

## **Attachment D**

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ALAMEDA  
HAYWARD HALL OF JUSTICE

CHARLES T. HOUCK, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. HG05220018
	)	
DAIMLERCHRYSLER, et al.,	)	
	)	
Defendants.	)	

VIDEOTAPED DEPOSITION OF THOMAS A. GIESEKING  
TAKEN ON BEHALF OF THE PLAINTIFFS  
AUGUST 16, 2007

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1	<b>APPEARANCES</b>	
2		
3	<b>For the Plaintiff:</b>	
4	Mr. Donald G. Liddy	
5	Grassini & Wrinkle	
6	20750 Ventura Boulevard, Suite 221	
7	Woodland Hills, California 91364	
8	(818) 348-1717	
9	don@grassiniwrinkle.com	
10	<b>For the Defendant, Enterprise Rent-A-Car and the Witness:</b>	
11	Mr. James E. Green, Jr.	
12	Conner & Winters, LLP	
13	4000 One Williams Center	
14	Tulsa, Oklahoma 74172-0148	
15	(918) 586-8516	
16	jgreen@cwlaw.com	
17	<b>For the Defendant, Enterprise Rent-A-Car of San Francisco:</b>	
18	Mr. Troy D. Wiggins	
19	Wiggins, Richard & Romano, L.L.P.	
20	100 Bush Street, 23rd Floor	
21	San Francisco, California 94104	
22	(415) 291-1997	
23	twiggins@wrr-law.com	
24	<b>For the Defendants, Chrysler LLC and Autowest, Inc.:</b>	
25	Ms. Micki S. Singer	
	Sedgwick, Detert, Moran & Arnold, LLP	
	One Market Plaza, Stewart Tower	
	8th Floor	
	San Francisco, California 94105	
	(415) 781-7900	
	micki.singer@schm.com	

1                   **SUPERIOR COURT OF CALIFORNIA**  
2                   **COUNTY OF ALAMEDA**  
3                   **HAYWARD HALL OF JUSTICE**

4   **CHARLES T. HOUCK, et al., )**  
5                   **Plaintiffs, )**  
6                   **vs. ) Case No. HG05220018**  
7   **DAIMLERCHRYSLER, et al., )**  
8                   **Defendants. )**

9                   **VIDEOTAPED DEPOSITION OF THOMAS A.**  
10 **GIESECKING, produced, sworn and examined on August 16,**  
11 **2007, between the hours of ten o'clock in the forenoon**  
12 **and one o'clock in the afternoon of that day, at the**  
13 **offices of Thompson Coburn LLP, One US Bank Plaza, St.**  
14 **Louis, Missouri 63101-1611, before William L. DeVries,**  
15 **a Certified Court Reporter (MO), Certified Shorthand**  
16 **Reporter (IL), Registered Diplomat Reporter,**  
17 **Certified Realtime Reporter, and a Notary Public**  
18 **within and for the State of Missouri, in a certain**  
19 **cause now pending in the Superior Court of California,**  
20 **County of Alameda, Hayward Hall of Justice, between**  
21 **CHARLES T. HOUCK, et al., Plaintiffs, vs.**  
22 **DAIMLERCHRYSLER, et al., Defendants; on behalf of the**  
23 **Plaintiffs.**  
24  
25

1                   **Also present:**  
2                   **Mr. Ed Foppe, Videographer**  
3                   **Ms. Melinda Friedman, Enterprise**  
4                   **Rent-A-Car Company**

5  
6  
7                   **Court Reporter:**  
8                   **William L. DeVries, RDR/CRR**  
9                   **Missouri CCR #566**  
10                   **Illinois CSR #084-003893**  
11                   **Midwest Litigation Services**  
12                   **711 North Eleventh Street**  
13                   **St. Louis, Missouri 63101**  
14                   **(314) 644-2191**  
15                   **1-800-280-DEPO**  
16  
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25

1 IT IS HEREBY STIPULATED AND AGREED by and  
2 between counsel for the Plaintiffs and counsel for the  
3 Defendants that this deposition may be taken in  
4 shorthand by William L. DeVries, RDR/CRR, a Certified  
5 Court Reporter, Certified Shorthand Reporter, and  
6 Notary Public, and afterwards transcribed into  
7 typewriting; and the signature of the witness is  
8 expressly reserved.  
9 \* \* \* \* \*

10 (Starting time of the deposition: 10:21 a.m.)  
11 10:21:40

12 VIDEOGRAPHER: This is the video deposition 10:21:40  
13 of Thomas Gieseckig. Today's date is August 16th, 10:21:50  
14 2007. The time is 10:21 a.m. This is the case of 10:21:56  
15 Charles Houck and others versus Chrysler and others, 10:22:02  
16 case number HG05220018. This case is pending in the 10:22:06  
17 Superior Court of California, County of Alameda, 10:22:14  
18 Hayward Hall of Justice. 10:22:18

19 This deposition is taking place at Thompson 10:22:20  
20 Coburn, located at One US Bank Plaza, 35th floor, 10:22:24  
21 St. Louis, Missouri. And this is being videotaped on 10:22:28  
22 behalf of the plaintiff. 10:22:32

23 My name is Ed Foppe. I'm a certified legal 10:22:32  
24 video specialist representing Charles Heller & 10:22:36  
25 Company, located at 815 Lockearn Street, Los Angeles, 10:22:38

6

1 California. I certify that I am neither counsel for, 10:22:44  
2 employed by, nor related to any party in this action, 10:22:46  
3 nor am I interested in the results thereof. 10:22:50

4 Counsel and all present please introduce 10:22:52  
5 yourselves and state your appearance. 10:22:54

6 MR. LIDDY: Don Liddy for the plaintiffs. 10:22:56  
7 MR. WIGGINS: Troy Wiggins for Enterprise 10:23:00  
8 Rent-a-Car Company of San Francisco. 10:23:02  
9 MS. SINGER: Micki Singer for Chrysler LLC. 10:23:04  
10 MR. GREEN: Jim Green for Enterprise 10:23:06  
11 Rent-A-Car Company. 10:23:10

12 VIDEOGRAPHER: The court reporter will now 10:23:10  
13 swear in the witness. 10:23:12

14 \* \* \* \* \* 10:23:12

15 THOMAS A. GIESEKING, 10:23:12  
16 of lawful age, produced, sworn and examined on behalf 10:23:12  
17 of the Plaintiffs, deposes and says: 10:23:12

18 \* \* \* \* \* 10:23:26

19 EXAMINATION 10:23:26

20 QUESTIONS BY MR. LIDDY: 10:23:26

21 Q. Would you state your name, please? 10:23:26  
22 A. Tom Gieseckig. 10:23:28  
23 Q. What is your -- you're an employee of 10:23:28  
24 Enterprise Rent-A-Car of St. Louis? 10:23:34  
25 A. Enterprise Rent-A-Car Company, the parent 10:23:36

7

1 corporation. 10:23:38

2 Q. How long have you worked for that entity? 10:23:38  
3 A. For the parent corporation, sixteen and a 10:23:40  
4 half years. 10:23:44

5 Q. What is your current job title? 10:23:44  
6 A. Assistant vice president, service 10:23:48  
7 operations. 10:23:50

8 Q. How long have you held that title? 10:23:52  
9 A. Ten years. 10:23:56

10 Q. So what are your job duties as assistant 10:23:56  
11 vice president, service operations? 10:24:02  
12 A. My -- I assist the subsidiaries with 10:24:04  
13 after-warranty assistance claims, national account 10:24:08  
14 relationships, parts, technical assistance, so any -- 10:24:12  
15 any items regarding servicing of vehicles where the 10:24:16  
16 subsidiary needs some assistance. 10:24:18

17 Q. And are you the most knowledgeable person 10:24:20  
18 at the parent company concerning the recall of 10:24:26  
19 vehicles that Enterprise rents? 10:24:34  
20 A. Considering the electronic communications 10:24:36  
21 of recalls, yes, from the manufacturers to the 10:24:42  
22 subsidiaries. 10:24:44

23 MR. GREEN: Counsel, we have, as you know, 10:24:44  
24 filed -- or served on you responses and objections to 10:24:46  
25 each of these categories. If you would like, I can 10:24:50

8

1 read that response into the record or we can make 10:24:56  
2 these as an exhibit to the deposition. How would you 10:24:58  
3 like to proceed? 10:25:02

4 MR. LIDDY: That's fine. Why don't we mark 10:25:02  
5 the notice as Exhibit A. 10:25:04

6 MR. GREEN: Okay. 10:25:06  
7 MR. LIDDY: And your objections as Exhibit 10:25:06  
8 B. 10:25:10

9 MR. GREEN: Okay. Here's a -- here's a 10:25:10  
10 copy of them if you want them. 10:25:26

11 MR. LIDDY: We'll mark this as B. 10:25:30

12 Q. (By Mr. Liddy) Have you spoken to anyone 10:25:30  
13 about this case other than a lawyer? 10:25:32  
14 A. I spoke with Tom Molton. 10:25:36

15 Q. Did you speak with him before or after his 10:25:40  
16 deposition? 10:25:44  
17 A. That was the -- I believe the day before 10:25:44  
18 his deposition. 10:25:48

19 Q. What was said in that discussion? 10:25:48  
20 A. There -- he was asking about some of the -- 10:25:54  
21 the screen shots that I believe are part of -- part of 10:25:58  
22 the -- one of the packets for the -- with regard to 10:26:02  
23 what each item meant for the electronic communication 10:26:06  
24 of the recalls. 10:26:12  
25 MR. GREEN: Just for the record, I believe 10:26:14

9

1 the witness is referring to the exhibits that were 10:26:14  
2 attached to Enterprise Rent-A-Car Company's amended 10:26:16  
3 responses to special interrogatory set number two. 10:26:20  
4 Q. (By Mr. Liddy) Okay. 10:26:24  
5 A. Correct. 10:26:24  
6 Q. Is there somebody at Enterprise who sets 10:26:24  
7 the policies for how vehicles that are recalled are 10:26:28  
8 not rented to the public? 10:26:36  
9 MR. GREEN: Objection to the form of the 10:26:36  
10 question. We need to determine which Enterprise 10:26:38  
11 entity you're talking about, Counsel. Enterprise 10:26:40  
12 Rent-A-Car Company, as this witness is the 10:26:44  
13 representative? 10:26:46  
14 Q. (By Mr. Liddy) Are there different 10:26:48  
15 policies for each Enterprise entity for ensuring that 10:26:50  
16 recalled vehicles are not rented to the public? 10:26:54  
17 A. Enterprise Rent-A-Car, the parent 10:26:56  
18 corporation, which does not own or operate vehicles, 10:26:58  
19 does not set the policies for its subsidiary. Each 10:27:02  
20 subsidiary independently is responsible for setting 10:27:04  
21 their policies. 10:27:08  
22 Q. Why is that? Why is it that each 10:27:14  
23 subsidiary sets their own policy for making sure that 10:27:16  
24 recalled vehicles are not rented to the public? 10:27:20  
25 A. Because we do not own and operate those 10:27:22

10

1 vehicles. We do not have local relationships with the 10:27:24  
2 dealers where these -- where these recalls would be 10:27:28  
3 performed, and within each operation because of our 10:27:30  
4 decentralized structure and entrepreneurial spirit 10:27:36  
5 that is all handled in our decentralized operation. 10:27:40  
6 MR. LIDDY: Could I have the first part of 10:27:44  
7 that answer back, please? 10:27:44  
8 (WHEREIN, the requested portion of the 10:27:44  
9 record was read by the Court Reporter.) 10:28:02  
10 A. And we being the parent corporation. 10:28:02  
11 Q. (By Mr. Liddy) What does -- what does the 10:28:04  
12 parent corporation do? 10:28:08  
13 MR. GREEN: Objection to the form of the 10:28:10  
14 question. That's pretty broad. Do in respect to 10:28:10  
15 what, Counsel? 10:28:14  
16 Q. (By Mr. Liddy) You can answer. 10:28:16  
17 A. We act as consultant and will assist the 10:28:16  
18 subsidiaries when called upon. 10:28:20  
19 Q. How many employees does the parent company 10:28:24  
20 have? 10:28:28  
21 A. I don't know offhand. 10:28:28  
22 Q. Do you have any estimate at all? 10:28:32  
23 A. Estimate would be about two thousand 10:28:34  
24 employees, half of which would be IT professionals. 10:28:38  
25 Q. And what do the -- what do the IT -- strike 10:28:42

11

1 that. 10:28:48  
2 What do the thousand or so IT professionals 10:28:50  
3 do for the parent company? 10:28:52  
4 A. Their exact duties I don't know, but they 10:28:54  
5 would support all the systems in place, support any 10:28:58  
6 programming needs. 10:29:02  
7 Q. When you say support the systems, what do 10:29:06  
8 you mean? 10:29:10  
9 A. Well, if there's -- if there is a parent 10:29:10  
10 request for -- for some programming that's required by 10:29:16  
11 the parent or if there is some needs that the 10:29:20  
12 subsidiaries may have in terms of systems programming, 10:29:22  
13 reporting, etc., anything that has to do with -- with 10:29:26  
14 IS systems or IT systems. 10:29:32  
15 Q. So the parent has about a thousand people 10:29:36  
16 in the IT field, and what do the other thousand or so 10:29:40  
17 people do? 10:29:44  
18 A. They support the subsidiaries, whether it 10:29:44  
19 be the rental side, the fleet management side, all 10:29:48  
20 lines of business. Offer -- offer support to the 10:29:52  
21 subsidiaries. 10:29:56  
22 Q. What kind of support? 10:29:56  
23 A. In particular? Support for remarketing, 10:29:58  
24 support for purchasing of vehicles, support for 10:30:06  
25 business management accounting, pretty much whatever 10:30:12

12

1 line a subsidiary has in terms of -- of their 10:30:16  
2 operations there will be a parent corporate support 10:30:18  
3 entity to assist. 10:30:22  
4 Q. So you mentioned marketing, you mentioned 10:30:24  
5 purchasing, and what else? 10:30:28  
6 A. All lines, risk management, business 10:30:32  
7 management, fleet management, which is the leasing 10:30:36  
8 side of the business, human resources. 10:30:40  
9 Q. So does the parent company have any policy 10:30:46  
10 with respect to ensuring that recalled vehicles are 10:30:52  
11 not rented to the public? 10:30:56  
12 A. No. 10:30:56  
13 Q. How, if you know, do the subsidiaries 10:30:58  
14 establish their policies for ensuring that recalled 10:31:06  
15 vehicles are not rented to the public? 10:31:10  
16 A. Sir, I don't know. Varies by subsidiary, 10:31:10  
17 which is their -- which is their call. 10:31:14  
18 Q. When you say it's their call, who within 10:31:16  
19 the subsidiary sets that policy or makes that call? 10:31:20  
20 MR. GREEN: Objection to the form of the 10:31:24  
21 question. You're talking about multiple entities and 10:31:26  
22 I'm not sure this witness would know each individual 10:31:30  
23 in each entity in these multiple entities, Counsel. 10:31:32  
24 It's a pretty broad question. 10:31:36  
25 Q. (By Mr. Liddy) Do you know? 10:31:38

13

1 A. I don't know. It would vary by 10:31:38  
2 organization. 10:31:42  
3 Q. Is there -- is there a job title for the 10:31:42  
4 person at each subsidiary who is in charge of making 10:31:44  
5 sure that recalled vehicles are not rented to the 10:31:50  
6 public? 10:31:50  
7 A. No. There is a job title at each 10:31:52  
8 subsidiary that is responsible for establishing 10:31:54  
9 policies. 10:31:58  
10 Q. What's that job title? 10:31:58  
11 A. Vehicle repair, whether it's vehicle repair 10:32:00  
12 manager or supervisor. The job title is vehicle 10:32:04  
13 repair. Vehicle repair is responsible for the 10:32:06  
14 physical damage and service end of each subsidiary. 10:32:10  
15 Q. What was the -- strike that. 10:32:12  
16 Do you know what the policy was of the 10:32:18  
17 Enterprise Rent-A-Car of San Francisco subsidiary with 10:32:22  
18 regard to getting recalled vehicles off-line? 10:32:28  
19 A. No, sir. 10:32:36  
20 Q. What was the purpose of your discussion 10:32:36  
21 with Thomas Molton? 10:32:40  
22 A. Was to explain some of the screens, the IT 10:32:42  
23 screen shots that he had questions on with regard to 10:32:48  
24 data as to when Enterprise Rent-A-Car San Francisco 10:32:52  
25 was notified electronically of the recall in question. 10:32:58

14

1 Q. So you didn't talk to Mr. Molton about 10:33:00  
2 policy at all? 10:33:08  
3 A. No, sir. 10:33:08  
4 Q. Is the Enterprise parent company -- strike 10:33:08  
5 that. 10:33:16  
6 Have you had any conversations with anyone 10:33:16  
7 at Enterprise, the parent entity, about this case? 10:33:20  
8 A. No, sir. 10:33:28  
9 MR. GREEN: You're talking about other than 10:33:28  
10 counsel. 10:33:30  
11 A. Other than counsel, correct. 10:33:30  
12 Q. (By Mr. Liddy) Other than the lawyer 10:33:32  
13 sitting to your left, have you spoken to any other 10:33:38  
14 lawyers about this case? 10:33:40  
15 A. With Brian Braunstein -- 10:33:42  
16 Q. Is he -- 10:33:42  
17 A. -- of Enterprise, who is an attorney. 10:33:48  
18 Q. Is he an employee of Enterprise? 10:33:50  
19 A. He's an employee of the parent, yes. 10:33:54  
20 MR. GREEN: Brian is in-house counsel for 10:34:00  
21 Enterprise Rent-A-Car Company. 10:34:04  
22 Q. (By Mr. Liddy) So other than the in-house 10:34:10  
23 lawyer and the lawyer sitting to your left, have you 10:34:10  
24 spoken to anybody else about this case? 10:34:14  
25 A. No, sir. 10:34:18

15

1 MR. GREEN: Well, I believe Melinda 10:34:20  
2 Friedman was in that meeting, and she is also an 10:34:22  
3 in-house lawyer for Enterprise Rent-A-Car Company. 10:34:24  
4 Q. (By Mr. Liddy) Okay. So other than 10:34:28  
5 Enterprise lawyers, you haven't spoken to anyone else 10:34:28  
6 about this case? 10:34:32  
7 A. No, sir. 10:34:32  
8 Q. So as far as you know, no one at Enterprise 10:34:32  
9 the parent company has expressed any interest in 10:34:48  
10 determining whether recalled vehicles are rented to 10:34:54  
11 the public? 10:34:58  
12 MR. GREEN: Objection to the form of the 10:34:58  
13 question. That -- that is an improper question as you 10:35:00  
14 know, Counsel. That calls for speculation on his 10:35:04  
15 part. 10:35:06  
16 Q. (By Mr. Liddy) You can answer. 10:35:08  
17 MR. GREEN: He doesn't know what's in the 10:35:08  
18 minds of all the other employees of Enterprise 10:35:10  
19 Rent-A-Car Company. 10:35:12  
20 A. I concur with counsel. 10:35:12  
21 Q. (By Mr. Liddy) But you know that you 10:35:16  
22 haven't had any discussions about that issue? 10:35:18  
23 A. Correct. 10:35:20  
24 Q. And is there someone else at the parent 10:35:20  
25 company that would have those discussions other than 10:35:24

16

1 you? 10:35:26  
2 A. Not to my knowledge. If so, I have not 10:35:26  
3 been privileged to them. 10:35:30  
4 Q. How many subsidiaries are there? 10:35:32  
5 A. Fifty-two, I believe, give or take a 10:35:34  
6 couple. 10:35:40  
7 MR. GREEN: You're talking about operating 10:35:40  
8 subsidiaries? 10:35:42  
9 A. Operating subsidiaries, and then once they 10:35:42  
10 are -- and then regionalized under those subsidiaries 10:35:44  
11 it's somewhere in the 160 number. Subsidiary 10:35:48  
12 regionalizes it would have -- 10:35:56  
13 Q. (By Mr. Liddy) I'm sorry, there's 52 10:35:58  
14 subsidiaries and what was the other number? 10:36:00  
15 A. An additional 160. So those are under 10:36:02  
16 those subsidiaries. They have a regionalized 10:36:04  
17 subsidiary structure as well. 10:36:08  
18 Q. So there's the 160 subsidiaries of the 10:36:10  
19 subsidiaries? 10:36:14  
20 A. Correct. 10:36:16  
21 MR. GREEN: And just for the record, this 10:36:16  
22 is not one of the categories in the PMK notice. This 10:36:20  
23 witness was not designated to talk on corporate 10:36:26  
24 structure, and Mr. Gieseking, are you just giving your 10:36:28  
25 understanding but not based on going and reviewing 10:36:30

17

1 records and preparing for that topic? 10:36:36  
2 THE WITNESS: That is correct. 10:36:38  
3 MR. GREEN: Okay. 10:36:40  
4 Q. (By Mr. Liddy) How many branches are 10:36:40  
5 there? 10:36:48  
6 A. Exact count, I don't know. 10:36:50  
7 Q. Your best estimate. 10:36:52  
8 MR. GREEN: You're not required to 10:36:54  
9 speculate. I'd object to the form of the question to 10:36:54  
10 the extent it requires the witness to speculate. 10:36:58  
11 A. Over -- over 6,000. 10:37:00  
12 Q. (By Mr. Liddy) And in California, do you 10:37:06  
13 know how many subsidiaries there are there? 10:37:12  
14 A. No. 10:37:14  
15 Q. Do you know how many branches are in 10:37:16  
16 California? 10:37:22  
17 A. No, sir. 10:37:22  
18 Q. Okay. Let's talk about how this -- your 10:37:22  
19 knowledge of how this recall was received by the 10:37:46  
20 parent company. 10:37:50  
21 A. How the recall was received by the parent 10:37:52  
22 company? 10:37:56  
23 Q. Yes. 10:37:56  
24 A. We received -- 10:37:56  
25 Q. I better just ask you a question. Explain 10:37:56

18

1 for us how the recall notice was received by the 10:38:00  
2 Enterprise parent company. 10:38:04  
3 MR. GREEN: And I think it would be helpful 10:38:08  
4 if he could look at the documents that were attached 10:38:10  
5 to our amended answers to interrogatories and walk you 10:38:12  
6 through that. 10:38:14  
7 MR. LIDDY: Sure. 10:38:14  
8 MR. GREEN: He's got his set there. 10:38:16  
9 A. The parent company would receive electronic 10:38:26  
10 notification from the manufacturer, which is this 10:38:28  
11 screen here, which would outline the vehicle in 10:38:32  
12 question in terms of -- in terms of the notification 10:38:40  
13 of the -- or the vehicle of being -- being part of the 10:38:44  
14 recall. That is how we would be notified, we the 10:38:48  
15 parent from the manufacturer, electronic. Electronic 10:38:54  
16 file. 10:39:00  
17 Q. (By Mr. Liddy) And do you have an 10:39:02  
18 understanding when that notice was received? 10:39:04  
19 A. That was -- yes, it's dated at the top of 10:39:06  
20 September 8th, 2004. 10:39:10  
21 MR. GREEN: For the record, the witness is 10:39:26  
22 referring to the exhibits attached in Exhibit A to 10:39:26  
23 Defendant Enterprise Rent-A-Car Company's Amended 10:39:30  
24 Responses to Special Interrogatories Set Number Two 10:39:34  
25 Propounded By Plaintiff. 10:39:36

19

1 MR. LIDDY: Okay. We'll mark the copy of 10:39:40  
2 that document as C. Not the entire responses, just 10:39:42  
3 the -- just the notice. 10:39:54  
4 MR. GREEN: The notice? 10:40:00  
5 Q. (By Mr. Liddy) What do you call that 10:40:02  
6 document in front of you, that's the notice of recall, 10:40:04  
7 or do you call it something else? 10:40:06  
8 A. Electronic recall notification. 10:40:08  
9 MR. LIDDY: Do we have an extra copy of 10:40:22  
10 that I can mark? 10:40:24  
11 MR. GREEN: I guess we can mark this set. 10:40:34  
12 I'm sure I haven't written on it anywhere. 10:40:36  
13 Q. (By Mr. Liddy) Okay. Explain this -- this 10:40:50  
14 document, please. 10:40:50  
15 A. Okay. 10:40:52  
16 Q. And we're referring to Exhibit C, the 10:40:54  
17 electronic notice of recall. 10:40:56  
18 A. Okay. In the left-hand column you'll see 10:40:58  
19 the highlighted -- in fact, the box is showing the VIN 10:41:02  
20 number of the vehicle in question of the PT Cruiser. 10:41:04  
21 So this is the actual notification that the parent 10:41:10  
22 received, which outlines the VIN number itself. Next 10:41:12  
23 to the VIN number just to the right of where it says 10:41:18  
24 help column at the top where there's no header that 10:41:20  
25 starts X2, that number X21372 is the -- is the 10:41:22

20

1 internal unit number is how we would identify, we the 10:41:28  
2 parent or subsidiary, of the vehicle. 10:41:32  
3 Next to that is 23. That designator 23 is 10:41:34  
4 an internal designator of the subsidiary. 23 equates 10:41:40  
5 to San Francisco. And the next column I believe may 10:41:44  
6 be the -- is when Enterprise Rent-A-Car of San 10:41:50  
7 Francisco purchased the vehicle. 10:41:54  
8 To the right of that is the description, 10:41:54  
9 '04 Chrysler PT Cruiser, four door, and then the far 10:41:58  
10 hand right-hand side DR denotes that Enterprise 10:42:02  
11 Rent-A-Car of San Francisco operated this as a daily 10:42:06  
12 rental vehicle, and the last column, D18 denotes 10:42:10  
13 the -- the safety recall as described by Chrysler. 10:42:16  
14 Q. Now, I notice under DR sometimes it has 10:42:20  
15 nothing and sometimes it has UC. What is the 10:42:26  
16 significance of that? 10:42:30  
17 A. UC is an internal code that stands for used 10:42:30  
18 car, and where the blank is, which it's not on file, 10:42:36  
19 I'm not sure. So at the time this would have been 10:42:42  
20 initiated, this vehicle, a couple of those in UC would 10:42:48  
21 have been in used car status, meaning the subsidiary 10:42:50  
22 removed them from rental fleet and it was considered a 10:42:54  
23 vehicle ready for -- ready for sale. 10:42:56  
24 Q. So these -- does this Exhibit C represent 10:43:00  
25 all of the vehicles, all the model '04 PT Cruisers 10:43:10

21

1 that were owned by Enterprise or any Enterprise entity 10:43:16  
2 at the time this screen was printed? 10:43:20  
3 A. I believe not, no. It was just an 10:43:24  
4 individual screen shot showing the particular vehicle 10:43:28  
5 in question. 10:43:30  
6 Q. So this is a screen shot for one -- one 10:43:32  
7 particular vehicle? 10:43:34  
8 A. No. This is multiple vehicles. There may 10:43:34  
9 have been multiple pages of this. This particular VIN 10:43:38  
10 number or vehicle in question would happen to be on 10:43:40  
11 this screen. So most likely there's more screens 10:43:42  
12 before this and after this listing these vehicles. 10:43:48  
13 Q. Well, does each line going across the page 10:43:50  
14 represent a different vehicle? 10:43:56  
15 A. Yes. 10:43:58  
16 Q. And are they all PT Cruisers? 10:43:58  
17 A. Yes. 10:44:02  
18 Q. And are they all '04 PT Cruisers? 10:44:04  
19 A. I cannot answer that without looking at 10:44:10  
20 each VIN number to determine what the model year is. 10:44:12  
21 So I can't say for sure. 10:44:18  
22 Q. Well, what is this -- all these fours in 10:44:20  
23 this column represent? 10:44:24  
24 A. You are correct. It's the '04 Chrysler PT 10:44:24  
25 Cruisers, yes, they are. 10:44:28

22

1 MR. GREEN: Although we do have the search 10:44:30  
2 box superimposed over it to show what the search was 10:44:32  
3 done, and we don't know exactly what that column would 10:44:36  
4 show behind that search box. This was done to show 10:44:40  
5 that the -- the download from DaimlerChrysler 10:44:44  
6 specifically of the subject vehicle so we could show 10:44:52  
7 the flow of the information of the subject vehicle. 10:44:54  
8 Don, and that's the reason why it was attached to the 10:44:58  
9 answers to -- amended answers to interrogatories. 10:45:00  
10 Q. (By Mr. Liddy) Who has access to this 10:45:04  
11 screen? 10:45:06  
12 A. No one has access to it unless -- unless 10:45:06  
13 requested. So this is not something that's -- that we 10:45:10  
14 can search. This is -- this is an IT request. 10:45:14  
15 Q. Is there any -- is there any designation 10:45:20  
16 for recalls at the -- at the parent company level that 10:45:28  
17 distinguishes among recalls that involve safety issues 10:45:34  
18 or recalls that involve something that doesn't concern 10:45:40  
19 safety? 10:45:44  
20 A. Safety versus nonsafety issues? 10:45:44  
21 Q. Right. 10:45:46  
22 A. We follow the manufacturer's designation. 10:45:46  
23 Q. And how was this recall designated? 10:45:50  
24 A. This recall was designated as a safety 10:45:54  
25 recall. 10:45:58

23

1 Q. And when you get a recall that's designated 10:45:58  
2 as a safety issue, do you treat that recall any 10:46:02  
3 differently than a nonsafety recall? 10:46:06  
4 A. All safety-related recalls that we the 10:46:08  
5 parent receive electronically from the manufacturer, 10:46:12  
6 which by the way is not all manufacturers, are entered 10:46:16  
7 into -- into the system electronically. Nonsafety 10:46:18  
8 recalls which are still mailed to the subsidiary is up 10:46:24  
9 to the discretion of the subsidiary as to whether or 10:46:28  
10 not they enter them -- and enter the recalls. It is 10:46:32  
11 up to the discretion of the subsidiary as to whether 10:46:40  
12 or not they enter a nonsafety recall into the 10:46:42  
13 operating system. 10:46:46  
14 Q. When you say enter a non -- 10:46:48  
15 MR. LIDDY: I'm sorry. Would you read that 10:46:54  
16 answer back, please? 10:46:56  
17 (WHEREIN, the requested portion of the 10:47:30  
18 record was read by the Court Reporter.) 10:47:32  
19 Q. (By Mr. Liddy) Thank you. So all safety 10:47:32  
20 recalls are entered into the operating system? 10:47:36  
21 A. That we receive electronically from the 10:47:38  
22 manufacturer. 10:47:40  
23 Q. Why is that? 10:47:42  
24 A. In order to alert the subsidiaries on a 10:47:44  
25 consistent basis to ensure their entry into the 10:47:52

24

1 operating system for a consistent timing basis. 10:47:56  
2 Q. How long has that been the procedure? How 10:48:00  
3 long has that procedure been in place? 10:48:12  
4 A. I believe that started in June of '04. 10:48:14  
5 Q. What was it that -- why was it that 10:48:20  
6 procedure was put in place in June of '04? 10:48:26  
7 A. Part of it was in dialogue with the 10:48:28  
8 domestic manufacturers, which makes up the majority of 10:48:34  
9 the subsidiaries' purchases, was a -- a request on -- 10:48:38  
10 on Enterprise's part to be -- to elect -- to notify 10:48:46  
11 them on a consistent basis, and the reason for the 10:48:50  
12 timing was getting each manufacturer up to speed and 10:48:54  
13 getting Enterprise resources available so we could 10:48:58  
14 collectively accomplish this task. So there were 10:49:02  
15 some -- there were some resources on both sides that 10:49:04  
16 needed to be developed. 10:49:06  
17 Q. And what was the policy and procedure in 10:49:08  
18 that respect prior to June of '04? 10:49:18  
19 A. It's really no different than it is today. 10:49:20  
20 This is just the electronic notifications just in 10:49:24  
21 addition to, but prior -- prior to the electronic 10:49:26  
22 notification being entered for the subsidiaries was 10:49:30  
23 the subsidiaries would receive from the manufacturer 10:49:32  
24 the recall notification and would manually enter each 10:49:36  
25 safety recall on a vehicle-by-vehicle basis into the 10:49:42

25

1 rental operating system, which by the way, is still 10:49:46  
2 done today with some import manufacturers. 10:49:52  
3 Q. So Chrysler sends the parent company an 10:49:54  
4 electronic notification of recall? 10:50:00  
5 A. Correct. 10:50:02  
6 Q. And then the parent company electronically 10:50:02  
7 sends the notice of recall to the -- to the 10:50:10  
8 subsidiaries? 10:50:12  
9 A. The recall is electronically entered into 10:50:12  
10 the E-Cars program, which is the rental operating 10:50:16  
11 program the subsidiaries use to rent vehicles, and 10:50:20  
12 that is an overnight download that occurs. So the 10:50:24  
13 following day it is -- it is received. It is 10:50:26  
14 available to each subsidiary. 10:50:30  
15 Q. So Enterprise -- what do you -- what do you 10:50:32  
16 call Enterprise the parent company? Other than 10:50:48  
17 calling them Enterprise parent, what do you call them? 10:50:50  
18 A. Enterprise Rent-A-Car Corporation. 10:50:52  
19 Q. So Enterprise Rent-A-Car -- 10:50:54  
20 MR. GREEN: It's company. 10:50:56  
21 THE WITNESS: Enterprise Rent-A-Car 10:50:56  
22 Company. 10:50:58  
23 MR. GREEN: Yeah. 10:50:58  
24 Q. (By Mr. Liddy) Maybe it is easier to call 10:51:02  
25 them the parent company. When you're having an 10:51:04

26

1 I can show you that, and that was -- that was Bob 10:52:36  
2 Agnew. 10:52:40  
3 Q. So there's three pages that I'm looking at 10:52:48  
4 here. We're looking at the same thing? 10:52:52  
5 A. Yes. This was -- this was immediately 10:52:54  
6 after -- after this page there's a double -- double 10:52:56  
7 screen shot. In fact, the -- if you want to reference 10:53:00  
8 the file number which is at the top left, it's file, 10:53:04  
9 logical, and then file number. It's FA005P01 is at 10:53:10  
10 the top, and the file number on the bottom screen shot 10:53:16  
11 is FA007P00. Okay. These locations right here. 10:53:18  
12 Q. Okay. 10:53:26  
13 A. Okay. 10:53:26  
14 Q. What does that represent? 10:53:30  
15 A. What this represents is when this -- when 10:53:32  
16 this file from Chrysler hits the server and this 10:53:34  
17 information is looked upon, you see right here it says 10:53:38  
18 changed by EM number 91209. Employee number 91209 is 10:53:44  
19 Bob Agnew. So what has occurred here on where it says 10:53:50  
20 add -- add date, little bit more than halfway down, 10:53:54  
21 20040908, which corresponds with the information on 10:53:58  
22 the preceding page. 10:54:06  
23 This was the date that it hit the server 10:54:06  
24 where Chrysler notified Enterprise. What happens then 10:54:10  
25 is a nightly download occurs, this does not happen 10:54:14

28

1 everyday conversation, you don't call them Enterprise 10:51:08  
2 Rent-A-Car Company. Do you have another name for it? 10:51:12  
3 You just call it Enterprise? 10:51:14  
4 A. Enterprise. 10:51:16  
5 Q. Okay. So if we say Enterprise, we'll just 10:51:16  
6 talk -- we'll be talking about the parent company. 10:51:18  
7 A. Okay. 10:51:20  
8 Q. So Enterprise gets the recall notice 10:51:20  
9 electronically and then somebody at Enterprise has to 10:51:28  
10 download it onto E-Cars? 10:51:32  
11 A. It comes to a -- it is pushed to a server, 10:51:34  
12 which is looked at daily. Some of the manufacturers 10:51:40  
13 it happens automatically because it can be identified 10:51:44  
14 as a safety recall with a description. Other 10:51:48  
15 manufacturers it requires a description to be entered 10:51:52  
16 or -- or the recall number itself, so it is viewed -- 10:51:56  
17 the server is viewed daily and if it -- depending on 10:52:00  
18 the manufacturer, that may require someone to enter 10:52:04  
19 some information in order for the download to occur. 10:52:08  
20 Q. What happened in this case? 10:52:10  
21 A. In this case with Chrysler it required one 10:52:12  
22 of my employees to put a description and to -- to 10:52:20  
23 initiate the download. 10:52:26  
24 Q. Who did that? 10:52:30  
25 A. Well, if you want to look at the next page, 10:52:34

27

1 realtime, so a nightly download occurs and then it 10:54:18  
2 becomes available for -- for Mr. Agnew to review, and 10:54:20  
3 as you see below add date, second from the bottom it 10:54:24  
4 says change date. That's 20040909, so September 9th, 10:54:26  
5 2004. Right above that change time, which is military 10:54:34  
6 time, 1323. 10:54:36  
7 So 1:23 on September 9th Mr. Agnew updated 10:54:38  
8 this by designating recall campaign D18 which is the 10:54:42  
9 third down in this line of columns, and entered the 10:54:48  
10 campaign description of power steering pressure hose. 10:54:52  
11 And right above D18 where it says priority recall, 10:54:56  
12 yes, no -- or Y. Or Y or N. That the priority recall 10:55:00  
13 internally in our system denotes a safety recall. 10:55:04  
14 So on September 9th this was updated as a 10:55:06  
15 safety recall, D18, power steering pressure hose. 10:55:10  
16 Now, a nightly download occurs then, and on the screen 10:55:16  
17 shot above it will designate this particular vehicle, 10:55:20  
18 manufacturer unit X21372, the VIN number below that, 10:55:24  
19 recall campaign D18, power steering pressure hose. 10:55:28  
20 Add time, that's 3:52 a.m., and add date was 2004, 10:55:32  
21 9-10. So on 3:52 a.m. on the 10th of September this 10:55:40  
22 information would have been available to the 10:55:44  
23 subsidiary of the safety recall. 10:55:48  
24 Q. So 3:52 is the time. What's the 23? 10:55:50  
25 A. Seconds. 10:55:56

29

1 Q. All right. So why don't we mark these -- 10:55:56  
2 what do you call these screens? 10:56:04  
3 A. These are -- well, I think they're named 10:56:04  
4 here. Campaign -- campaign file screens and then open 10:56:10  
5 recall history log file. So in the large text under 10:56:14  
6 QuestView, those are the names of the screens. So one 10:56:18  
7 is an open recall campaign file and one is an open 10:56:22  
8 recall history log file. 10:56:26  
9 MR. LIDDY: All right. Let's mark these 10:56:28  
10 three pages as D. 10:56:30  
11 MR. GREEN: Counsel, the other two pages 10:56:34  
12 that follow that are different information. Do you 10:56:36  
13 want to -- however you want to mark them, but they 10:56:42  
14 don't relate to those two pages or those two screens. 10:56:44  
15 MR. LIDDY: I'm okay with marking them all 10:56:48  
16 D. 10:56:50  
17 MR. GREEN: That's fine. That's fine. 10:56:52  
18 Q. (By Mr. Liddy) So what Enterprise gets 10:56:54  
19 from Chrysler -- do we have a representation of what 10:57:04  
20 Enterprise gets from Chrysler electronically? 10:57:06  
21 A. That is a representation, that screen, the 10:57:10  
22 first picture. 10:57:16  
23 Q. So -- 10:57:16  
24 MR. GREEN: You're talking about Exhibit C. 10:57:16  
25 A. Exhibit C. That is a representation of 10:57:18

30

1 what Enterprise receives from Chrysler. This would be 10:57:20  
2 on our file on our server that comes over. 10:57:22  
3 Q. (By Mr. Liddy) Do you get anything else 10:57:28  
4 from Chrysler other than the information that's 10:57:30  
5 depicted in Exhibit C about the recall? 10:57:32  
6 A. I do not know. 10:57:36  
7 MR. GREEN: You did get the e-mail. 10:57:46  
8 THE WITNESS: Pardon me? 10:57:48  
9 MR. GREEN: The e-mail, that's the next 10:57:48  
10 document. 10:57:50  
11 THE WITNESS: Bob Agnew. Did I receive, 10:57:50  
12 no, Bob -- 10:57:52  
13 MR. GREEN: Oh, he -- you interpreted 10:57:52  
14 whether you personally received it. 10:57:54  
15 THE WITNESS: Whether -- yeah, whether I 10:57:54  
16 personally received it, no. 10:57:54  
17 Q. (By Mr. Liddy) Do you personally receive 10:57:56  
18 the information on Exhibit C? 10:58:00  
19 A. No. 10:58:02  
20 Q. Does anybody personally receive the 10:58:02  
21 information on Exhibit C? 10:58:08  
22 A. No. 10:58:10  
23 Q. That just shows up on the computer? 10:58:12  
24 A. On the server, correct. 10:58:14  
25 Q. And then EM stands for? 10:58:14

31

1 A. Employee number. Or EM is employee. 10:58:20  
2 Q. And that employee, 91209, what was his 10:58:22  
3 name? 10:58:38  
4 A. Robert Agnew or Bob Agnew. 10:58:38  
5 Q. What is his job title? 10:58:40  
6 A. He is service operations manager. 10:58:44  
7 Q. And Mr. Agnew enters the information that 10:58:48  
8 we see on the first page of Exhibit D? 10:59:00  
9 A. Yes. Mr. Agnew would enter the -- the -- 10:59:02  
10 let me see. The recall campaign number and recall 10:59:10  
11 campaign description, correct. 10:59:14  
12 Q. And the other information that we see on 10:59:18  
13 the first page of Exhibit D, how was that inputted? 10:59:20  
14 A. Which information? 10:59:26  
15 Q. We know that information that we see on 10:59:26  
16 Exhibit D, the first page, some of it comes from Bob 10:59:34  
17 Agnew, right? 10:59:36  
18 A. Correct. The rest of it is system driven 10:59:36  
19 based on the vehicle identification number. 10:59:42  
20 Q. When you say system driven, what does that 10:59:44  
21 mean? 10:59:46  
22 A. It means if this vehicle identification 10:59:46  
23 number is in the Enterprise master file system it will 10:59:50  
24 let them know the year, make, model, series, VIN 10:59:52  
25 number, etc. attached with it. 10:59:56

32

1 Q. So the system automatically brings up 10:59:58  
2 certain information that we see on Exhibit D? 11:00:04  
3 A. Correct. 11:00:08  
4 Q. So is the information that we see on the 11:00:08  
5 first page of Exhibit D either put in automatically by 11:00:14  
6 the system or put in by Bob Agnew? 11:00:16  
7 A. Correct. 11:00:18  
8 Q. That covers all that information? 11:00:20  
9 A. That covers all that, correct. 11:00:20  
10 Q. And the difference between the first screen 11:00:22  
11 and second screen on Exhibit D is what? 11:00:36  
12 A. The bottom screen is the information in 11:00:38  
13 general with regard to recall D18. The top screen is 11:00:44  
14 vehicle specific information denoting that this 11:00:48  
15 particular unit was notified at a specific time. So 11:00:50  
16 it's general versus vehicle specific. 11:00:56  
17 Q. Do the branches have access to this screen 11:00:58  
18 on Exhibit D? 11:01:04  
19 A. To these screens, no. These are -- these 11:01:06  
20 are IT system screens. 11:01:08  
21 Q. What do the branches have access to with 11:01:10  
22 regard to the recalls? 11:01:14  
23 A. The subsidiary rental branches have access 11:01:14  
24 to a maintenance -- vehicle maintenance screen in the 11:01:18  
25 system where they can look at their specific branch in 11:01:24

33

1 terms of what is a need for a -- considered a LOFR, 11:01:28  
 2 which is an acronym for lube, oil, filter, rotation, 11:01:32  
 3 and any open recalls that are in the system. 11:01:36  
 4 Q. Okay. Let's go to page two of Exhibit D. 11:01:40  
 5 And these are rental -- these are both rental unit 11:01:50  
 6 history? 11:01:54  
 7 A. These are -- they're unit history, but 11:01:54  
 8 these are programming's versions of unit history. 11:01:58  
 9 This is not -- a portion of what is viewed is what 11:02:02  
 10 these subsidiaries would see, but not in its entirety. 11:02:06  
 11 The top half is something that's not similar to what 11:02:08  
 12 the subsidiary would receive. 11:02:12  
 13 Q. Okay. I see your point here. Why don't we 11:02:14  
 14 mark the rental history screens as E. So E is a 11:02:20  
 15 two-page document. D is a one-page document. And 11:02:32  
 16 let's go through Exhibit E. Can you -- can you 11:02:36  
 17 explain what we're looking at there? 11:02:40  
 18 A. Which is the -- titled Rental Unit History? 11:02:42  
 19 Q. Right. 11:02:50  
 20 A. Okay. The -- well, other than what's at 11:02:50  
 21 the top explaining the information from IT speak of 11:02:54  
 22 what these pieces are, the items to the middle below 11:03:00  
 23 that identify the unit number X21372 on September 11:03:04  
 24 11th, 2004 at 10:31, and it shows the opened and 11:03:12  
 25 closed rental tickets on this particular vehicle in 11:03:18

34

1 question. 11:03:24  
 2 MR. GREEN: Tell him what you mean by 11:03:26  
 3 rental tickets. 11:03:28  
 4 A. Rental tickets or daily rental 11:03:28  
 5 transactions. 11:03:32  
 6 Q. (By Mr. Liddy) Okay. And these -- this 11:03:32  
 7 information to the left of the screen, RACHIST, what 11:03:34  
 8 does that mean? 11:03:44  
 9 A. RACHIST in library and ELLIB, library, 11:03:44  
 10 that's a history file. So that is -- RACHIST is an 11:03:48  
 11 internal acronym that, again, the subsidiaries would 11:03:52  
 12 not see, but that -- that's where these files reside 11:03:54  
 13 is a history file, systems history file. 11:03:58  
 14 Q. And so that would be rental car history, is 11:04:00  
 15 that what that is? 11:04:06  
 16 A. I'm not sure what RACH stands for. I have 11:04:06  
 17 always used -- heard the term RACHIST and RACHMAINT is 11:04:10  
 18 two different files, but what the RACH stands for, I 11:04:12  
 19 don't know. 11:04:16  
 20 Q. Do you know what ELLIB stands for? 11:04:16  
 21 A. ELLIB, it's the Enterprise library, but 11:04:18  
 22 ELLIB the acronym itself, no, I don't know what that 11:04:22  
 23 stands for. 11:04:24  
 24 Q. And what does MBR stand for? 11:04:26  
 25 A. I don't know. 11:04:28

35

1 Q. So this is the -- these pages represent the 11:04:28  
 2 complete rental history for that vehicle? 11:04:34  
 3 A. I'm not sure if it's complete rental 11:04:36  
 4 history. I don't know when the in-service date was 11:04:40  
 5 versus -- I know when the date removed was, but I 11:04:42  
 6 cannot speak that this is the entire rental history. 11:04:46  
 7 MR. GREEN: Counsel, for the record, it is 11:04:52  
 8 not the entire rental history. Again, these were 11:04:54  
 9 snapshots of the system that were taken for the 11:04:58  
 10 purpose of our amended answers to interrogatories, and 11:05:00  
 11 it's the unit history from September 11 and thereafter 11:05:04  
 12 because September 10 was when it -- the recall was 11:05:10  
 13 entered into the system. 11:05:14  
 14 Q. (By Mr. Liddy) Do you have an 11:05:16  
 15 understanding of why this vehicle was rented to these 11:05:18  
 16 customers after the recall was entered in the system? 11:05:22  
 17 A. No, I don't. 11:05:26  
 18 Q. And as we sit here today, do you know 11:05:26  
 19 whether vehicles that are subject to a safety recall 11:05:38  
 20 at the present time are still being rented to 11:05:42  
 21 Enterprise customers? 11:05:46  
 22 A. I do not know. 11:05:46  
 23 Q. And have you -- have you talked to anybody 11:05:48  
 24 at Enterprise about not renting recalled vehicles to 11:05:58  
 25 the public? 11:06:02

36

1 A. Enterprise the parent as we've spoken? 11:06:04  
 2 Q. Right. 11:06:06  
 3 A. No, sir. 11:06:08  
 4 Q. Have you talked to the Enterprise 11:06:08  
 5 subsidiaries about whether it's a good idea to rent 11:06:10  
 6 recalled vehicles to the public? 11:06:14  
 7 MR. WIGGINS: Objection, overbroad. 11:06:18  
 8 A. No, each subsidiary is responsible for 11:06:18  
 9 their own policies. 11:06:22  
 10 Q. (By Mr. Liddy) Is the parent company not 11:06:22  
 11 responsible for its subsidiaries? 11:06:24  
 12 MR. GREEN: Objection to the form of the 11:06:26  
 13 question. It's vague and ambiguous and calls for a 11:06:28  
 14 legal conclusion on the part of the witness that's not 11:06:32  
 15 designated to give a legal conclusion. 11:06:34  
 16 Q. (By Mr. Liddy) Is that your understanding? 11:06:38  
 17 A. Yes. 11:06:38  
 18 Q. Do you have a legal department here at 11:06:38  
 19 Enterprise? 11:06:46  
 20 A. A legal department? We have general 11:06:48  
 21 counsel. 11:06:50  
 22 Q. How many lawyers do you have that work as 11:06:52  
 23 employees of Enterprise? 11:06:54  
 24 A. I don't know specifically how many there 11:06:54  
 25 are. 11:06:58

37

1 Q. Okay. Let's go to the second page of 11:06:58  
2 Exhibit E. Who enters this information about the 11:07:12  
3 accident, double fatality? 11:07:26  
4 A. I don't know who at the subsidiary would 11:07:30  
5 enter that. It most likely would be the -- the loss 11:07:32  
6 control department, but in this -- I can't say for 11:07:38  
7 sure. 11:07:42  
8 Q. Does each subsidiary have a loss control 11:07:42  
9 department? 11:07:46  
10 A. Yes. 11:07:46  
11 Q. What does the loss control department do? 11:07:46  
12 A. The loss control department in the 11:07:50  
13 subsidiary handles the subrogation of claims, of 11:07:54  
14 losses. 11:07:58  
15 Q. What does that mean, subrogation of claims 11:07:58  
16 and losses? 11:08:00  
17 A. Means if there's -- they handle the 11:08:00  
18 collection of damages and the handling of damages in 11:08:02  
19 terms of -- in terms of rental vehicles being involved 11:08:06  
20 in accidents. 11:08:10  
21 Q. So they handle trying to get the money back 11:08:12  
22 for the damage to the car? 11:08:16  
23 A. Correct. They take the accident report and 11:08:18  
24 if a State Farm driver was responsible for hitting our 11:08:20  
25 rental vehicle and it was their fault, then they 11:08:24

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1 would -- they would take means of subrogating against 11:08:26  
2 the insured to collect for our damages. 11:08:30  
3 Q. Is there a -- a job title at the branch 11:08:32  
4 level for someone who is in charge of safety? 11:08:40  
5 A. I don't know. 11:08:46  
6 Q. Is there a job title at the subsidiary 11:08:46  
7 level for someone who is in charge of vehicle safety? 11:08:48  
8 A. Not to my knowledge. 11:08:50  
9 Q. Is there a job title at the Enterprise 11:08:52  
10 parent company level of someone who is in charge of 11:09:00  
11 vehicle safety? 11:09:02  
12 MR. GREEN: Objection to the form of the 11:09:04  
13 question. That's awfully overbroad, Counsel. In what 11:09:04  
14 respect? 11:09:08  
15 Q. (By Mr. Liddy) You can answer if you 11:09:10  
16 understand the question. 11:09:10  
17 A. With respect to -- safety in respect to? 11:09:10  
18 Q. Let's just start out with any kind of 11:09:14  
19 safety. Making sure vehicles are safe when they're 11:09:16  
20 rented to the public? 11:09:20  
21 MR. GREEN: Objection to the form of the 11:09:20  
22 question. That's impossibly overbroad and vague and 11:09:22  
23 ambiguous. 11:09:26  
24 A. Vehicle safety, not to my knowledge. 11:09:26  
25 Q. (By Mr. Liddy) When you say vehicle 11:09:28

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1 safety, not to your knowledge, what you're saying is 11:09:30  
2 you don't know of anyone at Enterprise who's in charge 11:09:32  
3 of making sure that the vehicles are safe when they're 11:09:36  
4 rented to the public? 11:09:40  
5 MR. GREEN: Objection to the form of the 11:09:40  
6 question. Counsel, can you show me the category of 11:09:42  
7 your deposition notice that this line of questioning 11:09:44  
8 pertains to because I don't think this witness has 11:09:50  
9 been designated for this category, and it wasn't 11:09:52  
10 included in your notice, and I don't think we're going 11:09:58  
11 to continue with this line of questioning unless you 11:10:00  
12 can show us where it's included in your notice. 11:10:02  
13 MR. LIDDY: Counsel, you know as well as I 11:10:04  
14 do that I don't have to put every item in line of 11:10:06  
15 questioning in the notice, but I think that the notice 11:10:10  
16 is -- gives fairly good -- good -- gives a fairly good 11:10:14  
17 idea of what we're going to go to in this case and 11:10:16  
18 what we're interested in. We're interested in whether 11:10:20  
19 someone at Enterprise is doing anything to make sure 11:10:24  
20 that dangerous cars aren't rented to the public. You 11:10:26  
21 know that as well as I do. 11:10:26  
22 MR. GREEN: There's nothing in there about 11:10:26  
23 that topic. You're talking -- all your topic talks 11:10:28  
24 about is recalls, every one of your topics, and so 11:10:30  
25 Counsel, unless you're going to confine your 11:10:34

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1 questioning to recalls, I'm going to direct the 11:10:36  
2 witness not to answer other questions that are not 11:10:38  
3 contained within the categories that you designated 11:10:42  
4 this deposition for. 11:10:46  
5 MR. LIDDY: Well, I can certainly ask the 11:10:46  
6 witness if he knows of people that have knowledge 11:10:48  
7 about that so I can depose them, or maybe you can tell 11:10:50  
8 me if there's somebody. 11:10:52  
9 MR. GREEN: That's not what you noticed 11:10:54  
10 this deposition for. You didn't notice asking for a 11:10:54  
11 PMK to testify about what people know about certain 11:11:00  
12 topics unrelated to recalls in the corporation, and 11:11:04  
13 you know, so that's not what this witness is here 11:11:08  
14 designated to testify on today. 11:11:10  
15 MR. LIDDY: Okay. You know that that's a 11:11:14  
16 pretty -- pretty thin ground for an objection, but 11:11:16  
17 your objection is noted for the record, and I'll ask 11:11:20  
18 the witness is there anybody that you know of at 11:11:22  
19 Enterprise who's in charge of making sure that 11:11:26  
20 vehicles are safe when they're rented to the public? 11:11:30  
21 THE WITNESS: I concur with counsel. 11:11:32  
22 MR. GREEN: He is not designated for 11:11:34  
23 that -- that topic. He has not researched that topic. 11:11:36  
24 We didn't attempt to find a person most knowledgeable 11:11:40  
25 on that topic because you didn't designate it in your 11:11:44

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1 deposition notice, and Mr. Gieseking, do you feel that 11:11:48  
2 that's within your area of expertise in the company to 11:11:54  
3 respond to that question? 11:11:56  
4 THE WITNESS: No, I do not. 11:11:58  
5 MR. GREEN: All right. So I'm going to 11:11:58  
6 instruct the witness he need not to respond to the 11:12:00  
7 question because it is not included within the topics 11:12:02  
8 set for this deposition. 11:12:06  
9 MR. LIDDY: Okay. Well, the rule in 11:12:08  
10 California for instructing a witness not to answer a 11:12:10  
11 question is based on privilege. Privilege is the only 11:12:14  
12 grounds, not that you don't think he had fair notice 11:12:16  
13 in the -- in the deposition. So that's an improper 11:12:22  
14 instruction and I think it's kind of silly, but I 11:12:26  
15 think the witness has already answered the question, 11:12:34  
16 that you -- 11:12:38  
17 MR. GREEN: Then let's move on if you think 11:12:38  
18 that. 11:12:40  
19 MR. LIDDY: Okay. 11:12:42  
20 Q. (By Mr. Liddy) Have you spoken to anyone 11:12:44  
21 at Enterprise who's knowledgeable about making sure 11:12:44  
22 that unsafe vehicles aren't rented to the public? 11:12:50  
23 MR. GREEN: Objection to the form of the 11:12:54  
24 question. That's just impossibly overbroad, and 11:12:56  
25 again, it's not within the topics that you have 11:12:58

1 designated for this deposition. Why don't you 11:13:00  
2 designate that if that's what you wanted to go into, 11:13:02  
3 Counsel? 11:13:04  
4 MR. LIDDY: Your objection is noted. You 11:13:04  
5 can answer. 11:13:06  
6 A. I agree. I cannot tell you if -- in my 11:13:06  
7 history of Enterprise if I've had those conversations. 11:13:10  
8 Q. (By Mr. Liddy) And the reason you can't 11:13:14  
9 tell me is because you haven't had those 11:13:16  
10 conversations, true? 11:13:18  
11 A. Enterprise Rent-A-Car, the parent, does not 11:13:18  
12 own or operate cars. The subsidiaries make these 11:13:22  
13 decisions. Enterprise Rent-A-Car of San Francisco 11:13:24  
14 makes their own policies. 11:13:30  
15 Q. But the parent company does own the 11:13:30  
16 subsidiaries, doesn't it? 11:13:32  
17 A. Correct. 11:13:34  
18 MR. LIDDY: How is everyone doing? Does 11:13:42  
19 anyone need a break or want to keep going? 11:13:44  
20 THE WITNESS: I'm fine. 11:13:46  
21 Q. (By Mr. Liddy) Okay. Tell me about your 11:13:48  
22 background a little bit. Have you worked for any 11:13:50  
23 company besides Enterprise? 11:13:56  
24 A. Briefly out of school. 11:13:58  
25 Q. When did you go to school? 11:14:02

1 A. High school at -- secondary school, I 11:14:04  
2 graduated from high school in 1982. Graduated from 11:14:08  
3 Ranken Technical College in 1984, and then worked as a 11:14:12  
4 small engine mechanic and landscaping for a couple of 11:14:20  
5 years, and joined Enterprise Fleet Management in 1987. 11:14:22  
6 Q. What did you do for Enterprise Fleet 11:14:26  
7 Management? 11:14:34  
8 A. Was in a call center authorizing repairs 11:14:34  
9 for fleet vehicles in need of maintenance, fleet 11:14:38  
10 meaning lease, lease units, commercial fleet units in 11:14:44  
11 need of vehicle maintenance. 11:14:48  
12 Q. And I'm sorry. You mentioned Ranken -- 11:14:50  
13 Ranken Tech? What is that? 11:14:52  
14 A. Ranken Technical College. 11:14:52  
15 Q. Can you spell that, please? 11:14:54  
16 A. R-A-N-K-E-N Technical College. 11:14:58  
17 Q. How long did you attend Ranken Technical 11:15:00  
18 College? 11:15:06  
19 A. Two years. 11:15:06  
20 Q. So you finished there with an AA degree? 11:15:08  
21 A. Actually went back. It was Technical 11:15:10  
22 Institute at the time, and I went back in 1991 and 11:15:14  
23 received my associate's degree from Ranken. 11:15:16  
24 Q. And since '87 you've been with Enterprise? 11:15:22  
25 A. With Enterprise Fleet Management and 11:15:26

1 then jointed -- correct, and then I joined the parent 11:15:28  
2 in 1991. 11:15:30  
3 Q. What have your different roles been or job 11:15:30  
4 titles with the parent? 11:15:38  
5 A. It has been fleet services supervisor, and 11:15:40  
6 then the department name changed from fleet services 11:15:46  
7 to service operations. So went from supervisor, 11:15:48  
8 assistant manager, manager, director, assistant vice 11:15:52  
9 president. 11:15:58  
10 Q. And who is the vice president? 11:15:58  
11 A. There is no vice president of service 11:16:02  
12 operations yet. 11:16:04  
13 Q. You're hoping to fulfill that -- 11:16:06  
14 A. That's correct. 11:16:10  
15 Q. -- that vacancy? 11:16:10  
16 A. That's right. 11:16:12  
17 Q. So there's never been a vice president? 11:16:12  
18 A. Vice president, no, never been a vice 11:16:14  
19 president of service operations. Correct. 11:16:16  
20 Q. Do you have an understanding of why there's 11:16:18  
21 an assistant vice president but not a vice president? 11:16:24  
22 A. No. 11:16:26  
23 Q. Is there a president? 11:16:26  
24 A. No. Service operations is just a 11:16:30  
25 department within the parent corporation. 11:16:34

1 Q. And who is your supervisor? 11:16:36  
2 A. Kurt Kohler. 11:16:42  
3 Q. How do you spell the last name? 11:16:48  
4 A. K-O-H-L-E-R. 11:16:52  
5 Q. What is his job title? 11:16:54  
6 A. Vice president, vehicle acquisition and 11:16:56  
7 remarketing. 11:16:58  
8 Q. Who does Mr. Kohler report to? 11:16:58  
9 A. Matt Darrah. 11:17:10  
10 Q. D-A-R-A? 11:17:14  
11 A. D-A-R-R-A-H. 11:17:16  
12 Q. What is his job title? 11:17:18  
13 A. Senior vice president, North American 11:17:22  
14 operations. 11:17:26  
15 Q. What does Mr. Darrah do? 11:17:26  
16 A. Mr. Darrah? 11:17:34  
17 Q. Darrah. 11:17:36  
18 A. He oversees the subsidiaries within the -- 11:17:36  
19 for the rental operations within the United States and 11:17:42  
20 Canada. 11:17:44  
21 Q. Did you have any discussions with -- with 11:17:44  
22 him, Mr. Darrah, about your testimony? 11:17:50  
23 A. No, sir. 11:17:54  
24 Q. Okay. Going back to Exhibit E, it says, 11:17:56  
25 "Isolate unit ASAP" next to "Double fatality." Do you 11:18:20

1 have an understanding what that means? 11:18:28  
2 A. Make sure I'm on the right page here. Oh, 11:18:28  
3 I see. My opinion of this would mean to secure the 11:18:32  
4 vehicle. 11:18:40  
5 Q. Do you know why that -- that would be put 11:18:42  
6 into this screen? 11:18:46  
7 A. No, I don't. 11:18:46  
8 Q. Is that something you've seen before on 11:18:48  
9 these screens? 11:18:50  
10 A. No, sir. 11:18:52  
11 Q. And can we tell from this screen or in 11:18:52  
12 any -- from any source who put this information in? 11:19:00  
13 MR. GREEN: Objection to the form of the 11:19:04  
14 question. 11:19:04  
15 A. State that again, please. 11:19:08  
16 Q. (By Mr. Liddy) Can we -- do we know who 11:19:10  
17 entered this information? 11:19:14  
18 A. The -- well, there is a -- on the 11:19:16  
19 right-hand side there is an employee number. So who 11:19:22  
20 that employee number is, I don't know, but that 11:19:30  
21 would -- that would be -- 11:19:34  
22 Q. So to the right of each message there's an 11:19:34  
23 employee number? 11:19:36  
24 A. That is correct. 11:19:36  
25 Q. And are these all branch level employees? 11:19:38

1 A. I don't know. I would assume they are 11:19:44  
2 merely because this is a branch transaction. No, I 11:19:50  
3 can't -- I can't say that. I really don't know 11:19:54  
4 because if someone needs to go in and enter a message 11:19:56  
5 into the system it could be someone other than a 11:19:58  
6 branch employee, so I can't say for sure. 11:20:00  
7 Q. Do you know whether any of these employees 11:20:02  
8 that entered information are Enterprise employees? 11:20:04  
9 MR. GREEN: Objection to the form of the 11:20:10  
10 question. Are you saying Enterprise Rent-A-Car 11:20:10  
11 Company or Enterprise Rent-A-Car Company of San 11:20:14  
12 Francisco? Let's be precise here. 11:20:18  
13 MR. LIDDY: Well, I'm trying to avoid 11:20:20  
14 repeating all that verbiage. So that's why I 11:20:22  
15 mentioned to the witness earlier that we would call 11:20:24  
16 the parent Enterprise. So ... 11:20:26  
17 MR. GREEN: All right. So here you're 11:20:28  
18 talking about are any of these entries made by 11:20:30  
19 somebody from Enterprise Rent-A-Car Company. 11:20:32  
20 A. I can tell you I don't know if any of -- I 11:20:36  
21 don't know employees other than my own employees. I 11:20:38  
22 have no idea by employee number who these individuals 11:20:40  
23 are, so I can't -- I cannot say either way. 11:20:42  
24 Q. (By Mr. Liddy) Does the -- does the parent 11:20:48  
25 have employee numbers that go within a certain range 11:20:50

1 or do all Enterprise employees, including the 11:20:56  
2 subsidiaries, have consecutive employee numbers, if 11:21:00  
3 you know? 11:21:04  
4 A. I don't know how that's -- how the employee 11:21:04  
5 number is structured. 11:21:06  
6 Q. And can parent company employees enter 11:21:08  
7 messages in this system on Exhibit E? 11:21:12  
8 A. I don't know. That's a great question. I 11:21:14  
9 can't say yes for sure. 11:21:20  
10 Q. Where it says, "Status changed from S to 11:21:20  
11 A," what does that mean? 11:21:30  
12 A. That means from shop to available. 11:21:30  
13 Q. What is shop and available? What do those 11:21:38  
14 words mean in that context? 11:21:42  
15 A. There's three rental statuses. It's rent, 11:21:44  
16 meaning the vehicle is on rent. Shop or in shop where 11:21:46  
17 it can't be rented, or available, which means 11:21:48  
18 available to rent. Why that from shop to available 11:21:52  
19 line is in there, if the vehicle was a total loss 11:21:56  
20 obviously it's not going to be available for rent, so 11:22:02  
21 I don't know why that line is in there. 11:22:04  
22 Q. And the next line where it says, "Transfer 11:22:06  
23 from 2370 to 23DD," what does that mean? 11:22:08  
24 A. 2370 is one of the subsidiary's rental 11:22:14  
25 branches. 23DD is a region of the subsidiary. So 11:22:20

1 that means it's being transferred from the region's 11:22:26  
2 rental branch to the regional administrative office. 11:22:28  
3 Q. And the next line, what does that mean? 11:22:32  
4 A. Last location total 10/12, and I don't know 11:22:34  
5 what the MJF is. 11:22:42  
6 Q. Is that someone's initials, you think -- 11:22:44  
7 A. I don't know. 11:22:44  
8 Q. -- or do you think it's an acronym for 11:22:46  
9 something? 11:22:50  
10 A. I don't know if it's initials on all or 11:22:50  
11 it's location. I don't know what the -- I don't know 11:22:52  
12 what that would be. 11:22:52  
13 Q. What does the next line mean? 11:22:54  
14 A. 23DD incomplete recall campaign D18. And 11:22:58  
15 at twelve a.m., that tells me this is a system driven 11:23:04  
16 message that the vehicle did not have -- vehicle in 11:23:08  
17 question did not have campaign D18 performed while it 11:23:14  
18 was in rental service. 11:23:16  
19 Q. So that's a system driven message? 11:23:18  
20 A. Yes. I can tell that because of twelve 11:23:24  
21 a.m. at the time, and that is a -- that is standard 11:23:26  
22 verbiage. 11:23:28  
23 Q. Do you know what -- what caused that system 11:23:28  
24 driven message to appear at that time and date? 11:23:40  
25 A. Well, what caused it is when the -- 11:23:44

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1 whichever employee it was that removed this from 11:23:48  
2 rental status on 10-13 I believe is the date is when 11:23:52  
3 that was removed from rental status to the -- into 11:23:58  
4 used car status, the system noticed that that recall 11:24:00  
5 D18 had not been completed on that vehicle, so it 11:24:08  
6 populated that message. 11:24:10  
7 Q. How do we know it was changed to used car 11:24:12  
8 status? 11:24:14  
9 A. Well, on 10-12 from 2370 to 23DD, meaning 11:24:16  
10 it's going from the rental branch to the 11:24:22  
11 administrative office tells me that the subsidiary 11:24:24  
12 most likely removed that vehicle from rental service. 11:24:28  
13 Q. What's your understanding of what 23DD 11:24:30  
14 means? 11:24:42  
15 A. 23DD means it's one of the -- one of the 11:24:42  
16 regional administrative offices of Enterprise 11:24:46  
17 Rent-A-Car of San Francisco. 11:24:50  
18 Q. How can you tell that? 11:24:52  
19 A. From the DD designation at the end of 23. 11:24:52  
20 Q. What does that mean? 11:24:56  
21 A. That is one of the -- that just tells me 11:24:58  
22 internal code. That was one of the locations. If a 11:25:00  
23 subsidiary regionalizes their operation, they will put 11:25:04  
24 a double alpha character behind their -- the 11:25:08  
25 subsidiary's group number. So group 23 tells me San 11:25:12

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1 Francisco and the double alpha character of the same 11:25:16  
2 designation tells me it is -- it is a region of the 11:25:18  
3 subsidiary. 11:25:22  
4 Q. So when a vehicle is changed from rental 11:25:24  
5 status to used car status, if a recall campaign item 11:25:28  
6 has not been performed, then a message automatically 11:25:38  
7 comes up on the screen? 11:25:44  
8 A. That is correct. 11:25:44  
9 Q. And that's so that the vehicle is not sold 11:25:44  
10 without the recall fix being done? 11:25:50  
11 A. That is -- that is the purpose. The 11:25:52  
12 purpose of the message is to notify the -- that that 11:25:54  
13 is still an issue. 11:26:00  
14 Q. But that message doesn't come up when you 11:26:00  
15 rent a car? 11:26:06  
16 A. No, it does not come up when you rent a 11:26:08  
17 car. 11:26:12  
18 Q. Why is that? 11:26:12  
19 A. I don't know. That system was in place 11:26:12  
20 before -- before my employment. 11:26:14  
21 Q. What system? 11:26:16  
22 A. The E-Cars rental system. 11:26:18  
23 Q. So as -- as cars are rented today by 11:26:20  
24 Enterprise subsidiaries, are they still rented without 11:26:30  
25 a recall message coming up if the work has not been 11:26:38

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1 completed? 11:26:44  
2 A. There is a recall message that populates 11:26:44  
3 when the rental ticket is closed notifying the rental 11:26:46  
4 branch employee that a -- that a recall is -- 11:26:50  
5 requires, and the purpose of that is to require -- the 11:26:56  
6 purpose of that is for the rental employee to then 11:26:58  
7 take the vehicle or notify the dealer to have a recall 11:27:02  
8 performed. 11:27:04  
9 Q. So the message comes up when the vehicle is 11:27:06  
10 returned? 11:27:08  
11 A. Correct. 11:27:08  
12 Q. And did the message come up when the 11:27:10  
13 vehicle -- when this vehicle was returned by the 11:27:12  
14 previous renters? 11:27:16  
15 A. I don't know, but based on this information 11:27:18  
16 stating that the recall was incomplete at time of 11:27:20  
17 deletion, I would assume that it did. I don't have 11:27:24  
18 any way systems wise of telling me that. There's no 11:27:28  
19 tracking of that -- the system does not track that 11:27:30  
20 information, but based on knowing when the system 11:27:32  
21 entered this recall and the fact that it says recall 11:27:36  
22 incomplete on this date would lead me to believe that 11:27:40  
23 this recall did populate at the time the rental ticket 11:27:44  
24 was closed. 11:27:48  
25 Q. I'm sorry. I don't understand. Why is it 11:27:48

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1 that you believe the message did come up when the 11:27:54  
2 other customers returned this PT Cruiser to the 11:27:56  
3 branch? 11:28:00  
4 A. Because it states -- if the recall had been 11:28:00  
5 performed, somewhere in unit history it would have 11:28:06  
6 stated recall completed. So between the date of 11:28:10  
7 issuance of the recall of September 10 and when this 11:28:12  
8 unit was removed from -- from rental service, there 11:28:16  
9 was no comments in the pages that I see that recall 11:28:20  
10 was complete, and then the fact that it says 11:28:24  
11 incomplete recall campaign D18 at time of deletion 11:28:28  
12 tells me that during its -- during the time of 11:28:34  
13 notification to the time of deletion this was an 11:28:36  
14 active, open recall that should have been -- was 11:28:40  
15 populated in the system each time the rental ticket 11:28:44  
16 was closed. 11:28:48  
17 Q. Would that message still be in the system? 11:28:52  
18 A. No. 11:28:56  
19 Q. Why not? 11:28:58  
20 A. The vehicle has been removed from service. 11:28:58  
21 Q. So is there any way to go back into the 11:29:02  
22 system and find out whether those messages came up 11:29:04  
23 after each customer returned this particular car? 11:29:08  
24 A. That is not part -- that is something that 11:29:12  
25 is not captured. Those are hundreds of millions of 11:29:14

1 transactions of a screen shot that is not captured. 11:29:16  
2 it is not part of a history. 11:29:20  
3 Q. Do you have any understanding of why the 11:29:20  
4 message comes up after the vehicle is returned as 11:29:22  
5 opposed to before the vehicle is rented to a customer? 11:29:28  
6 A. No, I don't. 11:29:30  
7 Q. And is this system something that was -- 11:29:30  
8 that was put in place by the parent company? 11:29:40  
9 A. This -- I don't know who put this system in 11:29:44  
10 place. It was -- it was existing prior to my 11:29:48  
11 employment with the parent. 11:29:50  
12 Q. Do you have any belief one way or the other 11:29:50  
13 whether the parent company or a subsidiary designed 11:29:56  
14 this -- this system that we're looking at and we've 11:30:00  
15 been talking about in Exhibit E? 11:30:04  
16 A. I would believe -- if you ask my belief, I 11:30:04  
17 would -- I would imagine it would be the parent 11:30:08  
18 company, not the subsidiary. 11:30:10  
19 Q. Since you've been here up until June 11:30:10  
20 of '04 -- strike that. 11:30:20  
21 Since you worked for Enterprise up until 11:30:20  
22 June of '04, were there any changes made to the way 11:30:22  
23 recall notices were put into the system? 11:30:26  
24 A. Not to my knowledge. 11:30:28  
25 Q. And are there any plans for the future that 11:30:30

1 you're aware of of changing the way recall notices 11:30:36  
2 come up in the rental system? 11:30:40  
3 A. I don't know. The E-Cars program is being 11:30:42  
4 redesigned, but that is future state, and I'm not sure 11:30:48  
5 who would be considering that. 11:30:50  
6 Q. Now, on some of these -- the rental 11:30:54  
7 history, sometimes it says open. Sometimes it says 11:31:06  
8 closed. And it says pended. What does that mean? 11:31:08  
9 A. I'm not sure what the pended means. Open 11:31:12  
10 means the rental contract was opened for an employee. 11:31:18  
11 Closed means the rental contract had been closed when 11:31:22  
12 the vehicle has been returned. Pended has something 11:31:26  
13 to do with keeping the contract open, and for what 11:31:28  
14 reasons the rental branch would keep a contract open, 11:31:30  
15 I'm not sure. 11:31:34  
16 Q. So why would the September 11th contract 11:31:34  
17 still be opened at the time that this -- this screen 11:31:42  
18 on Exhibit A [sic] was printed out? 11:31:50  
19 A. There may be a screen prior to September 11:31:58  
20 11th that showed -- well, September 11th it shows it 11:32:00  
21 was opened, and then also was -- I don't know. I 11:32:04  
22 can't answer why it shows opened to Maddox, closed to 11:32:08  
23 Shook, and closed to Maddox. I'm not familiar enough 11:32:12  
24 with the rental system to -- to respond to that. 11:32:16  
25 Q. Okay. So back to this page we've been 11:32:20

1 looking at, the last location on October 21st, that's 11:32:34  
2 23DD, your understanding that's a -- that's not a 11:32:50  
3 rental facility? 11:32:52  
4 A. October 21st. Oh, 23DD? Which line are 11:32:56  
5 you referring to again? 11:33:02  
6 Q. 23DD is not a rental branch, right? 11:33:04  
7 A. Correct. 23DD is one of the subsidiary's 11:33:06  
8 administrative -- regional administrative offices. 11:33:14  
9 Q. Then it says transfer from 23D9 to 23DD? 11:33:16  
10 A. From 23DD to 23D9? 11:33:22  
11 Q. Well, from 23D9 to 23DD, that's the October 11:33:24  
12 22nd date. 11:33:30  
13 A. Oh, I see. Okay. 11:33:30  
14 Q. What does that mean? 11:33:32  
15 A. I don't know, because it shows from DD to 11:33:32  
16 D9 and D9 to DD. I do not know what that internal D9 11:33:38  
17 designator is. It could be a holding lot. It could 11:33:42  
18 -- I don't know. That would be something that the 11:33:42  
19 subsidiary would have to speak to. 11:33:46  
20 Q. If you wanted to find out that information, 11:33:48  
21 who would -- at the branch or subsidiary, who would 11:33:50  
22 you talk to? 11:33:54  
23 A. I would just start -- I would check with 11:33:54  
24 the remarketing department since it's on hold, and I 11:34:00  
25 would ask if that's something that they recognize, or 11:34:04

1 would check with loss control or vehicle repair. So 11:34:06  
2 one of those three, loss control, vehicle repair, or 11:34:10  
3 remarketing. 11:34:16  
4 Q. Does every branch have a branch manager? 11:34:18  
5 A. Just about, yes. There may be some -- 11:34:20  
6 there may be some satellite locations that a manager 11:34:24  
7 may manage multiple locations and it may not have a 11:34:28  
8 designated branch manager at a smaller location. 11:34:32  
9 Q. So the next message is last location total 11:34:36  
10 with question marks? 11:34:40  
11 A. Uh-huh. 11:34:40  
12 Q. What does that mean to you? 11:34:42  
13 A. That means the -- I would interpret this as 11:34:42  
14 that the vehicle is a total loss and they don't know 11:34:48  
15 where it is. 11:34:52  
16 Q. What does -- 11:34:52  
17 A. Or maybe it is -- is a total in question. 11:34:56  
18 Is the vehicle totaled or -- so it may say -- it may 11:34:58  
19 mean they don't know if it's a total loss or they 11:35:02  
20 don't know where the vehicle is located. So I 11:35:04  
21 can't -- I can't say either way what that means. 11:35:06  
22 Again, that's internal -- internal speak on behalf of 11:35:08  
23 the subsidiaries where they -- where they communicate 11:35:14  
24 through unit history. 11:35:18  
25 Q. And what does the next message tell you? 11:35:18

1 A. 10-30, I have no idea. 11:35:22  
2 Q. Now I'm looking at the Bob Agnew e-mail. 11:35:26  
3 Is this something that you were copied on? 11:36:02  
4 A. After the notification of the lawsuit, yes. 11:36:04  
5 Q. So this is an e-mail from Bob Agnew to all 11:36:08  
6 those people there? 11:36:22  
7 A. No. This is an e-mail from DaimlerChrysler 11:36:22  
8 to Bob Agnew, and Bob must have printed it so it 11:36:24  
9 pulled his name at the top. 11:36:30  
10 Q. And then you -- why is -- why is Greg 11:36:30  
11 Burks' signature at the bottom or his name? Oh, he's 11:36:36  
12 the Chrysler guy. 11:36:40  
13 A. He's the Chrysler contact that -- that sent 11:36:42  
14 this information. 11:36:42  
15 MR. GREEN: And for the record, I asked Bob 11:36:44  
16 Agnew to print this out for us so we could attach it 11:36:46  
17 as an exhibit to these amended answers to 11:36:48  
18 interrogatories, Don. 11:36:50  
19 Q. (By Mr. Liddy) And is this standard 11:36:54  
20 procedure that the -- the attachment comes with an 11:37:00  
21 e-mail cover sheet? 11:37:04  
22 A. I don't know. I'm not copied on these, so 11:37:06  
23 I'm not sure if in this particular case or if it 11:37:10  
24 happens all the time. 11:37:14  
25 Q. Are there any other Enterprise people on 11:37:14

1 this list of people that this e-mail went to other 11:37:26  
2 than Bob Agnew? 11:37:32  
3 A. I'd have to look at the -- not to my 11:37:32  
4 knowledge, but I'd have to look at this list. If 11:37:34  
5 you'd like me to look at the list, I certainly will. 11:37:38  
6 MR. LIDDY: Okay. Why don't we take a 11:37:42  
7 break and go off the record. 11:37:42  
8 VIDEOGRAPHER: Going off the record at 11:37:44  
9 11:37 a.m. 11:37:46  
10 (WHEREIN, a recess was taken.) 11:37:48  
11 VIDEOGRAPHER: We're back on the record at 11:37:48  
12 11:48 a.m. 11:48:48  
13 Q. (By Mr. Liddy) Sir, in the notice we asked 11:48:52  
14 for the person most knowledgeable at Enterprise 11:48:56  
15 Rent-A-Car Company regarding insuring that vehicles 11:49:02  
16 subject to a recall are not rented to the public. Are 11:49:04  
17 you that person? 11:49:08  
18 MR. GREEN: Counsel, as I stated earlier, 11:49:10  
19 the -- we have filed and served on you objections, and 11:49:12  
20 as the witness has stated, Enterprise Rent-A-Car 11:49:20  
21 Company doesn't own or rent vehicles to the public and 11:49:24  
22 is not involved in the rental car -- the rental 11:49:26  
23 transactions. And this witness is being designated 11:49:30  
24 only on the topic of the electronic notification 11:49:34  
25 system that he's been testifying about. There is no 11:49:38

1 witness at the parent company that fits that category 11:49:44  
2 because the parent company does not rent vehicles to 11:49:48  
3 the public and doesn't own them. 11:49:50  
4 MR. LIDDY: Okay. Thank you, Counsel. I'd 11:49:52  
5 like to hear that from the witness. 11:49:56  
6 THE WITNESS: I concur with counsel. 11:49:58  
7 Q. (By Mr. Liddy) So there's no one at 11:50:02  
8 Enterprise Rent-A-Car Company who is responsible for 11:50:04  
9 ensuring that vehicles subject to a recall are not 11:50:08  
10 rented to the public, true? 11:50:12  
11 MR. GREEN: Counsel, it's apart from what 11:50:12  
12 he's designated for and has already testified to 11:50:16  
13 regarding the electronic notification system, which 11:50:18  
14 operates under his supervision and which he's 11:50:22  
15 described in detail, which does give notification to 11:50:26  
16 the subsidiaries of electronic information supplied to 11:50:28  
17 the parent company by the manufacturers regarding 11:50:32  
18 recalls. 11:50:34  
19 MR. LIDDY: Could you read the question 11:50:36  
20 back, please? 11:50:38  
21 (WHEREIN, the requested portion of the 11:50:58  
22 record was read by the Court Reporter.) 11:51:04  
23 MR. GREEN: Subject to the objection, you 11:51:04  
24 can -- you can answer the question. 11:51:04  
25 A. Enterprise Rent-A-Car Company, the parent, 11:51:06

1 does not own or rent vehicles. It is the 11:51:08  
2 subsidiaries' responsibility to ensure that their 11:51:12  
3 fleet is in safe operating order. 11:51:16  
4 Q. (By Mr. Liddy) So there's no one at 11:51:18  
5 Enterprise Rent-A-Car Company who's responsible for 11:51:26  
6 ensuring that vehicles subject to a recall are not 11:51:30  
7 rented to the public? 11:51:32  
8 A. There is no such title there, correct. 11:51:32  
9 Q. Do you know why that is? 11:51:36  
10 A. No, I don't. 11:51:38  
11 Q. Have you talked to anyone about that, that 11:51:38  
12 issue? 11:51:44  
13 A. No, because it's always been the 11:51:44  
14 understanding that the subsidiary is responsible for 11:51:46  
15 their vehicles. 11:51:48  
16 Q. And does the parent company give any -- 11:51:48  
17 strike that. 11:51:54  
18 Okay. Let's go back to the Bob Agnew 11:51:54  
19 e-mail. And we'll mark that as next in order, which 11:52:04  
20 we're on -- did we mark E already? 11:52:18  
21 MR. GREEN: I believe so. I think we're on 11:52:20  
22 F as in Frank. 11:52:22  
23 MR. LIDDY: So F will be the Bob Agnew 11:52:32  
24 e-mail. 11:52:38  
25 MR. GREEN: Actually, it's the Greg Burks 11:52:40

1 e-mail. 11:52:42  
2 MR. LIDDY: We'll call it the Burks e-mail. 11:52:44  
3 Q. (By Mr. Liddy) Do you have any knowledge 11:52:52  
4 of when -- when Agnew receives an e-mail from Chrysler 11:52:52  
5 concerning a safety recall, whether he copies any 11:52:58  
6 Enterprise personnel on that? 11:53:04  
7 A. I don't know if he does or not. 11:53:04  
8 Q. But you were never copied on this? 11:53:06  
9 A. No. 11:53:10  
10 MR. LIDDY: So Counsel, I don't want to be 11:53:32  
11 in a position down the road where we find out that 11:53:34  
12 there is somebody knowledgeable at Enterprise 11:53:36  
13 Rent-A-Car Company concerning the subjects that we 11:53:40  
14 noticed for this case. Are you representing that 11:53:44  
15 there is no such person? 11:53:50  
16 MR. GREEN: I'm representing exactly what's 11:53:50  
17 in our responses and objections. That's the reason 11:53:52  
18 why we gave them to you. 11:53:56  
19 MR. LIDDY: I'm not sure I understand what 11:54:02  
20 you're saying. 11:54:04  
21 MR. GREEN: I'm representing what's in our 11:54:04  
22 responses and objections to your notice. It tells you 11:54:06  
23 what -- what we're designating witnesses for and what 11:54:10  
24 we're not designating witnesses for and we stand on 11:54:14  
25 that -- on those responses and objections. 11:54:16

1 Q. (By Mr. Liddy) So it's a true statement 11:54:22  
2 then, sir, that Enterprise Rent-A-Car Company of San 11:54:26  
3 Francisco develops their own procedures for handling 11:54:34  
4 manufacturers' recalls on their vehicles? 11:54:36  
5 A. For handling the completion of the recalls, 11:54:38  
6 that is correct. 11:54:40  
7 Q. When you say completion of the recalls, 11:54:40  
8 what are you referring to? 11:54:46  
9 A. I mean having them performed at -- at the 11:54:46  
10 dealership. 11:54:50  
11 Q. Is Enterprise Rent-A-Car Company of San 11:54:50  
12 Francisco responsible for doing anything other than 11:55:00  
13 electronically getting the notice of the recall to the 11:55:06  
14 branches? 11:55:10  
15 A. Can you be more specific? 11:55:10  
16 Q. Does the parent company do anything other 11:55:16  
17 than simply -- strike that. 11:55:18  
18 Does the parent company do anything with 11:55:20  
19 the recall notice other than simply get it to the 11:55:22  
20 branch? 11:55:24  
21 A. No. 11:55:26  
22 Q. So no one at Enterprise Rent-A-Car Company 11:55:26  
23 follows up to make sure that recalls get done? 11:55:42  
24 A. That is the subsidiaries' responsibility 11:55:44  
25 since they own and operate the vehicles. 11:55:48

1 Q. I understand that's your testimony, but I 11:55:50  
2 want to make sure that I have an answer to the 11:55:52  
3 question, and that is that nobody at Enterprise 11:55:54  
4 Rent-A-Car Company, the parent company, follows up to 11:55:58  
5 make sure that the recall work gets done? 11:56:02  
6 A. Correct. 11:56:04  
7 Q. So there's no policy or procedures for 11:56:04  
8 handling the manufacturers' recall of vehicles on the 11:56:14  
9 part of the parent company? 11:56:22  
10 A. Correct. 11:56:22  
11 Q. Did you review any documents to prepare for 11:56:24  
12 this deposition? 11:56:42  
13 A. I reviewed the amended responses to special 11:56:42  
14 interrogatories. 11:56:50  
15 MR. GREEN: Which would include the 11:56:50  
16 exhibits? 11:56:52  
17 A. Correct, that we've been discussing. 11:56:54  
18 Exhibits A through F up to this point, I believe. I 11:56:56  
19 reviewed the responses and objections to plaintiffs' 11:57:00  
20 notice of deposition. I also reviewed my memo dated 11:57:02  
21 May 28th, 2004 regarding the recall automation update, 11:57:08  
22 and I reviewed two technical assistance forms 11:57:14  
23 regarding fire losses on two PT Cruisers. 11:57:22  
24 MR. GREEN: Those are the documents that we 11:57:26  
25 produced at the beginning of the deposition, Counsel, 11:57:28

1 that are in response to document request number 11:57:34  
2 eleven. 11:57:38  
3 Q. (By Mr. Liddy) Okay. Let's start with the 11:57:42  
4 memo, and we'll mark that as G. That's a memo that 11:57:44  
5 you wrote to -- who did you write the memo to? 11:57:54  
6 A. I wrote it to all of the subsidiaries, 11:57:56  
7 business managers, vehicle repair, and loss control 11:58:02  
8 managers and supervisors, and carbon-copied all of the 11:58:04  
9 subsidiaries, general managers, regional vice 11:58:08  
10 presidents, and vehicle acquisition managers. 11:58:12  
11 Q. What was the purpose of the e-mail? 11:58:16  
12 A. The purpose of the e-mail was to notify the 11:58:18  
13 subsidiaries that there was an electronic 11:58:22  
14 communication occurring that would now allow the 11:58:26  
15 manufacturers to allow Enterprise subsidiaries to 11:58:30  
16 receive electronic notification from the domestic 11:58:34  
17 manufacturers rather than having the subsidiary to 11:58:38  
18 manually enter each recall vehicle by vehicle. 11:58:40  
19 Q. That's what used to occur before January 11:58:46  
20 1st of 2004? 11:58:50  
21 A. Before whenever -- the June 1st. 11:58:52  
22 Q. Did I say -- 11:58:56  
23 A. January 1st. 11:58:56  
24 Q. Okay. So before June 1st of 2004, the 11:58:58  
25 branches had to manually enter their recall 11:59:00

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1 information? 11:59:04  
2 A. Correct. Well, the subsidiary had to 11:59:04  
3 manually enter it. It would feed the branches. Each 11:59:08  
4 administrative office would handle it themselves, each 11:59:10  
5 of the subsidiaries' administrative offices, which 11:59:14  
6 would then feed their rental branches. 11:59:18  
7 Q. What led to this change, the June 1st 11:59:20  
8 change? 11:59:26  
9 A. What led to the automation? 11:59:28  
10 Q. Yeah. 11:59:30  
11 A. Was -- was the assistance with, number one, 11:59:30  
12 reducing the manual effort required by the 11:59:36  
13 subsidiaries to enter these safety recalls into the 11:59:40  
14 system, and number two was to assist with some -- some 11:59:48  
15 uniformity with regard to timing of the release of the 11:59:48  
16 manufacturers' safety recall. 11:59:52  
17 Q. And why was the parent company concerned 11:59:52  
18 with establishing uniformity among the subsidiaries 11:59:58  
19 for processing recalls? 12:00:04  
20 A. Well, the manufacturer and the parent 12:00:04  
21 collectively felt that it was a good idea to assist 12:00:10  
22 with the uniformity of the electronic notification 12:00:16  
23 to -- to number one, to make sure it was all done at 12:00:20  
24 the same time, and number two, remove the manual 12:00:24  
25 process. So both from timing of notification as well 12:00:26

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1 as reduction in administrative effort on the 12:00:30  
2 subsidiaries we have. 12:00:32  
3 Q. Did you have any assistance in making this 12:00:34  
4 decision or was it -- was it made solely by you? 12:00:38  
5 A. It was my decision. 12:00:42  
6 Q. Did you discuss your discussion with 12:00:42  
7 anybody else? 12:00:46  
8 A. I'm sure I did, absolutely. 12:00:46  
9 Q. Describe your decision-making process. 12:00:48  
10 A. Well, my decision-making process would be 12:00:58  
11 to -- in communication or conjunction with the 12:01:00  
12 manufacturers, number one, of can this be done, and 12:01:04  
13 once systems wise that the parent was able to make 12:01:08  
14 resources available and systems wise with each 12:01:12  
15 manufacturer, domestic manufacturer was able to make 12:01:14  
16 systems available and believe that they were doing 12:01:18  
17 this not just for Enterprise Rent-A-Car Company, but 12:01:20  
18 the industry as a whole to improve the notification 12:01:24  
19 process, this information was then shared with my 12:01:28  
20 immediate supervisor, who is Dan Kirchhoefer at the 12:01:32  
21 time, who was vice president of vehicle acquisition at 12:01:36  
22 the time and was discussed with him. 12:01:40  
23 Q. What was his name? 12:01:42  
24 A. Dan Kirchhoefer. 12:01:46  
25 Q. Can you spell that, please? 12:01:50

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1 A. K-I-R-C-H-H-O-E-F, as in Frank, E-R. 12:01:52  
2 Q. Is he still with the company? 12:02:02  
3 A. No, he's retired. 12:02:06  
4 Q. When did he retire? 12:02:06  
5 A. March of this year. 12:02:10  
6 Q. Now, was this -- was it -- was it voluntary 12:02:12  
7 for the -- for the subsidiaries to follow this 12:02:24  
8 directive? Did they have a choice in the matter? 12:02:30  
9 MR. GREEN: Objection to the form of the 12:02:32  
10 question. There's nothing that says this is a 12:02:34  
11 directive, Counsel. Where do you get that? 12:02:38  
12 MR. LIDDY: You know, you're supposed to 12:02:40  
13 make objections. 12:02:40  
14 MR. GREEN: I did. 12:02:42  
15 MR. LIDDY: Not speaking objections. Not 12:02:42  
16 ask questions -- 12:02:44  
17 MR. GREEN: Can you -- can you tell us 12:02:44  
18 where it says this is a directive in this? 12:02:46  
19 Q. (By Mr. Liddy) Is this a directive? 12:02:48  
20 A. This is -- this is a system driven process, 12:02:50  
21 so there is no participation or nonparticipation on 12:02:54  
22 behalf of the subsidiaries. 12:02:56  
23 Q. What does that mean? 12:02:58  
24 A. That means -- that means once the 12:03:00  
25 information is received from the manufacturer it is 12:03:04

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1 downloaded into the rental system and has occurred. 12:03:08  
 2 This was not an elective from the parent or from the 12:03:12  
 3 manufacturer to each subsidiary asking them whether or 12:03:14  
 4 not they wanted to participate. 12:03:16  
 5 Q. So is it fair to say then that the 12:03:18  
 6 subsidiaries had no choice in the matter? 12:03:22  
 7 A. No. It's fair to say in addition to the 12:03:26  
 8 manual process that the subsidiary was following 12:03:28  
 9 previously, this was an assistance to them. So could 12:03:32  
 10 -- could the subsidiary say I don't want to 12:03:36  
 11 participate, I guess they could have, and they could 12:03:38  
 12 have been removed from it. Did any of the 12:03:44  
 13 subsidiaries wish not to participate, no. In fact, it 12:03:44  
 14 was looked upon favorably because it reduced their 12:03:48  
 15 administrative time and effort. 12:03:52  
 16 Q. So before June 1st, 2004, Enterprise, the 12:03:52  
 17 parent, did not provide electronic notification of 12:04:00  
 18 recalls to the branches or the subsidiaries? 12:04:04  
 19 A. Right. Once again, I want to make sure 12:04:06  
 20 that you understand that Enterprise does not provide 12:04:08  
 21 electronic communication. Enterprise is assisting 12:04:10  
 22 with a means of pass-through of the information from 12:04:14  
 23 the manufacturer to the subsidiaries, and you are 12:04:16  
 24 correct. Prior to June 2001 we did not assist with 12:04:20  
 25 that, with that participation or with that 12:04:24

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1 pass-through. 12:04:28  
 2 Q. For how long a period of time has 12:04:28  
 3 Enterprise, the parent company, received electronic 12:04:32  
 4 safety recalls from -- from the manufacturers? 12:04:38  
 5 A. Since this date. 12:04:42  
 6 Q. So Enterprise itself never received 12:04:44  
 7 electronic notifications and recalls prior to June 12:04:48  
 8 1st, 2004? 12:04:52  
 9 A. That is correct. 12:04:54  
 10 Q. You would just get the -- the mailed 12:04:54  
 11 notice? 12:04:56  
 12 A. Enterprise, the parent, would not get the 12:04:56  
 13 mailed notice. The manufacturer would mail the notice 12:05:00  
 14 to the owner of record, which is the subsidiary. They 12:05:02  
 15 would not come to the parent. 12:05:06  
 16 Q. And who is John Ward? 12:05:06  
 17 A. John Ward? 12:05:16  
 18 Q. John Ward. 12:05:18  
 19 A. He is the corporate vehicle repair manager. 12:05:20  
 20 Q. What does a corporate vehicle repair 12:05:22  
 21 manager do? 12:05:30  
 22 A. Corporate vehicle repair manager assists 12:05:30  
 23 the subsidiaries with the -- with the oversight or 12:05:32  
 24 support of the vehicle repair position that each 12:05:36  
 25 subsidiary employs. 12:05:40

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1 Q. Can you elaborate on that? 12:05:42  
 2 A. Vehicle repair in the field is responsible 12:05:48  
 3 for -- for the overseeing of the collision repairs and 12:05:50  
 4 preventative maintenance completion of their fleet. 12:05:56  
 5 So John is responsible for -- from the parent for 12:06:02  
 6 offering support to the subsidiaries. 12:06:08  
 7 Q. When you say offering support, what do you 12:06:10  
 8 mean? 12:06:12  
 9 A. Mean if they have a -- if they have a -- if 12:06:12  
 10 they have a question on -- if they're a new employee 12:06:16  
 11 and have a question on how a claim may need to be 12:06:20  
 12 entered or how to negotiate repair, repair tactics or 12:06:22  
 13 rates with body shops and so forth, it is a referral 12:06:28  
 14 source for the -- for the subsidiaries. 12:06:34  
 15 Q. And do you know whether John Ward or any 12:06:36  
 16 corporate vehicle manager assists the branches with 12:06:40  
 17 having recall work done? 12:06:44  
 18 A. I do not. 12:06:46  
 19 Q. Is John Ward still the corporate vehicle 12:06:48  
 20 repair manager? 12:06:52  
 21 A. Yes. Now he's assistant vice president, 12:06:54  
 22 vehicle repair, recently promoted. 12:06:58  
 23 Q. Is there a vice president of vehicle 12:07:00  
 24 repair? 12:07:02  
 25 A. No, there's not. We have a lot of 12:07:02

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1 assistants. 12:07:06  
 2 Q. Okay. The last document that you reviewed 12:07:06  
 3 in preparation for your deposition was what? 12:07:24  
 4 A. The technical assistance forms, which I 12:07:26  
 5 don't have a copy of here. 12:07:30  
 6 Q. These documents? 12:07:36  
 7 A. Yes. 12:07:58  
 8 Q. So we'll mark these as H, two pages. Just 12:07:58  
 9 two pages of this form? 12:08:16  
 10 A. There's two -- yeah, a single page for each 12:08:16  
 11 one. Each one is a different vehicle. 12:08:20  
 12 Q. And these are these -- well, tell us what 12:08:22  
 13 these are? 12:08:28  
 14 A. These are 2004 -- 2002 and a 2004 Chrysler 12:08:28  
 15 PT Cruiser. This was upon request for any fire losses 12:08:36  
 16 that had occurred on -- that we had knowledge of 12:08:42  
 17 between 2001 -- we being the parent, between 2001 and 12:08:46  
 18 2005. So these were two individual vehicles where we 12:08:50  
 19 were contacted by the subsidiary to assist with the 12:08:56  
 20 research of and assistance with the repurchasing of 12:09:02  
 21 these vehicles, or the research as to why the loss 12:09:08  
 22 occurred and whether or not the manufacturer would 12:09:12  
 23 participate. 12:09:14  
 24 Q. Are you the one that -- that attempted to 12:09:18  
 25 locate these forms? 12:09:20

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1 A. Yes. 12:09:22  
2 Q. And you would only have a record of the 12:09:22  
3 fire if Enterprise Rent-A-Car Company was brought in 12:09:28  
4 to help? 12:09:32  
5 A. If the subsidiary reached out to us we 12:09:32  
6 would have had record of this in our database, 12:09:36  
7 correct. 12:09:40  
8 Q. So as far as you know, there could be other 12:09:40  
9 fires involving this type of vehicle and you would 12:09:42  
10 have no knowledge of it? 12:09:48  
11 A. I don't know. Yeah, I don't know. 12:09:48  
12 Q. Okay. So the first one, what do you know 12:09:50  
13 about the first fire loss? 12:09:56  
14 A. You want to identify which the first one 12:09:56  
15 is? 12:10:00  
16 Q. By the date, June 5th, 2003. Upper 12:10:00  
17 left-hand corner. 12:10:06  
18 A. Okay. This was a 2002 Chrysler PT Cruiser 12:10:06  
19 that was brought to our attention from group 5799, 12:10:14  
20 which is the subsidiary of middle Pennsylvania, and 12:10:20  
21 the nature of the problem was fire loss, and which 12:10:24  
22 was -- it says initiated by group, meaning initiated 12:10:30  
23 by the subsidiary, and what occurs when they bring 12:10:32  
24 this to our attention is we will refer them back to 12:10:38  
25 the manufacturer, to the consumer affairs department 12:10:42

1 to open a claim. 12:10:44  
2 The manufacturer will then provide a 12:10:46  
3 third-party independent to go view the vehicle and 12:10:48  
4 determine the loss and/or the cause if they can 12:10:54  
5 determine it based on the condition of the vehicle, 12:10:58  
6 and then will come back to the parent and will let us 12:11:00  
7 know whether or not they will participate in the -- in 12:11:08  
8 the repairing or repurchasing of the loss. 12:11:12  
9 Q. Are these the only -- strike that. 12:11:14  
10 How did you -- how did you do your search? 12:11:26  
11 A. By manufacturer. There is a -- there is a 12:11:28  
12 search in our database that logs this by manufacturer, 12:11:34  
13 by loss type, etc. So we looked not only at loss 12:11:36  
14 type, but also by make, model for the search. 12:11:40  
15 Q. But you don't know what the cause of the 12:11:44  
16 fire was for this 2003? 12:11:52  
17 A. No, none of the manufacturers will share 12:11:58  
18 that information. That is proprietary manufacturer 12:12:00  
19 information. They will not share that with us. 12:12:02  
20 Q. But this -- but this information didn't 12:12:04  
21 come from the manufacturer, did it? 12:12:06  
22 A. Pardon me? 12:12:08  
23 Q. These technical assistance -- assistance 12:12:08  
24 forms, did they come from the manufacturer? 12:12:10  
25 A. No. No. 12:12:12

1 Q. Who generates these? 12:12:14  
2 A. My department generates these. 12:12:14  
3 Q. Do you have any information about these 12:12:18  
4 fires other than what's in this form? 12:12:24  
5 A. No. No, sir. 12:12:26  
6 Q. The April 5th, 2005 date, is that the date 12:12:28  
7 of the incident? 12:12:44  
8 A. That is the date we are contacted, so that 12:12:44  
9 would be the creation date. The subsidiary contacts 12:12:48  
10 us. Which is a system driven date. 12:12:54  
11 Q. What does GPBR stand for? 12:12:56  
12 A. GPBR stands for group branch, and that is 12:13:08  
13 just an internal designator code of the subsidiary. 12:13:10  
14 Q. So the April 5th, 2005 contact came from 12:13:14  
15 Joe Moulton? 12:13:22  
16 A. Correct. 12:13:22  
17 Q. And what -- what was he trying to get help 12:13:24  
18 doing in this case? 12:13:30  
19 A. He was looking for guidance on how to 12:13:30  
20 contact the manufacturer or what steps needed to be 12:13:34  
21 required in order for this particular vehicle to be 12:13:38  
22 reviewed as to whether or not something the 12:13:42  
23 manufacturer would participate in. 12:13:44  
24 Q. Do you know if he's any relation to Thomas 12:13:46  
25 Molton? 12:13:54

1 A. I don't believe he is. It's a great 12:13:54  
2 question, but I don't believe he is. If you saw the 12:13:58  
3 two, you'd say no. 12:14:00  
4 Q. And this says, "Fire loss on ERAC parking 12:14:02  
5 lot"? 12:14:08  
6 A. Uh-huh. 12:14:08  
7 Q. What does that stand for? 12:14:08  
8 A. ERAC is acronym for Enterprise Rent-A-Car, 12:14:10  
9 ERAC. 12:14:16  
10 Q. So ERAC is an acronym for the parent 12:14:16  
11 company? 12:14:22  
12 A. Well, ERAC is just an acronym for 12:14:22  
13 Enterprise in general. 12:14:24  
14 Q. And what does LOFR mean? 12:14:26  
15 A. Lube, oil, filter, rotate, which is an oil 12:14:30  
16 change, tire rotation, and chassis lube. 12:14:38  
17 Q. Are you familiar with the -- with how 12:14:40  
18 the -- how the branch, this particular branch, the -- 12:14:56  
19 strike that. 12:15:00  
20 You don't have any knowledge about how the 12:15:02  
21 branch operates in terms of processing recalls? 12:15:04  
22 A. No, sir, I don't. 12:15:08  
23 Q. Are there any documents that you looked at 12:15:08  
24 to prepare for your deposition but did not produce? 12:15:20  
25 A. No, sir. 12:15:22

1 Q. And is there any -- are there any databases 12:15:24  
2 that you wish to search that you did not search for 12:15:32  
3 the information that we requested? 12:15:34  
4 A. No, sir. 12:15:36  
5 MR. LIDDY: Anyone else have any questions? 12:15:48  
6 All right. Why don't we take a two-minute break and 12:15:56  
7 then I think we'll wrap it up. 12:16:00  
8 VIDEOGRAPHER: We're going off the record 12:16:00  
9 at 12:15 p.m. 12:16:02  
10 (WHEREIN, a recess was taken.) 12:16:12  
11 VIDEOGRAPHER: We're back on record at 12:16:14  
12 12:19 p.m. 12:19:24  
13 Q. (By Mr. Liddy) So does the parent company 12:19:26  
14 have any procedure for grounding all vehicles 12:19:32  
15 throughout the entire Enterprise operation? 12:19:42  
16 A. That is -- that is a responsibility of the 12:19:44  
17 subsidiaries. 12:19:48  
18 Q. Well, for instance, when there were 12:19:48  
19 problems with Ford Explorers, do you have an 12:19:58  
20 understanding whether those vehicles were grounded? 12:20:00  
21 A. Which problem with the Ford Explorers? 12:20:02  
22 Q. Any -- any problem. Are you aware of the 12:20:06  
23 Ford Explorers being grounded? 12:20:10  
24 A. No, I'm not. 12:20:12  
25 Q. Are you ever -- are you aware of any 12:20:12

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1 vehicle being grounded for some period of time? 12:20:18  
2 A. There have been instances where within a 12:20:20  
3 safety recall if it is deemed by the manufacturer that 12:20:28  
4 the vehicle must be parked, stop where it is, have it 12:20:30  
5 towed into the facility, typically that is -- that is 12:20:36  
6 accompanied by additional communications with the 12:20:38  
7 manufacturer that would state that. In those cases it 12:20:42  
8 is implicit that the vehicle must be grounded at that 12:20:46  
9 time or towed to the dealer. There -- there would be 12:20:50  
10 additional communication from the parent to the 12:20:52  
11 subsidiaries notifying them of the manufacturer's 12:20:56  
12 wishes. 12:21:00  
13 Q. And how is that done? 12:21:00  
14 A. Pardon me? 12:21:06  
15 Q. If the parent company gets information from 12:21:08  
16 the manufacturer that a certain vehicle should be 12:21:12  
17 grounded, what does the parent do? 12:21:14  
18 A. The parent would then communicate that 12:21:18  
19 information to the subsidiaries. 12:21:20  
20 Q. How? 12:21:22  
21 A. Whether it be -- lot of times it's phone 12:21:22  
22 call. Could be phone call, could be e-mail. 12:21:26  
23 Typically they will contact the head of each 12:21:28  
24 subsidiary and will let them know if they have 12:21:30  
25 affected vehicles, and at that point they would -- 12:21:34

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1 they would reach out to the renters, make contact with 12:21:36  
2 the renter to swap them out new vehicles, contact the 12:21:40  
3 dealership and have those vehicles -- have them 12:21:42  
4 parked, take the customer to another vehicle, contact 12:21:46  
5 the dealer to have those vehicles brought in. 12:21:48  
6 Q. When was the last time that happened? 12:21:50  
7 A. It's been a long time. I can't tell you 12:21:52  
8 the last time. 12:21:52  
9 Q. What type of vehicle was the last -- was 12:21:54  
10 involved in the last time it was grounded? 12:22:00  
11 A. You know, I don't recall. I really don't 12:22:00  
12 recall. 12:22:02  
13 Q. But you do recall seeing some recall notice 12:22:02  
14 from a manufacturer that involved a safety issue where 12:22:06  
15 the manufacturer requested that the vehicles be 12:22:10  
16 grounded? 12:22:14  
17 MS. SINGER: Objection, misstates his 12:22:14  
18 testimony. 12:22:16  
19 THE WITNESS: Pardon me? 12:22:16  
20 MR. LIDDY: Can we have the question back? 12:22:20  
21 (WHEREIN, the requested portion of the 12:22:36  
22 record was read by the Court Reporter.) 12:22:36  
23 A. I do recall in the past reading that 12:22:36  
24 verbiage. 12:22:40  
25 Q. (By Mr. Liddy) Are you typically in the 12:22:40

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1 loop on those communications? 12:22:44  
2 A. Typically not. 12:22:44  
3 Q. Who would be in the loop, Agnew? 12:22:46  
4 A. Yes. 12:22:52  
5 Q. And how long has Agnew held that position? 12:22:52  
6 A. Repair manager, service operations manager, 12:22:54  
7 about four -- four to five years. Five years. 12:23:02  
8 Q. So other than in a case where a 12:23:06  
9 manufacturer recommends a vehicle be grounded, does 12:23:12  
10 Enterprise Rent-A-Car Company ever ground vehicles on 12:23:22  
11 its own? 12:23:28  
12 A. To my knowledge, no. 12:23:28  
13 Q. If they did, is that something that you 12:23:32  
14 would expect to know about? 12:23:36  
15 A. It depends on the circumstance. If it's 12:23:38  
16 something that's involved in my area, then it would be 12:23:40  
17 something I would be aware of. If it's something 12:23:44  
18 unrelated to my area, then I would not be involved in 12:23:46  
19 it. 12:23:48  
20 Q. What do you mean when you say unrelated to 12:23:48  
21 your area? 12:23:56  
22 A. If they were misbilled vehicles, they all 12:23:56  
23 came in with leather and were supposed to be cloth and 12:23:58  
24 they said don't rent those cars, the manufacturer 12:24:02  
25 wants them back. They were shipped to the wrong 12:24:04

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1 location. Don't rent those cars. 12:24:06  
2 Q. And what -- what type of things would not 12:24:08  
3 be your area? 12:24:10  
4 A. Like that. Un-service related issues, 12:24:10  
5 misbilled information, etc., shipped to the wrong 12:24:14  
6 location. 12:24:18  
7 Q. So the PT Cruisers after this accident 12:24:18  
8 occurred, was there any effort to -- by the parent 12:24:28  
9 company to get information out to branches or 12:24:38  
10 subsidiaries other than the e-mail that was sent? 12:24:42  
11 A. Not to my knowledge. 12:24:46  
12 Q. Did this -- did this recall have a priority 12:24:48  
13 level? 12:25:00  
14 A. This was a safety recall. 12:25:00  
15 Q. Is there a priority level within Enterprise 12:25:02  
16 for recalls? 12:25:06  
17 A. It is -- it is whatever the manufacturer 12:25:10  
18 dictates is safety or not. So if you see priority, 12:25:12  
19 yes. Priority, nonpriority. Priority equals safety. 12:25:16  
20 If the manufacturer dictates that it is a safety 12:25:22  
21 recall, then Enterprise translates that to a priority 12:25:26  
22 recall. 12:25:30  
23 Q. So you just have two levels, priority or 12:25:30  
24 not? 12:25:34  
25 A. Priority and not priority, correct. 12:25:34

1 Q. What does priority mean? 12:25:36  
2 A. Priority means safety recall. 12:25:38  
3 Q. And when a recall is given priority, what 12:25:40  
4 does that mean? 12:25:44  
5 A. Well, that the -- the subsidiary interprets 12:25:44  
6 that as being a safety-related recall. 12:25:48  
7 Q. Do you have any understanding of how 12:25:50  
8 branches or subsidiaries generally process safety 12:25:58  
9 recalls? 12:26:02  
10 A. No, I don't. 12:26:04  
11 Q. Do you have any estimate -- I think we went 12:26:04  
12 over this, but do you know how many PT Cruisers were 12:26:20  
13 purchased by Enterprise? 12:26:24  
14 A. At what given point? 12:26:26  
15 Q. Well, let's start with 2004 PT Cruisers. 12:26:28  
16 Do you know how much of those were purchased? 12:26:32  
17 A. No, I don't. 12:26:34  
18 Q. Do you know how many PT Cruisers total were 12:26:34  
19 purchased? 12:26:38  
20 A. No. 12:26:38  
21 Q. Any estimate? 12:26:38  
22 A. The last two years as I've been receiving 12:26:40  
23 this information, we purchased approximately 20,000 a 12:26:42  
24 year. 12:26:44  
25 Q. 20,000 a year? 12:26:46

1 A. Per year, for '06 and 2007 models. 12:26:46  
2 Q. All right. But you don't know the number 12:26:50  
3 for the 2004 models? 12:27:00  
4 A. No. I wasn't receiving any information 12:27:02  
5 then. 12:27:02  
6 MR. LIDDY: No further questions. 12:27:14  
7 EXAMINATION 12:27:16  
8 QUESTIONS BY MR. GREEN: 12:27:16  
9 Q. Mr. Gieseking, when you -- you just gave 12:27:16  
10 your -- that testimony regarding the 20,000 PT 12:27:20  
11 Cruisers purchased in '06 and '07. Were you referring 12:27:22  
12 to the total number of all subsidiary corporations? 12:27:26  
13 A. Collectively -- not Canada, but 12:27:32  
14 collectively the U.S. subsidiaries collectively 12:27:34  
15 purchased 20,000 PT Cruisers. 12:27:36  
16 Q. Okay. During your deposition today counsel 12:27:38  
17 has asked you about branches. Do you recall some of 12:27:42  
18 those questions -- 12:27:48  
19 A. Right. 12:27:48  
20 Q. -- using that term? 12:27:48  
21 A. Yes. 12:27:50  
22 Q. And in some of your testimony you've used 12:27:50  
23 the terminology branch or branches. You recall that? 12:27:52  
24 A. Yes. 12:27:56  
25 Q. When you used that terminology, can you 12:27:56

1 tell the court and jury what is the relationship 12:28:02  
2 between a branch and a subsidiary corporation? 12:28:06  
3 A. The rental branches are the retail 12:28:08  
4 locations where consumers rent vehicles and those 12:28:12  
5 rental branches report through the 52 plus 12:28:16  
6 subsidiaries. 12:28:20  
7 Q. So a rental -- any given rental branch 12:28:20  
8 would be owned and operated by a subsidiary 12:28:24  
9 corporation? 12:28:28  
10 A. That is correct. 12:28:28  
11 Q. Okay. And that was the intent of your 12:28:30  
12 testimony when you described branches and 12:28:32  
13 subsidiaries? 12:28:34  
14 A. That's correct. 12:28:34  
15 MR. GREEN: Nothing further. 12:28:36  
16 MR. LIDDY: No further questions. 12:28:40  
17 MR. GREEN: He'll read and sign. 12:28:42  
18 VIDEOGRAPHER: This is the end of the 12:28:44  
19 deposition. The time is 12:28 p.m. We are going off 12:28:46  
20 the record. 12:28:48  
21 COURT REPORTER: Transcript orders? 12:28:54  
22 MS. SINGER: E-mail is fine. 12:28:56  
23 MR. WIGGINS: Same here. 12:28:56  
24 MR. GREEN: Yeah. 12:28:58  
25 MR. LIDDY: That's fine. 12:28:58

1 COURT REPORTER: Do you need a full-size 12:29:04  
 2 original? 12:29:04  
 3 MR. LIDDY: Yeah. 12:29:04  
 4 (WHEREIN, the deposition was concluded at  
 5 12:28 p.m.)  
 6 (WHEREIN, Plaintiffs' Exhibits A through H  
 7 were marked for identification by the Court Reporter  
 8 at the completion of the deposition.)  
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1 Midwest Litigation Services  
 2 711 North Eleventh Street  
 3 St. Louis, Missouri 63101  
 4 Phone (314) 644-2191 \* Fax (314) 644-1334  
 5  
 6 August 28, 2007  
 7 Mr. James E. Green, Jr.  
 8 Conner & Winters, LLP  
 9 4000 One Williams Center  
 10 Tulsa, Oklahoma 74172-0148  
 11 (918) 586-8516  
 12 jgreen@cwlaw.com  
 13  
 14 In Re: CHARLES T. HOUCK, et al. vs. DAIMLERCHRYSLER,  
 15 et al.  
 16 Dear Mr. Green:  
 17 Please find enclosed your copy of the deposition of  
 18 THOMAS A. GIESEKING taken on August 16, 2007, in the  
 19 above-referenced case. Also enclosed is the original  
 20 signature page and errata sheets.  
 21  
 22 Please have the witness read your copy of the  
 23 transcript, indicate any changes and/or corrections  
 24 desired on the errata sheets, and sign the signature  
 25 page before a notary public.  
 Please return the errata sheets and notarized  
 signature page to Mr. Donald G. Liddy for filing prior  
 to trial date.  
 Thank you for your attention to this matter.  
 Sincerely,  
 William L. DeVries, CCR(MO)/CSR(IL)/RDR/CRR  
 Enclosures  
 cc: Mr. Donald G. Liddy

1 CERTIFICATE OF REPORTER  
 2 STATE OF MISSOURI )  
 3 ) ss.  
 4 CITY OF ST. LOUIS )  
 5 I, William L. DeVries, a Certified Court  
 6 Reporter (MO), Certified Shorthand Reporter (IL),  
 7 Registered Diplomat Reporter, Certified Realtime  
 8 Reporter, and a Notary Public within and for the State  
 9 of Missouri, do hereby certify that the witness whose  
 10 testimony appears in the foregoing deposition was duly  
 11 sworn by me; that the testimony of said witness was  
 12 taken by me to the best of my ability and thereafter  
 13 reduced to typewriting under my direction; that I am  
 14 neither counsel for, related to, nor employed by any  
 15 of the parties to the action in which this deposition  
 16 was taken, and further that I am not a relative or  
 17 employee of any attorney or counsel employed by the  
 18 parties thereto, nor financially or otherwise  
 19 interested in the outcome of the action.  
 20  
 21 \_\_\_\_\_  
 22 Notary Public within and for  
 23 The State of Missouri  
 24  
 25 My commission expires May 30, 2010.

1 STATE OF )  
 2 )  
 3 COUNTY OF )  
 4 I, THOMAS A. GIESEKING, do hereby certify:  
 5 That I have read the foregoing deposition;  
 6 That I have made such changes in form and/or  
 7 substance to the within deposition as might be  
 8 necessary to render the same true and correct;  
 9 That having made such changes thereon, I hereby  
 10 subscribe my name to the deposition.  
 11 I declare under penalty of perjury that the  
 12 foregoing is true and correct.  
 13  
 14 THOMAS A. GIESEKING  
 15 Executed this day of  
 16 2007, at  
 17  
 18 Notary Public:  
 19 My Commission Expires:  
 20 Signature page to: Mr. James E. Green, Jr.  
 21 WLD/THOMAS A. GIESEKING, AUGUST 16, 2007  
 22 CHARLES T. HOUCK, et al. vs. DAIMLERCHRYSLER, et al.  
 23  
 24  
 25