

Received From  
SEATTLE  
JAN 03 2003

The Honorable J Kelley Arnold

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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY \_\_\_\_\_ DEPUTY

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT  
OF WASHINGTON AT TACOMA

KENNETH L. JARAMILLO, individually and  
as Personal Representative of the Estates of  
ANGELA L. JARAMILLO and McKENNA LEE  
JARAMILLO, GERALD R. TARUTIS as  
guardian ad litem for RILEY R. JARAMILLO, a  
minor, and BRADFORD J. FULTON as  
guardian ad litem for SAWYER D.  
JARAMILLO a minor,

Plaintiff,

v

FORD MOTOR COMPANY, a Delaware  
corporation; and DOREL INDUSTRIES, Inc.,  
d/b/a-a/k/a COSCO HOME AND OFFICE  
PRODUCTS, INC., a foreign corporation,

Defendants

NO C01-5311JKA

DECLARATION OF RAYMOND S  
WEBER IN SUPPORT OF FORD  
MOTOR COMPANY'S RESPONSE  
TO DOREL'S MOTION FOR  
SUMMARY JUDGMENT.



CV 01 05311 #00000072

I, Raymond S Weber, am one of the attorneys for Ford Motor Company in the  
captioned litigation. I make the following declaration upon my own personal  
knowledge.

1 Attached hereto as Exhibit 1 is a true and correct copy of the expert report  
of Dr. Ronald Dobson submitted in this matter on behalf of Dorel Juvenile Group Inc.

DECLARATION OF RAYMOND S WEBER IN OF FORD  
MOTOR COMPANY'S RESPONSE TO DOREL'S MOTION FOR  
SUMMARY JUDGMENT (C01-5311JKA) - 1

LAW OFFICES OF  
**MILLS MEYERS SWARTLING**  
1000 SECOND AVENUE, 30TH FLOOR  
SEATTLE, WASHINGTON 98104-1064  
TELEPHONE (206) 382-1000  
FACSIMILE (206) 386-7343

ORIGINAL

*72*

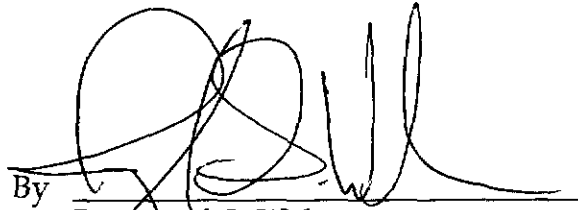
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2 Attached hereto as Exhibit 2 is a true and correct copy of excerpts from  
3 the deposition of Dr Ronald Dobson.

3 Attached hereto as Exhibit 3, is a true and correct copy of the expert  
5 report of Terry Thomas submitted on behalf of Ford Motor Company in this matter


I declare under penalty of perjury under the laws of the United States that the  
7 foregoing is true and correct

DATED: December 27, 2002, at Seattle, Washington.

By   
Raymond S Weber  
WSBA No. 18207

**CERTIFICATION**

I hereby certify that on December 30, 2002, I  deposited in the mails  
of the United States of America,  placed with legal messengers,   
faxed a copy of the document to which this certification is attached for  
delivery to all counsel of record

  
Linda McIntosh Wheeler  
Mills Meyers Swartling

# **EXHIBIT 1**

**RONALD C. DOBSON, M.D., F.A.C.E.P.**

*Diplomate, American Boards in*

**EMERGENCY MEDICINE • INTERNAL MEDICINE  
CRITICAL CARE MEDICINE**

700 Minor Street Seattle, Washington 98104  
Telephone (206) 386-6069 Facsimile (206) 215-6520  
Email [rcdobson@earthlink.net](mailto:rcdobson@earthlink.net)

August 5, 2002

Ms Sharon Ambrosia-Walt  
Houger & Walt  
1702 North 34<sup>th</sup> Street  
Seattle, WA 98103

RE *Jaramillo v Ford Motor Company, et al*  
U S. District Court,  
Western District of Washington Case No C01-5311JKA

Dear Ms. Ambrosia-Walt

Per your request, I have reviewed the following documents:

- 1 the police report,
- 2 the police photographs taken the night of the accident and at the wrecking yard;
- 3 a Xerox photograph of the child restraint plaintiff alleges McKenna was using at the time of the accident,
- 4 the deposition of the father, Ken Jaramillo,
- 5 the EMT report,
- 6 the Lifeflight report,
7. the medical records from St Alphonusus Regional Medical Center;
8. the autopsy report,
- 9 color copies of the autopsy photographs

The records outline the nature of the high speed accident which claimed this unfortunate child's life McKenna was thrown out of the vehicle at an unknown point in time during the accident The deposition of the father indicates that the booster chair was in the middle of the rear seat and held in place by a lap belt There was no additional restraint device used, specifically a shoulder strap, as one did not exist for the middle seat.

The child was ejected from the vehicle during the accident and the body bears evidence of the impact with the ground The pattern of injury points to an initial

Letter to Ms Sharon Ambrosia-Walt August 5, 2002

page 2 of 2

landing on the right side of the body. External (skin) bruises and/or abrasions of a characteristic pattern may be found often on the abdomen, pelvis and thigh when a seatbelt was in use. These external abnormalities can be found whether or not the individual was ejected from the vehicle. They also are associated with predictable internal injuries. There does not appear to be any abnormalities of the skin consistent with the use of a seatbelt on McKenna's body.

In addition to the external findings, the use of seat belts in children is associated with intra-abdominal injuries as well. During deceleration, the body is forced against the lap belt and can result in damage to internal organs. Hollow structures are more susceptible than the solid ones to seatbelt injury. Large and/or small bowel injury either alone or in conjunction with other damaged tissues are the most common findings. There is no evidence at autopsy of bowel injury in this child.

If the characteristic external abrasions and contusions of a seatbelt injury were present, or there was a pattern of internal hollow organ injury, they would provide substantial support to the position that a seat belt was in use at the time of the accident. While the lack of such injuries is not conclusive, it strongly suggests that the child was not restrained by a seat belt at the time of the accident.

Based on my review of the material listed above, I find insufficient medical evidence to support a contention that a lap belt to restrain the child was in use of the time of the accident. This conclusion is stated with reasonable medical certainty and is supported by the available medical literature.

Sincerely yours,

A handwritten signature in black ink, appearing to read "R. Dobson", with a long horizontal flourish extending to the right.

Ronald C. Dobson, MD, FACEP

rcd/md  
enclosures

**RONALD C. DOBSON, M.D., F.A.C.E.P.**

*Diplomate, American Boards in*

**EMERGENCY MEDICINE • INTERNAL MEDICINE  
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Email rcdobson@earthlink.net

2002

**Deposition Testimony**

Lee v Wesley	Wichita, Kansas
Seyler v. The Blair Company	Seattle, Washington
Point v Sullivan	Seattle, Washington
Armstrong v Visions	Seattle, Washington

**Court Testimony**

Lewis v Dunes Family Health Care	Roseburg, Oregon
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2001

**Deposition Testimony**

Gibson v Southwest Medical Center	Seattle, Washington
Ducken v City of Redmond	Seattle, Washington
Meyer v Seattle, Washington	Seattle, Washington

**Court Testimony**

Steele v Northwest Emerg Physicians	Seattle, Washington
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2000

**Deposition Testimony**

Houser v Girard	Seattle, Washington
Paxton v Everett Clinic	Seattle, Washington
Junk v Assoc Emerg Phys	Seattle, Washington
Steele v. Northwest Emerg Physicians	Seattle, Washington
Santiago v. Emergicare	Colorado Springs, Colorado

**Court Testimony**

Moore v. Sheraton	Seattle, Washington
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1999

**Deposition Testimony**

Vega v Weaver	Washakie County, Wyoming
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1998

**Deposition Testimony**

Bostwick v O'Brien	Seattle, Washington
Becher v Regency Pacific	Seattle, Washington

**RONALD C. DOBSON, M.D., F.A.C.E.P.**

*Diplomate, American Boards in*

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## Medical-Legal Consultation Rates

Records review, telephone and in person meetings, discussions, & literature reviews:	\$ 225/hour
Written reports:	\$ 250/page
Depositions:	\$ 400/hour
Court Testimony within 60 miles of downtown Seattle: [ 2 hour minimum]	\$ 400/hour
Court Testimony > 60 miles from downtown Seattle: [ 4 hour minimum]	\$ 400/hour or \$ 2,600/day [whichever is less]
Travel Expenses > 60 miles from Seattle are additional and are billed at cost.	

CURRICULUM VITAE Ronald Cole Dobson, M.D

**POSTGRADUATE TRAINING**

University of Washington, Intern in Medicine	1974 - 1975
University of Washington, Resident in Medicine	1975 - 1976
University of Washington, Resident in Medicine	1977 - 1978
University of Washington, Chief Resident in Medicine, Swedish Hospital Medical Center	Jan.- June 1978

**CLINICAL PRACTICE**

Alaska Clinic, Inc , Anchorage, Alaska	1976 - 1977
Swedish Hospital Medical Center, Seattle, Washington	1980 - 1982
Seattle Emergency Physicians Service, Inc , Seattle, Washington	1982 - 2002

**BOARD CERTIFICATION**

Internal Medicine	1978
Emergency Medicine	1984,1994
Critical Care Medicine	1987

**LICENSURE TO PRACTICE**

Washington, Number 14495, active	1975
Alaska, Number 1274, inactive	1975

**HOSPITAL PRIVILEGES**

Alaska Hospital and Medical Center, Anchorage, Alaska	1975 - 1977
Harborview Medical Center, Seattle, Washington	1978 - 1980
University Hospital, University of Washington, Seattle, Washington	1978 - 1980
Swedish Hospital, Seattle, Washington	1980 - 2002

**ACADEMIC POSITIONS**

Acting Instructor, Department of Medicine, University of Washington	1978 - 1980
Clinical Assistant Professor, Department of Medicine, University of Washington	1981 - 2002
Attending Physician, Intensive Care Unit and Emergency Department, Harborview Medical Center	1978 - 1980
Faculty, Advanced Cardiac Life Support American Heart Association (Washington)	1980 - 1994

## CURRICULUM VITAE Ronald Cole Dobson, M D

**PROFESSIONAL ORGANIZATIONS**

American College of Physicians  
 American College of Emergency Physicians  
 American College of Physician Executives  
 King County Medical Society  
 Washington State Medical Society  
 American Medical Association

**HONORS**

Alpha Omega Alpha	1973
Fellow, American College of Emergency Physicians	1978
Teacher of the Year, Swedish Hospital and Medical Center Residency Programs	1981, 1982
Outstanding Teacher Awards American Academy of Family Practice	1984, 1987
Swedish Medical Center Family Practice Residency Program	1991 -1993
Seattle Top Doctor Award ( <i>Seattle Magazine</i> )	2000

**SPECIAL POSITIONS**

Member, Emergency Medical Services Board, Anchorage, Alaska	1976 - 1977
Member, Critical Care Unit, Alaska Hospital, Anchorage, Alaska	1976 - 1977
Chairman, Disaster Committee, Harborview Medical Center Seattle, Washington	1979 - 1980
Director of Critical Care, Fred Hutchinson Cancer Research Center Seattle, Washington	1982 - 1983
Peer Review Consultant, Washington State Medical Association	1989 - 1992
King County Medical Society, Washington Chairman, Emergency Medical Services Committee	1987 - 1988
Editor, King County Medical Bulletin	1989 - 1992
Seattle Emergency Physicians Service, PS, Inc Board of Directors	1982 - 2002
President	1994 - 1999
Swedish Consultants, Inc Board of Directors	1995 - 1996
Executive Committee	1995 - 1996
Chairman, Contract Committee	1995 - 1996
Risk Management Committee	1999 - 2001
Consultant to the Executive Director, Health Services Commission Washington State Legislature	1990 - 1992

CURRICULUM VITAE · Ronald Cole Dobson, M D

***SWEDISH HOSPITAL AND MEDICAL CENTER POSITIONS***

Coordinator, Critical Care Units	1980 - 1982
Chairman, Critical Care Advisory Committee	1981 - 1982
Associate Director, Emergency Department	1980 - 1996
Member, Critical Care, Cardiology, Pulmonary, CPR Committees	1980 - 1992
Member, Quality Assurance Committees, Departments of Medicine and of Emergency Medicine	1989 - 1992
Chairman, Department of Emergency Services	1999 - 2000
Director of Emergency Services, Swedish Medical Center	1999 - 2002
Medical Director, Emergency Department First Hill Campus	1999 - 2002
Medical Director, Employee Health	1999 - 2002

***ACADEMIC PUBLICATIONS***

Dobson, R C The Management of Coma. In Handbook of Emergency Medical Therapeutics, Eisenberg, M and Copass, M , Editors. W B Saunders Company 2nd Edition, 1982

Dobson, R C. The Management of Shock: Cardiogenic, Septic and Hypovolemic In: Handbook of Emergency Medical Therapeutics, Eisenberg, M and Copass, M Editors W B Saunders Company 2nd Edition, 1982.

## **EXHIBIT 2**

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IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

-----  
KEN L JARAMILLO, individually )  
and as Personal Representative )  
of the Estates of ANGELA L )  
JARAMILLO and MCKENNA LEE )  
JARAMILLO; GERALD R. TARUTIS )  
as guardian ad litem for RILEY )  
R. JARAMILLO, a minor, and )  
BRADFORD J FULTON as guardian )  
ad litem for SAWYER D )  
JARAMILLO, a minor, )

Plaintiffs, )

vs )

FORD MOTOR COMPANY, a Delaware )  
corporation, and DOREL )  
INDUSTRIES, INC , d/b/a-a/k/a )  
COSCO HOME AND OFFICE PRODUCTS, )  
INC., a foreign corporation, )

Defendants. )  
-----

**COPY**

No. C01-5311JKA

DEPOSITION UPON ORAL EXAMINATION OF  
RONALD DOBSON, M D  
-----

Taken at  
200 Second Avenue West  
Seattle, Washington  
November 18, 2002  
9:00 a m.

Reported By Sharon Rindal, C C.R.

1 evidence that a seat belt was in play

2 The absence of that cannot be taken as an  
3 absolute that there was no seat belt.

4 Are you with me there?

5 Q Sure. I think you said that it wasn't conclusive or  
6 absolute but that probably she wasn't belted.

7 I think isn't that the descending order of  
8 how you're thinking about it, it is not conclusive, but it  
9 is probable, isn't that what you said?

10 A That's right. But to arrive at the conclusion that  
11 she was not belted, I have looked at other information that  
12 was available that would support that and make me think that  
13 it is unlikely that she was belted.

14 Q What is the other information?

15 A The report from Dr Burton, the report from the  
16 people who investigated the scene, the deposition of Mr  
17 Bingham, the testimony of the father, the testimony of some  
18 of the other people that were present.

19 As I try and reconstruct in my mind whether  
20 or not the person was seat belted, I do not see anything  
21 that would suggest to me strongly that the patient was  
22 belted in In fact, I find evidence that she was not.

23 Q Basically because she didn't have any bruises?

24 A No.

25 Q No?

1 A No.

2 Q What is the other information?

3 A Well, the other information, for example, is the fact  
4 that Officer Bingham who investigated the scene and was  
5 there shortly after the accident gives very strong testimony  
6 to my mind that would indicate that there was no evidence  
7 that the belt was engaged or that the belt was damaged as he  
8 would have expected it to be had the child been there.

9 The other mechanism that one could invoke,  
10 failure of the belt, for example, to my analysis would  
11 require same type of load on the belt before it failed, of  
12 which there was none

13 Q Okay.

14 A And the force that would be required from her  
15 movement against the belt in order to make it fail, on a  
16 more-likely-than-not basis, would be sufficient to leave  
17 some evidence of external bruising if not internal injury.

18 Q Okay

19 A So in absence of any strong evidence that it was  
20 buckled, the best explanation for all that I see, both at  
21 autopsy and in the reports, is that it was not buckled at  
22 the time of the accident.

23 Q Don't you think it is counter-intuitive that the two  
24 adults and the two little boys were buckled and she wasn't?

25 A Not at all.

1 Q Why is that?

2 A The easiest explanation for that, if this is a  
3 five-year-old, and I have two children myself, I actually  
4 had difficulty with both of my children who are now off in  
5 college of them keeping their belts buckled once they were  
6 in the booster seat. And I know other parents have had the  
7 same type of issue.

8 We know that the child was buckled at the  
9 time that they left the friends. Okay? But that was quite  
10 some time They even stopped at one point and obtained  
11 drinks and switched drivers

12 Anywhere during that period of time the child  
13 could have unbuckled the belt, or the people could be wrong  
14 about when the child was placed into it

15 Q Okay

16 A Those are just the possibilities

17 Q This is all speculation, isn't it?

18 I mean, the dad said he belted her in there,  
19 someone saw her in there, and four out of five people were  
20 contained in the vehicle.

21 It is just speculation that she might have  
22 unlatched it herself, isn't it?

23 MS AMBROSIA-WALT. I object to the  
24 form of the question

25 A No more so than speculation that the belt failed or

1 something despite the fact that the people who were on the  
2 scene then and afterwards evaluated that belt and found it  
3 to be functional.

4 So I am forced to choose between two possible  
5 scenarios, neither of which has strong supportive evidence.  
6 And to me, that is a more believable and likely scenario  
7 than a belt failure.

8 Q (By Mr Whelan) Well, first of all, if the car had  
9 been roll resistant and had not rolled, she would still be  
10 alive, right, or she wouldn't have died then and there?

11 A Given the assumptions, which may or may not be  
12 warranted in your question, the answer is yes

13 Q All right

14 Secondly, have you actually inspected the  
15 belt?

16 A No

17 Q Have you seen the witness marks on the belt?

18 A No.

19 MS AMBROSIA-WALT I'm going to object  
20 to the form of the question, assumes facts not in evidence

21 Q (By Mr. Whelan) Have you tested the retractor?

22 A I'm sorry?

23 Q Have you tested the retractor?

24 A No

25 Q Were you advised that the retractor made a very

1 11/18/02

2 C E R T I F I C A T E

3

4 STATE OF WASHINGTON )

) ss:

5 COUNTY OF KING )

6

7 I, Sharon Rindal, a Notary Public in and for the State  
of Washington, do hereby certify

8

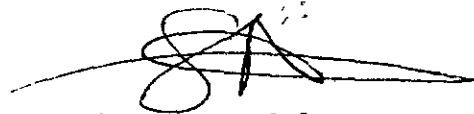
9 That the foregoing deposition of RONALD DOBSON, M.D  
was taken before me at the time and place therein set forth,

10 That the witness was by me first duly sworn to testify  
to the truth, and nothing but the truth, and that the  
11 testimony of the witness and all objections made at the time  
of the examination were recorded stenographically by me, and  
12 thereafter transcribed into typewriting, under my direction;

13 That the foregoing transcript is a true record of the  
testimony and of all objections made at the time of the  
14 examination, to the best of my ability;

15 I further certify that I am a disinterested person and  
that I am in no way interested in the outcome of said  
16 action.

17 IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed my seal this 26<sup>th</sup> day of November 2002, at Seattle,  
18 Washington



19 Sharon Rindal, Notary Public

20 CSR No. RINDASL-608PK

21

22

23

24

25

**EXHIBIT 3**



**T h o m a s   E n g i n e e r i n g ,   I n c .**

August 13, 2002

Andrew Ashworth  
Snell & Wilmer  
One Arizona Center  
Phoenix, AZ 85004-2202

**RE: *Jaramillo vs. Ford***

Dear Mr. Ashworth:

Pursuant to your request, the following preliminary report is submitted in the above referenced matter

I am a Mechanical Engineer and a registered Professional Engineer in the State of Arizona (#14755), am currently employed as President of Thomas Engineering, Inc., and submit this report as an expert retained in this litigation. A copy of my curriculum vitae is attached; including a description of my education and relevant publications, also attached is a list of my recent deposition and trial testimony. My hourly fee is \$345 00, including deposition testimony

The opinions that I will offer in this case are based on my review of the following file materials:

**Correspondence**

- Initial correspondence received 11/27/01

**Legal Papers**

- Plaintiffs' Answers to Ford Motors. Company, First Set of Interrogatories

**Accident Reports**

- Idaho Vehicle Collision Report Idaho Vehicle Collision Report
- Idaho State Police District No. 3 Radio Log
- Idaho State Police Crash Reconstruction Report

**Medical Reports**

- Autopsy of McKenna Jaramillo
- Camas County Fire/EMS Reports

**Depositions and/or Exhibits**

- Joseph M Jaramillo
- Ken Jaramillo w/exhibits

Jaramillo vs. Ford  
August 19, 2002

Page 2

- Nora E. Jaramillo Rogers
- David D. Willis
- Diane Willis

**Materials produced by Thomas Engineering, Inc.**

- Thomas Engineering Inc. inspection of the accident vehicle on November 29, 2001

The opinions offered in this report are also based upon my 20 years of experience in the areas of automotive safety, vehicle dynamics and restraint system design, analysis and performance testing. As a Principal Engineer and Director of the Failure Analysis Associates (FaAA) Test and Engineering Center (TEC) in Phoenix, AZ and as President of Thomas Engineering, Inc, I have conducted hundreds of crash and laboratory tests intended to evaluate vehicle collisions and restraint system performance in both the yaw plane and rollover modes and to evaluate accident related forensic evidence on restraint system components when utilized in collisions

**ACCIDENT SUMMARY**

The subject accident occurred on the evening of August 5, 2000 on United States Route (US) 20 in Elmore County, Idaho. The subject vehicle was a 1998 Ford Explorer 4x4 with a Vehicle Identification Number is 1FMZU34X5WZB24804. The Ford Explorer was reportedly being driven eastbound on US 20 by Angela Jaramillo (34 years old) with Ken Jaramillo (35 years old) seated in the right front passenger seat. Reportedly Riley Jaramillo (3 years old) was seated in the left rear, McKenna Jaramillo (4 years old) was seated in the center rear and Sawyer Jaramillo (2 years old) was seated in the right rear. As it approached the accident area from the east Angela drove the subject vehicle off the roadway to the right while reportedly attempting to avoid some deer that were on the road. Additional steering inputs eventually caused the Explorer to yaw counter-clockwise and subsequently began a passenger-side leading rollover. The vehicle rolled across the highway and onto the westbound shoulder, eventually coming to rest off the road facing north. McKenna Jaramillo was ejected from the Explorer during the accident. Both McKenna and Angela died from injuries they received during the accident.

The narrative in the Police Report states that the police officer was told by Ken Jaramillo that all occupants were belted or in child seats, this is reflected in the coding for Protection Devices, which indicates that all occupants were using their available restraints. However the narrative states that the officer inspected the center rear seat belt and found no evidence that McKenna was in the seat belt at the time of the accident. Conditions at the time of the accident were reported as clear and dry. Both occupants were already being transported to a medical facility when the reporting officer arrived at the scene. A discussion with accident reconstructionist Geoff Germane indicated that the vehicle rolled four or more times.

The Thomas Engineering Inc. inspection of the accident vehicle confirmed that it had been involved in a severe rollover accident. In addition, the driver's side B-pillar was cut near the roof and was torn at the rocker panel, both left side doors were hanging open and neither would close. At the time of the inspection the interior of the vehicle was covered with dust and had pieces of glass from the windows on the seating surfaces and the floor. A child seat was found sitting on the right rear seat and another was found in the cargo area.

Based on 1995-1999 NASS-CDS data, rollover accidents that involved four or more rolls comprised less than 1% of all rollover accidents. Given the terrain at the subject accident scene, the speeds at which the subject vehicle was travelling and the number of rolls, this is an extremely unusual accident and one that is very severe.

### OCCUPANT RESTRAINT SYSTEMS

The front outboard restraint systems of the 1998 Ford Explorer are comprised of three-point continuous-webbing seat belt systems. These systems include an emergency-locking retractor (ELR) that is equipped with both vehicle- and webbing-sensitive locking features, with the right front retractor also including an automatic locking (ALR) feature. The driver's retractor incorporates a web grabber feature whereas the right front retractor features an energy management spool. Accident related loads through the seat-mounted end release buckles are reacted by the floor mounted guide bars that the buckle assemblies slide on when the seats are adjusted forward and rearward in the vehicle. The flat plastic coated guide bars are mounted to the vehicle floor on the inboard side of the seats. The restraint systems are further equipped with sliding latch plates, plastic-coated D-rings and assorted anchoring hardware. Additionally, the front outboard seating positions are equipped with air bags.

Although pretensioners have been in use in recent years in some vehicles, these designs are intended for yaw plane collisions and not rollover accidents. At the time this vehicle was manufactured, I know of no trucks, vans, or sport utility vehicles equipped with pretensioners designed to sense for and activate during a rollover event. Pretensioners were not among the restraint system components in this vehicle.

The rear outboard restraint systems of the 1998 Ford Explorer are comprised of three-point continuous-webbing seat belt systems. These systems include an emergency-locking retractor (ELR) that is equipped with vehicle-sensitive locking and adjustable automatic locking (ALR) features. The restraint systems are further equipped with end-release buckles, sliding latch plates, plastic-coated D-rings and assorted anchoring hardware.

The center rear restraint is a two-point lap belt system with a metal sewn in latch plate, an end-release buckle and assorted anchoring hardware. The system includes an automatic-locking retractor (ALR) that is always locked when webbing is withdrawn from the retractor. This restraint system is manufactured by TRW and has the following information listed on the webbing label; Code # H-4340, H-2103 and Date 512-91-1.

Upon inspection the front outboard restraint systems show indications of accident related occupant loading. For both front outboard positions the air bag was found to have been deployed. In addition the drivers seat belt had indications of webbing "roping" (an area where the webbing had been scuffed and bunched together under loading conditions) The latchplate pass through loop also shows scuffmarks and abrasions as did the turning loop or D-ring. The right front seat belt also has some indications of loading, in the form of roping marks and some scratch marks or abrasions on the D-ring and the latchplate pass through.

The left rear seat belt is heavily soiled and creased and has numerous nicks and cuts in it as if it had been used to secure the left rear door in some fashion. The D-ring is free of accident related load marks, the pass-through surface of the latchplate, however, has some scuffmarks that indicate loading and probable belt usage in this accident.

On the right rear restraint there are some faint scuffmarks on the latchplate pass-through loop and abrasions on the D-ring that indicate accident loading and usage. This belt is weathered and discolored.

At the time of the vehicle inspection, the center rear seat belt system was fully functional. The buckle operated smoothly and the ejector spring forces were typical for the buckle design. The retractor operated normally, the webbing could be extracted from and retracted back onto the spools and would lock when webbing was extracted. No damaged or broken components of the systems were found. The webbing showed only signs of typical usage, including creases, soiling and wear. However there were no scuffs, transfers or other definitive evidence of occupant-induced accident loading on the seat belt. There was no forensic evidence on the restraint system that it was used properly or indicating that it failed to function properly during this severe accident.

Based on deposition testimony, it is my understanding that the booster seat was discarded and is not available for inspection. Additionally, according to Ken Jaramillo, the shield that was originally part of the booster seat was not being used with the seat at the time of the accident.

Since the Thomas Engineering Inc. inspection the center rear restraint has been removed from the vehicle and stored in Washington. After a review of the plaintiff's experts findings Thomas Engineering may make a further inspection and microscopic examination of the restraint to supplement the opinions expressed in this report.

The restraint systems installed at the outboard seating positions of the 1998 Ford Explorer meet and exceed all applicable Federal Motor Vehicle Safety Standards (FMVSS). The subject left front seat belt is a state-of-the-art system typical of most three-point seat belts in use at the time that the subject vehicle was manufactured and was consistent with industry standard at the time of manufacture. It is not defective or unreasonably dangerous when used as designed. The components that comprise the seat belt systems are typical of those used by other manufacturers worldwide.

Based upon my experience and testing, accidents even less severe than this one often result in partial occupant ejection. The centripetal motion generated by a rolling vehicle causes the occupants to move outboard toward the perimeter of the vehicle. The centripetal force becomes greater as the occupant moves further outboard, away from the center of rotation. Due to obvious design constraints of automobiles, such as visibility, occupant ergonomics and the convenience characteristics desired by the consumer, it is not reasonably possible in certain rollover accidents (including when the vehicle is undeformed) to prevent the partial or even full ejection of a properly belted occupant.

The restraint system installed at the rear center seating positions of the 1998 Ford Explorer also meets and exceeds all applicable restraint system compliance criteria defined in Federal Motor Vehicle Safety Standards. The subject seat belt was typical of most two-point seat belts in use at the time that the subject vehicle was manufactured and was consistent with industry standards at the time of manufacture. It is not defective or unreasonably dangerous when used as designed. The components that comprise the seat belt systems are typical of those used by other manufacturers worldwide. The use of a two-point lap belt restraint system in the center seating positions of sport utility vehicles and other passenger vehicles is the norm. I am familiar with this seat belt system design and find it to be appropriate, typical of industry practice and reasonably safe for its intended use. It is not defective or unreasonably dangerous when used as designed. The components that comprise the seat belt systems are typical of those used by other manufacturers worldwide. Most production vehicles are equipped with ALR's or manually adjustable lap belts at the center rear positions at the time of the Explorer's manufacture. When used properly with an appropriate child seat the subject seat belt provides a safe and effective child restraint system.

Many studies have shown that occupants are at lower risk for injury and death when seated in the rear of a vehicle during an accident. This has been attributed in part to the "friendlier" rear seat environment, which does not have structures such as the steering wheel, dash or A-pillars. Thus, a lap belt can be effective in the rear seat environment. Indeed, studies have shown that lap belts can be as effective as lap-shoulder belts in reducing injuries and death to rear seat occupants.

Based on the vehicle inspection, the above mentioned materials and my experience in conducting numerous full-scale vehicle crash tests, sled tests and seat buckle inertial unlatching tests, it is my opinion that the center rear seat belt available in the subject 1998 Ford Explorer was not properly used at the time of the accident and was not subjected to an inertial unlatching or unintended release.

#### RESTRAINT RELATED ISSUES

In cases of partial occupant ejection in a rollover, allegations are sometimes made that the seat belt retractor unlocked at some point in the rollover. While unlocked, it is further alleged that excess webbing was allowed to spool out reducing the restraint's effectiveness. The design of the front outboard retractors in the 1998 Ford Explorer

would not have permitted webbing spool out during the rollover portion of this accident nor was there any forensic evidence to suggest spool out or multiple lock up locations on the subject seat belt. The combination of vehicle trip forces, occupant motion, vehicle centripetal acceleration and gravitational effects would have precluded webbing spool out in this accident. More specifically, the retractor will not allow the webbing to "spool-out" because of the ELR on this particular restraint system is designed to lock-up due to static angle changes of approximately 30 degrees in any direction. This corresponds to a sensing mass lock-to-lock travel of 0.1 inches and locking accelerations 0.50 g's or greater. In an accident, seat belt webbing is withdrawn from the webbing spool if there is relative motion between the occupant and the vehicle. This occurs when accelerations are imparted to the vehicle. Therefore, the retractor will be locked well before significant relative occupant motion is developed as the maximum distance the sensing mass center of gravity must move to a new locked position is only 0.1 inches. In addition, the pre-rollover vehicle motion would cause the retractor to be locked, with the belt loaded, prior to the occurrence of rollover. If there is load on the belt webbing greater than the retractor spring force (not greater than 1.5 pounds per FMVSS 209), a locked retractor will remain locked, regardless of the sensing mass motion (i.e. even if the lockup mass passes through the neutral zone). If the webbing load is not greater than the retractor spring force then the webbing will tend to retract back onto the spool. Finally, the webbing sensitive feature of this retractor alone would prevent significant webbing from being spooled out during a rollover. My opinion that the driver's seat belt webbing did not "spool-out" is reinforced by my full-scale rollover crash testing and laboratory component testing experience of a variety of vehicles and, therefore, a variety of retractor designs, some of which are similar to the subject retractor.

In cases of full occupant ejection in a rollover, allegations are sometimes made that the seat belt buckle unlatched at some point in the rollover due either from shock/impact forces, an "inertial release", or due to an inadvertent actuation of the release button. It is my opinion that the center rear buckle in the 1998 Explorer was not subject to an inertial release in this accident. Although it has been demonstrated that end release seat belt buckles can be inertially released in laboratory conditions, the resultant vertical acceleration necessary to cause an inertial release could not have been generated in this collision.

The majority of allegations and evidence purported to demonstrate inertial unlatching have involved buckles with side release buttons. The alleged mechanism for release is an impact between the occupant or child seat and the back of the buckle. For the subject end release buckle this type of acceleration would not cause an inertial release. Rather the acceleration would have to be directed along the vertical axis of the buckle. It has been demonstrated by laboratory testing and crash testing that the buckle acceleration necessary to cause an inertial unlatching of typical end release buckles is not likely in real world collisions. Further, it has been demonstrated that in order to achieve an inertial unlatching in the laboratory, the acceleration of typical end release buckles must be on the order of hundreds of g's with little or no belt tension. The existence of belt tension greatly increased the acceleration necessary to cause inertial unlatching. With an ALR retractor belt tension would be present virtually all of the time. An acceleration of the

necessary magnitude to cause inertial release must be transmitted to the buckle from the vehicle structure through the buckle stalk. This has not been found to occur in real world rollover tests. The acceleration experienced by vehicles in planar and rollover collisions is much lower than those required to produce an inertial unlatching of typical end release buckles. In addition, recent rollover testing demonstrates that the acceleration of a similar buckle and stalk in very severe rollovers is less than 50 g's (Hare, 2002). In general, the buckle accelerations experienced in this accident coupled with the belt loads would not be sufficient to cause an inertial unlatching.

A second possible cause of a buckle release often suggested is inadvertent unlatching of the buckle by a flailing object or body part and that a buckle that allows this type of release violates reasonable design requirements. It is my opinion that this type of unlatching in this accident would not mean that the buckle violates reasonable design requirements. Unintended release might occur under certain accident scenarios due to an object or body part accidentally depressing the release button of any buckle. FMVSS 209 requires that the buckle be "readily accessible to the occupant". It also specifies the size of the release button as well as the button forces required to release the buckle under conditions of seatbelt loading. This means that a buckle is required by its design to be accessible to objects or body parts that might also cause unintended release. This buckle meets these and the other requirements of the federal standards and also minimizes the possibility of accidental release both by its having a very well shielded release button and by its proximity to the seat back and seat cushion. Also as mentioned previously, during this rollover sequence the occupant and any loose objects would have tended to move toward the perimeter of the vehicle interior, away from the buckle. Thus the motions of the occupant and loading on the belt during this accident sequence would make the possibility of the inadvertent button actuation very unlikely.

### SUMMARY

In summary, my opinions developed to date are as follows.

1. The 1998 Ford Explorer outboard restraint systems are state-of-the art systems typical of most three-point seatbelt in use at the time this vehicle was manufactured and have additional features not present on many systems. These systems meet all applicable Federal Motor Vehicle Safety Standards.
2. At the time this vehicle was manufactured, I know of no sport utility vehicles or trucks equipped with pretensioners designed to sense for and activate during rollover accidents.
3. The 1998 Ford Explorer center rear two-point lap belt restraint system is also state-of-the art system typical of most center seatbelts in use at the time this vehicle was manufactured. It meets all applicable Federal Motor Vehicle Safety Standards.
4. The design of the subject restraint assemblies is not defective or unreasonably dangerous and is consistent with industry standard at the time of manufacture.
5. There is no definitive forensic evidence on the subject seat belts to suggest that they failed to perform properly in this accident.

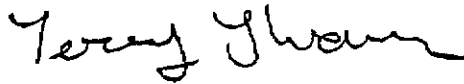
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6. Based on the pre-rollover vehicle motion the vehicle-sensitive locking feature of the subject restraint system would have been engaged.
7. The combination of vehicle trip forces, occupant motion, vehicle centripetal acceleration and gravitational effects would have precluded webbing spool out of the outboard retractors in this accident.
8. The left front seat belt did not "spool-out" during the course of this accident.
9. It is not reasonably possible in certain rollover accidents (including when the vehicle is undeformed) to prevent the partial or even full ejection of a properly belted occupant, particularly in rollovers of this extreme severity.
10. It is my opinion that McKenna Jaramillo was not properly belted with the available center rear seat belt when the subject accident occurred.
11. The vehicle dynamics and occupant kinematics associated with this accident did not result in a buckle inertial unlatching
12. The motions of the occupant, buckle design and loading on the belt during this accident sequence would make the possibility of the inadvertent button actuation very unlikely.

This report summarizes my opinions in this matter to date. If further information should become available I will supplement this report as appropriate.

Sincerely,



Terry M. Thomas, P.E.  
President, Thomas Engineering, Inc.

1 Barry Hare, et al, "Analysis of Rollover Restraint Performance with and without Seat Belt Pretension at Vehicle Trip," SAE Paper No. 2002-01-0941, March, 2002

## **CURRICULUM VITAE**

**TERRY M. THOMAS**

### **Specialized Professional Competence**

Vehicular accident reconstruction, vehicle dynamics, vehicle instrumentation and testing. Occupant kinematics. Design and analysis of restraint systems. Custom instrumentation systems. Vehicle component testing and analysis. Computer applications in vehicle dynamics and accident reconstruction. Design and testing of mechanical systems. Vehicle crashworthiness.

### **Educational Background**

B S (Mechanical Engineering), University of Arizona

Registered Mechanical Engineer, Arizona #14755

### **Professional Background**

President,  
Thomas Engineering, Inc.

Principal Engineer and Director,  
Exponent - Failure Analysis Associates, Inc., Test and Engineering Center

Design Development Engineer,  
Air Research Manufacturing Company of Arizona

### **Professional Associations**

Member, Society of Automotive Engineers

Member, American Society of Mechanical Engineers

### **Selected Publications and Reports**

"Crush Energy Considerations in Override/Underide Impacts," Society of Automotive Engineers Paper No. 2002-01-0556, March 2002 (with M. C. Marine and J. L. Wirth).

"An Analysis of a Staged Two-Vehicle Impact," Society of Automotive Engineers Paper No. 2000-01-0464, March 2000 (with J. L. Wirth and M.C. Marine).

"Characteristics of On-Road Rollovers," Society of Automotive Engineers Paper No. 1999-01-0122, March 1999 (with M.C. Marine and J.L. Wirth).

"Analysis of Concrete Median Barrier Impacts," Society of Automotive Engineers Paper No. 1999-01-1313, March 1999 (with M.C. Marine and J.L. Wirth)

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- "Accident Reconstruction in Rollover Accidents", Emerging Issues in Motor Vehicle Product Liability Litigation - The American Bar Association Meeting, Phoenix, AZ, March 1996 (with J.L. Wirth)
- "Passive Restraint Collision Performance. An Evaluation of ELR Pawl Engagement", SAE/TOPTec Meeting, San Francisco, California, May 1995 (with J.L. Wirth)
- "Safety Belt Buckle Inertial Responses in Laboratory and Crash Tests," Society of Automotive Engineers Paper No. 950887, December 1994 (with E.A. Moffatt and E.R. Cooper)
- "Rollover Crash Test to Evaluate Seatbelt Buckle Inertial Loading," SAE/TOPTec Meeting, Dearborn, Michigan, August 1993 (with E.A. Moffatt and R.C. Lange)
- "An Investigation of Seat Belt Buckle Dynamic Response to Inertial Loading Conditions," Failure Analysis Associates, Inc. Report to General Motors Corporation, November 1992 (with D.A. Lambert and R. C. Lange).
- "Testing and Analysis of Vehicle Rollover Behavior," Society of Automotive Engineers Paper No. 900366, February 1990 (with N.K. Cooper and S.A. Hammoud).
- "Real World Rollovers" - A Crash Test Procedure and Vehicle Kinematics Evaluation, Proceedings, Experimental Safety Vehicle Conference, Gothenburg, Sweden, June 1989 (with N.K. Cooper, S.A. Hammoud, and P. Woley)
- "30 MPH Side Impact Crash Test 1985 Buick Century with Mobil Oil Co. Onboard Refueling Vapor Recovery," Failure Analysis Associates Report, February 1988 (with N.K. Cooper and T.C. Behrens).
- "Agua Fria Generating Station Unit 3 Hot Reheat Piping Evaluation," Failure Analysis Associates Report, November 1986 (with N.K. Cooper et al).
- "Rollover and Interior Kinematics Test Procedures Revisited," Proceedings, 30th Stapp Car Crash Conference, Society of Automotive Engineers, September 1986 (with J. Habberstad and R. Wagner).

**List of Testimony for Terry M. Thomas, P.E.  
Thomas Engineering, Inc.**

Terry M. Thomas has testified in, at least, the following cases:

D	Waller v. Mazda	3/29/94
D	Fuller v. Honda	2/24/94
D	Indries v. Herrera	1/25/94
T	Williams v. GM	4/25/94
T	Jenkins v. Hyundai	3/94
T	Williams v. GM	3/94
D	Pierre v. Hyundai	6/94
D	Stamper v. Hyundai	8/10/94
D	Bibbs v. Toyota	9/6/94
T	Hamilton v. Toyota	9/21/94
T	Bibbs v. Toyota	9/28/94
D	Jones, M. v. Toyota	11/2/94, 6/95
D	Ducharme v. Hyundai	10/18/94
T	Ducharme v. Hyundai	10/17; 10/26
D	Kurgan v. Westcor	11/3/94
D	Navarette v. Ford	11/29/95
D	Begin v. Ford	11/27/94
T	Begin v. Ford	12/5/94
T	Hadian v. Ford	12/13/94
T	Bray v. GM	12/16/94
D	Goth v. Nissan	12/12/94
D	Walsh v. Ford	1/17/95
T	Stamper v. Hyundai	1/26/95
D	Bardsley v. Ford	1/31/95
D	Smith, J. v. Toyota	2/1/95
D,T	Mosley v. GM	
D	Negolesco v. VW	
D,T	Boone v. Hyundai	
D	Brehm v. Isuzu	3/31/95
D	Jenkins v. Hyundai	3/24/95
D	Gosal v. Hyundai	3/10/95
D	Castillo v. GM	3/15/95
D	Kiger v. GM	3/17/96
D,T	Moskalik v. Toyota	3/29/95
D	Billirus v. Ford	3/31/95
T	Blacker vs. GM	5/9/95
T	Jones, M. vs. Toyota	6/12/95
T	Nowak vs. Ford	6/20/95
D	Vasquez vs. Toyota	7/17/95
D	Miller vs. Toyota	9/5/95
D	Ward vs. GM	9/5/95
D	Mollett vs. Ford	9/7/95
D	Hickman vs. Ford	9/21/95
D	Parnell vs. Ford	8/31/95
D	Agulre vs. Nissan	10/2/95
D	Zuern vs. Ford	10/4/95

**List of Testimony for Terry M. Thomas, P.E.  
Thomas Engineering, Inc.**

T	Stamper vs. Hyundai	1/25/96
D	Allen vs. Mitsubishi	2/2/96
T	Gamblin vs. Ford	2/6/96
D	Irving vs. Mazda	2/27/96
D	Yawer vs. Toyota	2/28/96
D	Wilcoxon vs. Ford	3/1/96
D	G. Jones vs. Toyota	3/11/96
D	Johnson vs. Ford	3/14/96
T	Johnson vs. Ford	4/96
D	Padilla vs. Chrysler	4/24/96
D	Martin vs. Toyota	4/26/96
D	Hill, Hill & Green vs. Ford	5/15/96
D	Elliot vs. Chrysler	5/23/96
T	Scott vs. Ford	7/10/96
D	Norman vs. Honda	7/12/96
D	Reed vs. Toyota	7/22/96
T	Martin vs. Toyota	7/24/96
D	Greco vs. Ford	8/29/96
D	Fields vs. Ford	9/12/96
T	Norman vs. Honda	11/4/96
D	Peterman vs. Mazda	11/20/96
D	Brown vs. Hyundai	12/11/96
D	Costa vs. Ford	1/9/97
T	Peterman vs. Mazda	1/15/97
D	Garcia vs. GM	1/21/97
D	Perez vs. Chrysler	2/7/97
D	Greenwald vs. Ford	3/4/97, 4/1/97
D	Kaspernat vs. Honda	3/7/97
T	Moodenbaugh vs. Ford	3/12/97
D	McCoy vs. Toyota	4/11/97
D	Aguiniga vs. Ford	5/1/97
T	Greenwald vs. Ford	5/6-5/7/97
D	Dolan vs. Ford	5/9/97, 6/12/97
T	Kaspernat vs. Honda	5/28/97
T	Gamblin vs. Ford	5/29/97
D	Rougeau vs. Hyundai	6/17/97
D	Young vs. Honda	7/2/97
D	Meyer vs. Mazda	8/21/97
D	Topete vs. GM	9/17/97
D	Teal vs. Ford	9/19/97
D	Franco vs. Toyota	9/26/97
D	Martin vs. Ford	10/8/97
D	Chan vs. Uniroyal	10/13/97
T	Meyer vs. Mazda	10/22/97
T	Martin vs. Ford	11/21/97
D	James vs. Mazda	11/25/97
D	Topete vs. GM	1/6/98

**List of Testimony for Terry M. Thomas, P.E.  
Thomas Engineering, Inc.**

D	Eckel vs. Honda	1/13/98
D	Duckett vs. Ford	1/23/98
T	Topete vs. GM	1/27-1/28/98
D	Messer vs. Ford	2/6/98
T	Malone vs. GM	3/98
D	Garrett vs. Ford	3/23/98
D	Robinson vs. Ford	4/14/98
D	Sullivan vs. Hyundai	4/15/98
D	Johnson vs. Helms	4/17/98
D	Kehm vs. Ford	4/30/98
D	Wootton vs. Ford	5/18/98
T	Sullivan vs. Hyundai	5/26/98
D	De La Rosa vs. GM	6/10/98
T	Robinson vs. Ford	7/15-16/98
D	Daniels vs. Chrysler	7/21/98
D	Chapman vs. Mazda	7/30/98
D	McGee vs. Nissan	8/27/98
D	LaJeune vs. Ford	9/2/98
D	Moses vs. Suburban Ford	9/8/98
D	Hargray vs. Hyundai	9/11/98
T	Bohlen vs. Hyundai	9/16/98
D	Hines vs. Ford	10/1/98
T	Burns vs. GM	10/22- 10/23/98
D	Scarpinato vs. Mitsubishi	11/13/98
T	Moses vs. Ford	11/20/98
D	Berger vs. Ford	12/10/98
D	Cyphers vs. Subaru	1/26/99
D	Newman vs. Ford	2/22/99
D	Brown, Sharin vs. Ford	4/20/99
D	Garnett vs. Toyota	4/26/99
T	Onto vs. Hyundai	5/19/99
D	Candello vs. Subaru	5/25/99
T	Brown vs. Ford	5/27-28/99 - 6/1/99
D	Elkins vs. Ford	7/14/99
D	Felkins vs. GMC	9/23/99
T	Candello vs. Subaru	10/12- 10/13/99
D	Sexton vs. Ford	10/15/99
D	Grimes vs. Mazda	11/23/99
D	Carson vs. Mack Truck, Inc	11/30/99
T	Sexton vs. Ford	12/13/99
D	Drennan vs. GMC	12/16/99
D	Moser vs. Ford	1/4/00
D	Sweeney vs. Ford	1/14/00
D	Castro vs. Mazda	2/11/00
T	Drennan vs. GMC	2/17-18/00

**List of Testimony for Terry M Thomas, P.E.  
Thomas Engineering, Inc.**

D	Young vs. Nissan	3/1/00
D	Mathews vs. Chrysler	3/3/00
T	Young vs. Nissan	3/9/00
T	Norman vs. Honda	3/14/00
D	Woods vs. Ford	4/18/00
T	Castro vs. Mazda	4/26/00
D	Camp vs. Honda	6/15/00
D	Ford, K. vs. Ford	7/13/00
D	Wolfe, J. vs. Ford	8/18/00
D	Gonzalez vs. Ford	12/13/00
D	Dearing vs. GMAC	1/25/01
T	Pennington vs. Isuzu	2/12/01
D	Ricci vs. Volvo	2/28/01
D	Fuqua vs. Ford	3/10/01
D	Todecheene vs. Ford	4/26/01
D	Guzman vs. DaimlerChrysler	5/4/01
D	Reyes vs. Hyundai	5/10/01
D	Bowley vs. Ford	5/15/01
T	Reyes vs. Hyundai	6/1,4-5/01
D	Long vs. Ford	6/22/01
D	Riddle vs. Mazda	9/24/01
D	Hirata vs. Toyota	10/18/01
T	Camp vs. Honda	11/1/01-11/2/01
D	Bradford vs. Ford	11/16/01
D	Gregory vs. Ford	12/10/01
D	MacFarlane vs. Indiana Mills & Manufacturing, Inc	1/11/02
T	Hirata vs. Toyota	1/29/02-1/31/02
D	Ricci vs. Volvo	2/5/02
D	Amell vs. Ford	2/22/02
D	Raphael vs. Honda	4/10/02
D	Brier vs. Toyots	5/3/02
D	Miller/Iglesias vs. Nissan	5/14/02
D	Denman vs. Toyota	6/4/02
D	Emole vs. Honda	6/11/02

D - Deposition      T - Trial