

**DOCUMENTS REGARDING COUNTER-  
DESIGNATION OF RECORD ON APPEAL  
NOT PREVIOUSLY FILED BUT SUBMITTED TO  
CHAMBERS IN CONNECTION WITH TRIAL  
(NEW GM EXHIBITS)**

DECLARATION

I, Carl Hisiro, hereby state:

1. I am over eighteen years of age and have personal knowledge of the facts stated herein.
2. My wife, Deborah L. Hisiro, owns a 2003 Saturn Vue with the Vehicle Identification Number 5GZCZ43D73S875236. She purchased the Saturn as a new car.
3. On or about September 14, 2009, her Saturn vehicle began to experience VTi transmission related problems. The Saturn had approximately 88,700 miles on it even though the attached Saturn of Harrisburg Service Invoice says 81,622.
4. On or about September 15, 2009, I contacted Saturn of Harrisburg regarding the problems related to the VTi transmission on the Saturn vehicle and I set an appointment for September 17, 2009.
5. On September 17, 2009, I drove the Saturn vehicle to Saturn of Harrisburg. From September 17, 2009 to September 23, 2009, Saturn of Harrisburg diagnosed and serviced the Saturn for VTi transmission failure.
6. The document attached hereto as Exhibit 1 is a true and correct copy of a document that was created by the Saturn dealer regarding the VTi transmission failure. The Saturn dealer gave me this document on or near the date indicated on the document.
7. The Saturn dealer serviced the transmission, and provided us a rental car while the Saturn dealer serviced the transmission. We had to pay nothing for the service to the transmission or the rental car.

I declare under penalty of perjury that the foregoing is true and correct.

Carl Hisiro  
Carl Hisiro

Dated: June 7, 2011



SATURN OF HARRISBURG  
A Saturn Company

PO Box 8658  
1801 Paxton St  
Harrisburg, PA 17105  
(717) 234-8888  
FAX: (717) 234-0517

SERVICE  
INVOICE

269910 DATE/TIME IN: 9/17/2009 7:57 DATE/TIME OUT: 9/23/2009 13:51  
SA: KENNETH BROOKER III DOC COUNT: 1 PAGE: 2

DEBORAH L HISIRO 01 5GZCZ43D73S875236

LINE 4 DUE FOR BRAKE FLUSH \$90.15, COOLANT FLUSH \$65.45,  
THROTTLE BODY CLEAN \$45

REPAIR 1 MAINTENANCE(S) RECOMMENDED  
OPCODE: M5306 SALE TYPE: INTERNAL - INT

PRIMARY TECH: MARK RHOADES

LINE 5\* TECHNICIAN STATES THE NEW TRANS INSTALLED HAS  
A INTERNAL BELT NOISE  
TECH COMM: NEW TRANS INSTALLED IS MAKING WHINING NOISE AS  
DRIVING-VERIFIED THE NOISE IS INTERNAL, BELT  
NOISE-REMOVED THE TRANS AND REPLACED THE CASE  
HALF-REINSTALLED AND DROVE ALL OK

REPAIR 1 COVER ASSEMBLY, VARIABLE DRIVE AND DRIVEN PULLEY A  
OPCODE: K7104 SALE TYPE: WARRANTY PA WTY

LABOR 8.40  
PRIMARY TECH: MARK RHOADES  
WARR PARTS: 4

PARTS	DESC	FP	QTY	PRICE	SALE TYPE	WTY
SN	15234609 FLUID-A/T N		1		WARRANTY PARTS	WTY
SN	15250985 FLUID-A/T N		2		WARRANTY PARTS	WTY
SN	15297659 COVER ASM Y		1		WARRANTY PARTS	WTY
SN	22737082 CORE-COVE N		1-		WARRANTY PARTS	WTY

LINE 6\* FLASHER - HAZARD WARNING - REPLACE  
TECH COMM: REPLACED THE FLASHER BUTTON BEZEL

REPAIR 1 FLASHER - HAZARD WARNING - REPLACE  
OPCODE: N1750 SALE TYPE: CASH - GM \$42.50

PRIMARY TECH: MARK RHOADES

PARTS	DESC	FP	QTY	PRICE	SALE TYPE	WTY
SN	22702075 BEZEL-ACS N		1	15.420	CASH - GM	\$15.42

LINE TOTAL \$57.92

Following the line number denotes added operation.

THE ONLY PASSING GRADE FOR US IS "COMPLETELY SATISFIED" Q16

**DECLARATION**

I, Brian W. LeCloux, hereby state:

1. I am over eighteen years of age and have personal knowledge of the facts stated herein.
2. I own a 2003 Saturn Vue with the Vehicle Identification Number 5GZCZ33D73S905930. I had purchased my Saturn as a new car.
3. On or about August 11, 2009, the VTi transmission on my Saturn failed. My Saturn had approximately 86,377 miles at the time.
4. During the week of August 17, 2009 Saturn of Green Bay diagnosed and serviced my Saturn for VTi transmission failure.
5. The document attached hereto as Exhibit 1 is a true and correct copy of the document that was created by the Saturn dealer regarding my VTi transmission failure. The Saturn dealer gave me this document sometime during the week of August 17, 2009 while Saturn of Green Bay diagnosed and serviced my Saturn for VTi transmission failure.
6. The Saturn dealer serviced my transmission, and I had to pay nothing for the service to my VTi transmission.

I declare under penalty of perjury that the foregoing is true and correct.

  
Brian W. LeCloux

Dated June 9, 2011

LAWRENCE BUONOMO  
August 17, 2011

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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

IN RE: MOTORS LIQUIDATION COMPANY, et al.,  
f/k/a General Motors Corporation, et al.,  
Debtors.

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KELLY CASTILLO, et al.,

Plaintiffs,

-vs- Chapter 11 Case No. 09-50026 (REG)

GENERAL MOTORS COMPANY, f/k/a  
New General Motors Company, Inc.,

Defendant.

GENERAL MOTORS COMPANY, f/k/a  
New General Motors Company, Inc.,

Counter-Claimant,

-vs-

KELLY CASTILLO, et al.,

Counter-Defendants.

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The deposition of LAWRENCE BUONOMO was taken by  
the Plaintiffs on Wednesday, August 17, 2011, at  
400 Renaissance Center, 23rd Floor, Detroit,  
Michigan, at 9:05 a.m.

APPEARANCES:

LAKIN CHAPMAN, L.L.C.

By: Mark Brown

300 Evans Avenue

Wood River, Illinois 62595-0229

618.254.1127

Appearing on behalf of the Plaintiffs.

Reported by: Cindy A. Boedy, CSR 4696  
Certified Court Reporter

LAWRENCE BUONOMO  
August 17, 2011

1 ISAACS, CLOUSE, CROSE & OXFORD, L.L.P.  
By: Gregory R. Oxford  
2 21515 Hawthorne Boulevard, Suite 950  
Torrance, California 90503  
3 310.316.1990  
Appearing on behalf of General Motors.  
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LAWRENCE BUONOMO  
August 17, 2011

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LAWRENCE BUONOMO  
August 17, 2011

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Detroit, Michigan

Wednesday, August 17, 2011

9:05 a.m.

- - -

L A W R E N C E B U O N O M O ,  
after having been first duly sworn to tell the  
truth, the whole truth, and nothing but the  
truth, was examined and testified as follows:

EXAMINATION

BY MR. BROWN:

Q. State your name for the record, please.

A. Lawrence S. B-U-O-N, as in Nancy, O, M as in  
Mary, O.

Q. Mr. Buonomo, where are you employed?

A. I'm employed by General Motors, L.L.C., here in  
Detroit, Michigan.

Q. And by General Motors, L.L.C., can we refer to  
that as New GM in the deposition today?

A. Certainly.

Q. What is your position with New GM?

A. My title is executive director of litigation.

Q. What are your duties as executive director of  
litigation?

π

GM

LAWRENCE BUONOMO  
August 17, 2011

GM  
1 A. They are primarily specifically assigned. I  
2 handle various significant matters under the  
3 supervision of the general counsel. I'm  
4 responsible for our reserve and claims reporting  
5 process globally for financial reporting  
6 purposes, and I do a variety of other things as  
7 asked. It's a fairly nonstructured job  
8 description.

9 Q. When did you become employed by New GM?

10 A. July 10th, 2009.

11 Q. Which was the first day of New GM's existence,  
12 correct?

13 A. It was the day of the closing. It was the first  
14 day postclosing. Highly technical point, the  
15 company I was employed by, there's been some  
16 restructuring since July 10th. I'm sure it's  
17 completely immaterial to you here, but on  
18 July 10th, 2009, I became employed by General  
19 Motors Company which is not the same entity known  
20 as General Motors Company today. This is all  
21 through the reorganization in the fall of 2009,  
22 all the assets for North American Operations and  
23 me went to General Motors, L.L.C.

24 Q. I see. But in terms of the North American  
25 Operations, the company that employs you today

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1 would be considered the successor in interest to  
2 the entity which emerged following the 363 sale  
3 on July 10, 2009?

4 A. Right. In some sense it is the same entity but  
5 converted from a C-corp to an L.L.C.

6 Q. I see. And prior to July 10th, 2009, where were  
7 you employed?

8 A. General Motors Corporation.

9 Q. And by General Motors Corporation, we can refer  
10 to Old GM in today's deposition, correct?

11 A. Yes, that is the convention.

12 Q. What was your position at Old GM?

13 A. My title was attorney, but it was actually not a  
14 different position.

15 Q. Would you consider the new title of executive  
16 director of litigation to be a promotion beyond  
17 the attorney title that you had at Old GM?

18 A. No. There was a decision made somewhere that  
19 people of the rank that I held both before and  
20 after should have that title. It really is a  
21 nonchange.

22 Q. I see. So would it be true that at Old GM you  
23 were an attorney? Was there an additional  
24 modifier of that?

25 A. No. We had the belief for some time that

LAWRENCE BUONOMO  
August 17, 2011

1 action, Mr. Lines had responsibility for that  
2 class action; is that correct?

3 A. Correct.

4 Q. Do you know how or why the Castillo class action  
5 was assigned to Mr. Lines rather than to you?

6 A. It would have gone to he or I or another person  
7 based largely on workload and who had other  
8 things going on at the time. It would not have  
9 reflected any deep judgment about the subject  
10 matter.

11 Q. Did you have any oversight responsibility for the  
12 underlying Castillo class action?

13 A. I did not.

14 Q. Did you communicate periodically with Mr. Lines  
15 regarding the underlying Castillo class action?

16 A. Yes.

17 Q. In what regard?

18 A. I mean his office is two doors down or was at  
19 that time two doors from mine. We talked about  
20 cases all the time, so I was generally aware of  
21 this case. Also, to finish the answer, also I  
22 was involved in the Castillo case from the claims  
23 reporting perspective.

24 Q. And what do you mean by that?

25 A. Well, we have a whole process around assessing

LAWRENCE BUONOMO  
August 17, 2011

GM

1 all our significant litigation worldwide for  
2 reporting it for analyzing it for potential  
3 reserves, all those kinds of things, financial  
4 reporting. I coordinated that, and so I would  
5 have interfaced with Mr. Lines concerning that  
6 case in connection with those responsibilities.

7 Q. Did the Castillo litigation appear on audit  
8 letter reporting?

9 A. It was included in the list of claims where more  
10 than five million dollars was sought that we  
11 provide periodically to Deloitte & Touche.

12 Q. Did Mr. Lines confer with you regarding the  
13 negotiation of the settlement of the Castillo  
14 class action?

15 MR. OXFORD: I'm going to hop in here,  
16 Mark. I think you're probably entitled to a yes  
17 or no here, but we're not going to have this  
18 witness or Mr. Lines for that matter testifying  
19 about attorney work product or privileged  
20 communications. Just so the witness I think  
21 understands that, but I just want to get it on  
22 the record.

23 MR. BROWN: That's fine and I'm not --  
24 you're right, I'm not interested in necessarily  
25 the substance of those communications. I'm

A

LAWRENCE BUONOMO  
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1 trying to get a handle on what Mr. Buonomo's  
2 familiarity with the underlying suit and  
3 settlement in terms of the class action  
4 settlement would be, so that's why I'm asking.

5 THE WITNESS: And the question was  
6 consult about the negotiations?

7 BY MR. BROWN:

8 Q. Yes.

9 A. I would say, no, we didn't consult, although I  
10 was generally aware he was doing it. I mean,  
11 again, just a casual, what are you up to, kind of  
12 stuff.

13 Q. How would you describe your familiarity with the  
14 terms of the Castillo class action settlement?

15 A. It's very sketchy.

16 Q. Prior to the initiation of this adversary  
17 proceeding, had you read the Castillo settlement  
18 agreement?

19 A. I've never read the Castillo settlement  
20 agreement.

21 Q. Have you read summaries of the Castillo class  
22 action settlement?

23 A. I've read some briefs in this case that have some  
24 facts about the settlement. I think that would  
25 be the closest thing.

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1 what else do you know about. I think that's  
2 fair. But I think asking him for his intent, you  
3 know, based on not only on his own intent but his  
4 conversation with his attorney about what he's  
5 going to say in the final affidavit is out of  
6 bounds.

7 MR. BROWN: That wasn't my question,  
8 though. Anyway I'll move on and we'll read the  
9 transcript and see if we need to address it with  
10 the Court.

11 BY MR. BROWN:

12 Q. Let's talk about the bankruptcy, the Old GM  
13 bankruptcy.

14 A. Yes.

15 Q. Can you tell me what your specific role was in  
16 connection with the GM bankruptcy?

17 A. Well, I was counsel to what was referred to as  
18 the core team, one of two. The core team being  
19 the smaller of the groups that existed that  
20 managed the 363 transaction in essence.

21 I was a member of what we refer to  
22 colloquially as the legal core team which was the  
23 -- again, the relatively small, although it grew  
24 over time, working group over time working group  
25 that ran the whole process from a legal staff

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1 perspective.

2 And I guess I should caveat my answer  
3 to say what I'm really giving you is the answer  
4 as of May-June 2009. There are different periods  
5 where the answer might be a little different.

6 I was nominally the lawyer responsible  
7 for the contracts group, the contracts function  
8 within the whole core team structure that was  
9 responsible for executory contracts. I say  
10 nominally because the workload become such that I  
11 largely wound up delegating that.

12 I was the U.S. lawyer that was most  
13 directly concerned and focused on that aspect of  
14 the bankruptcy planning that involved the fate of  
15 GM of Canada. And I did a lot of other things  
16 too on sort of a <sup>one-off</sup> ~~run-off~~ basis.

17 Q. If I understood you correctly, you said that you  
18 were counsel to the core team and that you were  
19 one of two counselors to the core team?

20 A. Correct.

21 Q. Who was the other?

22 A. Andrew Segovia.

23 Q. Andrew Segovia?

24 A. Correct.

25 Q. What was Mr. Segovia's title?

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1 there were negotiation on some points, but a lot  
2 of these things were, shall I say, just set,  
3 agreed, of no controversy whatsoever and over,  
4 except for a documentation perspective or an  
5 implementation perspective very early, which is  
6 why I struggle a little bit with the involved in  
7 negotiations in some context. It's really a  
8 language issue more than anything else.

9 Q. Let's talk at a high level about the adoption of  
10 the sale agreement. On the one hand, one of the  
11 parties to those discussions was Old GM, correct?

12 A. Correct.

13 Q. Who was the party on the other hand?

14 A. It was the United States Treasury team acting on  
15 behalf of an entity that they would ultimately  
16 and ultimately did create for the purpose of  
17 affecting the transaction.

18 Q. What was the name of that entity?

19 A. It was -- I think its first name was -- I think  
20 the first name was NGM Co., Inc., although I  
21 think it had a vehicle acquisition something or  
22 other name at one point as well, and ultimately  
23 it became General Motors Company.

24 Q. So ultimately NGM, Co, Inc., became what we now  
25 know as New GM?

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1 A. Correct.

2 Q. So in other words, the U.S. Treasury was  
3 negotiating with Old GM on behalf of an entity  
4 that later became known as New GM?

5 A. Correct. Well, it never formally became known as  
6 New GM, but essentially correct.

7 Q. In standard parlance, yes.

8 How many negotiators were there on who  
9 spoke on behalf of U.S. Treasury?

10 A. The treasury team included Steven Rattner who was  
11 I think the senior-most member; Ron <sup>Bloom</sup> ~~Blum~~, who I  
12 always regard as No. 2 although that may not be  
13 precisely accurate; Harry Wilson, who was what I  
14 will call the operating person who really did the  
15 deal for the treasury; Matthew Feldman, who was a

16 lawyer, second <sup>ed</sup> to the treasury -- well -- or he  
17 was from a New York firm anyway temporarily  
18 working for treasury, Willkie Farr. They had  
19 outside counsel, Cadwalader, Wickersham & Taft.

20 Although they really had very, very  
21 little involvement in the transactional aspects,  
22 the government of the United States has always  
23 represented the bankruptcy court by the U.S.  
24 Attorney's Office.

25 And there were a variety of people of

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1 lesser rank involved to a greater or lesser  
2 degree. The two names that were most seen were  
3 Sadiq Malik, S-A-D-I-Q M-A-L-I-K, and David  
4 Markowitz. Sort of the working level, very young  
5 guys, like associates in a law firm.

6 Q. Were Mr. Malik and Mr. Markowitz lawyers employed  
7 by treasury or were they state department or  
8 something else?

9 A. They were -- they -- I guess I don't know exactly  
10 -- they were business people, first of all, like  
11 probably MBA types or business types. How their  
12 employment was set up I have no idea.

13 Q. They were government employees though?

14 A. I think so. I'm not even 100 percent certain of  
15 that, but I think so.

GM  
16 Q. Is there one person at treasury whom you would  
17 consider to be your primary contact in your  
18 negotiations?

π  
19 A. Well, I guess the two people I would have dealt  
20 with most frequently would have been Matt Feldman  
21 and Harry Wilson, although you have to always ask  
22 the questions which negotiations at what time  
23 about what to really answer that question in any  
24 kind of accurate way.

π  
25 Q. Let me refine that in just a second, but let me

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1 start by asking what percentage of your  
2 negotiations with treasury would you say dealt  
3 with the issue of which liabilities would be  
4 resumed versus those that would be retained?

5 A. Very little; very, very little. It would all

6 have been documenting it or determining the  
7 effects of it, but from the almost earliest point  
8 -- let me step back. This answer is  
9 pre-June 1st, 2009. There's another different  
10 set of facts for post-June 1st, 2009.

11 But at the very first meeting there  
12 essentially was consensus at a conceptual level  
13 about liabilities and assets. Liabilities more  
14 than assets. Assets probably got finalized a  
15 little bit later. And almost nothing I would  
16 characterize as negotiation about that on the  
17 liability side until after June 1st.

18 Q. Okay. Why is June 1st a demarcation line?

19 A. Because June 1st was the date of the bankruptcy  
20 filing and it was the date of the filing of the  
21 motion to approve the master sale and purchase  
22 agreement as it had been negotiated and executed  
23 prior to that date.

24 Then there were a whole series of  
25 discussions that came up after that in the

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GM  
1 context of objections that were filed to motion  
2 to approve the master sale and purchase  
3 agreement.

TT  
4 Q. Just so I understand your answer, prior to  
5 June 1st, there was very little of what you would  
6 call negotiating regarding retain versus assumed  
7 liabilities. There was instead conceptual  
8 agreement at that point. And then after the  
9 bankruptcy filing on June 1st, there was  
10 additional discussion regarding which liabilities  
11 would be assumed and which would be retained?

12 A. I think that's fair.

GM  
13 Q. So let's talk first about the time period prior  
14 to June 1st, 2009. When you say there had been  
15 conceptual agreement about assumed versus  
16 retained liabilities, please explain what you  
17 mean by that.

18 A. Well, the intent and structure of the transaction  
19 that was outlined to us by the treasury team was  
20 that all liabilities would be left behind except  
21 a few individual items which included the  
22 expressed warranties and included contracts  
23 necessary to the operation of the business. It  
24 included whatever the results were because they  
25 weren't finalized yet of the labor negotiations

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1 with the UAW.

2 I may be missing something, but the  
3 fundamental rule was in essence it all got left  
4 behind. And of course we all do this, but left  
5 behind in this context means not assumed by the  
6 new company pursuant to the transaction. We used  
7 the same terminology ourselves, but it's a little  
8 bit imprecise.

9 Q. So when you colloquially talked about left behind  
10 liabilities, you're referring to what the ARMSPA  
11 calls retained liabilities?

12 A. Yes. Obviously that definition came later, but  
13 yes.

14 Q. You're familiar with Section 2.3(a)(vii) of the  
15 ARMSPA?

16 A. I'm sure I am, but not by citation number.

17 Q. Okay. Let me make this easier.

18 A. 2.3(a)(vii).

19 (Exhibit C marked.)

20 BY MR. BROWN:

21 Q. I'm handing you what's been labeled Exhibit C,  
22 which is a copy of the Amended and Restated  
23 Master Sale and Purchase Agreement which we've  
24 also referred to as the ARMSPA; is that correct?

25 A. I note that you don't have all the exhibits here,

1 but -- and I have not read the entire thing, but  
2 it appears to be correct.

3 Q. But for the fact that there may be some bits that  
4 are not included in Exhibit C, do you recognize  
5 Exhibit C as the ARMSPA?

6 A. It appears to be the ARMSPA, yes.

7 Q. And if you turn toward the back of Exhibit C  
8 after page 99, you'll see the first amendment to  
9 the ARMSPA; is that correct?

10 MR. OXFORD: I think you got the pages  
11 off. I go back to past 101 and some signature  
12 pages before I get to the first amendment.

13 MR. BROWN: Yes, I'm just saying it  
14 follows page 99. It comes after. There are some  
15 other pages in between; some of the pages aren't  
16 numbered.

17 THE WITNESS: Yes, the first amendment  
18 is here, yes.

19 BY MR. BROWN:

20 Q. And the first amendment is dated June 30th of  
21 2009, correct?

22 A. I see that.

23 Q. And then a few pages later we have the -- in  
24 Exhibit C the second amendment to the ARMSPA  
25 dated July 5th of 2009, correct?

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1 A. Correct.

2 Q. And the original ARMSPA at the beginning of  
3 Exhibit C is dated June 26th of 2009, correct?

4 A. I wouldn't call it the original. I would call  
5 the June 1 the original. But since the June 1  
6 was the MSPA and not the Amended and Restated, I  
7 guess I can agree with the way you phrased it.

8 Q. Okay, fair enough.

9 Turn to page 28 of the ARMSPA, please.  
10 Exhibit C.

11 A. I have it.

12 Q. Specifically Section 2.3(a) which describes the  
13 assumed liabilities. Do you see that?

14 A. Yes.

15 Q. Do you recall what changes there were to either  
16 2.3(a) or more specifically 2.3(a)(vii) as  
17 compared to that section in the June 1st master  
18 sale agreement?

19 MR. OXFORD: I'm going to object. The  
20 document speaks for itself. There's a whole  
21 series of these drafts that were exchanged  
22 between the parties that have been produced to  
23 you.

24 I think it's appropriate to question  
25 the witness about the myriad small wording

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1 changes that occurred during that period of time.

2 THE WITNESS: Do I answer?

3 MR. OXFORD: I'm not instructing you.  
4 I'm just objecting; it's an unfair question.

5 THE WITNESS: I could not  
6 encyclopedically respond to that, but I do recall  
7 that the 2.3(a)(vii), capital B, though Lemon  
8 Laws were added in that period, I believe. There  
9 may have been some other changes, but I couldn't  
10 detail them for you at this point.

11 BY MR. BROWN:

12 Q. Would you agree with me that the first and second  
13 amendments to the ARMSPA contained no  
14 modifications to Section 2.3(a)(vii)?

15 A. That is my recollection. I haven't gone back and  
16 checked, but that is my recollection.

17 Q. You said that after June 1st objections to the  
18 proposed sale sparked discussions about which  
19 liabilities would be assumed and which would be  
20 retained. Can you tell me in general terms which  
21 objections you're referring to and what  
22 conversations resulted?

23 MR. OXFORD: Are you talking  
24 specifically about the area involved in the  
25 lawsuit or -- the question is kind of broad.

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1 A. No, I would not say so. I would not characterize  
2 the hierarchy. I actually think if I had to  
3 characterize it, I would probably say taxes came  
4 first.

5 MR. OXFORD: Nothing is more certain.

6 BY MR. BROWN:

7 Q. How would you characterize the state attorneys  
8 general -- Strike that.

9 How would you characterize the  
10 objection of the state attorneys general  
11 concerning warranty issues?

12 A. Substantively they had absolutely nothing to say.  
13 Aspirationally they wanted as much as possible to  
14 be assumed. That's how I would characterize  
15 their position.

16 Q. Turning again in Exhibit C to paragraph  
17 2.3(a)(vii) of the ARMSPA, were you involved in  
18 any way in either drafting or negotiating the  
19 language in 2.3(a)(vii)?

20 A. Yes.

21 Q. How so?

22 A. I suggested quite a bit of the language. At this  
23 point I frankly couldn't isolate what of mine got  
24 to them and what didn't from an internal  
25 perspective. I reviewed the drafts, I interfaced

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1 with our outside counsel on the points, and that  
2 would essentially be it.

3 Q. Did you have communications with any  
4 representative of the U.S. Treasury specifically  
5 regarding the language of paragraph 2.3(a)(vii)?

6 A. I believe that I did once we had a -- the way  
7 this worked from a language perspective is  
8 everybody on both sides would funnel stuff and  
9 then drafts would come across, and then there  
10 would be a conference call primarily between  
11 Cadwalader and Jenner Block, who were the  
12 transactional lawyers for the two sides  
13 respectively.

14 I participated in some of those calls,  
15 and I think at least once this language is  
16 discussed in one of the calls I participated on,  
17 but most of the action was in the behind -- on  
18 both sides was in the behind-the-scenes back and  
19 forth with the drafts that went back and forth.

20 Q. Can you identify -- Strike that. I want to make  
21 sure I understand who was representing whom.

22 Cadwalader represented Old GM?

23 A. No. Cadwalader represented the treasury and  
24 Jenner & Block represented New GM.

25 Q. Excuse me, Jenner represented Old GM?

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1 A. Old GM.

2 Q. Can you identify anyone at Jenner & Block who was  
3 involved in drafting the language of 2.3(a)(vii)?

4 A. From an interface with the client perspective, it  
5 would have been Michael Wolf. Now, whether he  
6 was drafting or he had some associate or  
7 something doing it for him, I couldn't tell you.

8 Q. And do you recall Mr. Wolf having specific  
9 communications regarding Section 2.3(a)(vii)?

10 MR. OXFORD: I'm going to object to  
11 that question on the grounds it lacks foundation.  
12 Are you asking him for communications that  
13 Mr. Wolf had with Mr. Buonomo, in which case  
14 there's an attorney/client privilege on the basis  
15 of which I would instruct him not to answer, or  
16 are you asking him about communications Mr. Wolf  
17 may have had with someone else that he may have  
18 reported to Mr. Buonomo?

19 MR. BROWN: Well, actually, both. And  
20 I don't think that's privileged because Jenner &  
21 Block was representing U.S. Treasury, correct?

22 THE WITNESS: No. General Motors  
23 Corporation. Cadwalader was representing U.S.  
24 Treasury.

25 I'm sorry, but to answer the question

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1 because I don't think I've been directed not to,  
2 yes, yes.

3 BY MR. BROWN:

4 Q. Yes, you recall conversations that Mr. Wolf had  
5 regarding Section 2.3(a)(vii).

6 And are you recalling conversations  
7 that he had with you or with other people?

8 A. With me primarily.

9 MR. OXFORD: Mark, just so you have  
10 what I think are the ground rules straight, I  
11 think an attorney/client conversation about what  
12 the language ought to be between Mr. Buonomo and  
13 Mr. Wolf is clearly privileged. I think a  
14 conversation in which Mr. Wolf reports to Mr.  
15 Buonomo statements that Cadwalader made in the  
16 negotiations is probably not privileged. That's  
17 the line I would propose to draw.

18 BY MR. BROWN:

19 Q. Who was -- Strike that.

20 Can you identify anyone from Cadwalader  
21 who was involved in drafting 2.3(a)(vii)?

22 A. Not specifically.

23 Q. Can you identify anyone from the U.S. Treasury  
24 involved in drafting Section 2.3(a)(vii) of the  
25 ARMSPA?

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1 A. I couldn't even tell you from personal knowledge  
2 whether anyone was. I would speculate, but it  
3 would be totally speculation.

4 Q. Were any messages -- Strike that.

5 Were any communications from anyone at  
6 either Cadwalader or internally at the U.S.  
7 Treasury relayed to you concerning the treasury's  
8 position regarding 2.3(a)(vii)?

9 A. In terms of the language or in terms of the  
10 substance?

11 Q. Let's start with the language first.

12 A. I believe the answer is yes, although primarily  
13 that would be in terms of here's their comments  
14 on the draft.

15 I do have a recollection of being aware  
16 from time to time as to the reasons that had been  
17 expressed as to why they wanted this change or  
18 that change.

19 Q. And which changes do you recall U.S. Treasury  
20 requesting to the 2.3(a)(vii)?

21 A. I couldn't give you words. Generally speaking,  
22 they tended to want to streamline the language  
23 and generally speaking it was because when it got  
24 specific they were concerned it didn't cover  
25 this, that, or the other contingency or

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1 possibility.

2 So the one I remember specifically is,  
3 you know, should the word repair be in or not.  
4 The concern was, well, you know, sometimes it's  
5 not repairing, it's replacing. It's too  
6 specific, you know. It may interfere what the  
7 terms of the actual warranty is. This kind of  
8 concern. So generally they had a bias if I can  
9 put it that way towards the simplicity of  
10 language. That is what I recall.

11 Most of this occurred, though, just in  
12 terms of, okay, here's what we suggest, you know,  
13 the draft which I believe you've seen actually.

14 Q. Were there e-mails that were exchanged in  
15 conjunction with the drafts?

16 A. You mean the drafts were forwarded by e-mail? By  
17 Jenner & Block to Cadwalader typically. I don't  
18 ever recall commentary, you know. It would be,  
19 Enclosed please find our draft reflecting our  
20 comments on the draft you sent last Tuesday kind  
21 of thing.

22 Q. I previously asked you about communications that  
23 were relayed to you from Cadwalader, and you  
24 broke your answer down into communications about  
25 concepts and communications about the language.

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1 Have you shared with me every communication that  
2 you remember being relayed about the language of  
3 2.3(a)(vii)?

4 A. I believe so.

5 Q. What communications from Cadwalader or U.S.  
6 Treasury were conveyed to you regarding the  
7 concept of Section 2.3(a)(vii) of the ARMSPA?

8 A. There were none and that was essentially my  
9 point. There was no discussion, negotiation,  
10 controversy about what we were trying to  
11 implement. It was just getting the language  
12 right to reflect what was understood to be the  
13 business deal.

14 And typically if there was an issue  
15 about concept about business terms, that would  
16 not be handled through the outside lawyers. That  
17 would be handled in the -- what I'll call the  
18 client level in a sense, even though the treasury  
19 people -- I thought of them as the client from a  
20 purchaser perspective.

21 Q. You didn't think of them as your client. You  
22 thought of treasury as Cadwalader's client?

23 A. Cadwalader's client technically would have been  
24 the purchaser, NGM, Co., but I tend to think of  
25 treasury as their client. That may even be

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1 technically right, but I'm not certain.

2 Q. This may be an oversimplification, but would you  
3 say it's fair to say that during the drafting of  
4 the ARMSPA the U.S. Treasury stood in the shoes  
5 of New GM?

6 A. I think that's -- for working purposes, that's a  
7 reasonable characterization, even though  
8 technically what they were was the lender and  
9 sponsor and future shareholder. But they were  
10 negotiating on behalf of the entity they were  
11 going to form and fund.

12 Q. To the extent that there were negotiations with  
13 treasury or counsel for treasury, what was your  
14 goal that you were trying to accomplish in your  
15 role as an attorney for Old GM?

16 A. To maximize the return to creditors of General  
17 Motors Corporation by maximizing the value of  
18 their future equity interest in New GM.

19 Q. Explain to me what you mean by the latter part of  
20 that answer, maximizing equity in the New GM.

21 A. Well, I'm oversimplifying a little bit here, but  
22 the basic consideration that was given by the  
23 purchaser to the seller, which of course would be  
24 distributed to the creditors of the seller, was  
25 10 percent of the equity in New GM and up to

GM  
1 additional 2 percent based on claims and warrants  
2 for a potential additional 15 percent of the  
3 company.

4 So therefore, the recovery of the  
5 creditors, which were our constituency in a  
6 sense, were going to be higher the more  
7 successful, the more valuable, the new company  
8 was.

9 So in terms of the basic approach, the  
10 transaction, it was to do a transaction to create  
11 the strongest New GM possible.

12 Q. Was it also true that a portion of the bankruptcy  
13 estate of Old GM would be in the form of cash?

14 A. There was pursuant to the terms of the deal there  
15 was some cash left behind. There were also some  
16 stray assets, but the primary intended use of  
17 that was for I'll call it the wind-up of the  
18 company. It was -- I don't want use -- I was  
19 going to say immaterial. I don't want to <sup>use</sup> ~~do~~  
20 something that legal. It was de minimus in terms  
21 of what the recoveries of the creditors could be.

22 Q. Was there a payment in the form of cash from New  
23 GM to Old GM for the assets that were acquired by  
24 New GM?

25 A. No.

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1 Q. When you were negotiating on behalf of Old GM,  
2 did you know at that time that you would be  
3 employed by New GM after the sale?

4 A. I believed I would be, yes.

5 Q. Was that an assumption or had you been given any  
6 promises in that regard?

7 A. I had not been given any promises, no, so I guess  
8 you have to say it was an assumption. If you  
9 look at the ARMSPA here, you will see that it is  
10 a condition of -- there is a provision in here  
11 with respect to the current employees of New GM  
12 being offered employment to Old GM. It doesn't  
13 necessarily mean long-term, but based on the  
14 terms of the transaction, I knew that at least on  
15 July 10th I'd be employed by New GM.

16 MR. OXFORD: He somehow had a sense he  
17 would still be needed.

18 BY MR. BROWN:

19 Q. You would consider the 363 sale to be an  
20 arm's-length transaction?

21 A. Yes. And in fact, there was a finding to that  
22 effect by bankruptcy court.

23 Q. Would it be fair to say that treasury was  
24 essentially calling the shots in terms of how the  
25 bankruptcy would be structured and what language

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1 results and sometimes it's one party and  
2 sometimes the other parties. So in a sense the  
3 answer would always be yes, but you know, it  
4 wasn't a question. It was just like any other  
5 agreement that you, for example, have ever  
6 negotiated with anybody in terms of what the  
7 language would be.

8 Q. Prior to June 1st of 2009, are you aware of any  
9 discussions of anyone acting on behalf of either  
10 party to the sale concerning the Castillo  
11 settlement agreement?

12 A. Yes.

13 Q. How so?

14 A. I did have a conversation with Cadwalader, the  
15 basic purpose of which was to describe to them  
16 and explain to them our litigation docket, and I  
17 did that at a high level, relatively high level  
18 in the first instance. You know, classifications  
19 of cases so to speak. I did in that conversation  
20 reference class actions, and I did in that  
21 conversation reference that there were several  
22 class actions in the midst of settlement that  
23 would in effect be left behind, to use the  
24 colloquial term. And by happenstance, Castillo  
25 to the best of my recollection was one of the

1 three examples I came up with as I was speaking.  
2 In fact, there were more than three, but there  
3 were three that I came up with at that particular  
4 point in time.

5 Q. And what was the date of this conversation you  
6 just described?

7 A. I believe that it was May 14th.

8 Q. Does May 14th have a particular significance that  
9 allows you to remember that day?

10 A. Yes. I recall that I took the call on my cell  
11 phone from the lobby of the General Motors  
12 offices in Washington, D.C., because I was there  
13 for a meeting with the Canadian government, and  
14 by that virtue, I can pick a date for it;  
15 otherwise I would not have been able to.

16 Q. And who was on the other end of that phone call,  
17 the Cadwalader call?

18 A. There were lots of people on the other lines.  
19 These massive calls it's always difficult to  
20 remember everybody. The person doing the talking  
21 largely and asking the questions largely was Greg  
22 Patti of Cadwalader. There were lots of other  
23 people on the line, but I couldn't tell you who  
24 they were.

25 Q. What was the purpose of the May 14th, 2009, call

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1 with Cadwalader?

GM  
2 A. I believe their purpose was essentially due  
3 diligence. They were doing a lot of calls on  
4 various subject matters to understand the assets  
5 and liabilities of the company in aid of their  
6 commenting, drafting, et cetera, of the ARMSPA  
7 and the implementation of the transaction.

8 Q. And what sparked your conversation regarding  
9 Castillo?

π  
10 A. We were just going down the categories of  
11 litigation exposures, litigation-related  
12 exposures. So I talked about product liability.  
13 I talked about asbestos. I talked about dealer  
14 cases. I talked about class actions. I talked  
15 about suppliers. I basically went through our  
16 docket at a high level.

17 Q. And prior to the May 14th call, had you actually  
18 provided a list of pending litigation?

19 A. No.

20 Q. Castillo was one of the three examples you came  
21 up with in that call. What were the other two?

22 A. The other two were the Dex-Cool settlement, which  
23 was then in the midst of implementation under the  
24 administration of the state -- California state  
25 court in I think Alameda County, but maybe San

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1 class members would be for past events only?

2 A. I don't remember. I don't remember. I believe  
3 there was an end date for repairs, but whether it  
4 was past by that time I don't recall.

5 Q. Please describe to me in as much detail as you  
6 can remember what you said during the May 14th,  
7 2009, call about the Castillo case.

8 A. That it was a settlement that was in process but  
9 not consummated; that it would be left behind.  
10 It was an example of a class that would be left  
11 behind.

12 Q. And you explained it would be left behind based  
13 on what criteria?

14 A. That it was a litigation-oriented liability  
15 arising from product claims that did not involve  
16 a claim against what we contemplated at that time  
17 to be a nondebtor affiliate. So there were cases  
18 that -- again, to use the vernacular not left  
19 behind, because the defendant was not a party  
20 that we envisioned would file for bankruptcy.

21 So if you had a lawsuit against OnStar,  
22 for example, which is a subsidiary of General  
23 Motors Corporation which was going to be an asset  
24 conveyed at a stock level from old to new,  
25 litigation against OnStar would be unaffected.

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1 So it would not be left behind, but claims  
2 against General Motors Corporation in this  
3 general category would be left behind.

4 Q. That's because Saturn was not going to continue  
5 as a --

6 A. Because Saturn was going to be a debtor and a  
7 seller in the transaction, and we knew that by  
8 May 14th or at least provisionally we knew that  
9 by May 14th.

10 Q. You said that the Castillo case was one arising  
11 from product liability claims. What did you mean  
12 by that?

13 MR. OXFORD: I'm going to object to  
14 that question on the grounds I believe it  
15 misstates his testimony, but he can speak for  
16 himself.

17 THE WITNESS: I think I did say that.  
18 I think I did say product liability claims and  
19 maybe a more precise way, arising from the  
20 product. In other words, I'm not using --  
21 sometimes we have, I know, distinguished used  
22 product liability as a proxy for personal injury  
23 and property damage, but in that answer I was  
24 using it just in terms of claims arising from the  
25 vehicles sold and marketed by General Motors

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1 Corporation of all types. That essentially was  
2 the nature of conversation. We were going  
3 through all of them.

4 BY MR. BROWN:

5 Q. What was the response from Cadwalader when you  
6 referenced the Castillo case?

7 A. I don't recall a response. They asked their next  
8 question, whatever that was.

9 Q. Aside from the conversation with Cadwalader on  
10 May 14th, were there other instances in which you  
11 had conversations regarding the Castillo case  
12 with anyone on behalf of treasury?

13 MR. OXFORD: Again, we're talking about  
14 before June 1st?

15 MR. BROWN: No, anytime after May 14th.

16 THE WITNESS: Redo the question for me  
17 because I was focused on ...

18 BY MR. BROWN:

19 Q. Sure. Other than your May 14th conversation with  
20 Cadwalader, do you recall other conversations you  
21 had at any other time with anyone on behalf of  
22 U.S. Treasury concerning the Castillo case?

23 A. There was a call that was focused on executory  
24 contracts. Subject matter was executory  
25 contracts. Where I believe that reference was

1 made to settlements as a class of executory  
2 contracts that would be rejected. However, I  
3 don't believe Castillo was mentioned by name.

4 I don't -- I cannot recall that it was  
5 mentioned by name. That would exhaust prior to  
6 June 1st.

7 Q. Before we move on past June 1st, let me make sure  
8 I understand. The conversations in which it was  
9 discussed that settlements would be considered  
10 executory contracts, who was that conversation  
11 with?

12 A. It was one of these calls with lots of people on  
13 them. The purpose of the call was to discuss our  
14 efforts to identify executory contracts that  
15 should be rejected.

16 There was a group from Cadwalader. At  
17 this point I can't remember who. I would be  
18 guessing if I started listing the usual suspects.  
19 And there was one of the junior treasury people,  
20 I believe maybe 80 percent certainty that it was  
21 ~~Sodic (ph.)~~ <sup>Sadiq</sup>

22 Then on our side there would have been  
23 -- there were Russ ~~Bradley~~ <sup>Bratley</sup>, myself. I think for  
24 part of the call Joe Damours. I think a couple  
25 of our relatively junior folks that worked for

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1 Joe. Again, I could provide a list of potential  
2 suspects, but I don't really recall which it was.

GM  
3 Q. This call took place between May 14th and  
4 June 1st?

5 A. I would say between May 1st and June 1st. It was  
6 similar to the call -- the May 14th call. The  
7 May 14th call had as Cadwalader purpose to ask us  
8 about our litigation. This call was to ask us  
9 about executory contracts.

10 Q. During the May 14th call with Cadwalader  
11 regarding litigation, were there any types of  
12 pending litigation that you identified as  
13 liabilities to be assumed?

14 A. No. I'm going to distinguish, make sure that  
15 answer is clear. There were categories of  
16 litigation that would come, because as I  
17 described, they were against nondebtors for  
18 example, but they weren't going to be assumed.  
19 They were just going to be unaffected because  
20 they did not involve a debtor.

21 But as of May 14th, the shared intent  
22 was that all litigation liabilities would be left  
23 behind. All litigation liabilities of the  
24 sellers -- that is to say General Motors  
25 Corporation, Saturn, and the dealership that was

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1 the third debtor -- would be left behind.

2 Q. Did Saturn become an asset of New GM after the  
3 closing?

4 A. No. And again, to make sure the answer is clear,  
5 Saturn Corp, which was renamed at some point in  
6 this time Saturn, L.L.C., was a seller and a  
7 debtor and conveyed assets, but the entity was  
8 not acquired by New GM.

9 Q. Was there a new entity that emerged after the  
10 sale that could be described as a New Saturn in  
11 the same way that there was a New GM?

12 A. No, there was no New Saturn.

13 Q. Prior to the sale, Saturn was a subsidiary of Old  
14 GM, correct?

15 A. Directly or indirectly. I can't recall whether  
16 there was an intervening entity or not, but it  
17 was a direct or indirect subsidiary of General  
18 Motors Corporation.

19 Q. Did it remain a direct or indirect subsidiary of  
20 any other entity following the bankruptcy itself?

21 A. It remained a direct or indirect subsidiary of  
22 General Motors Corporation, renamed Liquidation  
23 Motors Company on July 10th, 2009.

24 THE WITNESS: If we could take a  
25 bathroom break at a convenient moment.

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1 MR. BROWN: Sure. Okay, that's fine.

2 Why don't we take a break.

3 (Break was taken.)

4 BY MR. BROWN:

5 Q. You said that Saturn remained a subsidiary of Old  
6 GM after the 363 sale. I understand that there  
7 were discussions with New GM and Penske about the  
8 possibility of Penske purchasing Saturn. You're  
9 aware that those discussions took place, correct?

10 A. There was discussions regarding selling certain  
11 assets relating to the Saturn brand to Penske,  
12 yes.

13 Q. And did those Saturn assets that would have been  
14 sold to Penske become assets of New GM following  
15 the 363 sale?

16 A. They did. And actually most of those discussions  
17 occurred after the 363 sale.

18 Q. And one of the assets of Saturn that would have  
19 been sold to Penske had that deal been  
20 consummated would have been the customer goodwill  
21 of Saturn?

22 A. I guess I do not know whether there was an asset  
23 for goodwill that was reflected in whatever  
24 proposed documentation there was.

25 I guess I could say that the name would

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1 have been sold to him or transferred to him or  
2 licensed to him, something of that nature.

3 Q. Aside from the May 14th conversation with  
4 Cadwalader in which you reference the VTi  
5 settlement and the other conversation with  
6 Cadwalader which you discussed settlements as  
7 being executory contracts, are there any other  
8 conversations that you had with anyone on behalf  
9 on treasury at any time regarding the Castillo  
10 settlement?

11 A. Specifically as opposed to a class?

12 Q. Let's start specifically first.

13 A. I don't think so.

14 Q. Are there other conversations that you had with  
15 U.S. Treasury or anyone acting on behalf of U.S.  
16 Treasury in which you discussed any class of  
17 liabilities which you would consider to include  
18 the Castillo liability?

19 A. They were <sup>at</sup> some pains to remind us consistently  
20 through the transaction that we should be --  
21 well, maybe not all the way through the  
22 transaction -- into relatively late in June and  
23 that we should be working hard to identify  
24 contracts that were not favorable and therefore  
25 should be rejected or should be left behind.

1 But I don't recall any specific  
2 discussion of the Castillo settlement agreement  
3 or whatever the thing was named in that time  
4 period.

5 Q. Aside from Greg Patti at Cadwalader, can you  
6 remember the name of anyone else who participated  
7 in the May 14th, 2009, conference call?

8 A. No. I believe it was all Cadwalader people. At  
9 least I don't have a specific recollection of one  
10 of the UST business people, and I'm not sure --  
11 this is sort of sad, but I'm not sure I can  
12 remember the name of anybody at Cadwalader at  
13 this point other than Greg Patti. I can  
14 visualize them in their black suits, but I can't  
15 remember the names.

16 Q. You probably remember the people at Jenner  
17 better.

18 A. That's fair.

19 Q. If you could turn, please, to Exhibit C which is  
20 the ARMSPA and specifically Section 2.3(a)(vii)  
21 on page 29. Can you identify any person who was  
22 involved in drafting Section 2.3(a)(vii)?

23 A. Myself and Michael Wolf would be the two I could  
24 identify specifically. Actually -- and there are  
25 other folks internal to GM who I know reviewed

1 and commented.

2 Q. Who reviewed and commented internal at GM  
3 regarding the 2.3(a)(vii)?

4 A. Deb Nowak Vanderhoef.

5 Q. Whose title was what?

6 A. Probably her title at that point was attorney.  
7 No, her title at that time was Global Process  
8 Leader Product Regulation or something like that.

9 Q. But she was an attorney?

10 A. She was an attorney.

11 Q. In the legal department at GM?

12 A. She was.

13 Q. Who else?

14 A. David Schrumpf, S-C-H-R-U-M-P-F, who was an  
15 attorney.

16 Q. In the legal department at Old GM?

17 A. Specializing in mobile emissions. Steven Cernak,  
18 C-E-R-N-A-K, who was an attorney.

19 Q. Also at Old GM?

20 A. Also as Old GM. Those are people I remember  
21 discussing the provision with.

22 Q. Aside from the drafts that had been produced,  
23 were there e-mails or memos or other documents  
24 that you exchanged with Deb Vanderhoef, David  
25 Schrumpf, or Steven Cernak regarding Section

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1 2.3(a)(vii)?

2 A. Although I don't have a specific memory of an  
3 individual one, I'm sure there were.

4 Q. Did you discuss the Castillo case with  
5 Ms. Vanderhoef, Mr. Schrupf, and Mr. Cernak?

6 MR. OXFORD: That's a yes or no or you  
7 don't know or you don't remember.

8 THE WITNESS: The answer would be no.

9 BY MR. BROWN:

10 Q. As between you and Mr. Wolf, who had a larger  
11 role in drafting Section 2.3(a)(vii)?

12 A. I don't think that that's an answerable question.  
13 We had our respective roles, they were distinct,  
14 they were different. They were both important.

15 Q. When you said -- when you identified yourself and  
16 Mr. Wolf as drafters of 2.3(a)(vii), does that  
17 mean that you were the only two or does it mean  
18 that there were others on behalf of treasury who  
19 were involved in drafting and you just can't  
20 recall who they were?

21 A. I am certain treasury was making comments and  
22 they were being funneled through Jenner, so I  
23 know someone at Cadwalader was working on it, and  
24 I can assume that they were consulting with their  
25 client. But you know, it's -- I don't know that.

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1 I infer it from what was happening.

2 Q. Are you able to identify anyone specifically at  
3 Cadwalader who was involved in drafting Section  
4 2.3(a)(vii)?

5 A. No.

6 Q. Can you say who had ultimate responsibility for  
7 approving the language in Section 2.3(a)(vii)?

8 MR. OXFORD: Just for the record, I'm  
9 going to object on the grounds that it's vague,  
10 but go ahead.

11 THE WITNESS: Not really. I mean, it  
12 depends on exactly what sense. I mean in one  
13 sense, you know, it was all up to the CEO, but of  
14 course he had no consciousness of this particular  
15 provision.

16 Certainly Mr. Damours had sign-off on  
17 the deal at the end; but again, I don't think he  
18 had any high level of consciousness of this  
19 provision.

20 I didn't formally have veto power over  
21 the document, but if you had to identify one  
22 person at Old GM who could have raised the red  
23 flags and said, no, we shouldn't do this, it  
24 probably would have been me.

25 And I guess to make sure the answer is

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GM  
1 complete, by definition that means the general  
2 counsel had jurisdiction. But again, he was  
3 relying on me.

4 BY MR. BROWN:

π  
5 Q. I know you said in totality you weren't sure  
6 which portions of 2.3(a)(vii) you had drafted and  
7 which portions perhaps Mr. Wolf had drafted. Is  
8 there any portion of Section 2.3(a)(vii) that you  
9 can attribute an author to?

10 A. Yes. I would say the one thing I am certain of  
11 is that the phrase express written warranties of  
12 sellers that are specifically identified as  
13 warranties and delivered in connection with the  
14 sale of new certified preowned vehicles was  
15 substantially my formulation, except that it  
16 probably didn't say Sellers, capital S, when I  
17 first conceived of it.

18 And then conceptually this provision  
19 and the mirror provision of what's not assumed,  
20 which is 2.3(b) -- I don't remember the  
21 Romanette.

22 Q. 1-6 probably?

23 A. Probably. Were originally conceived together. I  
24 think when I first put it in, it was one thing.  
25 Of course the document has a structure and Jenner

1 put it in their structure.

2 Q. Turn to page 32, please, and look at what is  
3 Section 2.3(b) (xvi). Do you see that?

4 A. Uh-huh.

5 Q. Is that the section that you say was conceived in  
6 conjunction with 2.3(a) (vii)?

7 A. Yes.

8 Q. Which portions, if any, of 2.3(b) (xvi) can you  
9 ascribe an author to?

10 A. Conceptually I was the author. A lot of the  
11 words probably first came from me, but you know,  
12 I'm a litigator by trade. I don't draft the same  
13 way a transactional lawyer drafts. They  
14 generally take my language and massage it and to  
15 their norm, so it's hard to go word for word.

16 Q. Conceptually did you envision 2.3(b) (xvi) to be  
17 the opposite of 2.3(a) (vii)?

18 MR. OXFORD: It's vague and ambiguous  
19 and calls for attorney work product. Instruct  
20 him not to answer. You're asking for lawyer's  
21 mental impressions.

22 MR. BROWN: Well, part of the dilemma  
23 here is that New GM is asserting defenses based  
24 on what it claims was the intent of the parties  
25 in drafting this agreement, and if Mr. Buonomo is

1 MR. OXFORD: That's fine.  
2 Do you have the question in mind?  
3 THE WITNESS: No.  
4 MR. BROWN: Can you repeat the  
5 question, please?  
6 (Record read back.)

7 THE WITNESS: Opposite is not the word  
8 I would use, but the intent was to try to  
9 foreclose certain arguments that I foresaw out of  
10 assuming the express warranty. And particularly  
11 with respect to 16, as I'm sure you could discern  
12 yourself, I was concerned that people would be  
13 making arguments that taking one meant you had  
14 responsibility for implied warranty or some sort  
15 of the statutory warranty or other common law or  
16 other forms of things that could give rise to a  
17 claim.

18 Trying to limit it to our intent which  
19 was that we would assume the responsibility to  
20 administer the express written Mag Moss warranty  
21 going forward.

22 BY MR. BROWN:

23 Q. What did you mean in Section 2.3(b)(xvi) by the  
24 language, quote, without the necessity of an  
25 express warranty?

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1 A. So in other words, if it was a claim that someone  
2 could have asserted or a theory that someone  
3 could have asserted even if there was no express  
4 warranty, implied warranty being a good example,  
5 the new company was not assuming.

6 Q. Conversely, if it was a claim that did rely on an  
7 express warranty, then the new company --

8 A. Not any express warranty. Only to go back to the  
9 A --

10 MR. OXFORD: 2.3 little Romanette vii.

11 THE WITNESS: 2.3(a)(vii)?

12 MR. OXFORD: Yeah.

13 THE WITNESS: Only the written warranty  
14 of sellers that are specifically identified as  
15 warranties ~~until they are~~ <sup>delivered</sup> in connection with the  
16 sale of ~~that language~~ <sup>the vehicle.</sup> So for example -- and  
17 this got clarified later, but the theory is that  
18 there was a warranty by an advertisement. We  
19 were limiting -- our intent was to limit the  
20 future responsibility to the obligations created  
21 by the express delivered warranty as described in  
22 the first part of the provision.

23 Q. You mentioned Magnuson Moss. I assume you're  
24 familiar with the Magnuson Moss Warranty Act?

25 A. Yes.

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1 Q. Would you consider Magnuson Moss warranty claims  
2 to be claims without the necessity of an express  
3 warranty?

4 A. Could be either way. If a Mag Moss claim that  
5 was the obligations to fulfill the warranty and I  
6 think you could probably assert a claim pursuant  
7 to Mag Moss, for example, if you took your Chevy  
8 to the dealer tomorrow and it was within the  
9 warranty period and they said no, you could  
10 probably make a Mag Moss claim on that, and I  
11 think we would be responsible for that.

12 But there are Mag Moss claims you could  
13 allege that were actually different from and  
14 inconsistent with the terms of the warranty, I  
15 believe, and that would not be assumed.

16 Q. One of the claims -- one of the remedies  
17 available under the Magnuson Moss Warranty Act  
18 would be attorneys fees. If someone made a  
19 Magnuson Moss claim under the hypothetical you  
20 just described, under your interpretation of  
21 2.3(a)(vii) and 2.3(b)(xvi) would the obligation  
22 to pay attorneys fees in that Magnuson Moss claim  
23 be assumed by New GM?

24 A. No, because it's not a remedy provided for under  
25 the warranty.

1 Q. And where does either 2.3 (a) (vii) or 2.3 (b) (xvi)  
2 make that distinction regarding remedies?

3 A. Well, it's not express, which is frankly what  
4 resulted later on in some clarification in the  
5 sale order. But as originally conceived -- and  
6 this is not a scenario that we -- as originally  
7 conceived we were limiting our assumption or the  
8 new company's assumption to performing under the  
9 warranty.

10 Frankly, we weren't really thinking  
11 about what if we didn't do that, but that was  
12 what we were limiting our assumption to or  
13 limiting the assumption of the new company to.

14 Q. Turning to 2.3 (a) (vii), the first part references  
15 all liabilities arising under express written  
16 warranties of sellers that were specifically  
17 identified as warranties and delivered in  
18 connection with the sale of new vehicles, et  
19 cetera. What did you mean by the term "arising  
20 under"?

21 A. What they provided for in.

22 Q. Pardon me?

23 A. Provided for in or arising by reason of us  
24 fulfilling our obligation. So it would have  
25 include<sup>d</sup> providing the repairs or replacement

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1 pursuant to the warranty. It would include  
2 paying the dealers. It would include maintaining  
3 a system and infrastructure to fulfill the  
4 warranties. There's a lot that goes with having  
5 a warranty system and we're trying to catch that  
6 in relatively high-level language.

7 (Off the record.)

8 BY MR. BROWN:

9 Q. Let's start with that question again.

10 A. Why don't ask you the question again.

11 Q. In 2.3(a)(vii), what did you mean by the language  
12 arising under express written warranties?

13 A. The intent was that the new company would assume  
14 the obligation to fulfill the express warranties  
15 and would do all the things and meet all the  
16 obligations necessary to do that including, for  
17 example, providing the actual repairs and  
18 replacements, paying the dealers to do the work,  
19 maintaining the system and infrastructure and  
20 parts bank, and all those things and generally  
21 take the actions necessary to fulfill the  
22 warranties referenced. And of course a lot of  
23 things, to use that word, arise from an  
24 obligation to do that.

25 Q. All Liabilities, capital L liabilities, referred

1 to in 2.3(a)(vii) relies on the definition of  
2 capital L Liabilities on page 11 of the ARMSPA;  
3 is that correct?

4 A. Yep.

5 Q. And capital L -- Strike that.

6 Go back to 2.3(a)(vii). In 2.3(a)(vii)  
7 (A), you refer to all liabilities arising under  
8 express written warranties, emphasis on arising  
9 under. And then in subpart B, you say all  
10 obligations under Lemon Laws. What's the  
11 difference between under and arising under?

12 A. Well, is the question what's the difference or  
13 what's the intended difference?

14 Q. Well, let's start with what's the difference?

15 A. I don't know.

16 Q. Okay. What's the intended difference?

17 A. I don't think there was one. I would be  
18 speculating to advance one. Let's put it that  
19 way.

20 Q. Would it be fair to say that the U.S. Treasury  
21 had control over the language that ultimately was  
22 contained in Section 2.3 (a)(vii)?

23 A. No. Or to be more precise, they had no more  
24 control than the other party to the agreement.  
25 Each side had to agree to it.

1 Q. Could a Magnuson Moss claim arise under express  
2 written warranties as referenced in Section  
3 2.3(a)(vii)?

4 MR. OXFORD: It's vague and ambiguous.

5 THE WITNESS: Calls for legal  
6 conclusion, and I'm not sure I know the answer to  
7 the legal conclusion. I have an instinct that  
8 the answer is no, but that's a research question  
9 more than anything else.

10 BY MR. BROWN:

11 Q. What's the issue that you would do the research?

12 A. Well, Magnuson Moss incorporates the warranty law  
13 of the states. The implied warranty law of the  
14 states or as incorporated by Mag Moss is  
15 exclusively excluded, explicitly excluded, from  
16 the assumption of the liability.

17 Could there be a Mag Moss claim arising  
18 under the express warranties? I actually think  
19 you'd have to do a state by state of analysis,  
20 and I certainly don't know the answer for any  
21 given state, and I can't say for sure for any  
22 particular state that there could be one. But  
23 now we're having a law review article discussion,  
24 not a drafting discussion.

25 BY MR. BROWN:

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1 Q. Could a Magnuson Moss claim be a capital L  
2 Liability as defined on page 11 of the ARMSPA?

3 A. Generally without reference --

4 MR. OXFORD: Let me just interpose an  
5 objection. It calls for speculation, lacks  
6 foundation, calls for a legal conclusion.

7 THE WITNESS: Ask my clarification.  
8 You're talking about independent of the  
9 2.3(a)(vii) would a claim under Mag Moss be a  
10 liability within the meaning of the definition of  
11 capital L liabilities? Is that your question?

12 BY MR. BROWN:

13 Q. Correct.

14 A. I think the answer is yes.

15 Q. You would also agree that the underlying class  
16 action settlement and judgment in the Castillo  
17 case would be a capital L liability as defined on  
18 page 11 of the ARMSPA?

19 A. The obligation of the Old GM to fulfill the terms  
20 of the settlement separate apart from the arising  
21 under et cetera language would be a liability of  
22 Old GM, a retained liability in our view.

TT  
23 Q. When I asked you what you meant by "arising  
24 under," your answer was largely a description of  
25 the remedies that New GM would provide as rather

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TT  
1 than the discussion of the types of liabilities  
2 that would -- to which the underlying warranties  
3 would give rise. Did I understand that  
4 correctly?

5 A. I disagree with that. I think what I summarized  
6 were as a matter of specifics, the liabilities  
7 that actually arise under these warranties. The  
8 responsibilities, the obligations that arise by  
9 virtue of these warranties. So things like  
10 fixing the vehicle, having the parts available,  
11 paying the dealer, et cetera, et cetera, et  
12 cetera.

13 Q. So in that answer you just gave, you used the  
14 term arising by virtue of. Do you consider  
15 arising under and arising by virtue of to be  
16 synonymous?

17 A. There was substantial overlap. By the nature of  
18 English language being what it is, I am sure that  
19 someone could draw some distinction. What I'm  
20 trying to get at notwithstanding the fallacy --  
21 not fallacy, the weaknesses of the English  
22 language -- is that the intent here was to agree  
23 that the old company and the new company agreed  
24 that the new company would fulfill these  
25 warranties going forward, do the things it needs

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1 to do to fulfill these warranties going forward.  
2 And a variety of things flow from that arising  
3 under. That was the intent. That was what was  
4 trying to be conveyed in using that language.

5 Q. Under Section 2.3(a)(vii), other than the  
6 specific terms of warranties contained in the  
7 glove box at the time of sale, would there be any  
8 other liabilities arising under expressed written  
9 warranties of sellers that are specifically  
10 identified as warranties and delivered in  
11 connection with the sale of the vehicle?

12 A. Putting aside that we also have other warranties  
13 here for like individual parts, for example, are  
14 covered under this, so it could be warranties for  
15 remanufactured parts, for example, which is a  
16 totally different universe, totally different  
17 warranty, but sticking to the vehicle, no, it  
18 would only be what was contained within as you  
19 put it the glove box warranty.

20 Q. Who was your primary contact with the United  
21 States Treasury?

22 A. Overall I would say Matt Feldman. I don't  
23 believe that I ever had any discussions related  
24 to the issue <sup>that</sup> ~~this~~ brings us here today with Matt  
25 Feldman.

GM  
1 Q. If you could please turn to Exhibit LL, which is  
2 the witness disclosure, and specifically  
3 paragraph 3 on page 9. It says that --

4 A. I must correct my answer.

5 Q. Okay.

6 A. I must correct my answer. There was a call, in  
7 which we haven't gotten to yet, in which these  
8 issues were discussed, and I believe Matt Feldman  
9 was on that call. So my prior answer about never  
10 having discussed this with Matt Feldman was not  
11 correct, was an error.

12 Q. Are you referring to a conversation that's  
13 referenced in Exhibit LL?

14 A. Actually not, but for some reason, reading it put  
15 it in my head.

16 Q. So why don't you tell me about that conversation.

17 A. There was a conversation close in time to the  
18 beginning -- excuse me, close in time to the sale  
19 approval hearing which involved among others, one  
20 of those big calls, among others, Harry Wilson,  
21 Matt Feldman, I think somebody from Cadwalader.  
22 I believe Mike Milliken of the General Motors  
23 legal staff, I believe Steve Cernak of the  
24 General Motors legal staff, I believe Mike  
25 Robinson of the General Motors legal staff, quite

GM  
1 possibly Bob Osborn, general counsel. The topic  
2 of discussion was things we might do for the  
3 purpose of resolving the objections of the state  
4 AGs. One of the things -- well, high-level  
5 discussion first.

6 One of the things discussed was might  
7 we broaden the scope of the assumption of, you  
8 know, broadly speaking warranty liabilities and  
9 the answer was that the conclusion was, no, we  
10 would not do that.

11 Q. What broadening of the scope of warranty  
12 liability were the attorneys generally  
13 requesting?

14 A. I think they would have liked us to assume all  
15 consumer-related liabilities <sup>of</sup> General Motors  
16 Corporation.

17 Q. Meaning including implied warranties?

18 A. Everything, everything, everything. And implied  
19 warranties were very high on their list actually.  
20 And there was some discussion, someone said,  
21 well, maybe we should do that. Maybe we should  
22 take on implied warranties. The person was  
23 assuming that was essentially in the nature of  
24 I'll call retail consumer relations-type stuff.  
25 And I can't recall who actually made that

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6/M  
1 suggestion.

2 I commented that pretty close to -- I  
3 think I could almost get the right words. Well,  
4 you could do that, but understand that if you do  
5 that, you will essentially take the entire class  
6 action docket with you, because essentially all  
7 <sup>a</sup>~~the~~ class action is, generally speaking, is a  
8 whole bunch of -- for our purposes in our world,  
9 a whole bunch of implied warranty and other  
10 claims of that sort bundled together in a class.

11 And Mr. Wilson, who was the primary  
12 spokesman for the treasury on this call, did most  
13 of the talking said -- well, it's interesting,  
14 because I didn't actually express an opinion  
15 except it was implied in my comment, but his  
16 comment was I agree with Larry, correctly  
17 discerning that I thought it was a bad idea. And  
18 that was pretty much the end of that idea. We  
19 did not do that. But Matt Feldman was on that  
20 call.

21 Q. Do you recall the date of that conversation?

22 A. Other than I took it from the temporary office  
23 that I was using at Weil Gotshall, New York,  
24 which put it quite late in June.

25 Q. Turning to paragraph 3 on page 9 of Exhibit LL it

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GM

1 says, The United States Treasury insisted that  
2 the new company that would become the New GM  
3 should assume only those liabilities of Old GM  
4 that were deemed essential to the successful  
5 operations of the new company. What if any --  
6 Strike that.

7 First of all, who specifically at UST  
8 insisted on that?

9 A. All of them, but the person who was the guardian  
10 of that for them I think, at least in our view,  
11 was Harry Wilson.

TT

12 Q. What, if any, criteria were discussed for  
13 determining which liabilities would be considered  
14 essential to the successful operations of the new  
15 company?

16 A. Although I don't recall ever discussing the  
17 criteria for evaluation, per se, in those terms,  
18 I think that what it really came down to is  
19 either one of two things. Either you had to have  
20 it in order to continue doing business and the  
21 quintessential example of that would have been a  
22 contract with the UAW to build cars, or the new  
23 company was stronger, more valuable, more likely  
24 to succeed assuming the liability than it was not  
25 assuming the liability, which was sort of a

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1 slightly less high hurdle than absolutely  
2 ~~required.~~  
3 ~~acquired.~~

3 But you know, we never talked about it  
4 in the way you and I are discussing it here. It  
5 was sort of implied in the discussions about  
6 specific things.

7 Q. Was there ever a discussion about who would be  
8 responsible for making the determination as to  
9 which liabilities would be considered essential  
10 to the successful operation of the new company?

11 A. Ultimately it was the treasury people who decided  
12 what they were willing to buy and what they were  
13 willing to assume. And on that point, I think  
14 it's probably fair to say that their opinion was  
15 as close to final as on any point, although at  
16 the same time they charged the seller, the old  
17 company, repeatedly with making the effort to  
18 find, determine, identify, and make sure that  
19 unfavorable liabilities were left behind, were  
20 excluded, and that primarily came up in the  
21 context of executory contracts, because executory  
22 contracts required something more than the  
23 agreement to accomplish the leaving behind. You  
24 had to identify them, you had to put them on the  
25 right list so to speak.

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GM

1 Q. In paragraph 4 on page 9 of Exhibit LL it says  
2 that there's a basic stance of UST with respect  
3 to all GM's liabilities that they should not be  
4 assumed by New GM unless there was a specific  
5 reason why the assumption of a particular  
6 liability or a category of liabilities was  
7 considered commercially necessary to the future  
8 successful operations of GM. Does commercially  
9 necessary mean -- in paragraph 4 mean the same  
10 thing as essential in paragraph 3?

11 A. It does, but let me make a further observation.  
12 You know, I sort of describe two things for  
13 commercially necessary. The other way of looking  
14 at it is if it was a net positive, now, is it  
15 something that you are stronger with or without,  
16 in some sense it wasn't a liability at all.

17 So you can parse this really fine. You  
18 can say either it's clearly a liability, but you  
19 need it, like the UAW contract. Or you can say  
20 like a contract to -- you know, someone is going  
21 to pay \$10 and they are going to get something,  
22 and for the company it's worth more than \$10. So  
23 the \$10 payment is a liability but the contract  
24 as a whole is not really viewed as a liability;  
25 it's viewed as an asset.

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1 So with that caveat, I'm trying to be  
2 very precise here with that caveat, essentially 3  
3 and 4 were the same thing.

4 Q. Paragraph 4 on page 9 of Exhibit LL goes on to  
5 identify four different categories of liabilities  
6 that were discussed. The first is what you call  
7 express warranty repair obligations. It's New  
8 GM's position that the Castillo settlement and  
9 judgment would not be considered express warranty  
10 repair obligations, correct?

11 A. As defined here, no.

12 Q. As defined anywhere?

13 A. As defined anywhere in terms of a liability we  
14 assumed. It may be an express -- it may contain  
15 an express commitment to repair something, I've  
16 never read that settlement, but it's not the  
17 commitment that we assume.

18 Q. The next category explained in -- or described in  
19 paragraph 4 is contingent litigation exposures.  
20 Would the -- which you call litigation  
21 liabilities.

22 Would the Castillo settlement and  
23 judgment be considered a contingent litigation  
24 exposure?

25 A. I guess you could call it one of two things. The

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GM  
1 underlying claims are certainly a contingent  
2 litigation exposure. The settlement itself one  
3 could characterize as a negative contract as  
4 opposed to contingent liability exposure.

5 It's not a distinction that we had call  
6 to make at the time. We didn't look at the  
7 Castillo case and say this is -- and think about,  
8 is it a contingent litigation exposure or was it  
9 an executory contract. We just didn't get that  
10 far at that time, but either way we would say it  
11 was not assumed.

12 Q. Would you agree with me that at least as of the  
13 time the Castillo judgment became final and  
14 unappealable it was no longer contingent?

15 MR. OXFORD: I'm going to object to  
16 that question on the grounds that it calls for a  
17 legal conclusion. If you understand the  
18 question, answer.

19 THE WITNESS: I do understand the  
20 question, and I guess I don't know enough about  
21 the structure of it to really answer the  
22 question.

23 I will say that if you look at it in a  
24 third way, which is -- it's called a judgment, an  
25 adverse judgment, that too was a general

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1 warranties.

2 Q. Paragraph -- or excuse me, paragraph 6 goes on to  
3 say the assumption of warranty liabilities only  
4 included obligations arising from documents  
5 specifically identified as warranties delivered  
6 in connection with the sale of vehicles and parts  
7 with the intent to exclude all other sources of  
8 actual and alleged vehicle linked obligations.  
9 What does it mean for an obligation to arise from  
10 a document as referenced in paragraph 6?

11 A. Arising from documents -- could you reask the  
12 question again?

13 (Record read back.)

14 THE WITNESS: That the obligation is  
15 the obligations provided for -- that the  
16 obligation is among the obligations provided for  
17 the document in this circumstance provided for in  
18 the warranties as described in this language.

19 BY MR. BROWN:

20 Q. Were there any documents that were ever created  
21 discussing what factors would be considered to  
22 determine whether a particular liability should  
23 be deemed essential to the successful operation  
24 of the new company?

25 A. I don't believe so. I mean fundamentally that

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1 was -- well, to the extent there was a judgment  
2 of UST, I think the only thing I can point to is  
3 Mr. Wilson's testimony which reflects his view of  
4 the issue. And certainly we didn't attempt a  
5 conceptual definition of what that would look  
6 like. "We" at that time of course being Old GM.

7 Q. In paragraph 7 on page 11 of Exhibit LL, toward  
8 the bottom of that paragraph it refers to the  
9 Castillo settlement as being unimplemented. What  
10 did you mean by that?

11 A. Unconsummated? I mean, no great subtlety of  
12 meaning intended there. My understanding was it  
13 was a settlement, an agreement had been reached,  
14 but the consideration had not been rendered.

15 Q. Do you know whether any of the consideration had  
16 been rendered or was --

17 A. I don't know. I mean, Dex-Cool would be a good  
18 example, though. I mean, Dex-Cool was a  
19 partially implemented settlement.

20 Q. How so?

21 A. Some claims had been paid, some claims were in  
22 process. The claims that were paid, the old  
23 company actually could have pursued a preference,  
24 but they did not, and -- but the claims that had  
25 not yet been processed became secured claims in

1 previously?

2 A. Yes. And potentially the second conversation  
3 that we also discussed previously around  
4 executory contracts.

5 Q. But in that conversation regarding executory  
6 contracts, there was no specific discussion of  
7 Castillo, correct?

8 A. That is my best recollection.

9 Q. Turn to paragraph 14 of Exhibit LL, please. It  
10 says, "In June and early July 2009, there were  
11 discussions among the parties and representatives  
12 of third parties regarding other consumer  
13 liabilities including implied warranties, express  
14 warranties other than the standard written  
15 limited new vehicle warranties issued a point of  
16 sale by Old GM and Saturn and certain other  
17 liabilities."

18 My question is which express warranties  
19 other than the standard written warranty is being  
20 described here?

21 A. Conceptually it would be an allegation of express  
22 warranty based on something other than the formal  
23 labeled warranty. So again, use Dex-Cool as an  
24 example. The allegation there included an  
25 allegation that there was an express warranty

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1 created by certain language in the owner's  
2 manual. So that was a variety of express  
3 warranty claim other than the standard written  
4 limited new warranty as an example, but it could  
5 be based on advertising, based on a statement by  
6 a dealer salesperson, based on claim of warranty  
7 by description on the Monroney label of the  
8 vehicle based on the owner's manual, based on  
9 advertising. I'm sure you've seen all varieties  
10 yourself.

11 Q. Was there ever a discussion about whether claims  
12 for express warranty -- Strike that.

13 Was there ever a discussion about  
14 whether settlements and judgments that resulted  
15 from lawsuits in which claims for breach of  
16 express warranty were asserted would be  
17 considered liabilities arising under the express  
18 written warranties?

19 A. There was general discussion to the effect that  
20 as set forth in Section 2.3(b)(xvi) that the new  
21 company would not assume claims based on -- and  
22 I'll just use the language of the provision for  
23 clarity -- allegations, statements, or writings  
24 by or attributable to sellers, sellers being  
25 General Motors Corporation and Saturn. However,

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1 I don't recall a discussion that got as specific  
2 as your question.

3 Q. Okay. Paragraph 15 of Exhibit LL says that it  
4 became clear that some third parties perceived an  
5 ambiguity in New GM's agreement and intent to  
6 assume liability only within the conditions and  
7 limitations of Old GM's and Saturn's standard  
8 repair warranties. Who were the third parties  
9 who perceived that ambiguity?

10 A. Primarily folks associated with the state AGs. I  
11 won't say exclusively. To a lesser extent  
12 creditors committee people, but primarily we're  
13 referring there -- I'm referring that to the  
14 state AGs.

15 Q. And what was the perceived ambiguity that the  
16 state AGs communicated?

17 A. Basically their initial view was, well, of course  
18 you're assuming all the implied warranty. You're  
19 assuming the warranties, aren't you? Just the  
20 whole distinction that we've been talking about  
21 for the last couple hours just was lost on them.

22 Q. I see. So the perceived ambiguity that the AGs  
23 were struggling with was one that dealt with the  
24 issue of implied warranties?

25 A. It was everything. It really was everything. I

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GM  
1 mean they -- and again, you're dealing with  
2 lawyers for a party, right? So what their  
3 perception actually was and what was in  
4 negotiation is subject to -- well, it's not  
5 subject to ascertainment by us, but they took the  
6 position that either you had or that if you  
7 hadn't, you should, right? And it was sort of a  
8 continuum, because they weren't looking to leave  
9 the situation as it stood, right? They were  
10 looking for clarity and they were looking for  
11 enlargement. And so we had a discussion and we  
12 had a negotiation with them and it led to some  
13 changes as you know. We tried to delineate, you  
14 know, what was in and what was out, if I can be  
15 colloquial again. So to try to remove any -- to  
16 draw a line that notwithstanding <sup>that</sup> ~~what~~ we find  
17 ourselves here today would be clearer.

TT  
18 Q. Would it be fair to say that the principal focus  
19 of the state AGs' concerns over ambiguity dealt  
20 with implied warranties?

21 A. That certainly was one. Lemon Laws, implied  
22 warranties, personal injury litigation, I would  
23 have to say that those were the things that got  
24 the most focus from them.

25 Q. Did the state AGs have communications regarding

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Castillo

1 the ~~custody~~ of settlement and judgment?

2 A. Specifically, no.

3 Q. Did the state AGs have communications regarding  
4 categories of liabilities that would include the  
5 Castillo settlement?

6 MR. OXFORD: You mean specific  
7 categories?

8 MR. BROWN: Yes.

9 THE WITNESS: I guess I would have to  
10 say yes with the caveat that I've never read the  
11 Castillo settlement, right? My working  
12 assumption, it's a settlement of claims of  
13 variety of categories, I think I've read that in  
14 pleadings. There were various claims asserted in  
15 the complaint.

16 But certainly there were discussions  
17 with the state AGs about, you know, implied  
18 warranty, VERI's (ph) express warranty, virtually  
19 the entirety of the potential causes of action  
20 for an aggrieved consumer. So to the extent that  
21 Castillo fell into any of those, and by  
22 definition it must have, yes, there was  
23 discussion that was relevant to it.

24 BY MR. BROWN:

25 Q. And that's because the AGs had such a huge bucket

1 of everything as you've called it, that they  
2 wanted to be assumed. Was there any specific  
3 category of liability that the AGs discussed to  
4 which you think the Castillo settlement would  
5 apply?

6 A. I guess.

7 MR. OXFORD: You understood the lack of  
8 foundation. He's testified he doesn't know what  
9 the specific allegations raised in the Castillo  
10 complaint were, but he can answer.

11 THE WITNESS: If there's an implied  
12 warranty claim implicated in Castillo, then the  
13 answer is yes.

14 If there's a claim of warranty based on  
15 a statement or advertisement or something, the  
16 answer is yes.

17 I can tell you what we discussed, but I  
18 can't relate it to Castillo. I have insufficient  
19 knowledge of Castillo.

20 MR. BROWN: I understand.

21 THE WITNESS: But I think it almost has  
22 to be yes, because I don't think there was any  
23 category of consumer claim that didn't come up in  
24 discussions with the state AGs.

25 MR. BROWN: It's probably a good time

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1 for a break if you guys are interested in that.

2 (Break was taken.)

3 BY MR. BROWN:

4 Q. Was there ever an analysis to your knowledge of  
5 whether the Castillo settlement would be  
6 considered a net liability or something that  
7 was -- versus something that was essential to the  
8 business?

9 A. Not sure exactly what you meant by analysis, but  
10 it was concluded that it was a net liability.

11 Q. Who came to that conclusion?

12 A. Mr. Lines and myself, I guess.

13 Q. And when did you come to that conclusion?

14 A. Late May, early June. I can't recall.

15 Q. What was the basis for that conclusion?

16 A. It was an obligation that we did not believe was  
17 a net desirable one to assume. So that's the  
18 conclusion and the answer, but I'm not sure  
19 there's much more than that.

20 Q. What specific factors did you consider in  
21 arriving at that conclusion?

22 A. Joe Lines' knowledge of settlement.

23 Q. Did you take into account the possibility that  
24 Saturn would be sold to Penske?

25 MR. OXFORD: It assumes a fact not in

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1 evidence that I believe that was contemplated  
2 pre-June 1. I think the witness had previously  
3 indicated he wasn't sure about the time.

4 THE WITNESS: I'll answer it this way.  
5 We knew that selling Saturn was something that  
6 the company desired to do at that time. Whether  
7 the Penske deal was on the horizon or not, I just  
8 don't recall. And we came to that conclusion  
9 knowing that the company was looking to sell the  
10 Saturn assets.

11 BY MR. BROWN:

12 Q. And was the knowledge that the company was  
13 looking to sell the Saturn assets one of the  
14 factors that you actually took into account?

15 A. I mean, I guess all I can say is that we came to  
16 our conclusion in light of everything we knew at  
17 the time. I can't say to my initial response to  
18 your question, you know, what does analysis mean.  
19 Nobody ever wrote up an analysis saying we  
20 consider the following 27 factors, and in light  
21 of all these and weighing these three and four we  
22 came to X conclusion, that just wasn't the way it  
23 happened, particularly given the press of time  
24 and everything that was going on.

25 Q. Do you recall considering and then rejecting the

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GM  
1 potential sale of Saturn as a basis for possibly  
2 considering the Castillo settlement as something  
3 other than a net liability?

4 THE WITNESS: Are you okay with that?  
5 No privilege, Mr. Oxford?

6 MR. OXFORD: Maybe we ought to talk  
7 about this a little bit.

8 (Off the record.)

GM  
9 MR. OXFORD: Pursuant to discussion  
10 I've had off the record with Mr. Buonomo, I've  
11 agreed to let Mr. Buonomo answer this question  
12 and continue this line in a case-by-case  
13 question-by-question basis, with Mr. Brown  
14 agreeing that by allowing Mr. Buonomo to answer  
15 this question would not, you know, going to have  
16 an argument if there's any broader waiver of any  
17 applicable privilege. Is that acceptable,  
18 Mr. Brown?

19 MR. BROWN: Yes.

20 MR. OXFORD: Do you have the question  
21 in mind?

22 THE WITNESS: I better have it back.  
23 (Record read back.)

24 THE WITNESS: I do recall considering  
25 the status of Saturn including the potential sale

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1 of it, and although I would not say it was  
2 dispositive as to the decision, I actually think  
3 it was surplus to the decision.

4 My conclusion was that the whole status  
5 of the Saturn situation reinforced or made easier  
6 the conclusion that this should be rejected.  
7 Because our interest in Saturn was less than our  
8 interest in the brands that we were retaining and  
9 would be working with going forward.

10 But I add that I really don't think  
11 that that played a material role in the  
12 conclusion. It was considered.

13 BY MR. BROWN:

14 Q. By the status of Saturn, you mean the fact that  
15 Saturn would no longer continue to be a GM  
16 product line?

17 A. Right, that it would either be sold or it would  
18 be shut down depending on what happened.

19 Q. Did you engage in any consideration as to whether  
20 honoring the Castillo settlement would make it  
21 easier to sell Saturn either to Penske or someone  
22 else?

23 A. I guess my working assumption is it was  
24 immaterial to that either way.

25 Q. You're familiar with the motion that Old GM filed

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1 business enterprise.

2 A. I mean, in the aggregate, that's correct.

3 Q. Are you -- Strike that.

4 (Exhibit MM marked.)

5 BY MR. BROWN:

6 Q. I'm handing you what we've labeled Exhibit MM.  
7 Have you seen Exhibit MM before?

8 A. No.

9 Q. Were you -- well, considering you haven't seen  
10 it, let me give you a second to read through it.

11 A. Okay.

12 Q. Were you aware that the procedure described in  
13 Exhibit MM had been implemented by Old GM?

14 A. No. I mean was I aware? I was not aware in  
15 2009. I had a generalized notion in the context  
16 of having the issues in this case described to me  
17 that there was something kind of like this out  
18 there, but really, no.

19 Q. Do you understand that Exhibit MM in general  
20 terms describes a procedure for making  
21 reimbursements consistent with the terms of the  
22 class action settlement, the Castillo settlement,  
23 prior to final approval by the trial court?

24 A. I guess I wouldn't put it exactly that way, but  
25 what I'd say this is is an explanation to dealers

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1 produced in this adversary proceeding, and you  
2 may or may not need Exhibit NN in order to answer  
3 these questions, but I have some questions for  
4 you about timing.

5 Paragraph 2.3(a)(vii) of the ARMSPA was  
6 in its current form as of June 26, 2009. Do you  
7 recall that?

8 A. That was the date recited on the agreement, yes.

9 Q. And in Exhibit NN, you seem to be discussing with  
10 Karen Cordry, who is an attorney representing the  
11 state attorneys general, regarding a revision to  
12 paragraph 56 of the sale approval order; is that  
13 correct?

14 A. Yes. I guess to be super technical, she  
15 represented the national association, not the  
16 attorneys general, per se. But other than that,  
17 yes.

18 Q. Fair enough. Your, I believe, last communication  
19 with Ms. Cordry about paragraph 56 is on July 4th  
20 of 2009?

21 A. I don't remember, but it sounds reasonable,  
22 because July 5th was the date the order came in,  
23 so that sounds right.

24 Q. I'm referring to, for example, the pages Bate  
25 labeled GM Castillo E11846.

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1 A. That's an e-mail dated July 4, correct?

2 Q. Do you recall any discussions after -- any e-mail  
3 communications after July 4th regarding some  
4 revisions to the sale order with Karen Cordry?

5 A. I do not. I do not. I'm fairly confident there  
6 were not, because the judge issued the order on  
7 the 5th and the draft order was submitted on the  
8 4th.

9 Q. That was actually my next question, but I want to  
10 make sure I heard you correctly. The draft of  
11 the revised sale order or I should say -- Strike  
12 that. That doesn't make sense. Let me try  
13 again.

14 The final version of the sale order  
15 approving the 363 sale was submitted to Judge  
16 Gerber on July 4th and he entered it on July 5th;  
17 is that correct?

18 A. Final proposed version submitted by the parties,  
19 by agreement of all the parties was submitted on  
20 July 4th, and he issued his order which was only  
21 slightly different than the proposal on July 5th.

22 Q. And the version that Judge Gerber entered on  
23 July 5th had no changes to paragraphs 56 as  
24 compared to the version you submitted on  
25 July 4th; is that correct?

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1 A. I believe that is correct, yes.

2 Q. You may or may not need to refer back to Exhibit  
3 C to answer this question, but the second  
4 amendment to the ARMSPA is dated July 5th of  
5 2009. Do you know when that was executed?

6 A. I actually don't.

7 Q. The second amendment to the ARMSPA became  
8 effective on July 5th after the submission of the  
9 proposed sale order on July 4th, correct?

10 A. Maybe this is hypertechnical. No, it became  
11 effective upon the expiration of the appeal  
12 period and denial by the district court of the  
13 injunction that was sought barring the  
14 effectiveness of Judge Gerber's order which was  
15 like the 8th or 9th, something like that.

16 Q. Actually, if you could turn to paragraph --  
17 excuse me, Exhibit C, please, in the --

18 A. Exhibit C.

19 Q. I think it's C. That's ARMSPA and the  
20 amendments?

21 A. Yes.

22 Q. Specifically the signature pages for the second  
23 amendment?

24 A. That's the very end, right?

25 Q. Right. And each of the signature pages says at

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1 the top that it's been executed in each case as  
2 of the date first written above which would be  
3 July 5th.

4 A. Again, it's super hypertechnical. I don't mean  
5 to be difficult here. The as of language  
6 suggests that it could mean effective as of  
7 July 5th even though we signed it July 3rd or  
8 July 6th or something.

9 I think you're probably right that it  
10 was actually signed by everybody on July 5th, but  
11 I just don't remember.

12 Q. I understand it's your position that the  
13 paragraph 56 of the sale order addresses a  
14 perceived ambiguity in Section 2.3(a)(vii) in the  
15 ARMSPA?

16 A. I guess I wouldn't put it entirely that way. I  
17 don't think there was an ambiguity, but clearly  
18 there were folks in the world who for whatever  
19 reason were trying to read it differently. So  
20 the language in paragraph 56 was intended in part  
21 to address that.

22 Q. Okay. And who made the decision to address a  
23 perceived ambiguity via the sale order rather  
24 than revising the language of the ARMSPA?

25 A. I did.

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1 Q. Why?

2 A. Because it came up in the context of the  
3 discussions about the sale order and my  
4 discussions with Karen. She had an issue she was  
5 concerned about, specifically the one about the  
6 Lemon Laws. She was concerned that the language  
7 out there might not get read the way she thought  
8 the deal was supposed to be on the Lemon Laws.

9 I had a similar concern about the way  
10 people were reading the language that we've been  
11 talking about today. So we agreed to negotiate  
12 the language and of course it was circulated to  
13 all the parties that were reviewing and concerned  
14 with the transaction and sale order and there  
15 were many. You saw the distribution list on some  
16 of those circulated orders and the result was the  
17 language that appears in paragraph 56.

18 Q. I don't mean to be argumentative here, but I  
19 understand the answer to the question why you  
20 thought it was prudent to try to address an  
21 ambiguity, I don't think that answered the  
22 question as to why you chose to address that  
23 perceived ambiguity in the order as opposed to an  
24 amendment to the ARMSPA.

25 A. Well, there were a couple reasons. I think to

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1 some extent I'm extrapolating what was sort of  
2 unconsidered in hindsight. But first of all, I  
3 didn't think a change was necessary. I didn't  
4 think it was a changed meaning. It wasn't  
5 changing the deal. It wasn't amending the  
6 agreement. Therefore, an amendment was not  
7 required.

GM  
8 Then there was the very practical issue  
9 that the MSPA had been signed, it was ready to  
10 go. We were down to the very last activities  
11 around the sale approval process which was the  
12 negotiation and of the language around the sale  
13 order.

14 So it was a combination of there wasn't  
15 a necessity and it was also an efficient and  
16 convenient way to address the issue, and it came  
17 up in the context of the counterpart<sup>y</sup> -- Karen in  
18 this case and the AGs having a similar issue and  
19 a similar concern. So that's how it came  
20 together.

21 (Exhibit OO marked.)

22 BY MR. BROWN:

23 Q. I'm handing you Exhibit OO, which I'll represent  
24 is an abbreviated version of the sale order that  
25 contains the first page.

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1 A. It's excerpts of the sale order?

2 Q. My intention was the first page shows what it is  
3 and then the next pages include paragraph 56, and  
4 then there's Dr. Gerber's signature line. So  
5 it's pages 44 and 45.

6 Looking at the first sentence of  
7 paragraph 56 which says that the purchaser is  
8 assuming the obligations of the sellers pursuant  
9 to and subject to conditions and limitations  
10 contained in their express written warranties  
11 which were delivered in connection with the sale  
12 of vehicles, et cetera. Which obligations are  
13 you referring to there?

14 A. I'm referring to the obligations to administer  
15 and fulfill the commitments exhibited in the  
16 express warranties described, i.e., as discussed  
17 previously to provide repairs to customers who  
18 bring vehicles into dealers within the  
19 limitations, the time and miles limitations of  
20 the warranty, to pay the dealers to have parts  
21 available in the general fulfillment of those  
22 express warranties.

23 Q. And you would agree that paragraph 56 pertains to  
24 no obligations other than the ones you've just  
25 described?

1 Q. Do you know whether there were any discussions  
2 with Penske regarding the Castillo class action  
3 settlement?

4 A. I do not know. I do not know.

5 Q. Do you know whether there were any discussions  
6 with Penske about the issue of maintaining  
7 customer goodwill with the Saturn customers?

8 A. I guess I have to say I don't know. I would make  
9 assumptions that there probably were, but that's  
10 just an assumption.

11 Q. Do you know from any of your discussions with  
12 U.S. Treasury whether treasury was ever made  
13 aware of the potential of a sale of Saturn to  
14 Penske?

15 A. They certainly knew that we were trying to sell  
16 Saturn. I guess I can't say with certainty  
17 whether they knew the identity of the potential  
18 purchasers. Wouldn't surprise me if they did,  
19 but I can't say that.

20 Q. Do you happen to know whether treasury was aware  
21 of discussions with the potential buyer of  
22 Saturn?

23 A. They absolutely knew we were talking to people.  
24 I guess I have to say I don't know. I have  
25 strong suspicions, but I don't know.

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1           deferreds were.

2   Q.    You're aware that it was identified as reject  
3           later?

4   A.    Yes.

5   Q.    What's your understanding of reject later?

6   A.    It means that it was designated for rejection,  
7           but there was no priority to do it. The classic  
8           we need to reject it right now would be we need  
9           to reject it right now because our rent will be  
10          due on the lease next month if we don't reject it  
11          now. It wasn't put in that category. It was put  
12          in a less urgent category.

13   Q.    Do you know the date or the approximate date of  
14          the last communication that Old GM had with  
15          treasury regarding Section 2.3(a)(vii) of the  
16          ARMSPA?

17   A.    No.

18   Q.    Obviously it was before closing?

19   A.    Depending on how you construe your question, yes.  
20          I mean, I assume you meant concerning the  
21          language or what the language should be.

22   Q.    Yes.

23   A.    So with that understanding, yes.

24   Q.    Do you recall the date of the last conversation  
25          between Old GM and treasury regarding the <sup>Castillo</sup> ~~custody~~

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1 of settlement?

2 A. The Castillo settlement specifically?

3 Q. Yes.

4 A. It was probably in May.

5 Q. Probably the May 14th conversation?

6 A. Might very well have been the May 14th  
7 conversation.

8 Q. Are you aware of any conversations between New GM  
9 and treasury regarding this adversary proceeding  
10 or the declaratory judgment action previously  
11 filed in Delaware?

12 A. No.

13 Q. Are you aware of any conversations between --  
14 Strike that.

15 Were you aware that after the closing  
16 New GM continued to reimburse -- make  
17 reimbursements for VTi transmission repairs  
18 consistent with the Castillo settlement and the  
19 procedures described in Exhibit MM that we talked  
20 about earlier?

21 A. I have no personal knowledge of it, but I've seen  
22 reference to it in pleadings.

23 Q. Do you know whether treasury has ever been made  
24 aware of the fact that New GM continued to make  
25 reimbursement payments consistent with the

LAWRENCE BUONOMO  
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1 Castillo settlement terms?

2 A. I would be surprised, but I don't know.

3 Q. Are you aware that a decision was made, I believe  
4 it was in September of 2008, to discontinue the  
5 practice of making VTi reimbursements consistent  
6 with the Castillo settlement?

7 MR. OXFORD: You said '08. I'm sure  
8 you meant '09.

9 BY MR. BROWN:

10 Q. I said September I think. It would have been  
11 September of '09.

12 A. I was aware that a decision was made around then.  
13 I couldn't give you the month.

14 Q. Were you involved in any way in that decision?

15 A. I was involved in the sense of answering  
16 questions about just the kind of things we've  
17 talked about here today. Not in making the  
18 decision, but in providing information that got  
19 factored in by the decision makers in some form  
20 or fashion. Or maybe did. I don't know.

21 Q. And were you being called upon for your legal  
22 advice at that point or for business advice?

23 A. I was being called upon for my legal advice  
24 regarding the status of the settlement and the  
25 liability in light of the bankruptcy proceedings.

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1 Q. Do you know who ultimately made that decision?

2 A. I guess I'd have to say I don't know.

3 Q. Do you know whether there were any communications  
4 with the treasury about the decision to stop  
5 making payments consistent with the Castillo  
6 settlement?

7 A. I don't know.

8 Q. I think this is probably a question for Joe  
9 Lines, but I'll ask just in case I'm wrong about  
10 that. There was a September 28th, 2009,  
11 communication from Loren Rusk announcing the  
12 decision to stop making payments consistent with  
13 the Castillo settlement. I'll just show it to  
14 you before I mark it as an exhibit. Do you have  
15 any familiarity with that?

16 A. No.

17 Q. Any involvement in drafting that language?

18 A. None.

19 MR. BROWN: Off the record.

20 (Off the record.)

21 BY MR. BROWN:

22 Q. First question is, did you take any notes of any  
23 of your conversations with the treasury?

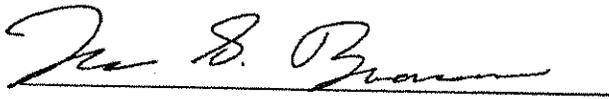
24 A. No. I generally keep to-do lists, but would  
25 chuck them when they got <sup>checked</sup> ~~shipped~~ off.

LAWRENCE BUONOMO  
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AFFIDAVIT

I have read my deposition, and the same is true  
and accurate, except for any changes and/or  
corrections, if any, as indicated by me on the  
Errata sheet(s) attached hereto.



LAWRENCE BUONOMO

Subscribed and sworn to me this 24<sup>th</sup> day of  
August, 2011.

My commission expires 7/15/2012.

Sheila D. White NOTARY PUBLIC, in and for  
the State of Michigan.

SHEILA D. WHITE  
Notary Public  
Wayne County, Michigan  
My Commission Expires 7/15/2012

L. JOSEPH LINES III  
August 17, 2011

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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

IN RE: MOTORS LIQUIDATION COMPANY, et al.,  
f/k/a General Motors Corporation, et al.,  
Debtors.

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KELLY CASTILLO, et al.,

Plaintiffs,

-vs-

Chapter 11 Case No. 09-50026 (REG)

GENERAL MOTORS COMPANY, f/k/a  
New General Motors Company, Inc.,

Defendant.

GENERAL MOTORS COMPANY, f/k/a  
New General Motors Company, Inc.,

Counter-Claimant,

-vs-

KELLY CASTILLO, et al.,

Counter-Defendants.

---

The deposition of L. JOSEPH LINES III was taken by  
the Plaintiff on Wednesday, August 17, 2011, at  
400 Renaissance Center, 23rd Floor, Detroit,  
Michigan, at 2:34 p.m.

APPEARANCES:

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By: Mark Brown

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618.254.1127

Appearing on behalf of the Plaintiffs.

Reported by: Cindy A. Boedy, CSR 4696  
Certified Court Reporter

L. JOSEPH LINES III  
August 17, 2011

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L. JOSEPH LINES III  
August 17, 2011

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I N D E X

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Detroit, Michigan

Wednesday, August 17, 2011

2:34 p.m.

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L . J O S E P H L I N E S ,  
after having been first duly sworn to tell the  
truth, the whole truth, and nothing but the  
truth, was examined and testified as follows:

EXAMINATION

BY MR. BROWN:

Q. State your name for the record, please.

A. Joe Lines, L-I-N-E-S.

Q. Is that your full name?

A. It's actually Lawrence Joseph Lines III, but I go  
by my middle name, so it's Joe Lines.

Q. Where are you employed, Mr. Lines?

A. Here in the Renaissance Center by General Motors,  
L.L.C., as an attorney on the General Motors  
Legal Staff.

Q. And if we refer to New GM today, we can have the  
understanding that that means General Motors,  
L.L.C.?

A. That will be fine.

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1 Q. How long have you been employed by New GM?

2 A. Since July 10th, 2009, so approximately what is  
3 that, almost two years now?

4 Q. Little more than two years now.

5 A. Little more than two years.

6 Q. Time flies. What's your specific title at New  
7 GM?

8 A. My title is attorney in the litigation practice  
9 area.

10 Q. And where were you employed prior to New GM?

11 A. At -- maybe we can agree on a company that was  
12 called General Motors Corporation which is now  
13 Motors Liquidation Company or Old GM.

14 Q. Very good. What was your title at Old GM?

15 A. Attorney in the litigation practice area.

16 Q. So no change of title when you moved from Old GM  
17 to New GM?

18 A. No, sir.

19 Q. How long were you an attorney with Old GM?

20 A. I joined the staff in 1984, so approximately 25  
21 years.

22 Q. We will recycle some of the exhibits we used this  
23 morning with Mr. Buonomo, but I'd ask you to  
24 check through the pile. Exhibit LL is the  
25 Witness List and Summary of Anticipated

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1 A. I couldn't tell you specifically. GM's counsel  
2 prepared a draft of this document, and I provided  
3 comments and, you know, edits to the document.  
4 And so some of the documents would be words that  
5 I put in the document. I can't tell you  
6 specifically which ones.

7 Q. Okay. Have you had a chance to review Exhibit LL  
8 prior to your deposition here today in  
9 preparation for the depo?

10 A. I didn't review it again in preparation for the  
11 deposition. Obviously, I reviewed it prior to it  
12 being exchanged with counsel with you.

13 Q. Have you reviewed it since it was produced?

14 A. I don't believe so.

15 Q. I can probably guess what the answer to the next  
16 question will be, but is there anything in  
17 Exhibit LL that you would consider to be  
18 incorrect or inaccurate in any way?

19 A. Not to my knowledge.

20 Q. Did you play any role in any negotiating or  
21 drafting of the bankruptcy sale agreement?

22 MR. OXFORD: Bankruptcy sale agreement,  
23 you mean the ARMSPA?

24 BY MR. BROWN:

25 Q. I'm talking about the ARMSPA, the ARMSPA.

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1 A. I may have provided input into the document as to  
2 some aspects involving the dealer network  
3 restructuring and the phase-out of various GM  
4 brands, but in terms of negotiation with the UST  
5 or their counsel or matters like that, no.

6 Q. At least one of the primary sections that we're  
7 asking Judge Gerber to interpret in this  
8 adversary proceeding is Section 2.3(a)(vii) of  
9 the ARMSPA. Are you familiar with that section?

10 A. From this litigation, yes. I wasn't familiar  
11 with it at the time of its drafting and  
12 inception.

13 Q. That was my question.

14 Did you play any role in either  
15 negotiating or discussing with treasury the types  
16 of liabilities that would be assumed by New GM as  
17 opposed to those that were retained by Old GM?

18 A. Again, I think the only input I would have had,  
19 and I may have had some discussions with treasury  
20 officials or their counsel, would relate to the  
21 dealer wind-down agreements or the deferred  
22 termination agreements, and so there are certain  
23 liabilities that go with the dealer agreements.  
24 And I could have had discussions -- in fact, I'm  
25 sure I did have discussions -- with those

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1 individuals or entities about that specific  
2 topic. Other than that though, no.

3 Q. Did you have any discussions with U.S. Treasury  
4 or anyone on their behalf regarding whether New  
5 GM would assume any category of liabilities that  
6 might include the Castillo class action  
7 settlement?

8 A. I did not participate in those, no, if they  
9 occurred.

10 Q. You were the Old GM in-house attorney who  
11 negotiated the Castillo settlement, correct?

12 A. Yes, sir.

13 Q. And in addition to negotiating the settlement  
14 that arose from the Castillo litigation, you were  
15 the primary in-house attorney responsible for the  
16 underlying Castillo litigation as well?

17 A. I think that's a fair statement, yes.

18 Q. And of course in that capacity, you were familiar  
19 with the claims that were asserted in the  
20 underlying Castillo class action?

21 A. I believe so, yes.

22 Q. One of which was a claim for breach of express  
23 warranty, correct?

24 A. I believe that was one of the allegations of the  
25 complaint, yes.

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1 (Exhibit G marked.)

2 BY MR. BROWN:

3 Q. I'm handing you Exhibit G.

4 A. Yes.

5 Q. Which is a copy of a declaration that you  
6 submitted in the underlying Castillo class  
7 action, correct?

8 A. Yes, sir.

9 Q. Attached to your declaration is a copy of the  
10 Saturn -- what's identified as the 2003 Saturn  
11 Warranty and Owner Assistance Information,  
12 correct?

13 A. Yes, sir.

14 Q. And in your declaration I think you refer to it  
15 as the Saturn Express Limited Written Warranty  
16 booklet for the 2003 Saturn VUE to which  
17 plaintiffs refer to that complaint, correct?

18 A. Yes, sir.

19 Q. And so it was your position that the claims for  
20 breach of express warranty asserted by plaintiffs  
21 in the underlying class action were governed by  
22 the terms of the warranty booklet that you  
23 attached to your declaration?

24 MR. OXFORD: I'm going to object to  
25 that question on the grounds that it calls for a

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1 question.

2 THE WITNESS: Well, let me try to maybe

3 help this. The purpose for this affidavit as I  
4 recall and understand it was to put before the  
5 Court the warranty booklet that was the express  
6 limited warranty that was referenced in the  
7 plaintiffs' complaint. That's what paragraph 2  
8 is attempting to do.

9 As I recall from the pleadings that  
10 were filed in the matter, our position was that  
11 the claims advanced by the plaintiffs and the  
12 relief sought by the plaintiffs were outside the  
13 terms of this warranty.

14 So as to your question, I don't know  
15 how I can answer it other than to say that the  
16 purpose of this paragraph 2 was to put this  
17 document before the Court so the Court could  
18 consider the terms of the document. I think it  
19 needed to be, you know, verified or attested that  
20 this was a true and correct copy of the express  
21 limited warranty.

22 BY MR. BROWN:

23 Q. Stated maybe somewhat more simply, the warranty  
24 booklet that you attached to your affidavit is  
25 the warranty referenced in the Express Warranty

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1 Provision of the express warranty count of the  
2 plaintiffs' underlying complaint?

3 MR. OXFORD: I'm going to object to  
4 that question on the grounds it lacks foundation  
5 as to what plaintiffs may have contended. It  
6 calls for speculation and in the form asked it  
7 invades the attorney/client privilege, and I'll  
8 instruct him not to answer.

9 BY MR. BROWN:

10 Q. Are you going to follow counsel's advice on that  
11 instruction?

12 A. I think that's prudent, yes, sir.

13 Q. In paragraph 2 of your affidavit when you say  
14 warranty booklet to which plaintiffs refer in  
15 their complaint, to which portion of the  
16 plaintiffs' complaint are you referring?

17 A. As I sit here, sir, I can't tell you which  
18 portion of their complaint. I know -- I can  
19 recall that there were references to warranty  
20 claims in the complaint, and so the purpose of  
21 paragraph 2 again was to get before the judge the  
22 document that came with the Saturn vehicle and  
23 was delivered to the customer as being the  
24 express limited warranty.

25 Q. If you could turn to paragraph 4 of Exhibit LL.

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1 A. Yes, sir. Yes, I have it.

2 Q. You reference a booklet containing the terms of  
3 the standard repair warranty placed in each  
4 vehicles' glove box prior to the initial sale or  
5 lease of the vehicle. Would that include as an  
6 example the warranty booklet that you attached to  
7 your affidavit in Exhibit G?

8 A. Yes, sir. Depending on the make and model year,  
9 yes.

10 Q. Please turn to page 6 of that warranty booklet.

11 MR. OXFORD: Just without objecting on  
12 the grounds of ambiguity, there's two numbering  
13 systems in here.

14 MR. BROWN: Fair enough.

15 BY MR. BROWN:

16 Q. The document that you submitted as your affidavit  
17 was the court document numbered 24 in the  
18 underlying Castillo action, and then the -- they  
19 say -- the document that was filed has 18 pages.  
20 At the top it's page 5 of 18.

21 MR. OXFORD: 5 of 18. You've got to  
22 figure out which convention to use.

23 MR. BROWN: Fair enough. It gets a  
24 little confusing with this many numbers.

25 MR. OXFORD: There's two pages of the

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1 Not asking whether you agree with that  
2 allegation. I'm asking you whether you recall  
3 that allegation was made.

4 MR. OXFORD: The document speaks for  
5 itself. I mean if you're testing his  
6 recollection of what your document says, I'm not  
7 sure that's worth anything. You know what your  
8 own document says. You can argue it with the  
9 Court.

10 THE WITNESS: I recall -- what I recall  
11 from the complaint and the litigation was there  
12 was no allegation that Saturn, General Motors,  
13 didn't comply by repairing the VTi transmissions  
14 within the terms of the express warranty, but  
15 that after the express warranty had expired, the  
16 customers were continuing to have problems, and  
17 the allegation was that those repairs outside of  
18 the warranty were also the liability of the  
19 company under a variety of theories as I recall.

20 (Exhibit D marked.)

21 BY MR. BROWN:

22 Q. Sir, I'm handing you Exhibit D, which is a copy  
23 of the original complaint in the underlying  
24 Castillo case. I would ask you to turn to  
25 paragraph 80, which is on page 16 of D.

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1 A. 80, okay, I have it.

2 Q. The first sentence of paragraph 80 alleges that  
3 any attempt by GM to repair defective VTi  
4 transmission would replace one defectively  
5 designed transmission with another defectively  
6 designed VTi transmission within the warranty  
7 period could not satisfy GM's obligation to  
8 correct defects under the warranty. Do you  
9 recall that allegation having been made?

10 A. Not specifically, sir, no.

11 Q. In paragraph 6 of the witness disclosures,  
12 Exhibit LL, it says that plaintiffs' cause of  
13 action for breach of express warranty in the  
14 Castillo action did not assert violation of  
15 Saturn standard repair warranty, but instead  
16 asserted claims based on VTi transmission  
17 malfunctions that occurred after the applicable  
18 warranty period had expired or which otherwise  
19 were not covered by Saturn's standard repair  
20 warranty. In light of paragraph 80 of the  
21 complaint, do you stand by the statement in  
22 paragraph 6 of the witness disclosure?

23 A. Yeah, I think so. I'm not aware of any  
24 circumstance where there was any claim for a  
25 vehicle that was within the warranty period that

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1 Q. Paragraph 5 of Exhibit LL references Old GM's  
2 decision to voluntarily extend the warranty from  
3 3 years and 36,000 miles to 5 years or  
4 75,000 miles. How was that decision communicated  
5 to new customers?

6 A. As I sit here today, I'm not certain, but I  
7 believe a bulletin was sent to dealers and I  
8 believe there was a communication sent to owners.

9 (Exhibit V marked.)

10 BY MR. BROWN:

11 Q. I'm handing you what's been marked as Exhibit V.

12 A. Yes.

13 Q. Is Exhibit V the service bulletin that was shared  
14 with GM dealers regarding the increase in the  
15 warranty period on the VTi to 5  
16 years/75,000 miles?

17 A. I believe it is the original one, yes.

18 Q. And it's dated March of 2004, correct?

19 A. Yes.

20 Q. And do you believe that a similar communication  
21 was mailed to customers? Actually, I take that  
22 back. Strike that question.

23 If you turn a few pages back in Exhibit  
24 V, specifically the fourth page, looks like a  
25 letter to Saturn customers sharing the same

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1 information; is that right?

2 MR. OXFORD: Read it before you sign on  
3 the same information.

4 THE WITNESS: I was just going to say I  
5 don't know, Counsel, if all the information in  
6 the -- in the special policy itself is also  
7 contained in the letter. But, yes, that would be  
8 the typical course that a letter would be sent,  
9 and there's a copy of that letter explaining the  
10 special policy being sent to customers. I can't  
11 verify that everything in the special policies in  
12 the letter unless you want me to --

13 BY MR. BROWN:

14 Q. That's not necessary. The concept is that there  
15 was a letter explaining to customers that the  
16 warranty coverage was being extended.

17 A. Yes, sir.

18 (Exhibit PP marked.)

19 BY MR. BROWN:

20 Q. I'm handing you Exhibit PP --

21 A. Yes.

22 Q. -- which I believe is another service bulletin  
23 essentially applying the policy in Exhibit V to  
24 2005 model year vehicles which didn't yet exist  
25 at the time that Exhibit V was created; is that

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1 correct?

2 A. Yes. My witness designation references the  
3 latest version which is 04020A which is Exhibit  
4 PP that you've just asked me about. That's  
5 correct.

6 Q. And then following the service bulletin in  
7 Exhibit PP, I guess it begins on page 4, there's  
8 a similar letter to customers informing them of  
9 this addition, correct?

10 A. Yes, sir.

11 Q. Was any form of Exhibit V or Exhibit PP ever  
12 included in the glove box of the vehicle at the  
13 time of the initial sale?

14 A. I think it would have been impossible to do so  
15 since the document wasn't created until after the  
16 vehicles were sold.

17 Q. Do you know anything about who was involved in  
18 the decision to implement the special policy  
19 adjustments that we see in Exhibits V and PP?

20 A. Very generally, yes.

21 Q. Is there a procedure of approval that was  
22 necessary in order for the special bulletins in V  
23 and PP to be implemented?

24 A. I'm not an expert in that area of the business,  
25 so I really don't want to speculate. I know that

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1 these documents were prepared and approved and  
2 sent out, and I generally know the process that  
3 that goes through, but I really don't want to  
4 speculate further, because I'm just not versed in  
5 that end of the business.

6 Q. Is it GM's position that the warranty extensions  
7 described in Exhibits V and PP became assumed  
8 liabilities of New GM under the ARMSPA?

9 A. I'd have to, I think, defer to Mr. Buonomo on  
10 that. I wouldn't really want to speculate  
11 without probably consulting with him and looking  
12 at the document, sir.

13 MR. OXFORD: If it helps, Mark, I think  
14 it's undisputed that New GM has been honoring  
15 that 5/75 policy. I don't know if that solves  
16 your problem or not.

17 MR. BROWN: Thank you.

18 (Exhibit B marked.)

19 BY MR. BROWN:

20 Q. Handing you Exhibit B which is a copy of the  
21 stipulation of settlement in the underlying  
22 Castillo class action. Do you recognize Exhibit  
23 B?

24 A. Yes. Generally speaking, Counsel, I do.  
25 Obviously, it's a lengthy document, but it

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1 Q. Paragraph 11 of the witness disclosure describes  
2 Old GM's decision to begin reimbursing Saturn  
3 retailers for VTi repairs in accordance with the  
4 formula set forth in the settlement agreement  
5 prior to final approval of the settlement  
6 agreement?

7 A. That is correct.

8 Q. Do you recall whose decision it was to begin  
9 honoring the settlement agreement prior to final  
10 approval by Judge Shubb?

11 A. I don't recall a specific person. I can say it  
12 -- Excuse me.

13 It was both executives at Saturn and at  
14 General Motors felt that it was the right thing  
15 to do for customer satisfaction reasons, but as I  
16 sit here, Counsel, today I can't give you the  
17 name of a person. But executives at both  
18 companies thought it was the right thing to do.

19 Q. By both companies, you mean Old GM and Saturn?

20 A. Correct.

21 Q. Your recollection is that the principal motivator  
22 for that decision was that it was relating to  
23 customer goodwill?

24 A. Exactly. The idea was that rather than have the  
25 customers wait the approval process which we

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GM  
1 thought would occur and hold onto their receipts,  
2 et cetera, it would be better to try to reimburse  
3 them quicker or in some cases where the customers  
4 perhaps couldn't afford to have their vehicles  
5 fixed because they didn't have sufficient  
6 resources it would help them get their vehicles  
7 repaired.

8 Q. If you could please turn to what's been labeled  
9 as Exhibit MM. We used it earlier with  
10 Mr. Buonomo today.

11 A. I have it.

12 Q. Do you recognize Exhibit MM?

13 A. I do, sir.

14 Q. Were you involved in any way in drafting Exhibit  
15 MM?

16 A. I probably shouldn't say it this way. I'm sure I  
17 was, but I don't have a specific recollection of  
18 it, but I'm sure I was involved in it.

19 Q. But you don't recall what your involvement was at  
20 this point?

21 A. I'm positive that I had input on the language of  
22 this document. How exactly that came about, I  
23 don't recall specifically.

24 Q. Is your understanding of MM, Exhibit MM, that it  
25 is a directive to Saturn retailers as of

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1 depending on whether you count Memorial Day.

2 MR. OXFORD: Just so you know our  
3 position, Mark, the math has the 18th is the last  
4 to file an appeal. It's ten days after the last  
5 date upon which -- the last date after which the  
6 appeal period had expired, appeal period expired.  
7 It was actually June the 3rd because of Memorial  
8 Day, and you don't start counting under my  
9 interpretation of the language until May 18th,  
10 which is the day after the expiration of appeal  
11 rights.

12 BY MR. BROWN:

13 Q. Is it GM's position that prior to the effective  
14 date, no party to the settlement agreement had  
15 any obligations of any kind?

16 A. That's certainly my interpretation.

17 Q. So for example, turn to paragraph 12 on page 13,  
18 please.

19 MR. OXFORD: We're on Exhibit B now?

20 MR. BROWN: Yes, sir.

21 BY MR. BROWN:

22 Q. Paragraph 12 on page 13.

23 A. All right.

24 Q. Looks like the second full sentence not quite  
25 midway down says, quote, Upon entry of the

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1 judgment, each plaintiff and class member shall  
2 be deemed to have and by operation of the  
3 judgment shall have expressly waived and  
4 relinquished to the fullest extent permitted by  
5 law any and all provisions, rights, and benefits  
6 conferred by any law of the United States or any  
7 state of the United States or principle of common  
8 law that is similar, comparable, or equivalent to  
9 Section 1542 of this California Civil Code.

10 Would you agree with me that regardless  
11 of whether the effective date had occurred, that  
12 as of the date of judgment, plaintiffs and class  
13 members had waived their right to assert rights  
14 based on Section 1542 of the California Civil  
15 Code?

16 MR. OXFORD: I'm going to object to  
17 that question on the grounds it calls for a legal  
18 conclusion, and moreover it implicates as to the  
19 source of any understanding that the witness may  
20 have attorney/client communications with, and  
21 I'll instruct him not to answer.

22 MR. BROWN: I'm not asking about your  
23 conversations with Counsel. I'm asking whether  
24 you understand the provision that I just read to  
25 constitute a waiver of the rights of class

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1 members as of the entry of the judgment to assert  
2 claims based on Section 1542 of the California  
3 Civil Code?

4 MR. OXFORD: Same instructions. I  
5 think I know what you're trying to accomplish.  
6 Maybe I should talk to him about exactly what the  
7 source of the information --

8 MR. BROWN: If you want to talk to him  
9 about getting around the attorney/client  
10 privilege issue, then I'm fine with that.

11 MR. OXFORD: Yes.

12 (Off the record.)

13 MR. OXFORD: Mr. Buonomo and I have had  
14 a discussion off the record. I'm going to let  
15 the witness respond to the question with the  
16 understanding that to the extent that there's --  
17 the answer implicates the attorney/client  
18 privilege, that Mr. Brown won't argue that by  
19 answering Mr. Lines or GM is engaged in the  
20 broader waiver of the privilege.

21 MR. BROWN: Agreed.

22 THE WITNESS: Thank you. I would  
23 answer your question by saying, yes, I think the  
24 second sentence of paragraph 12 that you have  
25 pointed out to me indicates that the class

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1 members have waived their rights as a result of  
2 the judgment, and having you point out this  
3 paragraph to me would lead me to amend the answer  
4 I gave just a couple answers ago when you asked  
5 me if it was my view that the effective date in  
6 substance canceled obligations, all obligations  
7 or performance under this agreement.

8 I would say I need to amend that answer  
9 by saying, no, it doesn't, because some of these  
10 things are keyed on the entry of judgment. So  
11 I'd amend my answer to that extent.

12 BY MR. BROWN:

13 Q. And another example would be on page 14 of the  
14 settlement agreement. Paragraph 3 describes an  
15 injunction that would enjoin class members from  
16 asserting similar claims pending final approval,  
17 and in my mind that would be another example of  
18 an obligation that is due prior to the effective  
19 date. Would you agree with that?

20 MR. OXFORD: Well, the word "due" is  
21 typically used with respect to a monetary  
22 obligation. If what you're asking him is did he  
23 think that this injunction was effective prior to  
24 the occurrence of the effective date.

25 MR. BROWN: Yes.

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1 THE WITNESS: I would respond by saying  
2 yes, I would think based on paragraph 3 on page  
3 14 that the injunction would be effective prior  
4 to the effective date.

5 BY MR. BROWN:

6 Q. Please turn to paragraph 14 of the witness  
7 disclosure.

8 A. Yes.

9 Q. First sentence, paragraph 14, says that with  
10 respect to the stipulation of the settlement,  
11 neither Old GM or New GM ever intended that New  
12 GM would assume liability under the stipulation  
13 of settlement. Is that statement based on your  
14 personal knowledge or is that based on  
15 information communicated to you by Mr. Buonomo?

16 A. I would say both.

17 Q. And what is the personal knowledge on which you  
18 base the first sentence of paragraph 14?

19 A. I was involved in working with our staff in the  
20 period between the filing of the bankruptcy by  
21 Old GM and the emergence of New GM on July 10th  
22 in listing the stipulation of settlement as a  
23 rejected liability, if you will. And so it was a  
24 -- I viewed it as primarily a contract, if you  
25 will, but a litigation liability that would be

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1 rejected in the proc -- in the bankruptcy process  
2 as that went forward.

3 And so that's my personal knowledge of  
4 the intent by both companies that there would be  
5 no assumption of liability under the stipulation  
6 we've just been discussing.

7 Q. Are you referring to the database that listed  
8 contracts that would be rejected later?

9 A. Well, I was involved in -- yes. There was a  
10 process where a form was filled out and one of  
11 the legal assistants that was in our office did  
12 it. And it was required basically that a lawyer  
13 assist her to make sure that for this type of  
14 situation where you had a litigation liability,  
15 if you will, that it was right.

16 And so I assisted her in making sure  
17 that we put this particular stipulation of  
18 settlement and liability -- I don't want to say  
19 into the database. I think what she did, she  
20 actually listed it and then somehow uploaded it  
21 in the database. But, yes, basically, if I'm  
22 answering your question.

23 Q. I think so. Thank you.

24 And who made the decision to include  
25 the Castillo settlement in the reject later

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1 portion of the database or to identify it as  
2 reject later in the database?

3 A. That would have come from discussions with Mr.  
4 Buonomo, but it really wasn't a decision because  
5 all litigation liabilities of that type were not  
6 going to be retained.

7 And so it fell into a category and so  
8 there really wasn't a decision about this  
9 particular case. It just fell into a category  
10 and therefore was excluded.

11 Q. And which category did it fall into that led you  
12 to that conclusion?

13 A. It was a litigation liability. And it wasn't  
14 necessary for the ongoing success of the new  
15 company and, therefore, it would be excluded.

16 (Exhibit QQ marked.)

17 BY MR. BROWN:

18 Q. I'm handing you Exhibit QQ. Do you recognize  
19 Exhibit QQ?

20 A. Yes, I do.

21 Q. What is QQ?

22 A. It is a notification that went to Saturn  
23 retailers sent by New GM in the parlance that  
24 we've been talking about it to notify them to  
25 discontinue the percentage designations that were

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GM  
1 contained in Exhibit MM when making goodwill  
2 adjustments for Saturn VTi repairs.

3 Q. Who drafted Exhibit QQ?

4 A. I would have drafted certain parts of this. The  
5 business people, whether that was Mr. Rusk or  
6 others, I see he's shown on the second page here.  
7 I don't know, Counsel. But businesspeople would  
8 have provided input. I would have drafted some  
9 of this and, you know, put together the document.

10 I mean, to be fair specifically, the  
11 businesspeople would not have had the familiarity  
12 I see on the second full paragraph -- or excuse  
13 me, the first full paragraph on the second page  
14 of this document to describe the 363 sale and  
15 those issues. So although I don't have a clear  
16 recollection of it, I think it's probably pretty  
17 fair to say I drafted those provisions.

18 Q. Do you know what prompted the creation of Exhibit  
19 QQ?

GM  
20 A. I think two things, that there was a desire by  
21 the businesspeople since there was no obligation  
22 of the company to continue the percentages set  
23 forth in MM on these goodwill adjustments to so  
24 advise the dealers. And then secondly, there was  
25 the scheduled sale to the Penske organization of

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1 Saturn which was supposed to close in a couple of  
2 days after this.

3 So the idea being after that date it  
4 would be up to the Penske organization's new  
5 Saturn organization to determine how and in what  
6 way it wanted to provide goodwill adjustments to  
7 its customers. Because it was buying the  
8 company, it would take over the responsibility  
9 for that car park, if you will. And so I believe  
10 the view was that prior to that sale closing --  
11 now ultimately it didn't close, but prior to that  
12 sale closing, we needed to clarify this issue and  
13 then the Penske-led Saturn or the Penske-owned  
14 Saturn organization would be responsible for  
15 determining what sort of customer goodwill they  
16 would like to pursue with their customers.

17 Q. Exhibit QQ -- actually, there are two dates:  
18 September 28th of 2009 and then above that  
19 September 29th of 2009.

20 A. I see both dates on the document, yes.

21 Q. Do you know which of those two dates Exhibit QQ  
22 actually issued?

23 A. I do not, sir.

24 Q. My understanding is that Fritz Henderson  
25 announced on September 30th of 2009 that the sale

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1 of Saturn to Penske was not going to take place.

2 Is that your memory?

3 A. I believe September 30th is the date, yes.

4 Q. When you were involved in drafting Exhibit QQ,  
5 were you aware that either the Penske sale had  
6 fallen through or that it was likely to fall  
7 through at that point?

8 A. Absolutely not. To the contrary. It may  
9 actually have been a conference room on this  
10 floor actually. I was aware that all the deal  
11 documents -- because I worked on some of the  
12 issues involving the dealers, all the documents  
13 and all the necessary materials for the signing  
14 to take place Friday morning, the 30th, were up  
15 here and people were ready to go and make the  
16 announcements that the signing had occurred.

17 So my view and my understanding was  
18 that it was all systems go. I was actually in  
19 Washington the morning of the 30th and got a call  
20 that said in essence bad news, Mr. Penske has  
21 backed out. We'll be announcing that the sale  
22 won't go forward. So it was a huge surprise to  
23 me and many people unfortunately.

24 Q. When was the decision made to stop following the  
25 procedure described in Exhibit MM?

*iterative*

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GM  
1 A. MM, as I recall, it was somewhat of an intricate-  
2 process that took place over a couple of weeks.  
3 I don't know if I could give you a date. But  
4 there were discussions. People were sending  
5 e-mails, and there was discussion over the issue,  
6 and finally this document was drafted and put  
7 out.

8 I think to be fair, I mean we believed  
9 it was appropriate that this was issued prior to  
10 the 30th as I said before. So the Penske  
11 organization would then have its responsibility  
12 with respect to customer goodwill and make a  
13 decision on what it wanted to do going forward.

14 Q. Was the concept described in QQ something that  
15 was discussed with Penske?

16 A. I do not believe so. I have no knowledge of  
17 that.

18 Q. When you drafted the portions of Exhibit QQ, were  
19 you aware of plaintiffs' declaratory judgment  
20 action that had been filed at that point?

21 MR. OXFORD: I think that assumes a  
22 fact not in evidence or at least one I can't  
23 remember as to the filing date for the action.  
24 Wasn't it in early October?

25 MR. BROWN: It was in August.

*and served*

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MR. OXFORD: If that's right, I stand corrected.

THE WITNESS: Let me answer the question this way. I don't specifically recall that, but if you're representing it was filed in August, I must have been, but I don't specifically recall as I drafted this being aware of it.

*GM service of process records show the complaint was served on GM's agent for service of process on Sept. 2nd 2009. I do not recall a specific date, but I would have learned of the filing of the case in the ordinary course within a few days of service*

BY MR. BROWN:

Q. The second page of Exhibit QQ.

A. Yes.

Q. The last sentence of the next to last paragraph says, Thus GM administrative message G20717 is no longer effective and no reimbursement of the VTi transmission-related expenses should be made or will be honored by GM pursuant to the terms of the prior policy outlined in that message. Administrative message G20717 is the same thing as Exhibit MM that we've been referring to, correct?

A. Yes.

Q. So prior to the date that Exhibit QQ was issued, would it be fair to say that administrative message -- the administrative message in Exhibit MM was in effect at New GM.

TT

GM

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*iterative*

GM  
1 A. I'm going to say yes, but as I said, the creating  
2 of this was somewhat of an ~~intricate~~ process, and  
3 as I recall, one or two of the CAC centers --  
4 there were several around the country -- may have  
5 gotten a little bit out ahead of the sending of  
6 this message and were not following anymore the  
7 provisions of MM. And so they may have stopped a  
8 few days before this was actually sent out to the  
9 dealers. But generally speaking, I would agree  
10 with what you just said.

11 Q. So aside from one or two -- Strike that.

12 How many CACs are there?

13 A. You know, it has changed over time. I know in  
14 2009, which was this time frame, I believe there  
15 were at least three, but there may have been  
16 more. So I'm going to say that's speculation on  
17 my part, but there were several.

18 Q. And aside from the one or two that may have  
19 stopped following the procedures in Exhibit MM, a  
20 day or two prior to the issuance of QQ would you  
21 say that Exhibit MM was the policy of or  
22 represented the policy of New GM at that time?

23 MR. OXFORD: I think you may have  
24 misstated it inadvertently when you say -- I  
25 think you said within a day or two. I think

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GM  
1 there's actually documentation indicating that  
2 there was some understanding more than a day or  
3 two before on the part of some of these people  
4 that the policy wasn't effective because of the  
5 bankruptcy.

6 MR. BROWN: Right. I do want to talk  
7 to him about the documentation, but that is what  
8 I heard him to say, but maybe I misheard your  
9 testimony.

10 THE WITNESS: Whether it was a day or  
11 two I can't say, but it was sometime prior to the  
12 issuance of QQ.

13 BY MR. BROWN:

14 Q. Prior to the issuance of QQ, which announces that  
15 the policies in MM will be stopped, was there  
16 ever a document created at New GM saying that New  
17 GM would be following the procedures announced by  
18 Old GM in Exhibit MM?

19 A. Certainly not that I'm aware of. I'm aware of no  
20 such document.

21 MR. OXFORD: I'm sorry, can I have the  
22 question and answer back?

23 (Record read back.)

24 MR. OXFORD: I'm sorry, one more time.

25 BY MR. BROWN:

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1 Q. Aside from the -- Strike that.

2 Was there to your knowledge ever a  
3 document created or an instruction given that  
4 absent instructions to the contrary New GM would  
5 be following Old GM's policies?

6 A. I'm not aware of any document created that says  
7 absent to the directions to the contrary New GM  
8 will be following Old GM's policies. As to this  
9 issue, I'm not aware of any such document.

10 Q. Or as to the policies in general?

11 A. I'm not -- as to policies in general, I'm not  
12 aware of any such document.

13 Q. Would you agree that as of July 9th, 2010, the  
14 document describing what New GM's liabilities  
15 would be was the ARMSPA?

16 A. I wouldn't be comfortable commenting on that  
17 without carefully reviewing that and the sale  
18 order and frankly consulting with expert  
19 bankruptcy counsel.

20 Q. Okay. As of July -- I understand your answer.  
21 As of July 9th, 2010, are you aware of any  
22 documents other than the ARMSPA or the sale order  
23 that would describe what New GM's either  
24 obligations or policies would be as of July 9th,  
25 2010?

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1 A. I'd like to answer this way. There may be  
2 others. Those two would be the primary ones I  
3 would think of. But not having been involved in  
4 that transaction, I need to say there may be  
5 others that I'm not aware of.

6 Q. That was really my only question and I can ask  
7 what you're aware of.

8 Would it be fair to say that Exhibit QQ  
9 is the first document created by New GM  
10 describing any policy relating to the VTi  
11 transmission to your knowledge?

12 A. I believe it was -- I believe it to be the only  
13 document that would have been distributed to  
14 Saturn retailers advising of this policy.

15 Internally there would have been  
16 documents that would have been created prior to  
17 this that would have spoke to changing the  
18 policy.

19 Q. Perhaps those are some of the e-mails we'll maybe  
20 talk about here in a few minutes. Is that the  
21 sort of think you were talking --

22 A. Could be. Also I believe there's some  
23 presentations and things of that nature that may  
24 have spoke to this issue.

25 Q. I don't recall seeing any presentations. What

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1 document. Do you know which document is being  
2 referred to there?

3 A. From the context of this e-mail and the timing,  
4 as I said, it was an intricate process. I would  
5 think it is Exhibit QQ, the document that  
6 ultimately was sent out on September 28. We're  
7 here September 4th as I read the legend on this  
8 e-mail. That would be my assumption that is the  
9 document they are referring to.

10 Q. Did anyone from Joe Rigsby's team get in touch  
11 with you regarding Exhibit QQ, do you recall?

12 A. Well, I know that at some point I received a  
13 draft of the document that I provided input to.  
14 Without having e-mail or something that you could  
15 show me who specifically would have done it or  
16 not, I just can't say if it was someone on  
17 Rigsby's staff or Rigsby himself or somebody  
18 else, but I know ultimately I did receive a draft  
19 of the document and provided input to it.

20 Q. Are you aware of any discussions with Penske  
21 about the decision to implement the new policy  
22 described in Exhibit QQ?

23 A. I am not.

24 (Exhibit JJ marked.)

25 BY MR. BROWN:

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1 Q. I'm handing you Exhibit JJ. Have you seen  
2 Exhibit JJ before?

3 A. I believe I have, yes.

4 Q. The bottom e-mail in Exhibit JJ appears to be an  
5 e-mail from Scott Lawson to Joe Rigsby. Do you  
6 know who Scott Lawson is?

7 A. Scott is an executive in the CAC organization,  
8 his exact title I don't know, but he is a fairly  
9 senior executive in the CAC organization.

10 Q. Who's Brian Hoglund or Hoglund?

11 A. Boy, I just don't know. The name is familiar to  
12 me, but what his position is I don't know.

13 Q. Who is Joseph Fitzsimmons?

14 A. Similarly, Joe was an executive in the CAC,  
15 customer aftercare organization.

16 Q. Mr. Lawson in his e-mail to Mr. Rigsby says he's  
17 heard some feedback through Hoglund and  
18 Fitzsimmons that there might be some concern with  
19 Saturn VTi decision from Penske and suggests you  
20 not send the dealer communication until  
21 Fitzsimmons approves. Are you aware of any  
22 concern with the VTi decision from Penske?

23 A. I just am not, Counsel.

24 Q. When Mr. Lawson suggests not sending the dealer  
25 communication until Fitzsimmons approves, do you

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1 know whether that refers to either Exhibit QQ or  
2 RR?

3 A. I would say it would have to refer to Exhibit QQ.  
4 Given the timing as I see, these e-mails are  
5 September 18th about ten days before the Exhibit  
6 QQ, and that's consistent with my memory. I've  
7 used the word iterative several times where  
8 people were deciding, thinking about what the  
9 right thing to do was, and that timing to me  
10 seems right. So I'm virtually certain they are  
11 talking about what became Exhibit QQ.

12 Q. Were you aware in September of 2009 that people  
13 were requesting that the policy described in  
14 Exhibit QQ not be shared at that time pending  
15 input from Penske?

16 A. Certainly not Penske. What I was aware of -- and  
17 I've got to for clarity make this statement. I  
18 was spending almost all of my time either in  
19 Washington or on a plane back and forth to  
20 Washington dealing with some issues as it relates  
21 to the dealer wind-downs and phase-outs of the  
22 brands.

23 So what I recall was the direction was  
24 to send out what became QQ and that various GM  
25 executives were weighing in on when and how to do

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GM  
1 that. And there wasn't a decision to do it or  
2 not do it, and then the decision was collectively  
3 made. I made comments to or made input to the  
4 documents itself and then it was sent out.  
5 That's the recollection I have of the process.

TT  
6 Q. Mr. Fitzsimmons' e-mail at the top of Exhibit JJ  
7 says he just got off a call with Kevin W. Do you  
8 know who that would be?

9 A. I believe it to be Kevin Williams, who at the  
10 time was the head of, I believe, our quality  
11 organization.

12 Q. And Kevin asked that the dealer communication be  
13 held until next week because he wanted to run it  
14 by Mark and Fritz. Do you know who Mark and  
15 Fritz would be?

16 A. I'm sure that Fritz is Fritz Henderson who was  
17 our CEO at the time. Mark. I don't know who  
18 Mark would be at this time.

GM  
19 Q. Were you aware in the September 2009 time frame  
20 that the decision to implement the policy in  
21 Exhibit QQ was something that was going to be run  
22 past Mr. Henderson?

23 A. I don't know, Counsel, if I knew that  
24 Mr. Henderson was involved it the -- at this  
25 time. I did know Mr. Williams was involved and

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1 other executives were weighing in on the  
2 decision. I just don't know if I knew that Mr.  
3 Henderson was involved at that point.

4 Q. Let me ask it slightly differently.

5 A. Sure.

6 Q. At some point slightly after this time frame in  
7 September 2009, did you come to learn anything  
8 about Mr. Henderson's involvement in reviewing  
9 the policy that was ultimately articulated in  
10 Exhibit QQ?

11 A. No.

12 Q. What I do recall, however, is following QQ being  
13 sent to the retailers, Mr. Henderson was one of  
14 the people who was determining or thinking about  
15 whether a different or new policy should be put  
16 in place once the sale to Penske had not gone  
17 forward and these persons would continue to be  
18 GM's customers, if you will.

19 So I knew that Mr. Henderson had been  
20 involved in looking at that issue and given -- I  
21 think he'd given some direction to the  
22 businesspeople that he felt, as I recall, it  
23 would be a good idea to offer some sort of policy  
24 to the Saturn owners subsequent to QQ going out.  
25 And so that direction in part led to Exhibit RR.

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1 Q. Previously I asked you whether you knew of any  
2 communications from New GM to Penske regarding  
3 the decision to revert to 5/75, and I think you  
4 said that you weren't aware of any  
5 communications. Am I correct in my understanding  
6 of your testimony in that regard?

7 A. Again, I'm not aware of any. Again, I want to be  
8 clear. I was not a member of the Penske deal  
9 team, so I can't comment for what others may have  
10 said. I'm not aware of any documents or any  
11 communications.

12 Q. And that's fair enough. That's actually what I'm  
13 trying to clarify here is whether you're saying  
14 that if there were conversations, you don't have  
15 knowledge of them; or whether you're saying that  
16 you do have knowledge that there were no  
17 conversations? It's the former, correct?

18 A. All I can say is to my personal knowledge, I am  
19 not aware of any. Whether some took place by  
20 others, I don't know of, I can't obviously  
21 comment on that.

22 Q. Do you know who the negotiators on the Penske  
23 sale -- potential sale were?

24 A. The chief negotiator was a gentleman by the name  
25 of Scott Mackie from General Motors' perspective.

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1 Q. Do you know Mr. Mackie's role or title?

2 A. He was an executive of the General Motors and was  
3 -- Counsel, I don't know his specific title, but  
4 he was involved in asset sales, asset purchases,  
5 and what was involved in the negotiations,  
6 discussions, with the Penske organization with  
7 respect to this issue, the sale of the brand.

8 Q. Is Mr. Mackie a lawyer?

9 A. No, sir. He's a businessperson.

10 Q. Is Mr. Mackie still with the company?

11 A. I do not believe so. I believe he left six  
12 months to a year ago. Something like that.

13 Q. Do you know where he went?

14 A. I do not.

15 MR. BROWN: Off the record.

16 (Off the record.)

17 BY MR. BROWN:

18 Q. I'd like to ask you about the Old GM voluntary  
19 extension of the VTi warranty from 3  
20 years/36,000 miles to 5 years/75,000 miles. Did  
21 that voluntary 5/75 extension become a part of  
22 the standard warranty even though it was not  
23 delivered at the time of the sale and in the  
24 glove box?

25 A. I'll answer your question this way. The

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1 extension didn't vary the terms of the warranty  
2 at all other than their durational and mileage  
3 limitations. It was an extension of the existing  
4 warranty. I don't know if that answers your  
5 question, Counsel, but that's how I look at it.

6 Q. Did the 5/75 voluntary extension become a part of  
7 the standard warranty?

8 A. Well, extended the durational of limitations both  
9 as to time and mileage, so as to those two terms,  
10 it extended them. So having extended them as to  
11 those two terms, it's supplanted what was the  
12 durational limitations in the existing warranty.

13 Q. Does New GM consider the voluntary extension to  
14 5/75 to be a liability arising under the express  
15 written warranties that were specifically  
16 identified as warranties and delivered in  
17 connection with the sale of new vehicles?

18 A. I guess the only thing I can say to that is I  
19 know we are honoring -- New GM is honoring  
20 customer warranty claims that are or were made in  
21 the 5/75 window. So we're honoring them. I  
22 don't know if we've ever taken a position  
23 formally one way or another on that.

24 I'd probably have to consult with  
25 Mr. Buonomo and others on the -- you know, the

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1 effect of the sale in the bankruptcy, but I know  
2 we're honoring them as a practical matter.

3 Q. Would you agree that the 5/75 extension arises  
4 under the original 3/36 warranty?

5 A. I don't think I'd use the term arise. As I said,  
6 I think it's an extension or replacement of terms  
7 in the original warranty.

8 Q. Do you have an understanding of the term arising  
9 under?

10 MR. OXFORD: It's vague and ambiguous,  
11 it's an incomplete question, and it doesn't  
12 indicate the context. Reported case law  
13 indicates that legally that term is construed  
14 differently in different contexts. That being  
15 said, if you understand the question, you can  
16 answer.

17 THE WITNESS: I know what the English  
18 words "arises under" mean, to me at least.

19 BY MR. BROWN:

20 Q. Which is what?

21 A. I guess if you used it in context, it would be  
22 something that would be, I would say, ~~related to~~  
23 perhaps.

24 Q. Would you agree that under the class action  
25 settlement agreement, the terms of the settlement

*created by or pursuant to*

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1 Q. Take a look, please, at Exhibit B, which is the  
2 settlement agreement.

3 A. Okay.

4 Q. And specifically paragraph 14 on page 6, which  
5 defines released claims.

6 A. So page 6.

7 Q. Paragraph 14. So let me read a portion of it to  
8 you. Released claims means any and all past,  
9 present, future claims related in any way to the  
10 factual allegations and legal claims that were  
11 made or could have been made in the action.

12 Skipped a few parts there. But you'd agree with  
13 me that that is at least part of the definition  
14 of release claims?

15 A. I think you've read Clause B accurately. As I  
16 read paragraph 14, I don't read this to -- again,  
17 your word was supplant I think -- the customer's  
18 ability if the vehicle was in within the 5/75 to  
19 have the vehicle repaired. I view this as  
20 releasing claims for breach of warranty and other  
21 things outlined here based on the factual  
22 allegations and claims that were made in the  
23 action. I don't think that supplants or obviates  
24 the terms of the warranty as you've stated it to  
25 me at least.

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1 A. I know in discussions, whether it was with you,  
2 Counsel, or others in the context of this case,  
3 we've used the term "fresh failures." I guess  
4 one definition might be a repair that occurs  
5 after a date certain in this case, perhaps  
6 February 3rd, 2009. Is that what you're getting  
7 at?

8 Q. I suppose that's one. I don't want to give you a  
9 definition if you don't have one in mind. I'll  
10 move on.

11 Looking at this list of reimbursement  
12 rates for various mileages on page GM Castillo  
13 E148.

14 A. Yes.

15 Q. Would you agree with me those mileages and those  
16 reimbursements are the same as the Castillo  
17 settlement?

18 A. Yes.

19 Q. Would you agree that the reimbursement rates and  
20 mileages listed in Exhibit MM arise out of the  
21 Castillo settlement?

22 A. They are the same.

23 Q. So it would be a yes?

24 A. I don't know if they arise out of them, but they  
25 are the same.

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1 the new company, what do we have to do with not  
2 this but hundreds or other initiatives and  
3 policies that the new company had to deal with.  
4 So from my perspective, I don't think anybody  
5 even focused on it on the 10th at all.

6 Q. Do you know whether anyone at New GM ever adopted  
7 the policy described in Exhibit MM?

8 A. I do not.

9 Q. If there was no formal adoption by New GM of the  
10 policy described in Exhibit MM, do you know why  
11 it was that New GM was making payment consistent  
12 with the policy in MM?

13 A. It was in effect. And no one had made the  
14 decision to send out Exhibit -- was it QQ? -- yet  
15 to terminate the policy. Yes, QQ.

16 Q. Setting aside Exhibit MM, has there been a policy  
17 in place or procedure or process in place for New  
18 GM to adopt other Old GM policies?

19 A. I just don't know.

20 Q. In other words, when New GM came into existence,  
21 would it be -- I mean, New GM as of July 10th,  
22 2009, didn't have any policies of its own because  
23 it was only one day old. Is that a fair  
24 statement?

25 A. I would say it's one day old. I would agree with

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1 that.

2 Q. And as far as, you know, documents you're aware  
3 of that would describe policies on the first day  
4 of the existence of New GM, that would be the  
5 ARMSPA and the sale order and perhaps others that  
6 you can't think of, correct?

7 A. I guess the only way I can answer the question is  
8 I don't -- you have to look at each individual  
9 circumstance. I mean, I'm aware of some policies  
10 of the old company that continued and some that  
11 did not. And so I think people -- whether it was  
12 on the 10th or later that month or later in the  
13 succeeding months were either not rejecting in  
14 the bankruptcy sense rejecting, but either  
15 modifying or replacing certain policies, whatever  
16 they may be, and continuing with old policies,  
17 whatever they may be.

18 But it really in my mind depended on  
19 the circumstances of the facts and the policy  
20 involved.

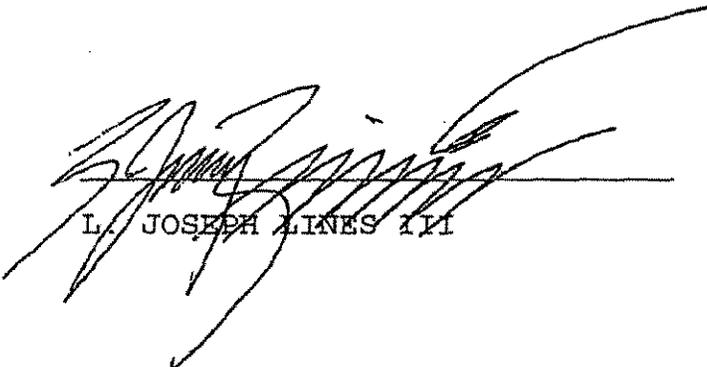
21 Q. And were those sorts of decisions always done on  
22 an ad hoc case-by-case basis or was there ever a  
23 more global procedure for identifying which Old  
24 GM policies and procedures would remain and which  
25 would be discarded?

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AFFIDAVIT

I have read my deposition, and the same is true and accurate, except for any changes and/or corrections, if any, as indicated by me on the Errata sheet(s) attached hereto.



L. JOSEPH LINES III

Subscribed and sworn to me this 24<sup>th</sup> day of August, 2011.

My commission expires 7/15/2012.

Sheela D. White, NOTARY PUBLIC, in and for the State of Michigan.

**SHEILA D. WHITE**  
Notary Public  
Wayne County, Michigan  
My Commission Expires 7/15/2012