THAT.

13 NOW GO TO THE MIDDLE BOX, IF YOU WOULD,
14 MS. HALL.

15 IT SAYS CORRECTION OF NONSATISFACTORY --
16 NONSATISFACTION OF TARGET DEADLINE. IT TOOK TOO LONG,
17 1600 HUNDRED DAYS. THEY ACKNOWLEDGE THAT. IT TOOK MUCH
18 TIME TO IDENTIFY THE CAUSE OF THE FOLLOWING -- FOR THE
19 FOLLOWING REASONS: "BECAUSE THE" PORT "ITSELF WAS" --
20 "THE PART ITSELF WAS COLLECTED WITHOUT THE MOTORCYCLE OR
21 IT WAS COLLECTED AFTER BRAKE FLUID CHANGE. OVERHEAD" --
22 I'M SORRY, IT'S VERY DIFFICULT TO READ -- "REASSEMBLY,
23 ET CETERA, WE FAILED TO IDENTIFY THE REAL CAUSE, BUT
24 ERRONEOUSLY JUDGED THAT THE PROBLEM HAD BEEN CAUSED BY
25 INAPPROPRIATE MAINTENANCE SUCH AS AIR IN BLEEDING. WE
26 DID NOT KNOW THE KNOWLEDGE THAT CORROSION OF INNER PART

1 MAY PRODUCE HYDROGEN, THEREFORE AS THE IMPROVEMENT, WE
2 WILL COLLECT THE PART WHICH" WAS -- "HAS PRESENTED
3 PROBLEMS AS IT WAS FOR ENABLING RAPID IDENTIFICATION OF
4 CAUSE."

5 AGAIN, THIS IS -- THIS IS DETERRENCE. THIS IS
6 CORRECTION. THIS IS ACKNOWLEDGING WE'VE MADE A MISTAKE.
7 WE'RE GOING TO FIX THIS.

8 AND MS. HALL, COULD YOU IDENTIFY THE THIRD BOX
9 AND HIGHLIGHT IT? DID YOU CATCH IT ALL? YES, I THINK
10 YOU DID.

11 "THE MASTER CYLINDER HAS BEEN DESIGNED IN A
12 WAY CONTRARY TO THE PRINCIPAL STRUCTURE THAT ALLOWS
13 BLEEDING GAS UPWARD IN ORDER TO ENSURE A CLEARANCE WITH
14 THE OTHER PARTS. THIS IS THE ROOT CAUSE OF THE PROBLEM.
15 WE WILL SPECIFY THE RULE THAT THE RETURN HOLE SHOULD BE
16 PLACED AT THE TOP OF CYLINDER IN SES-S. WE WILL ADJUST
17 THE OTHER PARTS IF IT IS NECESSARY TO ENSURE A
18 CLEARANCE. THE PROBLEM WILL BE PREVENTED FROM
19 REOCCURRENCE. MATSUMOTO."

20 OCTOBER OF 2013, SUZUKI LOOKED AT ITS OWN
21 PERFORMANCE. IT INITIATED CHANGES, SIGNIFICANT CHANGES.
22 CHANGES TO MAKE SURE THIS WOULD NOT REOCCUR. THERE'S NO
23 NEED TO ASSESS PUNI- -- SUZUKI WITH PUNITIVE DAMAGES TO
24 DETER FUTURE CONDUCT. SUZUKI MADE THOSE CHANGES ITSELF
25 IN 2013. AND CERTAINLY NOT IN AN AMOUNT LIKE PLAINTIFF
26 HAS SUGGESTED, \$337 MILLION, AN UNBELIEVABLY LARGE

1 AMOUNT AND UNJUSTIFIED.

2 LET ME CONCLUDE WITH SOME COMMENTS. AND THIS
3 IS HARD. THIS IS VERY HARD. I GOT FINGERS POINTED AT
4 ME A LOT DURING THIS TRIAL, EVEN THIS MORNING. I HOPE
5 YOU'RE NOT ANGRY AT ME. I HOPE THAT I'VE DONE THE BEST
6 JOB I COULD FOR MY CLIENT. IF YOU ARE ANGRY AT ME, I
7 HOPE YOU DON'T TRANSFER THAT TO MY CLIENT, TO SUZUKI,
8 BECAUSE THEY DON'T DESERVE THAT.

9 I THINK YOU KNOW THAT THE DEFENSE TEAM FOR
10 SUZUKI THINKS YOU'VE REACHED THE WRONG RESULT, BUT WE
11 HAD OUR CHANCE TO PROVE THAT. YOU HAVE SPOKEN. WE
12 ACCEPT THAT. WE'VE DONE OUR JOB, YOU'VE DONE YOURS.
13 BUT NOW WE'RE AT THIS PUNISHMENT PHASE, SO IT'S MUCH
14 DIFFERENT. I'VE DEFENDED THE PRODUCT, BUT NOW I HAVE TO
15 DEFEND THEIR HONOR, THEIR ETHICS.

16 MR. MUNOZ SAYS WE DON'T KNOW JOEY. WELL, YOU
17 DON'T KNOW MR. MATSUMOTO OR MR. KUDO AND THE OTHER FINE
18 AND DECENT PEOPLE THAT WORK AT SUZUKI. THEY HAD NO ILL
19 WILL OR MALICE FOR JOEY OR FOR ANYONE. THEY GO TO WORK
20 AND THEY DO THEIR JOB AND DO THE BEST THEY CAN.

21 THE DOCUMENTS YOU'VE BEEN SHOWN ARE ROUGH. I
22 SUBMIT TO YOU IF YOU THINK ABOUT IT, YOU SHOULD BE
23 PLEASED ABOUT THAT. THAT'S WHAT YOU WOULD HOPE A
24 CORPORATION THAT BIG, THAT LARGE WOULD STILL ALLOW TO
25 HAPPEN, THE EXCHANGE THAT WOULD GO ON. STRONG, DIRECT,
26 AND HONEST EXCHANGES OF INFORMATION, UNVARNISHED, AS I

1 SAID IN CLOSING. NO FILTER.

2 THE AMERICAN DISTRIBUTOR DOING ITS JOB.
3 GETTING THE ATTENTION OF SUZUKI, THAT'S ITS JOB TOO.
4 YOU DON'T UNDERSTAND THE AMERICAN MARKET. YOU DON'T
5 UNDERSTAND AMERICAN LITIGATION. YOU NEED TO PAY MORE
6 ATTENTION TO THIS.

7 SUZUKI JAPAN DOING ITS JOB, LISTENING,
8 CHECKING, QUESTIONING, BUT INVESTIGATING. IT'S A
9 COMPANY THAT'S LAID BARE ITS INNER WORKINGS AND SHOULD
10 NOT BE PUNISHED FOR DOING THAT. DID THEY -- DID SUZUKI
11 MAKE MISTAKES? YOU OBVIOUSLY THINK SO. DID THEY MAKE
12 ERRORS IN JUDGMENT? DID THEY DELAY TOO LONG? BUT
13 MALICE, OPPRESSION, NO. CERTAINLY NOT BY CLEAR AND
14 CONVINCING EVIDENCE.

15 I SUBMIT TO YOU SUZUKI IS A DECENT, MORAL
16 COMPANY. THEY DID DO A VOLUNTARY RECALL. NO ONE ELSE
17 DID. SUZUKI DID NOT DESERVE TO BE PUNISHED FOR DOING
18 THE RIGHT THING, ALBEIT LATER THAN YOU THINK IT SHOULD
19 HAVE. THEY LEARN FROM THEIR MISTAKES AND THEY
20 SELF-CORRECTED A LONG TIME AGO IN 2013.

21 YOU'VE COMPENSATED JOEY AND QUITE WELL, I
22 BELIEVE, AND WE UNDERSTAND THAT, BUT PUNISHMENT FOR
23 SUZUKI IS UNNECESSARY. I SUBMIT TO YOU IT'S UNJUSTIFIED
24 AND IT'S CONTRARY TO THE INSTRUCTIONS IN THE LAW THAT
25 YOU'VE BEEN GIVEN.

26 I ASK YOU -- I IMPLORE YOU, ENOUGH IS ENOUGH.

1 PLEASE DO NOT PUNISH SUZUKI.

2 THE COURT: THANK YOU, MR. RIGGS.

3 MR. HOUSTON.

4 MR. HOUSTON: THANK YOU, YOUR HONOR.

5 FOR THE FIRST TIME TODAY, WE HEAR THE WORD
6 "VOLUNTARY RECALL." VOLUNTARY RECALL. YOU HEARD
7 MR. MATSUMOTO TALK ABOUT THEIR NECESSITY, THEIR
8 NECESSITY TO REPORT WITHIN FIVE DAYS, AND THEY DIDN'T.
9 AND THEN THEY ARE GOING TO COME IN HERE AND TELL YOU
10 THEY DID A VOLUNTARY RECALL. IT'S ABOUT AS VOLUNTARY AS
11 YOU PAYING YOUR TAXES OR SHOWING UP FOR JURY DUTY, OKAY?

12 THERE WAS NOTHING VOLUNTARY ABOUT IT OTHER
13 THAN THEY DIDN'T REQUIRE NHTSA TO FORCE THEM TO DO A
14 RECALL, BUT HE'S GOING TO COME IN TO YOU AND SAY, LOOK,
15 WE DID THIS VOLUNTARILY. LOOK AT THE GOOD WILL WE HAVE.

16 THIS IS MY FACE BY DAY. WHEN I TOLD YOU I'VE
17 BEEN ANGRY FOR A LONG TIME, I'M GOING TO STEP BACK AND
18 I'M GOING TO CALM DOWN, BUT THIS IS WHY I'VE GOTTEN SO
19 ANGRY, BECAUSE THIS IS JUST PURE MISREPRESENTATION TO
20 YOU FOLKS. OKAY?

21 HE PUT UP THE COSTS ON THERE. THE COSTS.
22 COMES TO \$150 A MOTORCYCLE. AND THAT INCLUDES LABOR.
23 AN HOUR OF LABOR. IT INCLUDES TAKING PARTS OFF AND
24 PUTTING IT BACK ON. IT'S NOT -- WE'RE NOT TALKING ABOUT
25 JUST THE COST OF THE LITTLE PISTON. NO. \$150 PER BIKE
26 IS WHAT THIS CAME DOWN TO THAT THEY TRIED TO -- THEY

1 WAITED 1600 DAYS TO DO.

2 YOU MIGHT THINK THAT MR. MUNOZ AND I KNOW WHAT
3 EACH OTHER'S GOING TO SAY ALL THE TIME, AND WE DON'T.
4 AND IT'S ONE OF THE MOST FASCINATING PARTS OF THIS, IS
5 WE PREPARE AND WE THINK, OKAY, THIS IS WHAT I THINK THE
6 JURY NEEDS TO HEAR. AND THEN HE BRINGS OUT LISTENING
7 VERSUS HEARING.

8 I DIDN'T KNOW HE WAS GOING TO SAY THAT, AND
9 I'M BROUGHT BACK TO THAT BECAUSE AFTER WHAT YOU DID
10 YESTERDAY FOR JOEY, IT'S STILL APPARENT TO ME THAT
11 THOUGH THEY HEARD YOU, THEY HAVEN'T LISTENED TO YOU.

12 MR. RIGGS GOT UP HERE AND TALKED ABOUT
13 DEFENDING SUZUKI'S ACTIONS WHEN, FOR THE MOST PART,
14 THERE WAS UNANIMOUS VERDICTS BY YOU FOLKS THAT WHAT THEY
15 DID WAS NOT RIGHT, AND HE'S STILL TRYING TO POINT AND
16 DEFEND THEIR ACTIONS. HE'S NOT LISTENING, AND IN FACT,
17 HE'S ASKING FOR A DISCOUNT. OKAY?

18 SO NOT ONLY -- HAVE YOU HEARD -- HAVE YOU
19 HEARD SUZUKI APOLOGIZE ONCE? ONE TIME? NO, NOT ONCE.
20 IF THEY ARE ACKNOWLEDGING THEY ARE GOING TO FIX THIS,
21 THEN WHY PUT PEOPLE ON THE STAND LIKE MR. HOOVER AND
22 MR. BREEN, WHO'S THEIR DREAM TEAM THAT WILL ALWAYS COME
23 IN AND SAY IT'S NEVER THEIR FAULT? WHY DO THAT? IF
24 THEY'RE ACKNOWLEDGING THEY'RE GOING TO FIX IT, THEN FIX
25 IT. AND THERE'S ONLY ONE WAY THEY'RE GOING TO DO IT.
26 THEY'RE GOING TO PUT YOUR NUMBER ON A LEDGER AND FIGURE

1 OUT WHAT TO DO WITH YOUR NUMBER. OKAY?

2 YOU ALREADY KNOW THE NUMBER I'VE ASKED YOU
3 FOR. I THINK IT'S APPROPRIATE. I THINK IT'S THE ONLY
4 WAY -- I WOULD HOPE THEY'RE GOING TO LISTEN TO YOU AT
5 THAT POINT. I ASK YOU TO HELP ME MAKE THEM LISTEN TO
6 YOU.

7 THANK YOU SO MUCH, FOLKS.

8 THE COURT: THANK YOU, MR. HOUSTON.

9 LADIES AND GENTLEMEN OF THE JURY, WE'RE GOING
10 TO HAVE OUR COURT ATTENDANT TAKE YOU TO THE JURY ROOM.

11 (OUTSIDE THE PRESENCE OF A JURY.)

12 THE COURT: PLEASE BE SEATED, COUNSEL.

13 MAY I SEE YOU, MR. HOUSTON AND MR. RIGGS, IN
14 CHAMBERS?

15 (OFF-THE-RECORD BENCH CONFERENCE.)

16 (AFTERNOON RECESS.)

17 (OUTSIDE THE PRESENCE OF A JURY.)

18 THE COURT: OKAY. WE'RE BACK ON THE RECORD IN
19 SOULLIERE.

20 COUNSEL -- ALL COUNSEL BUT MR. RIGGS IS HERE.
21 WE'RE OUTSIDE THE PRESENCE OF THE JURY.

22 MR. RIGGS HAS NOW JOINED US.

23 APPARENTLY THERE'S A VERDICT.

24 ANYTHING WE NEED TO TALK ABOUT BEFORE WE BRING
25 THE JURY IN?

26 MR. RIGGS: NO, SIR.

1 MR. HOUSTON: NO, YOUR HONOR.
2 THE COURT: LET'S BRING THE JURY IN.
3 (IN THE PRESENCE OF A JURY.)
4 THE COURT: LET THE RECORD REFLECT THE JURY'S
5 REJOINED US.
6 JUROR 155, ARE YOU STILL THE PRESIDING JUROR?
7 PRESIDING JUROR NUMBER 155: I AM.
8 THE COURT: HAS THE JURY REACHED A VERDICT?
9 PRESIDING JUROR NUMBER 155: YES, WE HAVE.
10 THE COURT: CAN YOU HAND THAT TO MY COURT
11 ATTENDANT, PLEASE? I'LL HAVE MY CLERK READ THE VERDICT,
12 PLEASE.
13 THE CLERK: SUPERIOR COURT OF THE STATE OF
14 CALIFORNIA FOR THE COUNTY OF ORANGE. CASE NUMBER
15 15-00790644, THOMAS JOSEPH SOULLIERE VERSUS SUZUKI MOTOR
16 CORPORATION. VERDICT FORM.
17 PUNITIVE DAMAGES. QUESTION NUMBER 1:
18 WHAT AMOUNT OF PUNITIVE DAMAGES, IF ANY, DO
19 YOU AWARD IN THIS CASE?
20 ANSWER: \$150 MILLION.
21 SIGNED THIS DATE, JUROR NUMBER 155.
22 THE COURT: LADIES AND GENTLEMEN OF THE JURY,
23 IS THIS YOUR VERDICT?
24 THE JURY: YES.
25 THE COURT: DEVON, WOULD YOU PLEASE POLL THE
26 JURY.

1 THE CLERK: SURE, YOUR HONOR.
2 JURORS, AS I CALL YOUR NUMBER, PLEASE ANSWER
3 YES OR NO AS TO THIS IS YOUR VERDICT.
4 JUROR NUMBER 130, IS THIS YOUR VERDICT?
5 JUROR NO. 130: NO.
6 THE CLERK: JUROR NUMBER 156?
7 JUROR NO. 156: YES.
8 THE CLERK: JUROR NUMBER 122?
9 JUROR NO. 122: YES.
10 THE CLERK: JUROR NUMBER 138?
11 JUROR NO. 138: NO.
12 THE CLERK: JUROR NUMBER 108?
13 JUROR NO. 108: YES.
14 THE CLERK: JUROR NUMBER 109?
15 JUROR NO. 109: NO.
16 THE CLERK: JUROR NUMBER 118?
17 JUROR NO. 118: YES.
18 THE CLERK: JUROR NUMBER 126?
19 JUROR NO. 126: YES.
20 THE CLERK: JUROR NUMBER 155?
21 JUROR NO. 155: YES.
22 THE CLERK: JUROR NUMBER 100?
23 JUROR NO. 100: YES.
24 THE CLERK: JUROR NUMBER 131?
25 JUROR NO. 131: YES.
26 THE CLERK: JUROR NUMBER 123?

1 JUROR NO. 123: YES.

2 THE COURT: OKAY. THE CLERK WILL PLEASE ENTER
3 THE VERDICT.

4 THE PLAINTIFF WILL PREPARE A JUDGMENT WITHIN
5 ONE DAY. THAT'S BY RULE.

6 LADIES AND GENTLEMEN OF THE JURY, I HAVE ONE
7 FINAL INSTRUCTION FOR YOU WHICH I WILL READ TO YOU.

8 MEMBERS OF THE JURY, THIS COMPLETES YOUR
9 DUTIES IN THIS CASE. ON BEHALF OF THE PARTIES AND THEIR
10 ATTORNEYS, THANK YOU FOR YOUR TIME AND YOUR SERVICE. IT
11 CAN BE A GREAT PERSONAL SACRIFICE TO SERVE AS A JUROR,
12 BUT BY DOING SO, YOU ARE FULFILLING AN EXTREMELY
13 IMPORTANT ROLE IN CALIFORNIA'S SYSTEM OF JUSTICE.

14 EACH OF US HAS THE RIGHT TO A TRIAL BY JURY,
15 BUT THAT RIGHT WOULD MEAN LITTLE UNLESS CITIZENS SUCH AS
16 EACH OF YOU ARE WILLING TO SERVE WHEN CALLED TO DO SO.
17 YOU HAVE BEEN ATTENTIVE AND CONSCIENTIOUS DURING THE
18 TRIAL, AND I AM GRATEFUL FOR YOUR DEDICATION.

19 THROUGHOUT THE TRIAL, I HAD ADMONISHED THAT
20 YOU COULD NOT DISCUSS THE FACTS OF THE CASE WITH ANYONE
21 OTHER THAN YOUR FELLOW JURORS AND THEN ONLY DURING
22 DELIBERATIONS WHEN ALL 12 JURORS WERE PRESENT. I'M NOW
23 RELIEVING YOU FROM THAT RESTRICTION, BUT I HAVE ANOTHER
24 ADMONITION. YOU HAVE NOW THE ABSOLUTE RIGHT TO DISCUSS
25 OR NOT TO DISCUSS THE DELIBERATIONS AND VERDICT WITH
26 ANYONE.

1 IT IS APPROPRIATE FOR THE PARTIES, THEIR
2 ATTORNEYS OR REPRESENTATIVES TO ASK TO YOU DISCUSS THE
3 CASE, BUT ANY SUCH DISCUSSION MAY OCCUR ONLY WITH YOUR
4 CONSENT AND ONLY IF THE DISCUSSION IS AT A REASONABLE
5 TIME AND PLACE. YOU SHOULD IMMEDIATELY REPORT ANY
6 UNREASONABLE CONTACT TO THE COURT.

7 IF YOU DO CHOOSE TO DISCUSS THE CASE WITH
8 ANYONE, FEEL FREE TO DISCUSS IT FROM YOUR OWN
9 PERSPECTIVE, BUT BE RESPECTFUL OF THE OTHER JURORS AND
10 THEIR VIEWS AND FEELINGS.

11 THANK YOU FOR YOUR TIME AND YOUR SERVICE.
12 BEFORE I DISCHARGE YOU, I DO WANT TO MAKE A SUGGESTION.
13 WHEN I WAS IN PRACTICE, I ALWAYS LIKED TO TALK TO THE
14 JURORS AFTERWARDS. SO I'M GOING TO LET YOU STEP OUTSIDE
15 HERE AND -- BECAUSE YOU'LL NEED TO TURN IN YOUR BADGES
16 AND WHATNOT. IF YOU WOULD LIKE TO TALK WITH THE
17 ATTORNEYS -- AND I WOULD ENCOURAGE YOU TO DO SO. IF
18 YOU'D LIKE TO TALK TO THE ATTORNEYS, JUST WAIT OUTSIDE.
19 IN ABOUT A MINUTE OR SO, I WILL LET THEM COME OUT.

20 IF YOU DON'T WANT TO, JUST SIMPLY WALK DOWN
21 THE HALLWAY, WALK OUT TO YOUR CAR AND LEAVE AND THERE
22 ARE NO HARD FEELINGS. OKAY? HOPEFULLY THAT SEEMS FAIR
23 TO EVERYBODY. BUT AGAIN, I WOULD ENCOURAGE YOU TO DO
24 SO.

25 ONE THING THAT I WILL INDICATE. I KNOW THERE
26 WAS SOME DISCUSSIONS ABOUT THE PARTIES TALKING TO YOU.

1 NO. COUNSEL CAN TALK TO YOU AND ONLY COUNSEL. THE
2 PARTIES ARE NOT TO BE TALKING WITH THE JURORS.

3 MR. HOUSTON: SORRY. MR. SOULLIERE CANNOT
4 TALK TO THE JURORS?

5 THE COURT: THAT -- ISN'T THAT WHAT I JUST
6 SAID?

7 MR. HOUSTON: THAT'S WHAT I WANTED TO BE
8 CLEAR. I WANTED TO MAKE SURE, MAKE IT --

9 THE COURT: HE'S NOT TO BE TALKING WITH THE
10 JURORS. COUNSEL CAN TALK TO THE JURORS. HE CAN LISTEN
11 AT A RESPECTFUL DISTANCE, BUT HE'S NOT TO INTERACT WITH
12 THE JURORS. OKAY?

13 MR. HOUSTON: VERY GOOD. THANK YOU,
14 YOUR HONOR.

15 THE COURT: VERY GOOD. THANK YOU VERY MUCH.
16 YOU'RE AT THIS POINT IN TIME DISCHARGED.

17 WHY DON'T YOU GET THEIR BADGES.

18 I'M GOING TO HAVE MY CLERK GET YOUR BADGES
19 FROM YOU. IF YOU'LL WAIT JUST A SECOND, HE'LL BE RIGHT
20 UP THERE.

21 (OUTSIDE THE PRESENCE OF A JURY.)

22 THE COURT: OKAY, COUNSEL, PLEASE BE SEATED.

23 MR. HOUSTON, SO THAT IT'S CLEAR FROM THIS
24 COURT'S PERSPECTIVE, SOME JUDGES MAY ALLOW IT. I DON'T.
25 AND THE REASON IS FAIRLY SIMPLE. THIS CASE IS NOT OVER.
26 THERE ARE STILL A LOT OF THINGS THAT ARE GOING TO GO ON

1 BETWEEN NOW AND THE TIME THE JUDGMENT BECOMES FINAL, AND
2 I CONSIDER IT INAPPROPRIATE FOR ANY PARTY OR WITNESS OR
3 WHATEVER TO BE TALKING TO THE JURORS. IT'S JUST THIS
4 COURT'S PERSONAL VIEWPOINT, SO I DON'T ALLOW IT. IT'S
5 NOT JUST -- IT'S NOT YOU, IT'S NOT YOUR CLIENT, IT'S NOT
6 THIS CASE.

7 MR. HOUSTON: QUESTION FOR THE COURT. IF
8 WE'RE OUTSIDE AND A JUROR APPROACHES MY CLIENT --

9 THE COURT: HE'S TO STEP AWAY. HE'S NOT TO
10 TALK WITH THEM.

11 MR. HOUSTON: UNDERSTOOD.

12 THE COURT: OKAY. COUNSEL, I APPRECIATE YOU
13 BEING HERE. I'M SURE WE'LL BE SEEING YOU AGAIN AT SOME
14 POINT AS WE FINISH UP THIS CASE, BUT RIGHT NOW, I'M SURE
15 YOU'D LIKE TO GO OUT -- LITTLE AFTER 4:00 O'CLOCK. I'D
16 LIKE -- I'M SURE YOU'D LIKE TO HAVE AS MUCH TIME AS
17 POSSIBLE TO TALK WITH WHATEVER JURORS ARE WAITING, IF
18 YOU'D LIKE. IF YOU DO WANT TO COME BACK INTO THE
19 COURTROOM AND TALK TO THE COURT, JUST LET ME KNOW AND
20 I'LL STILL BE HERE AT LEAST UNTIL 4:30.

21 OTHER THAN THAT, I WISH YOU GOOD LUCK.
22 APPRECIATE HAVING HAD YOU HERE.

23 MS. CARRINGTON: IF I MAY, YOUR HONOR, ONE
24 HOUSEKEEPING MATTER.

25 THE COURT: YES.

26 MS. CARRINGTON: WE WOULD LIKE TO MAKE THE

1 POWERPOINT PRESENTATION THAT WAS USED DURING ARGUMENT
2 THIS MORNING, JUST HAVE IT MARKED FOR IDENTIFICATION --

3 THE COURT: WELL, IT SHOULD HAVE BEEN --

4 MS. CARRINGTON: -- FOR PURPOSES OF THE
5 APPELLATE RECORD.

6 THE COURT: IT SHOULD HAVE BEEN.

7 MS. CARRINGTON: OKAY. I DON'T KNOW IF IT
8 WAS, SO I JUST --

9 THE COURT: IT SHOULD HAVE BEEN AND I'M SURE
10 MR. HOUSTON WILL PROVIDE THAT.

11 MS. CARRINGTON: EXCELLENT.

12 THE COURT: THANK YOU VERY MUCH.

13 MS. CARRINGTON: THANK YOU, YOUR HONOR.

14 (PROCEEDINGS CONCLUDED AT 4:07 P.M.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

DEPARTMENT N18 HON. GLENN SALTER, JUDGE

THOMAS JOSPEH SOULLIERE,)
)
 PLAINTIFF,) CASE NO: 30-2015-00790644
) CU-PL-CJC
 VS.)
)
 SUZUKI MOTOR AMERICA, INC.,)
)
 DEFENDANT.)
 _____)

I, SUZANNE ONUKI, CSR NO. 13734, COURT REPORTER PRO
TEMPORE OF THE SUPERIOR COURT OF THE STATE OF
CALIFORNIA, FOR THE COUNTY OF ORANGE, DO HEREBY CERTIFY
THAT THE FOREGOING PAGES, 1 THROUGH 56, COMPRISE A FULL,
TRUE, AND CORRECT TRANSCRIPT OF THE PROCEEDINGS IN THE
MATTER OF THE ABOVE-ENTITLED CAUSE ON APRIL 25, 2023,

DATED THIS 26TH OF APRIL 2023.



SUZANNE ONUKI, CSR NO. 13734
COURT REPORTER PRO TEMPORE