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Aug 29 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE CHARLESTON COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2022-000805

301 Auto Parts, LLC, Respondent,

v.

Lonnie Hamilton, III and
Zoe'Lia L. Culbreath, Appellants.

APPELLANTS' OPPOSITION TO
RESPONDENT'S MOTION TO STRIKE

This Memorandum is filed in opposition to the Respondent's Motion to Strike portions of the Initial Brief of Appellants and of the Appellants' proposed Designation of Matters to be Included in the Record on Appeal that Respondent submitted on August 23, 2022. This Return to Motion is filed pursuant to Rule 240(e), SCACR.

MEMORANDUM OF LAW

The Appellants herein, Lonnie Hamilton, III and Zoe'Lia L. Culbreath ("Appellants"), through their undersigned Counsel, filed their Initial Brief on July 1, 2022 and refiled on July 5, 2022. The Appellants received notice from the Court on July 11, 2022 that a Designation of Matters had not been filed, and that Appellants had ten (10) days from the date of the letter to file. On July 18, 2022, the Appellants filed their proposed Designation of Matters to be included on the Record of Appeal, and served the Respondent of the same.^{1 2} Among the Appellants' proposed designations consisted of several deposition transcripts, the report produced by the Respondent's expert witness Bryan Durig, P.E. ("Durig"), vehicle recall notices for the manufacturer, the transcript from the hearing on summary judgment, the pleadings, and several briefs pertaining to motions. Within the Appellants' initial brief, the Appellants referenced the Respondent's own website.

The Respondent, in its Motion to Strike, first asserts that Durig's expert's report was not made a part of the record in the lower court, but instead an affidavit by Durig was submitted with its Memorandum in Support of its Motion for Summary Judgment. The affidavit submitted by Durig contains the same information cited by the Appellants as his report which the Appellants proposed to be submitted in their designation of matters. Appellants also included the Respondent's Memorandum in Support of its Motion for Summary Judgment in their designation of matters, which includes Durig's affidavit as an exhibit. Further, Durig's report, which was created on or about January 25, 2021, was undoubtedly a reference used by Durig in drafting of

¹ EXHIBIT A – Court of Appeals filing, July 18, 2022.

² EXHIBIT B – Electronic mail service unto Respondent, July 18, 2022.

his affidavit on February 11, 2022, over a year later. Therefore, the Respondent is not prejudiced by the submission of their own expert's report for the record on appeal.

Second, the Respondent asserts that because the deposition transcript of Timmy Lee, an employee of the Respondent, was not attached as an exhibit to the Appellants' Memorandum in Support of their Motion to Alter and Amend in the lower court, that the transcript therefore cannot be entered into the record on appeal. Respondent made no opposition to the introduction of Mr. Lee's deposition excerpts within the Appellants' Motion to Alter and Amend. In fact, the deposition was not even addressed by the Respondent. *See S. Glass & Plastics Co. v. Kemper*, 399 S.C. 483, 499, 732 S.E.2d 205 (Ct. App. 2012) (Where the South Carolina Court of Appeals affirmed the lower court's decision allowing a transcript to enter the record that was referenced during a hearing but not attached as an exhibit on a motion for summary judgment by the party opposing the motion.). Again, the Respondent cannot be prejudiced by the submission of the deposition transcript, and it failed to acknowledge and object to the reference of that deposition in the lower court. Lastly, this deposition transcript was attached as an exhibit with the Appellants' initial brief, as well as designated as a matter to be included on the record on appeal. Therefore, it is not improper for that deposition transcript to enter the record.

Third, the Respondent argues that the two website pages referenced by the Appellants should also be stricken from the record. The excerpts cited by the Appellants come directly from those website pages, and were not reworded, from the Respondent's own business website, and cited in both the Appellants' initial brief in this Court and their motion to alter and amend in the lower court. Again, these excerpts were not acknowledged or objected to by the Respondent in its opposition to the Appellants' motion to alter and amend. Similarly, the Respondent cannot be prejudiced by its own advertisement and promise. Lastly, a website hyperlink is a permanent

exhibit for the reader to reference; a website cannot necessarily be downloaded and produced in a format that is exactly readable. As such, providing the specific hyperlink to the citation reference and allowing the Court or opposing party to view the website contents as it was meant to be viewed is certainly proper.

In conclusion, the Respondent's Motion to Strike should be denied and the items designated by the Appellants should be included on the record on appeal.

August 29, 2022
Charleston, South Carolina

/s/ Thomas S. Tisdale
Thomas S. Tisdale, 5584
Salvatore G. Davi, 104954
Law Offices of Thomas S. Tisdale, LLC
4 North Atlantic Wharf, Suite 100
Charleston, South Carolina 29401
(843) 823-4100
tst@chancellorsc.com
sd@chancellorsc.com

Attorneys for Appellants

From: Court Of Appeals Filings <ctappfilings@sccourts.org>
Subject: RE: Lonnie Hamilton, III v. 301 Auto Parts, LLC ; Appellate Case No. 2022-000805
Date: July 18, 2022 at 2:14:41 PM EDT
To: Salvatore Davi <sd@chancellorsc.com>, Court Of Appeals Filings <ctappfilings@sccourts.org>
Cc: "gnistad@seibelsfirm.com" <gnistad@seibelsfirm.com>, Kathryn Mixson <kmixson@seibelsfirm.com>, Thomas Tisdale <tst@chancellorsc.com>, "Sarah Pinckney" <sarah@chancellorsc.com>

Dear Counsel:

The Court has received your filing. A stamped copy is attached for your records.

Thank you.

From: Salvatore Davi <sd@chancellorsc.com>
Sent: Monday, July 18, 2022 2:10 PM
To: Court Of Appeals Filings <ctappfilings@sccourts.org>
Cc: gnistad@seibelsfirm.com; Kathryn Mixson <kmixson@seibelsfirm.com>; Thomas Tisdale <tst@chancellorsc.com>; Sarah Pinckney <sarah@chancellorsc.com>
Subject: Re: Lonnie Hamilton, III v. 301 Auto Parts, LLC ; Appellate Case No. 2022-000805

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Good afternoon,

Please find attached for filing the Appellants' Designation of Matters to be Included in the Record on Appeal and proof of service thereof on opposing counsel. These documents are intended to accompany the Appellants' Initial Brief filed July 1, 2022 and refiled July 5, 2022.

Please contact our office at (843) 823-4100 or email me at

sd@chancellorsc.com if you have any questions or concerns.

Thank you,

Sal Davi

--

Best,
Salvatore G. Davi
Associate Attorney
Law Offices of Thomas S. Tisdale, LLC
4 North Atlantic Wharf
Suite 100
Charleston, SC 29401
Office: (843) 823-4100
Direct: (843) 867-4446
Email: sd@chancellorsc.com
<https://www.thomastisdale.com>

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**Subject:** Re: Lonnie Hamilton, III v. 301 Auto Parts, LLC ; Appellate Case No. 2022-000805  
**Date:** July 18, 2022 at 2:03 PM  
**To:** gnistad@seibelsfirm.com  
**Cc:** Kathryn Mixson kmixson@seibelsfirm.com, Thomas Tisdale tst@chancellorsc.com, Sarah Pinckney sarah@chancellorsc.com

---

Gunnar,

Please find attached the Appellants' Designation of Matters in the above-case served upon you.

Thank you,

Sal

--

Best,  
**Salvatore G. Davi**  
*Associate Attorney*  
Law Offices of Thomas S. Tisdale, LLC  
4 North Atlantic Wharf  
Suite 100  
Charleston, SC 29401  
Office: (843) 823-4100  
Direct: (843) 867-4446  
[Email: sd@chancellorsc.com](mailto:sd@chancellorsc.com)  
<https://www.thomastisdale.com>

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Appellants'  
Design...ers.pdf

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE CHARLESTON COUNTY  
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

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Appellate Case No. 2022-000805

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301 Auto Parts, LLC, Respondent,

v.

Lonnie Hamilton, III and  
Zoe'Lia L. Culbreath, Appellants.

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DESIGNATION OF MATTERS TO BE  
INCLUDED IN THE RECORD ON APPEAL

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Appellants propose the following be included in the Record on Appeal:

1. Plaintiffs' Amended Complaint filed May 10, 2021;
2. Defendant's Answer to Plaintiffs' Amended Complaint filed May 12, 2021;
3. Defendant's Motion for Summary Judgment filed February 22, 2022;
4. Plaintiffs' Response in Opposition to Defendant's Motion for Summary Judgment filed March 23, 2022;
5. Transcript of Hearing on Motion for Summary Judgment held March 28, 2022 via WebEx before the Honorable Frank R. Addy, Jr., pp. 3-14;
6. Order by The Honorable Frank R. Addy, Jr. dated April 11, 2022 granting summary judgment in favor of the Defendant/Respondent;
7. Memorandum in Support of Plaintiffs' Motion to Alter or Amend filed May 5, 2022;

8. Defendant's Memorandum in Opposition to Plaintiffs' Motion to Amend filed May 4, 2022;
9. Order by The Honorable Frank R. Addy, Jr. dated May 12, 2022 denying the Plaintiffs'/Appellants' Motion to Alter or Amend;
10. Exhibits A, B, C, D, and E accompanying Appellants' Initial Brief filed July 1, 2022.

I certify that this designation contains no matter which is irrelevant to this appeal.

July 18, 2022

/s/ Salvatore G. Davi  
Thomas S. Tisdale, 5584  
Salvatore G. Davi, 104954  
Law Offices of Thomas S. Tisdale, LLC  
4 North Atlantic Wharf, Suite 100  
Charleston, South Carolina 29401  
(843) 823-4100  
tst@chancellorsc.com  
sd@chancellorsc.com

*Attorneys for Appellants*

1 IN THE COURT OF COMMON PLEAS  
2 FOR THE STATE OF SOUTH CAROLINA  
3 CHARLESTON COUNTY

4 DEPOSITION OF BRIAN ARD

5 LONNIE HAMILTON, III, AND  
6 ZOE'LIA L. CULBREATH,

7 Plaintiffs,

8

9 vs. CASE NO. 2019-CP-10-06567

10 301 AUTO PARTS, LLC,  
11

12 Defendant.  
13

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14

15 DEPONENT: BRIAN ARD

16 DATE: DECEMBER 10, 2020  
17

18 TIME: 10:00 AM

19 LOCATION: REMOTE VIDEOCONFERENCE  
20

21

22 REPORTED BY: RACHAEL CLARK, CVR  
23 CERTIFIED VERBATIM REPORTER  
24 CLARK & ASSOCIATES, INC.  
25 CHARLESTON, SC 29405  
843-762-6294  
WWW.CLARK-ASSOCIATES.COM  
Office@clark-associates.com

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A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

HELLMAN, YATES & TISDALE, P.A.  
BY: THOMAS S. TISDALE  
105 Broad Street, Third Floor  
Charleston, SC 29401

ON BEHALF OF DEFENDANT:

THE SEIBELS LAW FIRM  
BY: CHRISTINE COMPANION VARNADO  
38 Broad Street, Suite 200  
Charleston, SC 29401

ALSO PRESENT: SARAH PINCKNEY

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INDEX

|                         |                                        |
|-------------------------|----------------------------------------|
| EXAMINATION             | PAGE                                   |
| BY MR. TISDALE          | 4                                      |
| CERTIFICATE OF REPORTER | 52                                     |
| EXHIBITS                |                                        |
| NO.                     | DESCRIPTION PAGE                       |
| 3                       | Kia Safety Recall 21                   |
| 4                       | Kia Safety Recall 21                   |
| 5                       | Notice of Proposed Class Settlement 47 |
| 6                       | Photo of Mr. Hamilton's Kia 51         |

1 BRIAN ARD,  
2 having been first duly sworn, was examined and  
3 testified as follows:

4 EXAMINATION

5 BY MR. TISDALE:

6 Q. Mr. Ard, as I was saying, I'm going to  
7 be asking you a few questions today, about the  
8 situation -- claim that Mr. Hamilton has brought  
9 against 301. And if you have any questions  
10 whatsoever about anything that I'm asking that  
11 needs to be clarified, I would appreciate you  
12 letting me know, and I'll try to do so.

13 And also, as I said earlier, I don't  
14 think this deposition will last very long, but if  
15 it does -- I mean, if you want to take a break  
16 for any reason, please let me know and we will do  
17 that.

18 301's attorney, Ms. Varnado, is here  
19 now, and if you have any reason to want to talk  
20 to her during the deposition, you're perfectly  
21 entitled to do that. She's representing you and  
22 your company. The only thing I need to say is  
23 that part of the rule is that when you do talk to  
24 her, I'm entitled to know the content of that  
25 conversation. So that's the only thing that I

1 wanted you to understand, but you're entitled to  
2 talk to her anytime for any reason and to talk  
3 about anything.

4 So I guess do you have any questions of  
5 me about the procedure before we begin?

6 A. No, sir.

7 Q. Okay. And if at any time, of course,  
8 you do have any questions, please let me know.

9 And Mr. Ard, what is your position at  
10 301 Auto Parts?

11 A. Owner.

12 Q. And how long has the company been in  
13 business?

14 A. Around 20 years.

15 Q. And have you owned it the entire time?

16 A. Yes, sir.

17 Q. Where do you live? What is your  
18 residential address?

19 A. I live about a half a mile from here.

20 Q. What is the address, if you don't mind?

21 A. I just got a box. I don't -- it's  
22 Truluck Road, but I couldn't tell you the number.  
23 I just got a 9-1-1 number there. I'd have to  
24 look it up. I can get it for you if you need me  
25 to.

1 Q. I really don't need it. We'll let your  
2 attorney know if we do need it for any reason.

3 A. Okay.

4 Q. Thank you. Mr. Ard, tell me a little  
5 bit about the general business of 301 Auto Parts.  
6 What do you do? What does the company do?

7 A. Well, we mostly sell used auto parts.  
8 We buy cars from the insurance company and strip  
9 the parts off of them and sell them and deliver  
10 them.

11 Q. All right. And has that been the nature  
12 of the business since it was founded about  
13 20 years ago?

14 A. Yes, sir.

15 Q. What is the address of the business?

16 A. 3302 Starburst Road, Olanda 29114.  
17 South Carolina.

18 Q. Are you a native of Olanda?

19 A. Well, not far away from Lake City, but  
20 I've been living over here about 35 years.

21 Q. You were born and grew up in Lake City?

22 A. Yes, sir.

23 Q. And where did you go to school?

24 A. I went to public school in Lake City.

25 Q. High school?

1           A. Yes, sir. Lake City High School.

2           Q. All right. And have you had any  
3 education -- formal education, training type  
4 education, in the auto parts business?

5           A. Well, no, sir. Not -- not through no  
6 structured class or anything like that. I mean,  
7 we've had meetings with other yards and stuff  
8 offered, you know, through our lines and stuff,  
9 you know.

10          Q. And have you -- since you got out of  
11 high school, did you immediately or soon after go  
12 into this business -- type business or did you do  
13 something else before you founded the Auto Parts  
14 -- 301?

15          A. Well, when I was in high school, I  
16 started rebuilding wrecked cars, buying cars  
17 wrecked and fixing them, and sold some parts off  
18 of them, but it kind of led into a full-time  
19 thing, you know, around 20 years ago.

20          Q. Okay. Now, where -- explain to us if  
21 you would, where do you acquire the inventory for  
22 your business, for 301? I'm just going to call  
23 it 301, if that's okay -- call your business 301.  
24 Is that agreeable for this deposition?

25          A. For me it is, yeah.

1 Q. Okay. Where does 301 get its inventory  
2 to sell to people?

3 A. Mostly from two auction companies called  
4 IAA and Copart.

5 Q. IAA?

6 A. Yes, sir.

7 Q. And what was the other one?

8 A. Copart. C-O-P-A-R-T.

9 Q. C-O- what?

10 A. P. C-O-P-A-R-T.

11 Q. What is IAA?

12 A. What does it stand for?

13 Q. Well, what does it stand for and where  
14 is the company and that sort of thing?

15 A. Well, it stands for Insurance Auto  
16 Auctions. I mean, they got -- they have them  
17 everywhere. I don't know. They have them in  
18 Charleston, Columbia -- all over the United  
19 States.

20 Q. Okay. Do you use one in particular or  
21 several or where are the ones you use?

22 A. Several.

23 Q. Several. Is there one around Florence?

24 A. No, sir, not in Florence anymore.  
25 Columbia and Charleston and -- you know.

1           Q.   Okay.  Is Columbia and Charleston the  
2   closest ones to where you are?

3           A.   Yes, sir.

4           Q.   Now, where is the other one you  
5   mentioned, Copart?  Where is that?

6           A.   It's also in Charleston and Columbia,  
7   and it's nationwide.

8           Q.   And where does Copart -- I mean, I  
9   imagine, am I correct, that the insurance auto --  
10   insurance one that you told us about, is that  
11   inventory, cars and parts, that they obtained  
12   from when they pay off claims?

13          A.   Yes, sir.  I don't know of any, you  
14   know, parts.  It's complete cars, and Copart's  
15   the same way.  That's what they are.

16          Q.   Complete cars?

17          A.   Sir?

18          Q.   And then, am I correct, when you get the  
19   complete car, you sell parts off of it as needed  
20   by customers; is that correct?

21          A.   Yes, sir.

22          Q.   And do you ever sell the whole car --  
23   the entire car?

24          A.   Very rarely.  If somebody came in and  
25   wanted one before we processed it, you know, but

1 after it's processed, no, sir.

2 Q. What do you do to process it?

3 A. Well, we take the car in and bring it  
4 around to the back. And we try to crank it and  
5 listen to it, run it, and check whatever we can  
6 check on it while it's running. And -- and then  
7 we, you know, drain the fluids out of it and  
8 continue then to dismantle it and put the parts  
9 in the warehouse.

10 Q. Okay. And do you know of any defects in  
11 the -- or make a record of any of the defects in  
12 a particular automobile when you bring it in?

13 A. Yes, sir. If there's a defect, you  
14 know, in a part that we sell, and -- I mean, you  
15 know, if we crank and the motor don't -- you  
16 know, if the motor don't sound good or if the  
17 motor just got a broke place on it or something  
18 like that, we would, you know, put that in our  
19 notes. And, you know, if the radio don't work,  
20 we would of course cover it, you know, that type  
21 of thing.

22 Q. Right. Now, is that the same sort of  
23 process for the other company that you acquire  
24 inventory from, Coparts? Is it the same process?

25 A. No, sir. They sell the entire car.

1 They just -- you know, I guess the best way to  
2 explain it is if you got in a wreck and they  
3 totaled your vehicle, then it would wind up at  
4 Copart or either IAA to be auctioned off.

5 Q. Does Copart have anything to do with the  
6 insurance company -- companies?

7 A. I mean, as far as them owning it?

8 Q. Well, you said when you were dealing  
9 with the other one, IAA, that it was -- the stuff  
10 originated with insurance company claims paid.  
11 And what I'm asking now is: Does the Copart  
12 company have anything to do with the insurance  
13 industry in that regard?

14 A. Yeah. Both of them get the majority of  
15 their vehicles from insurance companies.

16 Q. Okay. That's exactly what I was asking.  
17 Now, how do you go about determining -- well,  
18 let's just take the case of an engine, like we're  
19 dealing with in this case, a couple of engines.

20 When a car comes in, what would your  
21 company do to see what, if any, defects there are  
22 in an engine of a car?

23 A. Well, as far as what we do, sir, we  
24 would just crank it and listen to it, and, you  
25 know, most of the time, I would guess 90 percent

1 of these cars are wrecked in the front. And so  
2 most of the time the radiator's busted. You  
3 don't have water in it. So, you know, you can't  
4 let it run but so long before we get hot. So you  
5 just try to crank it up and, you know, rev the  
6 engine up, check it and listen and make sure it  
7 don't have no rattles. Make sure it's not  
8 smoking. Make sure it's running good and level,  
9 and then, you know, that's what we try to do.

10 Q. Okay. And what do you do if it won't  
11 crank or you discover some other defect if it  
12 does crank? One-by-one -- let's just take this  
13 -- if a car comes in, you try to crank it. It  
14 doesn't crank. What do you do about that?

15 A. Well, you know, it's on like a -- it can  
16 be generic. It's on a case-by-case basis. If we  
17 get a car in that's hit real hard in the  
18 computer, you know, in the fuse box area, where  
19 we can't get no power to it --

20 Q. Right.

21 A. -- I mean, you know the car was running  
22 and driving when it was wrecked, so when we -- we  
23 won't crank it. We'll pull it out and put the  
24 engine in the computer, and just put in the notes  
25 on the bottom that, you know, could not crank,

1    you know.

2           Q.   And you sell it in that condition with  
3   the notice that it wouldn't run or wouldn't  
4   crank?

5           A.   Yes, sir.  Well, you know, it's -- most  
6   of the time, you know, I don't -- I couldn't sit  
7   here and tell you that 100 percent of the time  
8   that, you know, that question gets answered  
9   because we do a six-month warranty, you know.  
10   And a lot of times, you know, if it's a shop  
11   calling, they'll say, you know, did the motor  
12   run?  And we got our notes, and we're going to  
13   have "ran good" or whatever -- or "couldn't  
14   crank."  And whatever's in our notes, we tell  
15   them, you know, because there's no need to lie  
16   about it.  We got the warranty, you know.

17          Q.   How do you -- well, first, next to this,  
18   do you check other parts of the car to see if  
19   everything is okay or not okay?

20          A.   Well, we try to turn the air conditioner  
21   on and check the compressor, and we -- you know,  
22   we look at the gauges and, you know, try to make  
23   sure that the alternator is charging and, you  
24   know, that type of thing.  Of course you can't  
25   drive it to check the transmission but, you

1 know -- and then the rest of the stuff is just  
2 pretty much visually inspected, like the wheels  
3 and the lights and that type of thing, you know.

4 Q. And do you see things like fuel lines  
5 attached properly and things like that?

6 A. Well, when we strip a car, the normal  
7 process for all hoses and lines are cut.

8 Q. Yeah.

9 A. And we don't -- we cut them, and we  
10 unplug the wires from the plugs. We cut the  
11 hoses, and then when we get the engine out on the  
12 table, we go back and we take the hoses that are  
13 loose, and we cap the ends of them.

14 Q. Yeah.

15 A. And we don't sell hoses and -- you know,  
16 we don't sell that type of stuff with an engine  
17 because most of the time it'll get tore or it  
18 could get crimped pulling it out or something.  
19 So that stuff does not get sold with an engine.  
20 It's capped off right at the engine.

21 Q. Okay. I think I understand what you're  
22 saying. And when you sell an engine, you sell an  
23 engine?

24 A. Yes, sir.

25 Q. All right. And so do you ever sell the

1 whole car?

2 A. Well, like I said, I have occasionally  
3 before it's processed, but I very rarely sell the  
4 whole car. But I mean, if I can, you know,  
5 before it's processed in the computer, I sell one  
6 every now and then.

7 Q. All right. Mr. Ard, before I move on,  
8 just let me ask you a few things about -- my  
9 screen's gone kind of wacky here.

10 Mr. Ard, you are the president and owner  
11 of the company, are you not, 301?

12 A. Yes, sir.

13 Q. And how many employees does the company  
14 have?

15 A. We probably got around 20. 15-20  
16 something like that.

17 Q. And who is next in line in the  
18 management structure of the company after you?

19 A. My son.

20 Q. What is his name?

21 A. His name is David Brown Ard, Jr.

22 Q. Okay. And would I be correct in  
23 assuming that you get a variety of engines, a  
24 variety of cars, just depending on what the  
25 source sells or do you limit your acquisition of

1    like engines, for example, and cars to particular  
2    kinds or makes of cars? Or do you take all kinds  
3    of cars?

4           A. We buy all kinds.

5           Q. Okay. Now, in this particular case, are  
6    you familiar with the transaction, I take it, in  
7    which two engines were sold? One was initially  
8    sold to Mr. Lonnie Hamilton. Are you familiar  
9    with that transaction?

10          A. I am since this has been brought up  
11   some. I couldn't tell you everything about it,  
12   but I just know -- I mean, I know we sold him an  
13   engine.

14          Q. Yeah. And we're going to talk to Mr.  
15   Timmy Lee after a while. Was he the one who made  
16   the sale?

17          A. Yes, sir.

18          Q. Okay. And I gather that he would be  
19   able to tell us the details of the transaction;  
20   is that correct?

21          A. He should be able to, what he can  
22   remember of it. Yes, sir.

23          Q. Okay. Now, let me ask you this -- go  
24   back to one of my former questions: Did you know  
25   -- going back to this transaction with Mr.

1 Hamilton, and if you don't know, we are going to  
2 ask Mr. Lee, and he can perhaps help us if you  
3 can't, but was the engine that was first sold to  
4 Mr. Hamilton a new engine or a used engine?

5 A. Used.

6 Q. And do you know anything about the  
7 mileage condition of the engine when it was sold  
8 to him?

9 A. Well, I don't have that information in  
10 front of me, but I'm sure we do. I mean, we have  
11 it on, you know -- we typically -- if the car  
12 will switch on, we get the miles off of it, and  
13 we -- you know, we try to crank it, and we tell  
14 the customer what we got, you know.

15 Q. Yes, sir. And do you know -- to what  
16 extent does your company start to vet the engine,  
17 go over the engine, and find out if there are any  
18 problems with the engine or defects in the engine  
19 before you sell it to a customer?

20 A. Well, like I said before, we just crank  
21 it and we -- you know, we try to listen to it for  
22 as long as we can, you know, and just check it,  
23 you know, the way we know how to check it.

24 I mean, I don't hook it up to gauges and  
25 to a computer to check it, and I don't know no

1 one that does that in this business, but you  
2 can't let one run but so long with no water in  
3 it, you know.

4 Q. And I don't know whether you can tell us  
5 this or not, so don't worry if you can't, but do  
6 you know how many -- roughly how many different  
7 kinds of engines you would deal in at your  
8 company, different makes?

9 A. No, sir. I don't know.

10 Q. Don't know. Well, I mean, are there  
11 more than 50 or no?

12 A. I mean, when you say 50 different kinds,  
13 I mean, do you mean like 50 different makes or do  
14 you mean 50 different models or do you mean --  
15 you know, sir.

16 Q. I think I mean makes. Like Chevrolet  
17 engines -- in this case it was a Kia engine.

18 A. Right. Well, there's probably several.  
19 I mean, I'd say probably 10 or 15 different  
20 makes, I guess. I mean, I'm guessing at this.

21 Q. That's okay. You've given me an idea.  
22 And do you have any way to find out when this  
23 engine comes in whether or not it has been  
24 subject to any recalls by the manufacturer of the  
25 automobile in which the engine was located?

1           A. No, sir. I don't know how to do that.

2           Q. You do not do that?

3           A. No, sir. I don't know how you would --

4 no. I don't know how to do that. No, sir.

5           Q. All right. Well, would I be correct  
6 then that when you sell an engine to a customer,  
7 as in this case Mr. Hamilton, you would not be  
8 able to tell the purchaser whether or not the  
9 engine had been subject to a recall; is that  
10 correct?

11          A. No, sir. But if he owns the car and he  
12 needs an engine, then he ought to know that I  
13 guess, but I don't.

14          Q. All right. And you would not have the  
15 information nor would you be able to tell a  
16 customer whether or not the automobile had a  
17 recall?

18          A. No, sir.

19          Q. For any reason, right?

20          A. Sir?

21          Q. All right. I think I understand you to  
22 be saying that when you sell an engine to an  
23 individual purchaser, you would not be able to  
24 give that customer any information concerning  
25 whether or not the car, for any reason, had been

1 recalled by the manufacturer.

2 A. You know, not unless it's something  
3 that, you know, we happened to just catch, you  
4 know, just to know about. As far as researching  
5 each particular vehicle, we don't do that, but I  
6 mean if -- you know, some things are real common,  
7 like the airbags, you know. We know about the  
8 airbag recall. That type of thing. We hear  
9 about that. But if we -- you know, for whatever  
10 reason we don't hear about it, we don't hear  
11 about it, you know.

12 Q. Understood. How would you hear about it  
13 if you did?

14 A. Well, mechanics. If we have a lot of  
15 shops calling for the same type thing, you know,  
16 word will kind of spread in the community -- you  
17 know, in our community about that type of thing,  
18 you know. And sometimes it don't. I mean, if it  
19 does, we hear about it then. But if it don't,  
20 then we don't hear about it.

21 Q. So it's just whether you hear about it  
22 or not?

23 A. Yes.

24 Q. Okay. Well, we have been given --  
25 (Interruption)

1 (Discussion off the record)

2 Q. (MR. TISDALE) Well, are you aware of  
3 the multiple recalls that Kia has made on the  
4 type of engine that you sold to Mr. Hamilton?

5 A. No, sir. I haven't heard of any --  
6 anything happening around here with one of them.  
7 This is the first I've heard of it as far as a  
8 fire or anything goes. We sell a lot of those  
9 engines, and we've never had no problem like, you  
10 know -- this is the first time we've ever heard  
11 of a problem like that.

12 Q. Okay. So you are not familiar -- we  
13 have listed as exhibits -- we have marked for  
14 identification for this deposition recalls that  
15 have been issued by Kia. They're in Exhibits 3  
16 and 4. We have them there to look at if you  
17 wanted to. They are dated various dates where  
18 Kia has issued recalls saying that there is a  
19 problem with these engines catching on fire --  
20 these Kia engines.

21 Am I to understand that you did not have  
22 access to any of these recalls that are shown in  
23 Exhibits 3 and 4?

24 (Exhibit No. 3 and 4 were marked for  
25 identification.)

1           A. I'm not going to tell you that I didn't  
2 have access because I got a computer here, but I  
3 can tell you I hadn't heard anything about them  
4 catching on fire. I mean, I hadn't researched  
5 it, and I hadn't heard it.

6           And then, if I'm understanding correct,  
7 I didn't know steel would burn. I didn't know  
8 steel and aluminum would burn. I thought you had  
9 to put gas or something on it to make it burn. I  
10 didn't know it would burn. So -- I don't sell  
11 gas lines. And when I heard about this, I looked  
12 back at the recall, and it was a low pressure  
13 faulty fuel line, and I don't sell fuel lines.  
14 And there's no way for an engine to burn unless  
15 you hook fuel to it, from my understanding. You  
16 all might know of a way, but I don't.

17          Q. Sure.

18          A. Okay.

19          Q. Well, have you looked at the recalls  
20 that we have given I think your attorney and  
21 marked for this deposition?

22          A. I did look at some of them.

23          Q. You did?

24          A. I didn't -- I glanced at it. I saw a  
25 bearing issue with the engine seizing up. I saw

1 that, and I saw the fuel line. Yes, sir.

2 Q. Well, what'd you see about the fuel  
3 line?

4 A. Sir?

5 Q. You said you saw something about a fuel  
6 line?

7 A. Yeah. The low -- I saw where it said  
8 the low pressure fuel line cracks on them was a  
9 problem.

10 Q. All right. Well, I'm looking at this --  
11 I'm looking at a Kia recall dated January 17th,  
12 2019.

13 MS. VARNADO: Which exhibit is  
14 that, Tom?

15 MR. TISDALE: This is 3, isn't it?

16 MS. PINCKNEY: Exhibit 3, yeah.

17 Ms. VARNADO: Mr. Ard, do you have  
18 that Exhibit 3?

19 THE WITNESS: Let me see if I can  
20 -- I should. Give me a second. I don't have it  
21 -- hold on.

22 MR. TISDALE: I can ask him about  
23 it if he can't find it.

24 THE WITNESS: I think I've got it.  
25 Give me a -- important safety recall.

1 MR. TISDALE: That's what it has --  
2 the page I'm looking at now. And the particular  
3 one is dated January 17, 2019.

4 MS. VARNADO: Well, what page  
5 number is that?

6 MR. TISDALE: 10 it looks like. Is  
7 that 10?

8 MS. VARNADO: There's only eight  
9 pages.

10 MR. TISDALE: No, two. It's a  
11 recall that's dated January 17, 2019. It doesn't  
12 have a page number on it.

13 THE WITNESS: I'm looking now.  
14 Dated when now?

15 MR. TISDALE: It's dated -- and it  
16 says important safety recall and the recall  
17 number is 18V -- as in Victory -- 907 and has a  
18 date on it of January 17th, 2019.

19 MS. VARNADO: That is page 6.

20 THE WITNESS: Okay. Kia defect in  
21 vehicle -- I see it. Yes, sir. I think I got  
22 it.

23 Q. (MR. TISDALE) Okay. And have you ever  
24 seen this particular recall before it was given  
25 to you for this deposition?

1           A.  No, sir.

2           Q.  Okay.  Well, in this if you just look at  
3   this page with me for a minute.  It says that --  
4   about halfway down the page -- Kia will inspect  
5   and, if necessary, replace the high pressure fuel  
6   pipe at no cost for parts or labor to you.  And  
7   it says Kia has advised its authorized dealers to  
8   inspect the connections of the high pressure fuel  
9   pipe to the fuel pump outlet for fuel leaking.  
10  If leaking fuel is detected, the fuel pipe will  
11  be replaced and so forth.

12                 So my question to you about this, Mr.  
13  Ard, would be:  When you -- before you sold this  
14  automobile to Mr. Hamilton -- this automobile  
15  engine to Mr. Hamilton, did you all inspect the  
16  fuel lines to see if there was any defect coming  
17  into the engine from the fuel line or did you  
18  inspect any fuel lines at all?

19           A.  Well, it's like I told you before, I  
20  didn't inspect the fuel lines because I don't  
21  sell the fuel lines.

22           Q.  Okay.

23           A.  The fuel line don't go with the engine.

24           Q.  Would I be correct in saying that your  
25  testimony is -- correct me if I'm wrong -- that

1    when you sold this engine to Mr. Hamilton, it had  
2    no fuel line?

3           A.   No, sir.

4           Q.   No, sir it didn't have a fuel line?

5           A.   It didn't have a fuel line, no, sir.

6           Q.   You don't sell fuel lines with engines?

7           A.   No, sir.

8           Q.   Okay.  And you're not aware of any  
9    problem with fuel lines as described in this  
10   recall notice by Kia?

11          A.   Sir?

12          Q.   Am I correct in assuming that you knew  
13   nothing about this recall notice from Kia on this  
14   automobile engine?

15          A.   No, sir.  I didn't know anything about  
16   it.  I mean, like I said, if we got the car out  
17   there on the lift we have mechanics there and an  
18   inventory guy that -- we have two sets of eyes on  
19   it, and if he cranks it -- if it was leaking gas,  
20   we would've immediately switched it off to keep a  
21   fire from starting.  So apparently there wasn't  
22   no crack in it, you know.  And if it does have a  
23   crack in it and it's leaking gas, normally the  
24   engine would be stalling or it'd be skipping from  
25   missing, you know.

1           Q. All right. What you just said, I want  
2 to ask you -- you okay?

3           A. Sir?

4           Q. Are you all right?

5           A. Oh, yes, sir.

6           Q. What you just said is something I wanted  
7 to ask you about. So you're saying that when  
8 your people take in an engine like the one we  
9 here, they crank it up as you said several times,  
10 and if there is any fuel leak, they cut it off  
11 right away so that the engine will not catch on  
12 fire; is that correct?

13          A. Yes, sir.

14          Q. And so would it be true then that if the  
15 fuel line attached to the engine -- to Mr.  
16 Hamilton's engine, had a leak, you would have  
17 known about it?

18          A. If what now?

19          Q. If the engine that you sold to Mr.  
20 Hamilton had a leaking fuel line coming to it  
21 when you took it in to your company, your people  
22 would have known that and had seen it and would  
23 have detached that fuel line when the engine was  
24 sold; is that correct?

25                   MS. VARNADO: Objection.

1           A. Well, I don't understand.

2           Q. When you sold Mr. -- okay. I'll  
3 clarify. When Mr. Hamilton -- when you sold --  
4 your company sold the engine to Mr. Hamilton, no  
5 fuel line was attached to the engine, was it?

6           A. Right.

7           Q. Okay. Now, if you had gone to your  
8 computer, as you said, you could have discovered,  
9 could you not, that Kia engines had been  
10 recalled; is that correct?

11          A. Well, I guess I could've, you know.  
12 But, I mean, there's a lot I could do on the  
13 computer if I went to it to check, you know. I  
14 reckon I could see why it rained in California,  
15 but I don't have time to go check everything, you  
16 know.

17          Q. I'm just asking you -- I'm just asking  
18 you what your standard practice is.

19          A. Yeah.

20          Q. And so you would not under ordinary  
21 circumstances go in and check to see if there had  
22 been any recalls on an engine in a car that you  
23 were going to sell to a customer?

24          A. Right.

25          Q. Okay. But I also I understand you to

1 say that you could do that -- that that  
2 information was accessible to you on a computer  
3 if you decided to check it; is that correct?

4 MS. VARNADO: Objection.

5 A. I mean, I guess it is. I don't know  
6 that. I mean, I'm just saying it's on a computer  
7 right now, and I found it. But -- I mean, after  
8 it was brought to my attention. But, I mean, I  
9 wouldn't know really where to start and know if  
10 this -- if it's legitimate or not. There's so  
11 much stuff on a computer, you know. I don't  
12 know. I mean --

13 Q. Well, I think my question is pretty  
14 simple. I think. I mean, I don't want to  
15 complicate it, but what I am hearing you say, and  
16 you tell me if this is wrong, that when this  
17 engine that Mr. Hamilton ended up buying had been  
18 subject to recall, although you did not know it  
19 at the time, you could've found out whether it  
20 was subject to a recall so you could tell Mr.  
21 Hamilton when he bought it, could you not?

22 MS. VARNADO: Objection.

23 Q. Excuse me, Mr. Ard. Did you understand  
24 my question?

25 A. Yeah, when she objected, I don't know if

1 I'm supposed to answer that or not.

2 MS. VARNADO: Yeah. Go ahead and  
3 answer.

4 A. All right. This is how I'm going to  
5 answer this question --

6 Q. Okay.

7 A. -- if Kia had a recall, okay. And this  
8 recall you're talking about now was dated in  
9 2019.

10 Q. Yes, sir.

11 A. On an engine that came out of a 2012  
12 car.

13 Q. Yes, sir.

14 A. All right. Well, if I bought the car in  
15 2013 when it was a year old, there wouldn't be no  
16 information about a recall on the computer  
17 because the recall didn't come out until 2019.  
18 So am I supposed to check recalls every day and  
19 see if a new one comes out on every engine and  
20 every car and every fuel pump, every  
21 transmission? I mean, you're asking me something  
22 that don't make any sense, and I'm not going to  
23 answer it any farther than that. That's as far  
24 as I'm going to answer.

25 Q. Okay.

1           A. Now, I'm not trying to be rude, but  
2     you're trying to corner me into something  
3     that's -- you know. I mean, I can't check it  
4     every day to see when the recall comes out. I  
5     mean, I can't do that. I don't have enough  
6     people here to do that, and I don't know how many  
7     it would take. So that's really all I'm going to  
8     comment on that.

9           Q. All right. Mr. Ard, I really don't --  
10    this is a very simple question, I think, and I'll  
11    try to make it simple. And I'm not asking you to  
12    complicate it beyond the question, unless you  
13    want to. But am I correct or is it true that  
14    when the cars come into your business, 301, that  
15    you will take parts out of it, such as an engine  
16    -- let me -- since we're talking about an engine  
17    here, let's let me limit it to that.

18                 If a car comes into your business and  
19    you decide to sell an engine off of a particular  
20    car, 301 does nothing to determine whether or not  
21    the engine has been subject to a recall?

22           A. Well, I feel like I've already answered  
23    that question, and that's all I want -- I mean,  
24    that's all I've got to say about it.

25           Q. It just requires a yes or no answer.

1   Either you do or you don't.  Are you able to tell  
2   me whether you do or don't?

3                   THE WITNESS:  Ms. Christie, am I  
4   okay to say I've had -- you know, I've answered  
5   enough of that question?

6                   MS. VARNADO:  Just go ahead and  
7   tell him the answer to the question, which I  
8   believe the question is do you all check for  
9   recalls on engines before you sell them?

10                  MR. TISDALE:  That's exactly what  
11  I'm asking.

12                 A.  No, because us or nobody else has the  
13  staff to do it.

14                 Q.  All right.  Did you tell me yes or no,  
15  you do or don't?

16                 A.  Well, I did.  I just told you.

17                 Q.  What'd you tell me?

18                 A.  I told you no because we don't have the  
19  staff.

20                 Q.  You just answered my question.  Thank  
21  you very much.  That's good.  Now, I'm going to  
22  take that down the line a little bit.

23                         Is it correct then, based on your  
24  answer, that when Mr. Hamilton bought this engine  
25  from 301, he was not informed as to whether or

1 not the engine had been subject to any recalls?

2 A. Probably not.

3 Q. All right. You said probably. Can you  
4 think of any circumstances where it would be  
5 different?

6 A. Well, I mean, if I knew there -- you  
7 know. No. Not on an engine fire for a hose that  
8 I didn't sell a hose, no.

9 Q. Okay. I think we've kind of covered  
10 that subject, and I appreciate your answers to my  
11 questions.

12 Now, you have said that you've sold  
13 engines and other parts of cars of several makes.  
14 I've forgotten the number you gave me, but  
15 several.

16 Are you able to give us an estimate of  
17 what percentage, roughly, of automobile parts you  
18 sell come from Kia automobiles?

19 A. No, sir.

20 Q. Okay. Do you know what is the one that  
21 -- are you able to tell us what cars do you sell  
22 mostly -- cars parts do you sell most of?

23 A. No, sir.

24 Q. You can't tell us that?

25 A. No.

1           Q. You don't keep any records of the cars  
2 coming into your place?

3           A. Yes, sir.

4           Q. But you don't know what they are in  
5 numbers of cars?

6           A. No, sir.

7           Q. You just don't keep a record of that.  
8 Have you had any knowledge of fires being  
9 prevalent in Kia engines?

10          A. No, sir.

11          Q. When did you first learn that there was  
12 a possibility of fires occurring in Kia engines?

13          A. When I got this --

14                   MS. VARNADO: Objection.

15          Q. Sir?

16          A. When this case came up, and still hadn't  
17 heard about it no more.

18          Q. All right. And in the case of Mr.  
19 Hamilton's engine, for -- as an example, before a  
20 individual buys an engine and before it's shipped  
21 to him, to the purchaser, what do you do to test  
22 it, if anything?

23          A. Sir, I have answered this question  
24 already. I mean, two times.

25          Q. Well, forgive me for not knowing -- not

1 remembering what you said. I am asking now about  
2 -- like, in this case, Mr. Hamilton bought the  
3 engine. It was taken by your company I think to  
4 Charleston for installation.

5 What did you do -- 301 do to test that  
6 engine before it was shipped to Charleston?

7 A. The same thing we do to all of them. If  
8 it'll crank, we crank it, and we listen to it and  
9 that's what we did. If we couldn't get it to  
10 crank, we didn't.

11 Q. Okay. Have you had a situation come up  
12 in your business of any other problems with Kia  
13 engines after selling them to customers?

14 A. I mean, it's possible. We've had  
15 trouble with an engine, but, I mean, nothing  
16 comes to mind. But I wouldn't say we haven't,  
17 but nothing comes to mind.

18 Q. How would you find out whether you have  
19 or not?

20 A. I mean, I don't know.

21 Q. Would that information be available to  
22 you?

23 A. I wouldn't think so.

24 Q. Okay. What have you done to -- what  
25 have you done to learn about or educate yourself

1 about what happened with regard to the two  
2 engines that were sold to Mr. Hamilton that this  
3 matter is about?

4 A. What do you mean now? Tell me --  
5 explain -- break that down a little bit.

6 Q. Are you familiar or do you know about  
7 the claim of Mr. Hamilton for problems that he  
8 had with two engines that he bought from you for  
9 his Kia Optima?

10 A. I don't remember what was wrong with the  
11 first engine. I don't -- I don't remember, no,  
12 sir.

13 Q. All right. But are you -- but you are  
14 aware, I understand, that there was a problem  
15 with the engine?

16 A. Yeah, I don't know what the problem was.  
17 I don't know.

18 Q. All right. Will Mr. Lee know about  
19 that?

20 A. I think so. He may know. He may know  
21 what he was told, yeah.

22 Q. Well, he's the one who replaced the  
23 engine, isn't he?

24 A. Yes, sir. He sold it to him.

25 Q. He would not have replaced the engine at

1 no cost to Mr. Hamilton if the engine had not  
2 been defective, would he?

3 A. Well, the normal practice is it's  
4 supposed to be an ASE certified shop that put it  
5 in. So, you know, we took it to this man for  
6 this guy, and he's -- like I said, he's a hundred  
7 miles away, and if he found a problem with it,  
8 you know, normally we take their word for it, you  
9 know, if he don't feel comfortable with putting  
10 it in.

11 I don't know if it was an issue where he  
12 put the engine in and had a problem or he saw  
13 something on the engine he didn't like or -- I  
14 mean, I don't know. I think Timmy will know that  
15 answer, but I don't know. But, you know, we  
16 typically will take the shop's word for it. If  
17 he puts it in and says the engine was making a  
18 fuss or knocking or he went down the road and  
19 something happened to it or something like that,  
20 we typically take their word. Whatever they  
21 said, we'll send them another engine to make them  
22 happy.

23 Q. Right. And take the old engine back?  
24 The one --

25 A. Yeah.

1 Q. -- you replaced?

2 A. Yes, sir.

3 Q. Okay. So your testimony is then that  
4 you don't know what was wrong with the engine, if  
5 anything?

6 A. That's right. I mean, I can't say. I  
7 -- honestly, I don't know.

8 Q. Okay. How long has Mr. Lee worked for  
9 your company?

10 A. I don't know. 10, 12 years maybe. I'm  
11 not sure.

12 Q. And when the car comes in, you told me  
13 about what you all do to see if the engine will  
14 crank, and very little else, as I understand it,  
15 other than seeing if it will crank or is making  
16 noise of some sort. Who does that? Who checks  
17 that, the engines when they come in -- the cars  
18 when they come in?

19 A. We have a mechanic that strips in the  
20 back and a guy that inventories in the back  
21 and -- those two.

22 Q. When you say strips, what does that  
23 mean?

24 A. One guy actually, you know, puts the car  
25 on the lift and cranks it and the inventory guy

1 goes out and listens to it, you know.

2 Q. Okay. And so two people work in the  
3 shop that do that?

4 A. Yes, sir.

5 Q. All right. Now, I understand that you  
6 did not do any research to see if the engine that  
7 you sold to Mr. Hamilton had been subject to a  
8 recall, but if you decided to do that and check  
9 that, who in the company would be the person  
10 checking that?

11 A. I guess it would have to be me. I mean,  
12 I don't know how you go about checking it and at  
13 what point in time. I guess it would be me.

14 Q. Okay. Give me just one second. I'm  
15 trying to save a little time here.

16 Now, Mr. Ard, have you had any contact  
17 at all with Mr. Lonnie Hamilton in connection  
18 with the matter of his purchase of the two  
19 engines from you?

20 A. If I do, I don't remember. If I talked  
21 to him over the phone, I could have, but I don't  
22 remember talking to him over the phone. But it's  
23 possible. We talk to a lot of people, and I just  
24 -- I don't remember.

25 Q. I understand. Now, are you aware that

1 the second engine caught on fire and burned the  
2 car up?

3 MS. VARNADO: Objection.

4 Q. Mr. Ard?

5 A. Well, I'll tell you, what I'm aware of  
6 is the man called down here and wanted to bring  
7 the engine back. So, you know, I'm aware of  
8 that. So, you know, that's all he wanted to do  
9 at that particular time was bring the engine back  
10 and get his money back for the engine.

11 And from my understanding at that  
12 particular time, the engine was fine. Now, I  
13 don't know. I don't know what burnt, where it  
14 burnt. I still haven't even saw a burnt engine.  
15 I mean, I don't know. Have you seen the engine?

16 Q. I don't think I have.

17 A. I hadn't either. So, I mean, we really  
18 don't know if there is a burnt engine. Me and  
19 you don't know because I hadn't seen it and you  
20 hadn't seen it, and I don't know if there is a  
21 burnt engine.

22 Q. Well, have you seen the car?

23 A. No, sir.

24 Q. Okay.

25 A. Have you?

1 Q. No.

2 A. Okay.

3 Q. Now -- but I'm not giving my deposition  
4 right now and I'm not under oath, but I'll be  
5 glad to take an oath if you all need it on that  
6 question.

7 Well, let's just be sure I understand  
8 everything about what you know about the  
9 transaction with Mr. Hamilton. First of all, I'm  
10 just looking at a photograph of the car that was  
11 burned up with the engine in it, the second  
12 engine you sent him. And I don't know how to  
13 show it to you, but I have it here, and it is  
14 quite apparent that the automobile has been  
15 burned up. And it looks like the fire is under  
16 the hood.

17 A. Can you hold it up? Can you just hold  
18 it up for me? I hadn't saw anything. A little  
19 higher.

20 Q. Can you see it?

21 A. Yes, sir. I see.

22 Q. You see it?

23 A. Yes, sir. I see it.

24 Q. Would you agree with my assessment that  
25 it appears that the car is burned and that the

1 fire is specifically under the hood?

2 A. It appears that way. Yes, sir.

3 Q. We agree?

4 A. Yes, sir.

5 Q. Okay. Now, just for the record here,  
6 and I don't have a whole lot more to ask you  
7 about, but what I'm hearing -- and just confirm  
8 this for me -- you were not -- were you  
9 personally involved in the sale of either one of  
10 these two engines to Mr. Hamilton?

11 A. No, sir. Not personally. No, sir.

12 Q. Okay. And was that all handled by Mr.  
13 Lee?

14 A. Yes, sir.

15 Q. Okay. And when I said sale, I know you  
16 all sent the replacement, so it really wasn't a  
17 sale of the second engine.

18 When the first engine failed, the  
19 company replaced that with the second engine; is  
20 that correct?

21 A. Yes, sir. Yes, sir.

22 Q. With the second engine?

23 A. Yes, sir.

24 Q. There might have been some related costs  
25 that he paid, but -- all right. And when you

1 sent him the second engine, do you know who would  
2 have vetted that engine to be sure it was okay  
3 and in working order, the second engine? Would  
4 that have been Mr. Lee or somebody else?

5 A. Who would've done what now?

6 Q. Insured that the second engine was  
7 operable and okay for installation in Mr.  
8 Hamilton's Kia automobile.

9 A. Well, I mean, like I said, we try to put  
10 it on a lift and we try to crank it and see if  
11 it'll run. Mr. Lee don't have anything to do  
12 with that.

13 Q. Okay. So when Mr. Hamilton called or  
14 whatever he did to get in touch with you to  
15 inform you, or whoever called you, and said the  
16 first engine had failed, who would make the  
17 selection of the second engine to send to him?  
18 Who would pick it out of the inventory?

19 A. Well, Mr. Lee probably. I mean, it  
20 depends on if, you know, we had four engines on  
21 the shelf, you know. I don't know which one, you  
22 know. I can't say that for sure. I mean, if we  
23 had one then there wasn't but one other one to  
24 get, but if we had four, you know, it's possible,  
25 you know, that he could have picked one out of

1 the four. Or if three of them had within 5,000  
2 of the same miles or whatever they talked about,  
3 it might have got, you know.

4 Q. I understand. You've already said  
5 several times, which I appreciate, that when the  
6 engine first comes in, you check to see if it'll  
7 crank, then you put it in inventory, right?

8 A. Yes, sir. Well, if it'll crank. If it  
9 won't, we put that in our notes and put the  
10 engine on the shelf and tell the customer that we  
11 couldn't start it.

12 Q. Okay. And that's what you do when you  
13 take it in. Now, when you sell it, do you do any  
14 further testing on it to see what kind of shape  
15 it's in?

16 A. Normally our procedure is we take it out  
17 the rack and we put a wrench on it to make sure  
18 it turns because sometimes if they sit on the  
19 shelf for very long they stick. And make sure  
20 that they turn --

21 Q. Cranks up?

22 A. Yes, sir. Make sure they turn and then  
23 we wash -- we pressure wash it and clean it up  
24 and put all the caps on it where the hoses went,  
25 you know, and send it off.

1           Q. All right. And that's all that is done  
2 though, nothing further than that?

3           A. Well, other than -- at that point, yes,  
4 sir. That's all I can think of. I mean --

5           Q. Okay.

6           A. Well, we put heat tabs on it at that  
7 point to make sure -- you know, in case the  
8 engine got -- ran hot, the heat tabs would melt,  
9 you know.

10          Q. What's a heat tab?

11          A. That's a little thing about the size of  
12 a dime that you put epoxy on and stick it on the  
13 block -- on the engine block in two or three  
14 different places. And if the engine reaches a  
15 certain temperature, those things will fall off,  
16 and that way you'll know if -- because you can't  
17 warranty engines that's been ran hot, you know.

18          Q. Are these -- what'd you call them, a  
19 tab?

20          A. Heat tab. Yes, sir.

21          Q. Okay. And is that put on while the  
22 engine is on the shelf? Before --

23          A. Well, normally we put it on when we sell  
24 the engine. We take it down off the rack, and  
25 after we wash it and clean it up, we put the heat

1 tabs on.

2 Q. Right. And then you check -- get the  
3 engine running to see if those tabs heat up or is  
4 that for later?

5 A. We put the tabs on the engine when it's  
6 going out. It's not in the car.

7 Q. Right. And when is it tested to see if  
8 those tabs get hot? When is that discovered?

9 A. Those tabs are put on in -- like if I  
10 sold you an engine and I put the heat tabs on it  
11 when it went to you. And then, say, two months  
12 down the road you come back and say your motor's  
13 locked up.

14 Q. Right. Due to --

15 A. We can look at that engine and tell if  
16 you ran it hot.

17 Q. Due to heat?

18 A. Yeah. From water temperature inside the  
19 block. If it ran hot, that way it would melt  
20 those tabs. It would melt the heat tabs and they  
21 would come off, you know.

22 Q. And you said that's from water -- lack  
23 of cooling in the engine?

24 A. Yes, sir.

25 Q. All right.

1           A. So say if, you know, you had a bad water  
2 hose or your water hose fell off and the engine  
3 ran hot, you know, we couldn't replace that  
4 engine because you neglected to fix your water  
5 hose is what I'm getting at.

6           Q. I understand. But that would have  
7 nothing to do with the fires in the engine, would  
8 it?

9           A. No, sir. Nothing at all.

10          Q. No connection. Okay. Now, are you  
11 aware that there's a class-action lawsuit  
12 involving Kia engines pending the settlement, in  
13 which a settlement has been made to pay all of  
14 these people who have these Kia engines that have  
15 caught on fire for damages they've incurred?

16          A. I was aware when I got these papers and  
17 read them, but not until then.

18          Q. Okay.

19                   MR. TISDALE: Just for the record,  
20 notice of the proposed class-action settlement is  
21 **Exhibit 5** in the exhibits that we submitted.

22          Q. But you weren't aware of that until this  
23 lawsuit started?

24                   (**Exhibit No. 5** was marked for  
25 identification.)

1           A.   Right.

2           Q.   Is that right?

3           A.   That's right.

4           Q.   Okay.  Have you had any other fire  
5 problems in the engines you've sold involving Kia  
6 engines other than Mr. Hamilton's car?

7           A.   No, sir.

8           Q.   Have not.  But --

9           A.   I don't know of any engine we've ever  
10 had a fire claim over.

11          Q.   This is the only one you've sold that  
12 you know of that has caught on fire; is that  
13 right?

14                   MS. VARNADO:  Objection.

15          A.   As far as I know, no.

16          Q.   That's what I said.  That you -- if  
17 something has happened.

18          A.   Of any kind of engine.

19          Q.   Sir?

20          A.   Of any kind of engine.

21          Q.   Any kind?

22          A.   Yeah.  Most people know, you know, that  
23 steel won't burn unless you pour something on it,  
24 you know.

25          Q.   Correct.  Now, are you still selling Kia

1 engines?

2 A. Yes, sir.

3 MR. TISDALE: Okay. All right.

4 Would you give us a minute, Christie, and just  
5 let us step out of the room just a minute and see  
6 if we're through with this thing?

7 MS. VARNADO: That's fine.

8 MR. TISDALE: Won't take but a  
9 minute.

10 (Recess.)

11 MR. TISDALE: Christie, can you  
12 hear me?

13 MS. VARNADO: Yes, I can hear you.

14 MR. TISDALE: We don't have any  
15 further questions.

16 MS. VARNADO: Okay.

17 MR. TISDALE: And, of course, if  
18 you would like to ask him any questions,  
19 certainly. Please proceed.

20 MS. VARNADO: That's all right. I  
21 don't have any questions.

22 MR. TISDALE: Very good.

23 MS. VARNADO: Yeah, but let's just  
24 make sure -- the only exhibits you used for Mr.  
25 Ard's deposition was Exhibit 3 and then you

1 referenced Exhibit 5?

2 MR. TISDALE: Is that right, Sarah?

3 MS. PINCKNEY: Correct.

4 MR. TISDALE: I believe that's  
5 correct.

6 MS. VARNADO: Okay. And then you  
7 held up that picture of the car.

8 MR. TISDALE: Yes.

9 MS. VARNADO: Can we mark that as  
10 an exhibit?

11 MR. TISDALE: That's not marked as  
12 an exhibit.

13 MS. VARNADO: I'm sorry?

14 MR. TISDALE: That's not marked as  
15 an exhibit for this deposition. Do you have a  
16 copy of it?

17 MS. PINCKNEY: She does.

18 MS. VARNADO: Well, since he -- it  
19 was talked about, I would like it to be marked as  
20 an exhibit.

21 MR. TISDALE: Be glad to. What  
22 number would it be?

23 MS. PINCKNEY: 6.

24 MR. TISDALE: We'd be glad to mark  
25 it.

1 MS. VARNADO: Thank you.

2 MR. TISDALE: We'll mark it Exhibit  
3 6 for the record.

4 (Exhibit No. 6 was marked for  
5 identification.)

6 (The deposition was concluded at 11:13.)

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1 CERTIFICATE OF REPORTER  
2 STATE OF SOUTH CAROLINA  
3 COUNTY OF KERSHAW

4 I, RACHAEL CLARK, Certified Verbatim  
5 Reporter and Notary Public for the State of South  
6 Carolina at Large, do hereby certify that the  
7 witness in the foregoing deposition was by me  
8 duly sworn to testify to the truth, the whole  
9 truth and nothing but the truth in the  
10 within-entitled cause; that said deposition was  
11 taken at the time and location therein stated;  
12 that the testimony of the witness and all  
13 objections made at the time of the examination  
14 were recorded by me and were thereafter  
15 transcribed by computer-aided transcription; that  
16 the foregoing is a full, complete and true record  
17 of the testimony of the witness and of all  
18 objections made at the time of the examination;  
19 and that the witness was given an opportunity to  
20 read and correct said deposition and to subscribe  
21 the same.

22 Should the signature of the witness not  
23 be affixed to the deposition, the witness shall  
24 not have availed himself/herself of the  
25 opportunity to sign or the signature has been  
waived.

26 I further certify that I am neither  
27 related to nor counsel for any party to the cause  
28 pending or interested in the events thereof.

29 Witness my hand, I have hereunto affixed  
30 my official seal on January 22, 2021 at Kershaw  
31 County, South Carolina.

32

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RACHAEL CLARK  
CERTIFIED VERBATIM REPORTER  
CVR (South Carolina)  
My Commission expires  
September 23, 2030

**WORD INDEX**

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>&lt; 1 &gt;</p> <p><b>10</b> 1:15 18:19<br/>24:6, 7 38:10</p> <p><b>10:00</b> 1:18</p> <p><b>100</b> 13:7</p> <p><b>105</b> 2:5</p> <p><b>11:13</b> 51:6</p> <p><b>12</b> 38:10</p> <p><b>15</b> 18:19</p> <p><b>15-20</b> 15:15</p> <p><b>17</b> 24:3, 11</p> <p><b>17th</b> 23:11 24:18</p> <p><b>18V</b> 24:17</p> <p>&lt; 2 &gt;</p> <p><b>20</b> 5:14 6:13 7:19<br/>15:15</p> <p><b>200</b> 2:9</p> <p><b>2012</b> 30:11</p> <p><b>2013</b> 30:15</p> <p><b>2019</b> 23:12 24:3, 11,<br/>18 30:9, 17</p> <p><b>2019-CP-10-06567</b><br/>1:9</p> <p><b>2020</b> 1:15</p> <p><b>2021</b> 52:17</p> <p><b>2030</b> 52:22</p> <p><b>21</b> 3:9, 10</p> <p><b>22</b> 52:17</p> <p><b>23</b> 52:22</p> <p><b>29114</b> 6:16</p> <p><b>29401</b> 2:5, 9</p> <p><b>29405</b> 1:23</p> <p>&lt; 3 &gt;</p> <p><b>3</b> 3:9 21:15, 23, 24<br/>23:15, 16, 18 49:25</p> <p><b>301</b> 1:9 4:9 5:10<br/>6:5 7:14, 22, 23<br/>8:1 15:11 31:14,<br/>20 32:25 35:5</p> <p><b>301's</b> 4:18</p> <p><b>3302</b> 6:16</p> <p><b>35</b> 6:20</p> <p><b>38</b> 2:9</p> <p>&lt; 4 &gt;</p> | <p><b>4</b> 3:3, 10 21:16, 23,<br/>24</p> <p><b>47</b> 3:11</p> <p>&lt; 5 &gt;</p> <p><b>5</b> 3:11 47:21, 24<br/>50:1</p> <p><b>5,000</b> 44:1</p> <p><b>50</b> 18:11, 12, 13, 14</p> <p><b>51</b> 3:12</p> <p><b>52</b> 3:5</p> <p>&lt; 6 &gt;</p> <p><b>6</b> 3:12 24:19<br/>50:23 51:3, 4</p> <p>&lt; 8 &gt;</p> <p><b>843-762-6294</b> 1:24</p> <p>&lt; 9 &gt;</p> <p><b>90</b> 11:25</p> <p><b>907</b> 24:17</p> <p><b>9-1-1</b> 5:23</p> <p>&lt; A &gt;</p> <p><b>able</b> 16:19, 21 19:8,<br/>15, 23 32:1 33:16,<br/>21</p> <p><b>access</b> 21:22 22:2</p> <p><b>accessible</b> 29:2</p> <p><b>acquire</b> 7:21 10:23</p> <p><b>acquisition</b> 15:25</p> <p><b>address</b> 5:18, 20<br/>6:15</p> <p><b>advised</b> 25:7</p> <p><b>affixed</b> 52:13, 16</p> <p><b>ago</b> 6:13 7:19</p> <p><b>agree</b> 41:24 42:3</p> <p><b>agreeable</b> 7:24</p> <p><b>ahead</b> 30:2 32:6</p> <p><b>air</b> 13:20</p> <p><b>airbag</b> 20:8</p> <p><b>airbags</b> 20:7</p> <p><b>alternator</b> 13:23</p> <p><b>aluminum</b> 22:8</p> <p><b>answer</b> 30:1, 3, 5,<br/>23, 24 31:25 32:7,<br/>24 37:15</p> | <p><b>answered</b> 13:8<br/>31:22 32:4, 20<br/>34:23</p> <p><b>answers</b> 33:10</p> <p><b>anymore</b> 8:24</p> <p><b>anytime</b> 5:2</p> <p><b>apparent</b> 41:14</p> <p><b>apparently</b> 26:21</p> <p><b>appears</b> 41:25 42:2</p> <p><b>appreciate</b> 4:11<br/>33:10 44:5</p> <p><b>ARD</b> 1:2, 15 4:1, 6<br/>5:9 6:4 15:7, 10,<br/>21 23:17 25:13<br/>29:23 31:9 39:16<br/>40:4</p> <p><b>Ard's</b> 49:25</p> <p><b>area</b> 12:18</p> <p><b>ASE</b> 37:4</p> <p><b>asking</b> 4:7, 10<br/>11:11, 16 28:17<br/>30:21 31:11 32:11<br/>35:1</p> <p><b>assessment</b> 41:24</p> <p><b>ASSOCIATES</b> 1:23</p> <p><b>assuming</b> 15:23<br/>26:12</p> <p><b>attached</b> 14:5<br/>27:15 28:5</p> <p><b>attention</b> 29:8</p> <p><b>attorney</b> 4:18 6:2<br/>22:20</p> <p><b>auction</b> 8:3</p> <p><b>auctioned</b> 11:4</p> <p><b>Auctions</b> 8:16</p> <p><b>authorized</b> 25:7</p> <p><b>AUTO</b> 1:9 5:10<br/>6:5, 7 7:4, 13 8:15<br/>9:9</p> <p><b>automobile</b> 10:12<br/>18:25 19:16 25:14<br/>26:14 33:17 41:14<br/>43:8</p> <p><b>automobiles</b> 33:18</p> <p><b>available</b> 35:21</p> <p><b>availed</b> 52:13</p> <p><b>aware</b> 21:2 26:8<br/>36:14 39:25 40:5,<br/>7 47:11, 16, 22</p> | <p>&lt; B &gt;</p> <p><b>back</b> 10:4 14:12<br/>16:24, 25 22:12<br/>37:23 38:20 40:7,<br/>9, 10 46:12</p> <p><b>bad</b> 47:1</p> <p><b>based</b> 32:23</p> <p><b>basis</b> 12:16</p> <p><b>bearing</b> 22:25</p> <p><b>BEHALF</b> 2:3, 7</p> <p><b>believe</b> 32:8 50:4</p> <p><b>best</b> 11:1</p> <p><b>beyond</b> 31:12</p> <p><b>bit</b> 6:5 32:22 36:5</p> <p><b>block</b> 45:13 46:19</p> <p><b>born</b> 6:21</p> <p><b>bottom</b> 12:25</p> <p><b>bought</b> 29:21 30:14<br/>32:24 35:2 36:8</p> <p><b>box</b> 5:21 12:18</p> <p><b>break</b> 4:15 36:5</p> <p><b>BRIAN</b> 1:2, 15 4:1</p> <p><b>bring</b> 10:3, 12 40:6,<br/>9</p> <p><b>Broad</b> 2:5, 9</p> <p><b>broke</b> 10:17</p> <p><b>brought</b> 4:8 16:10<br/>29:8</p> <p><b>Brown</b> 15:21</p> <p><b>burn</b> 22:7, 8, 9, 10,<br/>14 48:23</p> <p><b>burned</b> 40:1 41:11,<br/>15, 25</p> <p><b>burnt</b> 40:13, 14, 18,<br/>21</p> <p><b>business</b> 5:13 6:5,<br/>12, 15 7:4, 12, 22, 23<br/>18:1 31:14, 18<br/>35:12</p> <p><b>busted</b> 12:2</p> <p><b>buy</b> 6:8 16:4</p> <p><b>buying</b> 7:16 29:17</p> <p><b>buys</b> 34:20</p> <p>&lt; C &gt;</p> <p><b>California</b> 28:14</p> <p><b>call</b> 7:22, 23 45:18</p> <p><b>called</b> 8:3 40:6</p> |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| <p>43:13, 15<br/> <b>calling</b> 13:11 20:15<br/> <b>cap</b> 14:13<br/> <b>capped</b> 14:20<br/> <b>caps</b> 44:24<br/> <b>car</b> 9:19, 22, 23<br/> 10:3, 25 11:20, 22<br/> 12:13, 17, 21 13:18<br/> 14:6 15:1, 4 17:11<br/> 19:11, 25 26:16<br/> 28:22 30:12, 14, 20<br/> 31:18, 20 38:12, 24<br/> 40:2, 22 41:10, 25<br/> 46:6 48:6 50:7<br/> <b>CAROLINA</b> 1:1<br/> 6:17 52:1, 4, 17, 21<br/> <b>cars</b> 6:8 7:16 9:11,<br/> 14, 16 12:1 15:24<br/> 16:1, 2, 3 31:14<br/> 33:13, 21, 22 34:1, 5<br/> 38:17<br/> <b>CASE</b> 1:9 11:18,<br/> 19 16:5 18:17<br/> 19:7 34:16, 18<br/> 35:2 45:7<br/> <b>case-by-case</b> 12:16<br/> <b>catch</b> 20:3 27:11<br/> <b>catching</b> 21:19 22:4<br/> <b>caught</b> 40:1 47:15<br/> 48:12<br/> <b>cause</b> 52:6, 15<br/> <b>certain</b> 45:15<br/> <b>certainly</b> 49:19<br/> <b>CERTIFICATE</b> 3:5<br/> 52:1<br/> <b>CERTIFIED</b> 1:22<br/> 37:4 52:2, 20<br/> <b>certify</b> 52:4, 15<br/> <b>charging</b> 13:23<br/> <b>CHARLESTON</b> 1:2,<br/> 23 2:5, 9 8:18, 25<br/> 9:1, 6 35:4, 6<br/> <b>check</b> 10:5, 6 12:6<br/> 13:18, 21, 25 17:22,<br/> 23, 25 28:13, 15, 21<br/> 29:3 30:18 31:3<br/> 32:8 39:8 44:6<br/> 46:2<br/> <b>checking</b> 39:10, 12</p> | <p><b>checks</b> 38:16<br/> <b>Chevrolet</b> 18:16<br/> <b>Christie</b> 32:3 49:4,<br/> 11<br/> <b>CHRISTINE</b> 2:8<br/> <b>circumstances</b><br/> 28:21 33:4<br/> <b>City</b> 6:19, 21, 24<br/> 7:1<br/> <b>claim</b> 4:8 36:7<br/> 48:10<br/> <b>claims</b> 9:12 11:10<br/> <b>clarified</b> 4:11<br/> <b>clarify</b> 28:3<br/> <b>CLARK</b> 1:22, 23<br/> 52:2, 20<br/> <b>Class</b> 3:11 7:6<br/> <b>class-action</b> 47:11,<br/> 20<br/> <b>clean</b> 44:23 45:25<br/> <b>closest</b> 9:2<br/> <b>C-O</b> 8:9<br/> <b>Columbia</b> 8:18, 25<br/> 9:1, 6<br/> <b>come</b> 30:17 31:14<br/> 33:18 35:11 38:17,<br/> 18 46:12, 21<br/> <b>comes</b> 11:20 12:13<br/> 18:23 30:19 31:4,<br/> 18 35:16, 17 38:12<br/> 44:6<br/> <b>comfortable</b> 37:9<br/> <b>coming</b> 25:16<br/> 27:20 34:2<br/> <b>comment</b> 31:8<br/> <b>Commission</b> 52:21<br/> <b>COMMON</b> 1:1<br/> 20:6<br/> <b>community</b> 20:16,<br/> 17<br/> <b>companies</b> 8:3 11:6,<br/> 15<br/> <b>COMPANION</b> 2:8<br/> <b>company</b> 4:22 5:12<br/> 6:6, 8 8:14 10:23<br/> 11:6, 10, 12, 21<br/> 15:11, 13, 18 17:16<br/> 18:8 27:21 28:4<br/> 35:3 38:9 39:9<br/> 42:19</p> | <p><b>complete</b> 9:14, 16,<br/> 19 52:9<br/> <b>complicate</b> 29:15<br/> 31:12<br/> <b>compressor</b> 13:21<br/> <b>computer</b> 12:18, 24<br/> 15:5 17:25 22:2<br/> 28:8, 13 29:2, 6, 11<br/> 30:16<br/> <b>computer-aided</b> 52:9<br/> <b>concerning</b> 19:24<br/> <b>concluded</b> 51:6<br/> <b>condition</b> 13:2 17:7<br/> <b>conditioner</b> 13:20<br/> <b>confirm</b> 42:7<br/> <b>connection</b> 39:17<br/> 47:10<br/> <b>connections</b> 25:8<br/> <b>contact</b> 39:16<br/> <b>content</b> 4:24<br/> <b>continue</b> 10:8<br/> <b>conversation</b> 4:25<br/> <b>cooling</b> 46:23<br/> <b>Copart</b> 8:4, 8 9:5,<br/> 8 11:4, 5, 11<br/> <b>C-O-P-A-R-T</b> 8:8,<br/> 10<br/> <b>Coparts</b> 10:24<br/> <b>Copart's</b> 9:14<br/> <b>copy</b> 50:16<br/> <b>corner</b> 31:2<br/> <b>correct</b> 9:9, 18, 20<br/> 15:22 16:20 19:5,<br/> 10 22:6 25:24, 25<br/> 26:12 27:12, 24<br/> 28:10 29:3 31:13<br/> 32:23 42:20 48:25<br/> 50:3, 5 52:11<br/> <b>cost</b> 25:6 37:1<br/> <b>costs</b> 42:24<br/> <b>could've</b> 28:11<br/> 29:19<br/> <b>counsel</b> 52:15<br/> <b>COUNTY</b> 1:2 52:2,<br/> 17<br/> <b>couple</b> 11:19<br/> <b>course</b> 5:7 10:20<br/> 13:24 49:17<br/> <b>COURT</b> 1:1</p> | <p><b>cover</b> 10:20<br/> <b>covered</b> 33:9<br/> <b>crack</b> 26:22, 23<br/> <b>cracks</b> 23:8<br/> <b>crank</b> 10:4, 15<br/> 11:24 12:5, 11, 12,<br/> 13, 14, 23, 25 13:4,<br/> 14 17:13, 20 27:9<br/> 35:8, 10 38:14, 15<br/> 43:10 44:7, 8<br/> <b>cranks</b> 26:19 38:25<br/> 44:21<br/> <b>crimped</b> 14:18<br/> <b>CULBREATH</b> 1:5<br/> <b>customer</b> 17:14, 19<br/> 19:6, 16, 24 28:23<br/> 44:10<br/> <b>customers</b> 9:20<br/> 35:13<br/> <b>cut</b> 14:7, 9, 10<br/> 27:10<br/> <b>CVR</b> 1:22 52:21</p> <p>&lt; D &gt;<br/> <b>damages</b> 47:15<br/> <b>DATE</b> 1:15 24:18<br/> <b>dated</b> 21:17 23:11<br/> 24:3, 11, 14, 15 30:8<br/> <b>dates</b> 21:17<br/> <b>David</b> 15:21<br/> <b>day</b> 30:18 31:4<br/> <b>deal</b> 18:7<br/> <b>dealers</b> 25:7<br/> <b>dealing</b> 11:8, 19<br/> <b>DECEMBER</b> 1:15<br/> <b>decide</b> 31:19<br/> <b>decided</b> 29:3 39:8<br/> <b>defect</b> 10:13 12:11<br/> 24:20 25:16<br/> <b>defective</b> 37:2<br/> <b>defects</b> 10:10, 11<br/> 11:21 17:18<br/> <b>Defendant</b> 1:12 2:7<br/> <b>deliver</b> 6:9<br/> <b>depending</b> 15:24<br/> <b>depends</b> 43:20<br/> <b>DEPONENT</b> 1:15<br/> <b>DEPOSITION</b> 1:2<br/> 4:14, 20 7:24<br/> 21:14 22:21 24:25</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

41:3 49:25 50:15  
 51:6 52:5, 6, 11, 13  
**described** 26:9  
**DESCRIPTION** 3:8  
**detached** 27:23  
**details** 16:19  
**detected** 25:10  
**determine** 31:20  
**determining** 11:17  
**different** 18:6, 8, 12,  
 13, 14, 19 33:5  
 45:14  
**dime** 45:12  
**discover** 12:11  
**discovered** 28:8  
 46:8  
**Discussion** 21:1  
**dismantle** 10:8  
**drain** 10:7  
**drive** 13:25  
**driving** 12:22  
**Due** 46:14, 17  
**duly** 4:2 52:5

< E >  
**earlier** 4:13  
**educate** 35:25  
**education** 7:3, 4  
**eight** 24:8  
**either** 11:4 32:1  
 40:17 42:9  
**employees** 15:13  
**ended** 29:17  
**ends** 14:13  
**engine** 11:18, 22  
 12:6, 24 14:11, 16,  
 19, 20, 22, 23 16:13  
 17:3, 4, 7, 16, 17, 18  
 18:17, 23, 25 19:6, 9,  
 12, 22 21:4 22:14,  
 25 25:15, 17, 23  
 26:1, 14, 24 27:8, 11,  
 15, 16, 19, 23 28:4, 5,  
 22 29:17 30:11, 19  
 31:15, 16, 19, 21  
 32:24 33:1, 7  
 34:19, 20 35:3, 6, 15  
 36:11, 15, 23, 25  
 37:1, 12, 13, 17, 21,  
 23 38:4, 13 39:6

40:1, 7, 9, 10, 12, 14,  
 15, 18, 21 41:11, 12  
 42:17, 18, 19, 22  
 43:1, 2, 3, 6, 16, 17  
 44:6, 10 45:8, 13, 14,  
 22, 24 46:3, 5, 10, 15,  
 23 47:2, 4, 7 48:9,  
 18, 20  
**engines** 11:19  
 15:23 16:1, 7 18:7,  
 17 21:9, 19, 20 26:6  
 28:9 32:9 33:13  
 34:9, 12 35:13  
 36:2, 8 38:17  
 39:19 42:10 43:20  
 45:17 47:12, 14  
 48:5, 6 49:1  
**entire** 5:15 9:23  
 10:25  
**entitled** 4:21, 24 5:1  
**epoxy** 45:12  
**estimate** 33:16  
**events** 52:16  
**exactly** 11:16 32:10  
**EXAMINATION**  
 3:2 4:4 52:8, 10  
**examined** 4:2  
**example** 16:1 34:19  
**Excuse** 29:23  
**Exhibit** 21:24  
 23:13, 16, 18 47:21,  
 24 49:25 50:1, 10,  
 12, 15, 20 51:2, 4  
**EXHIBITS** 3:7  
 21:13, 15, 23 47:21  
 49:24  
**expires** 52:21  
**explain** 7:20 11:2  
 36:5  
**extent** 17:16  
**eyes** 26:18

< F >  
**failed** 42:18 43:16  
**fall** 45:15  
**familiar** 16:6, 8  
 21:12 36:6  
**far** 6:19 11:7, 23  
 20:4 21:7 30:23

48:15  
**farther** 30:23  
**faulty** 22:13  
**feel** 31:22 37:9  
**fell** 47:2  
**find** 17:17 18:22  
 23:23 35:18  
**fine** 40:12 49:7  
**fire** 21:8, 19 22:4  
 26:21 27:12 33:7  
 40:1 41:15 42:1  
 47:15 48:4, 10, 12  
**fires** 34:8, 12 47:7  
**FIRM** 2:8  
**first** 4:2 13:17  
 17:3 21:7, 10  
 34:11 36:11 41:9  
 42:18 43:16 44:6  
**fix** 47:4  
**fixing** 7:17  
**Floor** 2:5  
**Florence** 8:23, 24  
**fluids** 10:7  
**follows** 4:3  
**foregoing** 52:5, 9  
**forgive** 34:25  
**forgotten** 33:14  
**formal** 7:3  
**former** 16:24  
**forth** 25:11  
**found** 29:7, 19 37:7  
**founded** 6:12 7:13  
**four** 43:20, 24 44:1  
**front** 12:1 17:10  
**fuel** 14:4 22:13, 15  
 23:1, 2, 5, 8 25:5, 8,  
 9, 10, 16, 17, 18, 20,  
 21, 23 26:2, 4, 5, 6, 9  
 27:10, 15, 20, 23  
 28:5 30:20  
**full** 52:9  
**full-time** 7:18  
**further** 44:14 45:2  
 49:15 52:15  
**fuse** 12:18  
**fuss** 37:18

< G >  
**gas** 22:9, 11 26:19,

23  
**gather** 16:18  
**gauges** 13:22 17:24  
**general** 6:5  
**generic** 12:16  
**getting** 47:5  
**give** 19:24 23:20,  
 25 33:16 39:14  
 49:4  
**given** 18:21 20:24  
 22:20 24:24 52:11  
**giving** 41:3  
**glad** 41:5 50:21, 24  
**glanced** 22:24  
**go** 6:23 7:11  
 11:17 14:12 16:23  
 17:17 25:23 28:15,  
 21 30:2 32:6 39:12  
**goes** 21:8 39:1  
**going** 4:6 7:22  
 13:12 16:14, 25  
 17:1 22:1 28:23  
 30:4, 22, 24 31:7  
 32:21 46:6  
**good** 10:16 12:8  
 13:13 32:21 49:22  
**grew** 6:21  
**guess** 5:4 11:1, 25  
 18:20 19:13 28:11  
 29:5 39:11, 13  
**guessing** 18:20  
**guy** 26:18 37:6  
 38:20, 24, 25

< H >  
**half** 5:19  
**halfway** 25:4  
**HAMILTON** 1:5  
 4:8 16:8 17:1, 4  
 19:7 21:4 25:14,  
 15 26:1 27:20  
 28:3, 4 29:17, 21  
 32:24 35:2 36:2, 7  
 37:1 39:7, 17 41:9  
 42:10 43:13  
**Hamilton's** 3:12  
 27:16 34:19 43:8  
 48:6  
**hand** 52:16  
**handled** 42:12

**happened** 20:3  
 36:1 37:19 48:17  
**happening** 21:6  
**happy** 37:22  
**hard** 12:17  
**hear** 20:8, 10, 12, 19,  
 20, 21 49:12, 13  
**heard** 21:5, 7, 10  
 22:3, 5, 11 34:17  
**hearing** 29:15 42:7  
**heat** 45:6, 8, 10, 20,  
 25 46:3, 10, 17, 20  
**held** 50:7  
**HELLMAN** 2:4  
**help** 17:2  
**hereunto** 52:16  
**High** 6:25 7:1, 11,  
 15 25:5, 8  
**higher** 41:19  
**himself/herself** 52:13  
**hit** 12:17  
**hold** 23:21 41:17  
**honestly** 38:7  
**hood** 41:16 42:1  
**hook** 17:24 22:15  
**hose** 33:7, 8 47:2, 5  
**hoses** 14:7, 11, 12,  
 15 44:24  
**hot** 12:4 45:8, 17  
 46:8, 16, 19 47:3  
**hundred** 37:6

## &lt; I &gt;

**IAA** 8:4, 5, 11 11:4,  
 9  
**idea** 18:21  
**identification** 21:14,  
 25 47:25 51:5  
**III** 1:5  
**imagine** 9:9  
**immediately** 7:11  
 26:20  
**important** 23:25  
 24:16  
**incurred** 47:15  
**INDEX** 3:1  
**individual** 19:23  
 34:20  
**industry** 11:13  
**inform** 43:15

**information** 17:9  
 19:15, 24 29:2  
 30:16 35:21  
**informed** 32:25  
**initially** 16:7  
**inside** 46:18  
**inspect** 25:4, 8, 15,  
 18, 20  
**inspected** 14:2  
**installation** 35:4  
 43:7  
**insurance** 6:8 8:15  
 9:9, 10 11:6, 10, 12,  
 15  
**Insured** 43:6  
**interested** 52:16  
**Interruption** 20:25  
**inventories** 38:20  
**inventory** 7:21 8:1  
 9:11 10:24 26:18  
 38:25 43:18 44:7  
**involved** 42:9  
**involving** 47:12  
 48:5  
**issue** 22:25 37:11  
**issued** 21:15, 18  
**it'd** 26:24  
**it'll** 14:17 35:8  
 43:11 44:6, 8  
**its** 8:1 25:7

## &lt; J &gt;

**January** 23:11  
 24:3, 11, 18 52:17  
**Jr** 15:21

## &lt; K &gt;

**keep** 26:20 34:1, 7  
**KERSHAW** 52:2, 17  
**Kia** 3:9, 10, 12  
 18:17 21:3, 15, 18,  
 20 23:11 24:20  
 25:4, 7 26:10, 13  
 28:9 30:7 33:18  
 34:9, 12 35:12  
 36:9 43:8 47:12,  
 14 48:5, 25  
**kind** 7:18 15:9  
 20:16 33:9 44:14  
 48:18, 20, 21

**kinds** 16:2, 4 18:7,  
 12  
**knew** 26:12 33:6  
**knocking** 37:18  
**know** 4:12, 16, 24  
 5:8 6:2 7:8, 9, 19  
 8:17, 25 9:13, 14, 25  
 10:7, 10, 14, 15, 16,  
 18, 19, 20 11:1, 25  
 12:3, 5, 9, 15, 18, 21,  
 25 13:1, 5, 6, 8, 9, 10,  
 11, 15, 16, 21, 22, 24  
 14:1, 3, 15 15:4  
 16:12, 24 17:1, 6, 11,  
 13, 14, 15, 21, 22, 23,  
 25 18:3, 4, 6, 9, 10,  
 15 19:1, 3, 4, 12  
 20:2, 3, 4, 6, 7, 9, 11,  
 15, 17, 18 21:10  
 22:7, 10, 16 26:15,  
 22, 25 28:11, 13, 16  
 29:5, 9, 11, 12, 18, 25  
 31:3, 6 32:4 33:7,  
 20 34:4 35:20  
 36:6, 16, 17, 18, 20  
 37:5, 8, 9, 11, 14, 15  
 38:4, 7, 10, 24 39:1,  
 12 40:7, 8, 13, 15, 18,  
 19, 20 41:8, 12  
 42:15 43:1, 20, 21,  
 22, 24, 25 44:3, 25  
 45:7, 9, 16, 17 46:21  
 47:1, 3 48:9, 12, 15,  
 22, 24  
**knowing** 34:25  
**knowledge** 34:8  
**known** 27:17, 22

## &lt; L &gt;

**labor** 25:6  
**lack** 46:22  
**Lake** 6:19, 21, 24  
 7:1  
**Large** 52:4  
**LAW** 2:8  
**lawsuit** 47:11, 23  
**leak** 27:10, 16  
**leaking** 25:9, 10  
 26:19, 23 27:20

**learn** 34:11 35:25  
**led** 7:18  
**Lee** 16:15 17:2  
 36:18 38:8 42:13  
 43:4, 11, 19  
**legitimate** 29:10  
**letting** 4:12  
**level** 12:8  
**lie** 13:15  
**lift** 26:17 38:25  
 43:10  
**lights** 14:3  
**limit** 15:25 31:17  
**line** 15:17 22:13  
 23:1, 3, 6, 8 25:17,  
 23 26:2, 4, 5 27:15,  
 20, 23 28:5 32:22  
**lines** 7:8 14:4, 7  
 22:11, 13 25:16, 18,  
 20, 21 26:6, 9  
**listed** 21:13  
**listen** 10:5 11:24  
 12:6 17:21 35:8  
**listens** 39:1  
**little** 6:4 32:22  
 36:5 38:14 39:15  
 41:18 45:11  
**live** 5:17, 19  
**living** 6:20  
**LLC** 1:9  
**located** 18:25  
**LOCATION** 1:18  
 52:7  
**locked** 46:13  
**long** 4:14 5:12  
 12:4 17:22 18:2  
 38:8 44:19  
**LONNIE** 1:5 16:8  
 39:17  
**look** 5:24 13:22  
 21:16 22:22 25:2  
 46:15  
**looked** 22:11, 19  
**looking** 23:10, 11  
 24:2, 13 41:10  
**looks** 24:6 41:15  
**loose** 14:13  
**lot** 13:10 20:14  
 21:8 28:12 39:23

42:6  
**low** 22:12 23:7, 8  
**< M >**  
**majority** 11:14  
**making** 37:17 38:15  
**man** 37:5 40:6  
**management** 15:18  
**manufacturer** 18:24 20:1  
**mark** 50:9, 24 51:2  
**marked** 21:13, 24 22:21 47:24 50:11, 14, 19 51:4  
**matter** 36:3 39:18  
**mean** 4:15 7:6 8:16 9:8 10:14 11:7 12:21 15:4 16:12 17:10, 24 18:10, 12, 13, 14, 16, 19, 20 20:6, 18 22:4 26:16 28:12 29:5, 6, 7, 8, 12, 14 30:21 31:3, 5, 23 33:6 34:24 35:14, 15, 20 36:4 37:14 38:6, 23 39:11 40:15, 17 43:9, 19, 22 45:4  
**mechanic** 38:19  
**mechanics** 20:14 26:17  
**meetings** 7:7  
**melt** 45:8 46:19, 20  
**mentioned** 9:5  
**mile** 5:19  
**mileage** 17:7  
**miles** 17:12 37:7 44:2  
**mind** 5:20 35:16, 17  
**minute** 25:3 49:4, 5, 9  
**missing** 26:25  
**models** 18:14  
**money** 40:10  
**months** 46:11  
**motor** 10:15, 16, 17 13:11  
**motor's** 46:12  
**move** 15:7

**multiple** 21:3  
**< N >**  
**name** 15:20, 21  
**nationwide** 9:7  
**native** 6:18  
**nature** 6:11  
**necessary** 25:5  
**need** 4:22 5:24 6:1, 2 13:15 41:5  
**needed** 9:19  
**needs** 4:11 19:12  
**neglected** 47:4  
**neither** 52:15  
**never** 21:9  
**new** 17:4 30:19  
**noise** 38:16  
**normal** 14:6 37:3  
**normally** 26:23 37:8 44:16 45:23  
**Notary** 52:4  
**notes** 10:19 12:24 13:12, 14 44:9  
**Notice** 3:11 13:3 26:10, 13 47:20  
**number** 5:22, 23 24:5, 12, 17 33:14 50:22  
**numbers** 34:5  
**< O >**  
**oath** 41:4, 5  
**objected** 29:25  
**Objection** 27:25 29:4, 22 34:14 40:3 48:14  
**objections** 52:8, 10  
**obtained** 9:11  
**occasionally** 15:2  
**occurring** 34:12  
**offered** 7:8  
**Office@clark-associates.com** 1:25  
**official** 52:17  
**Oh** 27:5  
**Okay** 5:7 6:3 7:20, 23 8:1, 20 9:1 10:10 11:16 12:10 13:19 14:21 15:22 16:5, 18, 23 18:21

20:24 21:12 22:18 24:20, 23 25:2, 22 26:8 27:2 28:2, 7, 25 30:6, 7, 25 32:4 33:9, 20 35:11, 24 38:3, 8 39:2, 14 40:24 41:2 42:5, 12, 15 43:2, 7, 13 44:12 45:5, 21 47:10, 18 48:4 49:3, 16 50:6  
**Olanta** 6:16, 18  
**old** 30:15 37:23  
**One-by-one** 12:12  
**ones** 8:21 9:2  
**operable** 43:7  
**opportunity** 52:11, 14  
**Optima** 36:9  
**order** 43:3  
**ordinary** 28:20  
**originated** 11:10  
**ought** 19:12  
**outlet** 25:9  
**owned** 5:15  
**Owner** 5:11 15:10  
**owning** 11:7  
**owns** 19:11  
**< P >**  
**P.A** 2:4  
**PAGE** 3:2, 8 24:2, 4, 12, 19 25:3, 4  
**pages** 24:9  
**paid** 11:10 42:25  
**papers** 47:16  
**part** 4:23 10:14  
**particular** 8:20 10:12 16:1, 5 20:5 24:2, 24 31:19 40:9, 12  
**PARTS** 1:9 5:10 6:5, 7, 9 7:4, 13, 17 9:11, 14, 19 10:8 13:18 25:6 31:15 33:13, 17, 22  
**party** 52:15  
**pay** 9:12 47:13  
**pending** 47:12 52:16

**people** 8:2 27:8, 21 31:6 39:2, 23 47:14 48:22  
**percent** 11:25 13:7  
**percentage** 33:17  
**perfectly** 4:20  
**person** 39:9  
**personally** 42:9, 11  
**phone** 39:21, 22  
**Photo** 3:12  
**photograph** 41:10  
**pick** 43:18  
**picked** 43:25  
**picture** 50:7  
**PINCKNEY** 2:11 23:16 50:3, 17, 23  
**pipe** 25:6, 9, 10  
**place** 10:17 34:2  
**places** 45:14  
**PLAINTIFF** 2:3  
**Plaintiffs** 1:7  
**PLEAS** 1:1  
**please** 4:16 5:8 49:19  
**plugs** 14:10  
**point** 39:13 45:3, 7  
**position** 5:9  
**possibility** 34:12  
**possible** 35:14 39:23 43:24  
**pour** 48:23  
**power** 12:19  
**practice** 28:18 37:3  
**PRESENT** 2:11  
**president** 15:10  
**pressure** 22:12 23:8 25:5, 8 44:23  
**pretty** 14:2 29:13  
**prevalent** 34:9  
**probably** 15:15 18:18, 19 33:2, 3 43:19  
**problem** 21:9, 11, 19 23:9 26:9 36:14, 16 37:7, 12  
**problems** 17:18 35:12 36:7 48:5  
**procedure** 5:5 44:16  
**proceed** 49:19

**process** 10:2, 23, 24  
 14:7  
**processed** 9:25  
 10:1 15:3, 5  
**properly** 14:5  
**Proposed** 3:11  
 47:20  
**public** 6:24 52:4  
**pull** 12:23  
**pulling** 14:18  
**pump** 25:9 30:20  
**purchase** 39:18  
**purchaser** 19:8, 23  
 34:21  
**put** 10:8, 18 12:23,  
 24 22:9 37:4, 12  
 43:9 44:7, 9, 17, 24  
 45:6, 12, 21, 23, 25  
 46:5, 9, 10  
**puts** 37:17 38:24  
**putting** 37:9  
  
**< Q >**  
**question** 13:8  
 25:12 29:13, 24  
 30:5 31:10, 12, 23  
 32:5, 7, 8, 20 34:23  
 41:6  
**questions** 4:7, 9 5:4,  
 8 16:24 33:11  
 49:15, 18, 21  
**quite** 41:14  
  
**< R >**  
**RACHAEL** 1:22  
 52:2, 20  
**rack** 44:17 45:24  
**radiator's** 12:2  
**radio** 10:19  
**rained** 28:14  
**ran** 13:13 45:8, 17  
 46:16, 19 47:3  
**rarely** 9:24 15:3  
**rattles** 12:7  
**reaches** 45:14  
**read** 47:17 52:11  
**real** 12:17 20:6  
**really** 6:1 29:9  
 31:7, 9 40:17 42:16

**reason** 4:16, 19 5:2  
 6:2 19:19, 25 20:10  
**rebuilding** 7:16  
**Recall** 3:9, 10 19:9,  
 17 20:8 22:12  
 23:11, 25 24:11, 16,  
 24 26:10, 13 29:18,  
 20 30:7, 8, 16, 17  
 31:4, 21 39:8  
**recalled** 20:1 28:10  
**recalls** 18:24 21:3,  
 14, 18, 22 22:19  
 28:22 30:18 32:9  
 33:1  
**Recess** 49:10  
**reckon** 28:14  
**record** 10:11 21:1  
 34:7 42:5 47:19  
 51:3 52:9  
**recorded** 52:8  
**records** 34:1  
**referenced** 50:1  
**regard** 11:13 36:1  
**related** 42:24 52:15  
**remember** 16:22  
 36:10, 11 39:20, 22,  
 24  
**remembering** 35:1  
**REMOTE** 1:18  
**replace** 25:5 47:3  
**replaced** 25:11  
 36:22, 25 38:1  
 42:19  
**replacement** 42:16  
**REPORTED** 1:22  
**REPORTER** 1:22  
 3:5 52:1, 4, 20  
**representing** 4:21  
**requires** 31:25  
**research** 39:6  
**researched** 22:4  
**researching** 20:4  
**residential** 5:18  
**rest** 14:1  
**rev** 12:5  
**right** 6:11 7:2  
 10:22 12:20 14:20,  
 25 15:7 18:18  
 19:5, 14, 19, 21  
 23:10 27:1, 4, 11

28:6, 24 29:7 30:4,  
 14 31:9 32:14  
 33:3 34:18 36:13,  
 18 37:23 38:6  
 39:5 41:4 42:25  
 44:7 45:1 46:2, 7,  
 14, 25 48:1, 2, 3, 13  
 49:3, 20 50:2  
**Road** 5:22 6:16  
 37:18 46:12  
**room** 49:5  
**roughly** 18:6 33:17  
**rude** 31:1  
**rule** 4:23  
**run** 10:5 12:4  
 13:3, 12 18:2 43:11  
**running** 10:6 12:8,  
 21 46:3  
  
**< S >**  
**Safety** 3:9, 10  
 23:25 24:16  
**sale** 16:16 42:9, 15,  
 17  
**SARAH** 2:11 50:2  
**save** 39:15  
**saw** 22:24, 25 23:1,  
 5, 7 37:12 40:14  
 41:18  
**saying** 4:6 14:22  
 19:22 21:18 25:24  
 27:7 29:6  
**says** 24:16 25:3, 7  
 37:17  
**SC** 1:23 2:5, 9  
**school** 6:23, 24, 25  
 7:1, 11, 15  
**screen's** 15:9  
**seal** 52:17  
**second** 23:20 39:14  
 40:1 41:11 42:17,  
 19, 22 43:1, 3, 6, 17  
**see** 11:21 13:18  
 14:4 23:2, 19  
 24:21 25:16 28:14,  
 21 30:19 31:4  
 38:13 39:6 41:20,  
 21, 22, 23 43:10  
 44:6, 14 46:3, 7

49:5  
**seeing** 38:15  
**seen** 24:24 27:22  
 40:15, 19, 20, 22  
**SEIBELS** 2:8  
**seizing** 22:25  
**selection** 43:17  
**sell** 6:7, 9 8:2 9:19,  
 22 10:14, 25 13:2  
 14:15, 16, 22, 25  
 15:3, 5 17:19 19:6,  
 22 21:8 22:10, 13  
 25:21 26:6 28:23  
 31:19 32:9 33:8,  
 18, 21, 22 44:13  
 45:23  
**selling** 35:13 48:25  
**sells** 15:25  
**send** 37:21 43:17  
 44:25  
**sense** 30:22  
**sent** 41:12 42:16  
 43:1  
**September** 52:22  
**sets** 26:18  
**Settlement** 3:11  
 47:12, 13, 20  
**shape** 44:14  
**shelf** 43:21 44:10,  
 19 45:22  
**shipped** 34:20 35:6  
**shop** 13:10 37:4  
 39:3  
**shops** 20:15  
**shop's** 37:16  
**show** 41:13  
**shown** 21:22  
**sign** 52:14  
**signature** 52:12, 14  
**simple** 29:14 31:10,  
 11  
**sir** 5:6, 16 6:14, 22  
 7:1, 5 8:6, 24 9:3,  
 13, 17, 21 10:1, 13,  
 25 11:23 13:5  
 14:24 15:12 16:17,  
 22 17:15 18:9, 15  
 19:1, 3, 4, 11, 18, 20  
 21:5 23:1, 4 24:21  
 25:1 26:3, 4, 5, 7, 11,

15 27:3, 5, 13 30:10,  
13 33:19, 23 34:3, 6,  
10, 15, 23 36:12, 24  
38:2 39:4 40:23  
41:21, 23 42:2, 4, 11,  
14, 21, 23 44:8, 22  
45:4, 20 46:24  
47:9 48:7, 19 49:2  
**sit** 13:6 44:18  
**situation** 4:8 35:11  
**six-month** 13:9  
**size** 45:11  
**skipping** 26:24  
**smoking** 12:8  
**sold** 7:17 14:19  
16:7, 8, 12 17:3, 7  
21:4 25:13 26:1  
27:19, 24 28:2, 3, 4  
33:12 36:2, 24  
39:7 46:10 48:5, 11  
**somebody** 9:24  
43:4  
**son** 15:19  
**soon** 7:11  
**sorry** 50:13  
**sort** 8:14 10:22  
38:16  
**sound** 10:16  
**source** 15:25  
**SOUTH** 1:1 6:17  
52:1, 4, 17, 21  
**specifically** 42:1  
**spread** 20:16  
**staff** 32:13, 19  
**stalling** 26:24  
**stand** 8:12, 13  
**standard** 28:18  
**stands** 8:15  
**Starburst** 6:16  
**start** 17:16 29:9  
44:11  
**started** 7:16 47:23  
**starting** 26:21  
**STATE** 1:1 52:1, 4  
**stated** 52:7  
**States** 8:19  
**steel** 22:7, 8 48:23  
**step** 49:5  
**stick** 44:19 45:12

**Street** 2:5, 9  
**strip** 6:8 14:6  
**strips** 38:19, 22  
**structure** 15:18  
**structured** 7:6  
**stuff** 7:7, 8 11:9  
14:1, 16, 19 29:11  
**subject** 18:24 19:9  
29:18, 20 31:21  
33:1, 10 39:7  
**submitted** 47:21  
**subscribe** 52:11  
**Suite** 2:9  
**supposed** 30:1, 18  
37:4  
**sure** 12:6, 7, 8  
13:23 17:10 22:17  
38:11 41:7 43:2,  
22 44:17, 19, 22  
45:7 49:24  
**switch** 17:12  
**switched** 26:20  
**sworn** 4:2 52:5  
  
< T >  
**tab** 45:10, 19, 20  
**table** 14:12  
**tabs** 45:6, 8 46:1, 3,  
5, 8, 9, 10, 20  
**take** 4:15 10:3  
11:18 12:12 14:12  
16:2, 6 27:8 31:7,  
15 32:22 37:8, 16,  
20, 23 41:5 44:13,  
16 45:24 49:8  
**taken** 35:3 52:7  
**talk** 4:19, 23 5:2  
16:14 39:23  
**talked** 39:20 44:2  
50:19  
**talking** 30:8 31:16  
39:22  
**tell** 5:22 6:4 13:7,  
14 16:11, 19 17:13  
18:4 19:8, 15 22:1,  
3 29:16, 20 32:1, 7,  
14, 17 33:21, 24  
36:4 40:5 44:10  
46:15

**temperature** 45:15  
46:18  
**test** 34:21 35:5  
**tested** 46:7  
**testified** 4:3  
**testify** 52:5  
**testimony** 25:25  
38:3 52:7, 10  
**testing** 44:14  
**Thank** 6:4 32:20  
51:1  
**thereof** 52:16  
**thing** 4:22, 25 7:19  
8:14 10:21 13:24  
14:3 20:8, 15, 17  
35:7 45:11 49:6  
**things** 14:4, 5 15:8  
20:6 45:15  
**think** 4:14 14:21  
18:16 19:21 22:20  
23:24 24:21 29:13,  
14 31:10 33:4, 9  
35:3, 23 36:20  
37:14 40:16 45:4  
**Third** 2:5  
**THOMAS** 2:4  
**thought** 22:8  
**three** 44:1 45:13  
**TIME** 1:18 5:7, 15  
11:25 12:2 13:6, 7  
14:17 21:10 28:15  
29:19 39:13, 15  
40:9, 12 52:7, 8, 10  
**times** 13:10 27:9  
34:24 44:5  
**Timmy** 16:15 37:14  
**TISDALE** 2:4 3:3  
4:5 21:2 23:15, 22  
24:1, 6, 10, 15, 23  
32:10 47:19 49:3,  
8, 11, 14, 17, 22 50:2,  
4, 8, 11, 14, 21, 24  
51:2  
**today** 4:7  
**told** 9:10 25:19  
32:16, 18 36:21  
38:12  
**Tom** 23:14  
**tore** 14:17

**totaled** 11:3  
**touch** 43:14  
**training** 7:3  
**transaction** 16:6, 9,  
19, 25 41:9  
**transcribed** 52:9  
**transcription** 52:9  
**transmission** 13:25  
30:21  
**trouble** 35:15  
**true** 27:14 31:13  
52:9  
**Truluck** 5:22  
**truth** 52:5, 6  
**try** 4:12 10:4 12:5,  
9, 13 13:20, 22  
17:13, 21 31:11  
43:9, 10  
**trying** 31:1, 2 39:15  
**turn** 13:20 44:20,  
22  
**turns** 44:18  
**two** 8:3 16:7  
24:10 26:18 34:24  
36:1, 8 38:21 39:2,  
18 42:10 45:13  
46:11  
**type** 7:3, 12 10:20  
13:24 14:3, 16  
20:8, 15, 17 21:4  
**typically** 17:11  
37:16, 20  
  
< U >  
**understand** 5:1  
14:21 19:21 21:21  
28:1, 25 29:23  
36:14 38:14 39:5,  
25 41:7 44:4 47:6  
**understanding** 22:6,  
15 40:11  
**Understood** 20:12  
**United** 8:18  
**unplug** 14:10  
**use** 8:20, 21  
  
< V >  
**variety** 15:23, 24  
**various** 21:17

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| <p><b>VARNADO</b> 2:8<br/>4:18 23:13, 17<br/>24:4, 8, 19 27:25<br/>29:4, 22 30:2 32:6<br/>34:14 40:3 48:14<br/>49:7, 13, 16, 20, 23<br/>50:6, 9, 13, 18 51:1<br/><b>vehicle</b> 11:3 20:5<br/>24:21<br/><b>vehicles</b> 11:15<br/><b>VERBATIM</b> 1:22<br/>52:2, 20<br/><b>vet</b> 17:16<br/><b>vett</b> 43:2<br/><b>Victory</b> 24:17<br/><b>VIDEOCONFEREN</b><br/><b>CE</b> 1:18<br/><b>visually</b> 14:2<br/><b>vs</b> 1:9</p> <p>&lt; W &gt;<br/><b>wacky</b> 15:9<br/><b>waived</b> 52:14<br/><b>want</b> 4:15, 19 27:1<br/>29:14 31:13, 23<br/><b>wanted</b> 5:1 9:25<br/>21:17 27:6 40:6, 8<br/><b>warehouse</b> 10:9<br/><b>warranty</b> 13:9, 16<br/>45:17<br/><b>wash</b> 44:23 45:25<br/><b>water</b> 12:3 18:2<br/>46:18, 22 47:1, 2, 4<br/><b>way</b> 9:15 11:1<br/>17:23 18:22 22:14,<br/>16 42:2 45:16<br/>46:19<br/><b>Well</b> 6:7, 19 7:5, 15<br/>8:13, 15 10:3 11:8,<br/>17, 23 12:15 13:5,<br/>17, 20 14:6 15:2<br/>17:9, 20 18:10, 18<br/>19:5 20:14, 24<br/>21:2 22:19 23:2,<br/>10 24:4 25:2, 19<br/>28:1, 11 29:13<br/>30:14 31:22 32:16<br/>33:6 34:25 36:22<br/>37:3 40:5, 22 41:7</p> | <p>43:9, 19 44:8 45:3,<br/>6, 23 50:18<br/><b>went</b> 6:24 28:13<br/>37:18 44:24 46:11<br/><b>we're</b> 11:18 13:12<br/>16:14 31:16 49:6<br/><b>we've</b> 7:7 21:9, 10<br/>33:9 35:14 48:9<br/><b>what'd</b> 23:2 32:17<br/>45:18<br/><b>whatever's</b> 13:14<br/><b>whatsoever</b> 4:10<br/><b>wheels</b> 14:2<br/><b>wind</b> 11:3<br/><b>wires</b> 14:10<br/><b>within-entitled</b> 52:6<br/><b>WITNESS</b> 23:19,<br/>24 24:13, 20 32:3<br/>52:5, 7, 10, 11, 12, 13,<br/>16<br/><b>word</b> 20:16 37:8,<br/>16, 20<br/><b>work</b> 10:19 39:2<br/><b>worked</b> 38:8<br/><b>working</b> 43:3<br/><b>worry</b> 18:5<br/><b>would've</b> 26:20<br/>43:5<br/><b>wreck</b> 11:2<br/><b>wrecked</b> 7:16, 17<br/>12:1, 22<br/><b>wrench</b> 44:17<br/><b>wrong</b> 25:25 29:16<br/>36:10 38:4<br/><b>WWW.CLARK-</b><br/><b>ASSOCIATES.COM</b><br/>1:24</p> <p>&lt; Y &gt;<br/><b>yards</b> 7:7<br/><b>YATES</b> 2:4<br/><b>yeah</b> 7:25 11:14<br/>14:8, 14 16:14<br/>23:7, 16 28:19<br/>29:25 30:2 36:16,<br/>21 37:25 46:18<br/>48:22 49:23<br/><b>year</b> 30:15<br/><b>years</b> 5:14 6:13, 20</p> | <p>7:19 38:10</p> <p>&lt; Z &gt;<br/><b>ZOE'LIA</b> 1:5</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|

**WORD LIST**

|                             |                         |                        |                          |
|-----------------------------|-------------------------|------------------------|--------------------------|
| <b>&lt; 1 &gt;</b>          | <b>51 (1)</b>           | <b>attached (3)</b>    | <b>called (4)</b>        |
| <b>10 (5)</b>               | <b>52 (1)</b>           | <b>attention (1)</b>   | <b>calling (2)</b>       |
| <b>10:00 (1)</b>            | <b>&lt; 6 &gt;</b>      | <b>attorney (3)</b>    | <b>cap (1)</b>           |
| <b>100 (1)</b>              | <b>6 (5)</b>            | <b>auction (1)</b>     | <b>capped (1)</b>        |
| <b>105 (1)</b>              | <b>&lt; 8 &gt;</b>      | <b>auctioned (1)</b>   | <b>caps (1)</b>          |
| <b>11:13 (1)</b>            | <b>843-762-6294 (1)</b> | <b>Auctions (1)</b>    | <b>car (33)</b>          |
| <b>12 (1)</b>               | <b>&lt; 9 &gt;</b>      | <b>authorized (1)</b>  | <b>CAROLINA (6)</b>      |
| <b>15 (1)</b>               | <b>90 (1)</b>           | <b>AUTO (8)</b>        | <b>cars (18)</b>         |
| <b>15-20 (1)</b>            | <b>907 (1)</b>          | <b>automobile (9)</b>  | <b>CASE (10)</b>         |
| <b>17 (2)</b>               | <b>9-1-1 (1)</b>        | <b>automobiles (1)</b> | <b>case-by-case (1)</b>  |
| <b>17th (2)</b>             | <b>&lt; A &gt;</b>      | <b>available (1)</b>   | <b>catch (2)</b>         |
| <b>18V (1)</b>              | <b>able (8)</b>         | <b>availed (1)</b>     | <b>catching (2)</b>      |
| <b>&lt; 2 &gt;</b>          | <b>access (2)</b>       | <b>aware (9)</b>       | <b>caught (3)</b>        |
| <b>20 (4)</b>               | <b>accessible (1)</b>   | <b>&lt; B &gt;</b>     | <b>cause (2)</b>         |
| <b>200 (1)</b>              | <b>acquire (2)</b>      | <b>back (12)</b>       | <b>certain (1)</b>       |
| <b>2012 (1)</b>             | <b>acquisition (1)</b>  | <b>bad (1)</b>         | <b>certainly (1)</b>     |
| <b>2013 (1)</b>             | <b>address (3)</b>      | <b>based (1)</b>       | <b>CERTIFICATE (2)</b>   |
| <b>2019 (6)</b>             | <b>advised (1)</b>      | <b>basis (1)</b>       | <b>CERTIFIED (4)</b>     |
| <b>2019-CP-10-06567 (1)</b> | <b>affixed (2)</b>      | <b>bearing (1)</b>     | <b>certify (2)</b>       |
| <b>2020 (1)</b>             | <b>ago (2)</b>          | <b>BEHALF (2)</b>      | <b>charging (1)</b>      |
| <b>2021 (1)</b>             | <b>agree (2)</b>        | <b>believe (2)</b>     | <b>CHARLESTON (10)</b>   |
| <b>2030 (1)</b>             | <b>agreeable (1)</b>    | <b>best (1)</b>        | <b>check (19)</b>        |
| <b>21 (2)</b>               | <b>ahead (2)</b>        | <b>beyond (1)</b>      | <b>checking (2)</b>      |
| <b>22 (1)</b>               | <b>air (1)</b>          | <b>bit (3)</b>         | <b>checks (1)</b>        |
| <b>23 (1)</b>               | <b>airbag (1)</b>       | <b>block (3)</b>       | <b>Chevrolet (1)</b>     |
| <b>29114 (1)</b>            | <b>airbags (1)</b>      | <b>born (1)</b>        | <b>Christie (3)</b>      |
| <b>29401 (2)</b>            | <b>alternator (1)</b>   | <b>bottom (1)</b>      | <b>CHRISTINE (1)</b>     |
| <b>29405 (1)</b>            | <b>aluminum (1)</b>     | <b>bought (5)</b>      | <b>circumstances (2)</b> |
| <b>&lt; 3 &gt;</b>          | <b>answer (9)</b>       | <b>box (2)</b>         | <b>City (4)</b>          |
| <b>3 (8)</b>                | <b>answered (5)</b>     | <b>break (2)</b>       | <b>claim (3)</b>         |
| <b>301 (14)</b>             | <b>answers (1)</b>      | <b>BRIAN (3)</b>       | <b>claims (2)</b>        |
| <b>301's (1)</b>            | <b>anymore (1)</b>      | <b>bring (4)</b>       | <b>clarified (1)</b>     |
| <b>3302 (1)</b>             | <b>anytime (1)</b>      | <b>Broad (2)</b>       | <b>clarify (1)</b>       |
| <b>35 (1)</b>               | <b>apparent (1)</b>     | <b>broke (1)</b>       | <b>CLARK (4)</b>         |
| <b>38 (1)</b>               | <b>apparently (1)</b>   | <b>brought (3)</b>     | <b>Class (2)</b>         |
| <b>&lt; 4 &gt;</b>          | <b>appears (2)</b>      | <b>Brown (1)</b>       | <b>class-action (2)</b>  |
| <b>4 (5)</b>                | <b>appreciate (3)</b>   | <b>burn (6)</b>        | <b>clean (2)</b>         |
| <b>47 (1)</b>               | <b>ARD (15)</b>         | <b>burned (4)</b>      | <b>closest (1)</b>       |
| <b>&lt; 5 &gt;</b>          | <b>Ard's (1)</b>        | <b>burnt (5)</b>       | <b>C-O (1)</b>           |
| <b>5 (4)</b>                | <b>area (1)</b>         | <b>business (13)</b>   | <b>Columbia (4)</b>      |
| <b>5,000 (1)</b>            | <b>ASE (1)</b>          | <b>busted (1)</b>      | <b>come (8)</b>          |
| <b>50 (4)</b>               | <b>asking (10)</b>      | <b>buy (2)</b>         | <b>comes (10)</b>        |
|                             | <b>assessment (1)</b>   | <b>buying (2)</b>      | <b>comfortable (1)</b>   |
|                             | <b>ASSOCIATES (1)</b>   | <b>buys (1)</b>        | <b>coming (3)</b>        |
|                             | <b>assuming (2)</b>     | <b>&lt; C &gt;</b>     | <b>comment (1)</b>       |
|                             |                         | <b>California (1)</b>  | <b>Commission (1)</b>    |
|                             |                         | <b>call (3)</b>        | <b>COMMON (2)</b>        |
|                             |                         |                        | <b>community (2)</b>     |

|                           |                        |                      |                       |
|---------------------------|------------------------|----------------------|-----------------------|
| <b>companies</b> (3)      | <b>damages</b> (1)     | <b>engine</b> (111)  | <b>four</b> (3)       |
| <b>COMPANION</b> (1)      | <b>DATE</b> (2)        | <b>engines</b> (28)  | <b>front</b> (2)      |
| <b>company</b> (21)       | <b>dated</b> (7)       | <b>entire</b> (3)    | <b>fuel</b> (31)      |
| <b>complete</b> (4)       | <b>dates</b> (1)       | <b>entitled</b> (3)  | <b>full</b> (1)       |
| <b>complicate</b> (2)     | <b>David</b> (1)       | <b>epoxy</b> (1)     | <b>full-time</b> (1)  |
| <b>compressor</b> (1)     | <b>day</b> (2)         | <b>estimate</b> (1)  | <b>further</b> (4)    |
| <b>computer</b> (11)      | <b>deal</b> (1)        | <b>events</b> (1)    | <b>fuse</b> (1)       |
| <b>computer-aided</b> (1) | <b>dealers</b> (1)     | <b>exactly</b> (2)   | <b>fuss</b> (1)       |
| <b>concerning</b> (1)     | <b>dealing</b> (2)     | <b>EXAMINATION</b>   |                       |
| <b>concluded</b> (1)      | <b>DECEMBER</b> (1)    | (4)                  | < G >                 |
| <b>condition</b> (2)      | <b>decide</b> (1)      | <b>examined</b> (1)  | <b>gas</b> (4)        |
| <b>conditioner</b> (1)    | <b>decided</b> (2)     | <b>example</b> (2)   | <b>gather</b> (1)     |
| <b>confirm</b> (1)        | <b>defect</b> (4)      | <b>Excuse</b> (1)    | <b>gauges</b> (2)     |
| <b>connection</b> (2)     | <b>defective</b> (1)   | <b>Exhibit</b> (14)  | <b>general</b> (1)    |
| <b>connections</b> (1)    | <b>defects</b> (4)     | <b>EXHIBITS</b> (6)  | <b>generic</b> (1)    |
| <b>contact</b> (1)        | <b>Defendant</b> (2)   | <b>expires</b> (1)   | <b>getting</b> (1)    |
| <b>content</b> (1)        | <b>deliver</b> (1)     | <b>explain</b> (3)   | <b>give</b> (6)       |
| <b>continue</b> (1)       | <b>depending</b> (1)   | <b>extent</b> (1)    | <b>given</b> (5)      |
| <b>conversation</b> (1)   | <b>depends</b> (1)     | <b>eyes</b> (1)      | <b>giving</b> (1)     |
| <b>cooling</b> (1)        | <b>DEPONENT</b> (1)    | < F >                | <b>glad</b> (3)       |
| <b>Copart</b> (7)         | <b>DEPOSITION</b> (15) | <b>failed</b> (2)    | <b>glanced</b> (1)    |
| <b>C-O-P-A-R-T</b> (2)    | <b>described</b> (1)   | <b>fall</b> (1)      | <b>go</b> (12)        |
| <b>Coparts</b> (1)        | <b>DESCRIPTION</b> (1) | <b>familiar</b> (4)  | <b>goes</b> (2)       |
| <b>Copart's</b> (1)       | <b>detached</b> (1)    | <b>far</b> (7)       | <b>going</b> (14)     |
| <b>copy</b> (1)           | <b>details</b> (1)     | <b>farther</b> (1)   | <b>good</b> (5)       |
| <b>corner</b> (1)         | <b>detected</b> (1)    | <b>faulty</b> (1)    | <b>grew</b> (1)       |
| <b>correct</b> (22)       | <b>determine</b> (1)   | <b>feel</b> (2)      | <b>guess</b> (9)      |
| <b>cost</b> (2)           | <b>determining</b> (1) | <b>fell</b> (1)      | <b>guessing</b> (1)   |
| <b>costs</b> (1)          | <b>different</b> (8)   | <b>find</b> (4)      | <b>guy</b> (5)        |
| <b>could've</b> (2)       | <b>dime</b> (1)        | <b>fine</b> (2)      | < H >                 |
| <b>counsel</b> (1)        | <b>discover</b> (1)    | <b>fire</b> (13)     | <b>half</b> (1)       |
| <b>COUNTY</b> (3)         | <b>discovered</b> (2)  | <b>fires</b> (3)     | <b>halfway</b> (1)    |
| <b>couple</b> (1)         | <b>Discussion</b> (1)  | <b>FIRM</b> (1)      | <b>HAMILTON</b> (25)  |
| <b>course</b> (4)         | <b>dismantle</b> (1)   | <b>first</b> (11)    | <b>Hamilton's</b> (5) |
| <b>COURT</b> (1)          | <b>drain</b> (1)       | <b>fix</b> (1)       | <b>hand</b> (1)       |
| <b>cover</b> (1)          | <b>drive</b> (1)       | <b>fixing</b> (1)    | <b>handled</b> (1)    |
| <b>covered</b> (1)        | <b>driving</b> (1)     | <b>Floor</b> (1)     | <b>happened</b> (4)   |
| <b>crack</b> (2)          | <b>Due</b> (2)         | <b>Florence</b> (2)  | <b>happening</b> (1)  |
| <b>cracks</b> (1)         | <b>duly</b> (2)        | <b>fluids</b> (1)    | <b>happy</b> (1)      |
| <b>crank</b> (23)         | < E >                  | <b>follows</b> (1)   | <b>hard</b> (1)       |
| <b>cranks</b> (3)         | <b>earlier</b> (1)     | <b>foregoing</b> (2) | <b>hear</b> (9)       |
| <b>crimped</b> (1)        | <b>educate</b> (1)     | <b>forgive</b> (1)   | <b>heard</b> (7)      |
| <b>CULBREATH</b> (1)      | <b>education</b> (3)   | <b>forgotten</b> (1) | <b>hearing</b> (2)    |
| <b>customer</b> (7)       | <b>eight</b> (1)       | <b>formal</b> (1)    | <b>heat</b> (9)       |
| <b>customers</b> (2)      | <b>either</b> (4)      | <b>former</b> (1)    | <b>held</b> (1)       |
| <b>cut</b> (4)            | <b>employees</b> (1)   | <b>forth</b> (1)     | <b>HELLMAN</b> (1)    |
| <b>CVR</b> (2)            | <b>ended</b> (1)       | <b>found</b> (3)     | <b>help</b> (1)       |
| < D >                     | <b>ends</b> (1)        | <b>founded</b> (2)   | <b>hereunto</b> (1)   |

|                            |                       |                         |                           |
|----------------------------|-----------------------|-------------------------|---------------------------|
| <b>High</b> (6)            | <b>Jr</b> (1)         | <b>looked</b> (2)       | <b>noise</b> (1)          |
| <b>higher</b> (1)          |                       | <b>looking</b> (5)      | <b>normal</b> (2)         |
| <b>himself/herself</b> (1) | < K >                 | <b>looks</b> (2)        | <b>normally</b> (4)       |
| <b>hit</b> (1)             | <b>keep</b> (3)       | <b>loose</b> (1)        | <b>Notary</b> (1)         |
| <b>hold</b> (3)            | <b>KERSHAW</b> (2)    | <b>lot</b> (6)          | <b>notes</b> (5)          |
| <b>honestly</b> (1)        | <b>Kia</b> (26)       | <b>low</b> (3)          | <b>Notice</b> (5)         |
| <b>hood</b> (2)            | <b>kind</b> (8)       |                         | <b>number</b> (7)         |
| <b>hook</b> (2)            | <b>kinds</b> (5)      | < M >                   | <b>numbers</b> (1)        |
| <b>hose</b> (5)            | <b>knew</b> (2)       | <b>majority</b> (1)     |                           |
| <b>hoses</b> (5)           | <b>knocking</b> (1)   | <b>making</b> (2)       | < O >                     |
| <b>hot</b> (7)             | <b>know</b> (160)     | <b>man</b> (2)          | <b>oath</b> (2)           |
| <b>hundred</b> (1)         | <b>knowing</b> (1)    | <b>management</b> (1)   | <b>objected</b> (1)       |
|                            | <b>knowledge</b> (1)  | <b>manufacturer</b> (2) | <b>Objection</b> (6)      |
| < I >                      | <b>known</b> (2)      | <b>mark</b> (3)         | <b>objections</b> (2)     |
| <b>IAA</b> (5)             |                       | <b>marked</b> (8)       | <b>obtained</b> (1)       |
| <b>idea</b> (1)            | < L >                 | <b>matter</b> (2)       | <b>occasionally</b> (1)   |
| <b>identification</b> (4)  | <b>labor</b> (1)      | <b>mean</b> (51)        | <b>occurring</b> (1)      |
| <b>III</b> (1)             | <b>lack</b> (1)       | <b>mechanic</b> (1)     | <b>offered</b> (1)        |
| <b>imagine</b> (1)         | <b>Lake</b> (4)       | <b>mechanics</b> (2)    | <b>Office@clark-</b>      |
| <b>immediately</b> (2)     | <b>Large</b> (1)      | <b>meetings</b> (1)     | <b>associates.com</b> (1) |
| <b>important</b> (2)       | <b>LAW</b> (1)        | <b>melt</b> (3)         | <b>official</b> (1)       |
| <b>incurred</b> (1)        | <b>lawsuit</b> (2)    | <b>mentioned</b> (1)    | <b>Oh</b> (1)             |
| <b>INDEX</b> (1)           | <b>leak</b> (2)       | <b>mile</b> (1)         | <b>Okay</b> (59)          |
| <b>individual</b> (2)      | <b>leaking</b> (5)    | <b>mileage</b> (1)      | <b>Olanta</b> (2)         |
| <b>industry</b> (1)        | <b>learn</b> (2)      | <b>miles</b> (3)        | <b>old</b> (2)            |
| <b>inform</b> (1)          | <b>led</b> (1)        | <b>mind</b> (3)         | <b>One-by-one</b> (1)     |
| <b>information</b> (6)     | <b>Lee</b> (8)        | <b>minute</b> (4)       | <b>ones</b> (2)           |
| <b>informed</b> (1)        | <b>legitimate</b> (1) | <b>missing</b> (1)      | <b>operable</b> (1)       |
| <b>initially</b> (1)       | <b>letting</b> (1)    | <b>models</b> (1)       | <b>opportunity</b> (2)    |
| <b>inside</b> (1)          | <b>level</b> (1)      | <b>money</b> (1)        | <b>Optima</b> (1)         |
| <b>inspect</b> (5)         | <b>lie</b> (1)        | <b>months</b> (1)       | <b>order</b> (1)          |
| <b>inspected</b> (1)       | <b>lift</b> (3)       | <b>motor</b> (4)        | <b>ordinary</b> (1)       |
| <b>installation</b> (2)    | <b>lights</b> (1)     | <b>motor's</b> (1)      | <b>originated</b> (1)     |
| <b>insurance</b> (8)       | <b>limit</b> (2)      | <b>move</b> (1)         | <b>ought</b> (1)          |
| <b>Insured</b> (1)         | <b>line</b> (16)      | <b>multiple</b> (1)     | <b>outlet</b> (1)         |
| <b>interested</b> (1)      | <b>lines</b> (11)     |                         | <b>owned</b> (1)          |
| <b>Interruption</b> (1)    | <b>listed</b> (1)     | < N >                   | <b>Owner</b> (2)          |
| <b>inventories</b> (1)     | <b>listen</b> (5)     | <b>name</b> (2)         | <b>owning</b> (1)         |
| <b>inventory</b> (8)       | <b>listens</b> (1)    | <b>nationwide</b> (1)   | <b>owns</b> (1)           |
| <b>involved</b> (1)        | <b>little</b> (7)     | <b>native</b> (1)       |                           |
| <b>involving</b> (2)       | <b>live</b> (2)       | <b>nature</b> (1)       | < P >                     |
| <b>issue</b> (2)           | <b>living</b> (1)     | <b>necessary</b> (1)    | <b>P.A</b> (1)            |
| <b>issued</b> (2)          | <b>LLC</b> (1)        | <b>need</b> (6)         | <b>PAGE</b> (8)           |
| <b>it'd</b> (1)            | <b>located</b> (1)    | <b>needed</b> (1)       | <b>pages</b> (1)          |
| <b>it'll</b> (5)           | <b>LOCATION</b> (2)   | <b>needs</b> (2)        | <b>paid</b> (2)           |
| <b>its</b> (2)             | <b>locked</b> (1)     | <b>neglected</b> (1)    | <b>papers</b> (1)         |
|                            | <b>long</b> (7)       | <b>neither</b> (1)      | <b>part</b> (2)           |
| < J >                      | <b>LONNIE</b> (3)     | <b>never</b> (1)        | <b>particular</b> (10)    |
| <b>January</b> (5)         | <b>look</b> (6)       | <b>new</b> (2)          | <b>PARTS</b> (18)         |

|                 |                  |                 |                  |
|-----------------|------------------|-----------------|------------------|
| party (1)       | purchase (1)     | researching (1) | sign (1)         |
| pay (2)         | purchaser (3)    | residential (1) | signature (2)    |
| pending (2)     | put (21)         | rest (1)        | simple (3)       |
| people (8)      | puts (2)         | rev (1)         | sir (77)         |
| percent (2)     | putting (1)      | right (45)      | sit (2)          |
| percentage (1)  | < Q >            | Road (4)        | situation (2)    |
| perfectly (1)   | question (14)    | room (1)        | six-month (1)    |
| person (1)      | questions (9)    | roughly (2)     | size (1)         |
| personally (2)  | quite (1)        | rude (1)        | skipping (1)     |
| phone (2)       | < R >            | rule (1)        | smoking (1)      |
| Photo (1)       | RACHAEL (3)      | run (6)         | sold (22)        |
| photograph (1)  | rack (2)         | running (4)     | somebody (2)     |
| pick (1)        | radiator's (1)   | < S >           | son (1)          |
| picked (1)      | radio (1)        | Safety (4)      | soon (1)         |
| picture (1)     | rained (1)       | sale (4)        | sorry (1)        |
| PINCKNEY (5)    | ran (6)          | SARAH (2)       | sort (3)         |
| pipe (3)        | rarely (2)       | save (1)        | sound (1)        |
| place (2)       | rattles (1)      | saw (8)         | source (1)       |
| places (1)      | reaches (1)      | saying (7)      | SOUTH (6)        |
| PLAINTIFF (1)   | read (2)         | says (4)        | specifically (1) |
| Plaintiffs (1)  | real (2)         | SC (3)          | spread (1)       |
| PLEAS (1)       | really (6)       | school (6)      | staff (2)        |
| please (3)      | reason (7)       | screen's (1)    | stalling (1)     |
| plugs (1)       | rebuilding (1)   | seal (1)        | stand (2)        |
| point (3)       | Recall (23)      | second (11)     | standard (1)     |
| position (1)    | recalled (2)     | see (23)        | stands (1)       |
| possibility (1) | recalls (10)     | seeing (1)      | Starburst (1)    |
| possible (3)    | Recess (1)       | seen (6)        | start (3)        |
| pour (1)        | reckon (1)       | SEIBELS (1)     | started (2)      |
| power (1)       | record (7)       | seizing (1)     | starting (1)     |
| practice (2)    | recorded (1)     | selection (1)   | STATE (3)        |
| PRESENT (1)     | records (1)      | sell (32)       | stated (1)       |
| president (1)   | referenced (1)   | selling (2)     | States (1)       |
| pressure (5)    | regard (2)       | sells (1)       | steel (3)        |
| pretty (2)      | related (2)      | send (3)        | step (1)         |
| prevalent (1)   | remember (6)     | sense (1)       | stick (2)        |
| probably (6)    | remembering (1)  | sent (3)        | Street (2)       |
| problem (9)     | REMOTE (1)       | September (1)   | strip (2)        |
| problems (4)    | replace (2)      | sets (1)        | strips (2)       |
| procedure (2)   | replaced (5)     | Settlement (4)  | structure (1)    |
| proceed (1)     | replacement (1)  | shape (1)       | structured (1)   |
| process (4)     | REPORTED (1)     | shelf (4)       | stuff (7)        |
| processed (4)   | REPORTER (5)     | shipped (2)     | subject (8)      |
| properly (1)    | representing (1) | shop (3)        | submitted (1)    |
| Proposed (2)    | requires (1)     | shops (1)       | subscribe (1)    |
| public (2)      | research (1)     | shop's (1)      | Suite (1)        |
| pull (1)        | researched (1)   | show (1)        | supposed (3)     |
| pulling (1)     |                  | shown (1)       | sure (15)        |
| pump (2)        |                  |                 | switch (1)       |

switched (1)  
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 tab (3)  
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 temperature (2)  
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 testing (1)  
 Thank (3)  
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 think (18)  
 Third (1)  
 THOMAS (1)  
 thought (1)  
 three (2)  
 TIME (18)  
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 Timmy (2)  
 TISDALE (28)  
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 Tom (1)  
 tore (1)  
 totaled (1)  
 touch (1)  
 training (1)  
 transaction (5)  
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 transcription (1)  
 transmission (2)  
 trouble (1)  
 true (3)  
 Truluck (1)  
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trying (3)  
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 type (10)  
 typically (3)  
  
 < U >  
 understand (14)  
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 < V >  
 variety (2)  
 various (1)  
 VARNADO (25)  
 vehicle (3)  
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 VERBATIM (3)  
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 Victory (1)  
 VIDEOCONFEREN  
 CE (1)  
 visually (1)  
 vs (1)  
  
 < W >  
 wacky (1)  
 waived (1)  
 want (6)  
 wanted (6)  
 warehouse (1)  
 warranty (3)  
 wash (3)  
 water (7)  
 way (9)  
 Well (50)  
 went (5)  
 we're (5)  
 we've (6)  
 what'd (3)  
 whatever's (1)  
 whatsoever (1)  
 wheels (1)  
 wind (1)

wires (1)  
 within-entitled (1)  
 WITNESS (12)  
 word (4)  
 work (2)  
 worked (1)  
 working (1)  
 worry (1)  
 would've (2)  
 wreck (1)  
 wrecked (4)  
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1 IN THE COURT OF COMMON PLEAS  
2 FOR THE STATE OF SOUTH CAROLINA  
3 CHARLESTON COUNTY

4 DEPOSITION OF TIMMY LEE

5 LONNIE HAMILTON, III, AND  
6 ZOE'LIA L. CULBREATH,

7 Plaintiffs,

8  
9 vs.

CASE NO. 2019-CP-10-06567

10  
11 301 AUTO PARTS, LLC,

12 Defendant.  
13  
14

15 DEPONENT: TIMMY LEE

16  
17 DATE: DECEMBER 10, 2020

18 TIME: 11:15 AM

19  
20 LOCATION: REMOTE VIDEOCONFERENCE

21 REPORTED BY: RACHAEL CLARK, CVR  
22 CERTIFIED VERBATIM REPORTER  
23 CLARK & ASSOCIATES, INC.  
24 CHARLESTON, SC 29405  
25 843-762-6294  
WWW.CLARK-ASSOCIATES.COM  
Office@clark-associates.com

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A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

HELLMAN, YATES & TISDALE, P.A.  
BY: THOMAS S. TISDALE  
105 Broad Street, Third Floor  
Charleston, SC 29401

ON BEHALF OF DEFENDANT:

THE SEIBELS LAW FIRM  
BY: CHRISTINE COMPANION VARNADO  
38 Broad Street, Suite 200  
Charleston, SC 29401

ALSO PRESENT: SARAH PINCKNEY

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INDEX

| EXAMINATION             | PAGE |
|-------------------------|------|
| BY MR. TISDALE          | 4    |
| CERTIFICATE OF REPORTER | 43   |

EXHIBITS

| NO. | DESCRIPTION            | PAGE |
|-----|------------------------|------|
| 1   | 301 Auto Parts Invoice | 9    |
| 2   | Official Check         | 25   |

1

## EXAMINATION

2 BY MR. TISDALE:

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Q. Mr. Lee, you're here represented today by your insurance company lawyer, Ms. Varnado. And so she may enter an objection occasionally to questions I ask, but I'm Tom Tisdale. I represent Mr. Lonnie Hamilton, who you've met, I think. And I'm just going to be asking you a few questions about -- just what you recall of the information you have about the transactions when you -- you all sold him one engine that was replaced by another engine.

And I just want to say that if I ask you anything that you don't understand -- I'm not going to try to do that, but if I do, would you please let me know so I can clarify the question and be certain you understand what I'm asking about?

A. Yes, sir.

Q. Can you do that? And also -- also, if you feel the need to speak with your lawyer -- your company's lawyer for any reason during this deposition, all you have to do is let me know and you will be allowed to do that.

And then I don't think this deposition

1 will take very long, but if you need to take a  
2 break for any reason -- for any reason whatever,  
3 just let me know and we'll certainly do that.

4 Okay?

5 A. Okay.

6 Q. Now, have you ever given a deposition  
7 before?

8 A. No, sir.

9 Q. Okay --

10 COURT REPORTER: Mr. Tisdale?

11 MR. TISDALE: Yeah. You want to go  
12 ahead and administer an oath?

13 COURT REPORTER: Yes, sorry to  
14 interrupt.

15 MR. TISDALE: The court reporter,  
16 Mr. Lee, is going to administer -- ask you to  
17 raise your right hand, and if you're able to,  
18 swear to tell the truth in this matter. So she's  
19 going to do that now.

20 TIMMY LEE,  
21 having been first duly sworn, was examined and  
22 testified as follows:

23 Q. (MR. TISDALE) Okay. Let's see -- there  
24 he is. I can see you fine. Can you see me okay?

25 A. Yes, sir.

1           Q. All right. Now, how long have you --  
2 first of all, do you live in Olanta, around  
3 there?

4           A. No, sir. I live in Pamplico.

5           Q. In where?

6           A. Pamplico, South Carolina.

7           Q. Oh, yeah. Pamplico. And have you  
8 always lived there? Did you grow up there?

9           A. No, sir.

10          Q. Where were you born?

11          A. Well, I was born in Florence, but I was  
12 raised in Coward, South Carolina.

13          Q. Raised in where?

14          A. Coward, South Carolina. It's a little  
15 town.

16          Q. A little town near Florence, isn't it?

17          A. Yes, sir.

18          Q. You were born in Florence?

19          A. I was born at the hospital in Florence,  
20 yes, sir.

21          Q. McLeod Hospital?

22          A. I don't know exactly which hospital it  
23 was.

24          Q. I'm just asking that because I was born  
25 in Florence too. So not that that's got a lot to

1 do with this particular situation, but anyway.

2 Did you go to school and where?

3 A. Lake City.

4 Q. And did you live in Lake City throughout  
5 your school experience?

6 A. No, sir. I lived in Coward.

7 Q. Okay. You lived in Coward, went to  
8 school in Lake City?

9 A. Yes, sir.

10 Q. Okay. And did you finish high school in  
11 Lake City?

12 A. Yes, sir.

13 Q. What year?

14 A. 1999.

15 Q. And what year were you born in?

16 A. I was born in 1981.

17 Q. Okay. And when you got out of high  
18 school, what did you do next in your life  
19 activities?

20 A. Well, I worked for myself for a while,  
21 and I moved over here about ten years ago.

22 Q. What did you do when you worked for  
23 yourself?

24 A. Landscaping work.

25 Q. All right. What did you do when you

1 quit landscaping?

2 A. I came to work at 301 Auto Parts.

3 Q. What year did you do that? Do you  
4 remember?

5 A. I don't know the exact date. It was  
6 around ten years ago.

7 Q. So if this is 2020, that would've been  
8 around 2010?

9 A. Yes, sir.

10 Q. What is your job at 301? I'm going to  
11 call it 301, but the name of the company is 301  
12 Auto Parts; is it not?

13 A. Yes, sir.

14 Q. So what is your job at 301?

15 A. I'm a salesman.

16 Q. All right. And what do you sell?

17 A. Parts for cars.

18 Q. And where do you get those parts?

19 A. Come off the cars that we get out here.  
20 I don't know exactly where they're bought or  
21 where they come from. I'm just a salesman.

22 Q. All right. And has that been your job  
23 since you started at 301 to be a salesman?

24 A. Yes, sir.

25 Q. Okay. How many salesmen does 301 have?

1           A.   Three.

2           Q.   Now, do you recall selling an engine to  
3 Mr. Hamilton for a Kia automobile?

4           A.   I do recall selling it to him, but I  
5 don't know when the exact date was.

6           Q.   Okay. I've got what has been marked for  
7 this deposition -- you know, we have exhibits,  
8 which are pieces of paper, and we put numbers on  
9 them for this deposition to refer to them. And  
10 I'm looking at Exhibit Number 1 that I guess is  
11 somewhere, I hope, available to you there where  
12 you are.

13                   But this one says Exhibit 1 at the top.  
14 It's a 301 Auto Parts invoice I guess we'd call  
15 it. Yeah. It's invoice number 148910, and it  
16 has your name on it. And it says on the invoice  
17 notes, Thanks for the order. With three  
18 exclamation marks. Timmy. Extension 5367. That  
19 would be you, wouldn't it?

20                   (Exhibit No. 1 was marked for  
21 identification.)

22           A.   Yes, sir.

23                   MS. VARNADO: Does he have the  
24 exhibit?

25                   MR. TISDALE: I don't know whether

1 he does or not. That's what I was asking. It's  
2 the one we handed in.

3 MS. PINCKNEY: He should have it  
4 there.

5 MR. TISDALE: He should have it  
6 there.

7 MS. VARNADO: Do you have the  
8 exhibit?

9 MR. TISDALE: Do you have the  
10 exhibit?

11 THE WITNESS: Not right in front of  
12 me, no, sir.

13 MR. TISDALE: Where are they? I  
14 mean, what do you mean not in front of you?  
15 Where would they be?

16 THE WITNESS: I don't have an  
17 exhibit, no, sir.

18 MS. VARNADO: Okay. We -- they  
19 were sent. I know Mr. Ard had them. They may be  
20 on his computer. Do you know how to access them?

21 THE WITNESS: You sent them by  
22 e-mail or --

23 MS. VARNADO: Why don't we take a  
24 break and let you go find Mr. Ard and ask him to  
25 show you where the exhibits are so you can look

1 at them as part of the deposition.

2 MR. TISDALE: Print them out if  
3 they need to be.

4 THE WITNESS: Okay.

5 MR. TISDALE: Probably save us a  
6 little bit of time.

7 THE WITNESS: Okay.

8 MR. TISDALE: Are you going to go  
9 do that now? Take your time. Take your time.

10 (Recess.)

11 Q. (MR. TISDALE) Now, if I can recall what  
12 I was getting ready to ask you after all that,  
13 this is an invoice, is it not, Exhibit 1? You  
14 can start to look at it as we go through. This  
15 is invoice number 148910. Did you prepare this  
16 invoice?

17 A. Yes, sir.

18 Q. And is this for the sale of an engine to  
19 Mr. Lonnie Hamilton?

20 A. Yes, sir.

21 Q. And -- I'm just getting it in the record  
22 and -- from what we're looking at -- and the  
23 amount he bought this engine for was \$1,828,  
24 wasn't it? \$1828?

25 A. \$1828. Yes, sir.

1           Q. And what kind of engine was it that you  
2 sold to him?

3           A. It says, 2013 Kia Optima.

4           Q. All right. Had you had any experience  
5 with those engines before this, to your  
6 knowledge?

7           A. I have probably sold them, but I'm  
8 really not -- I don't have any experience with  
9 them. I have sold them, but I don't --

10          Q. Okay. And the next little block down  
11 from stock number it says, CORE-DUE 2 ENGINE  
12 ASSEMBLY. What does that mean? Do you see what  
13 I'm talking about?

14          A. Yeah. That is the core charge for the  
15 old engine.

16          Q. The what?

17          A. The core --

18                   MS. VARNADO: I apologize. I'm  
19 having computer issues. And so it's freezing.  
20 Let me see if I can get that fixed, please.

21                   MR. TISDALE: Certainly. We'll  
22 just standby. We're going to standby. We can't  
23 -- we'll wait for her to get back.

24                   (Technical interruption.)

25          Q. (Mr. TISDALE) I was asking you about

1 this invoice, Exhibit 1, and the language on it  
2 says, CORE-TWO -- due, I'm sorry. Due. Two  
3 engine assembly. And apparently the charge for  
4 whatever that is is \$100. Could you explain to  
5 me what core-due two engine assembly means on  
6 this invoice? I just don't know anything about  
7 that, and I'm just trying to figure out what it  
8 means.

9 A. That is the core charge for the old  
10 engine.

11 Q. The core charge for the old engine?

12 A. The core charge for the engine. Some  
13 engines have core charges --

14 Q. What is a core charge? What is a core  
15 charge?

16 A. The core charge is for the core engine  
17 out of the car.

18 Q. Am I understanding you to be saying to  
19 take the engine out of the car, remove it from  
20 the car?

21 A. That is correct.

22 Q. Okay. And so who would -- in this case,  
23 Mr. Hamilton was buying a new engine. I mean,  
24 not a new engine, but an engine from you for his  
25 car. And does this mean that someone removed the

1 engine that he was getting rid of to install the  
2 new one -- the new used one?

3 A. The core charge is completely up to the  
4 customer itself. They may want to keep their  
5 core engine and just pay the core charge. The  
6 option of the core is under their discretion.

7 Q. I understand. But does core -- that is  
8 the engine? That's what a core is, the engine  
9 that is to be taken out of the car to make room  
10 for the one to be replacing it? Am I right? I'm  
11 just trying to figure out the process.

12 A. The core is the engine itself.  
13 Compressor, alternator. Different engines --  
14 different parts have different core charges.

15 Q. Okay. So just tell me if I'm right or  
16 wrong. I think I understand now what you're  
17 talking about.

18 When you sold this engine to Mr.  
19 Hamilton, the old engine needed to be taken out,  
20 correct, to make room for the new one? For the  
21 new used one. Is that right?

22 A. Yes.

23 Q. All right. And who would take out the  
24 old engine, physically take it out?

25 A. I don't know who took it out of his car.

1 I sent the engine to Russell Jenkins Paint &  
2 Body. That's where he told me to send it.

3 Q. All right. So it wouldn't be anybody  
4 from 301, would it?

5 A. No, sir.

6 Q. All right. And why was he charged \$100  
7 for that if you all didn't take it out?

8 A. I didn't understand the question. Can  
9 you repeat that one more time?

10 Q. Well, the way I'm reading it, it says,  
11 Core-Due, and you've explained that that's the  
12 old engine. And then it says there's a \$100  
13 charge. What is the \$100 charge for?

14 A. The \$100 charge is for the core itself.  
15 Whether the customer keeps the core or sends the  
16 core back is completely up to him.

17 Q. Okay. But what is the \$100 charge for?

18 A. It's for the core engine.

19 Q. Okay.

20 MS. VARNADO: So let me clear this  
21 up. That is if they give the core back -- if  
22 they give the old engine to 301, they'll give the  
23 customer a \$100 refund.

24 MR. TISDALE: Okay. So in other  
25 words, they -- but this is a \$100 charge, as I

1 see it.

2 MS. VARNADO: If they give the core  
3 back -- if the customer let's 301 have the core,  
4 then they get a \$100 refund.

5 MR. TISDALE: All right.

6 MS. PINCKNEY: Which we have the  
7 \$100 refund.

8 MR. TISDALE: Okay. I'm told that  
9 another exhibit sort of shows the refund.

10 MS. VARNADO: Right.

11 (Discussion off the record.)

12 Q. (MR. TISDALE) I don't think this is an  
13 issue that we need to get bogged down in. I was  
14 just unclear as to what the core was. I  
15 understand it's the engine in the car and that it  
16 either comes back to 301 or it is kept by whoever  
17 has it, right? Right, Mr. Lee?

18 A. I mean, it would be at that shop. Yeah,  
19 I would say so.

20 Q. It did not come back to 301?

21 A. The core?

22 Q. Yeah.

23 A. I never seen the core, no, sir.

24 Q. I believe -- I don't think we need to  
25 learn any more about the core right now.

1 (Discussion off the record.)

2 Q. (MR. TISDALE) All right. Now, I'm just  
3 going to ask you a few questions about this  
4 particular transaction, to the extent you  
5 remember. If you don't remember, of course,  
6 don't try -- in other words, just tell us what  
7 you know about it. If you don't know, you don't  
8 know. If you do, you do. No problem. But do  
9 you remember Mr. Hamilton contacting you about  
10 buying this engine?

11 A. I remember speaking to him when he  
12 ordered it, yes, sir.

13 Q. This was on the telephone?

14 A. On the telephone, yes, sir.

15 Q. All right. And do you remember what he  
16 wanted, what he ordered? You can look at the  
17 invoice if you need to.

18 A. The invoice says, '13 Kia Optima. I  
19 don't recall, but that's what's on the invoice.

20 Q. As far as you know, that's what he  
21 bought?

22 A. Sir?

23 Q. Is that what he bought from 301?

24 A. Yes, sir.

25 Q. All right. And what did you do after

1 receiving the order?

2 A. I made this ticket right here.

3 Q. Okay. What did you do after making the  
4 ticket?

5 A. I didn't do anything. The guys in the  
6 back loaded it up on the truck and they delivered  
7 it to him.

8 Q. And I assume that Mr. Hamilton asked you  
9 to ship it to this place called Russell Jenkins  
10 Paint & Body shop?

11 A. Yes.

12 Q. Anything else about that aspect of it  
13 that you had anything to do with?

14 A. I mean, I don't remember exactly what we  
15 spoke about on the phone.

16 Q. Okay.

17 A. I know he ordered the engine and told me  
18 to send it and gave me the address to send it to  
19 and I --

20 Q. North Charleston?

21 A. Yes, sir.

22 Q. Had you had any experience with the --  
23 do you have any -- first, let me go back a  
24 minute. Excuse me. Do you have any experience  
25 checking the engines before they are sold to see

1 if they are in good working order, have any  
2 problems?

3 A. No, sir. I don't do that. I'm just a  
4 salesman. We -- they have people in the back  
5 that crank the cars and stuff, if they can crank  
6 them, but I'm just a salesman.

7 Q. All right. Do they do anything other  
8 than see if they will crank, these people who  
9 inspect them?

10 MS. VARNADO: Objection.

11 Q. Do you know? Do you know if they do  
12 anything other than see if the engines will crank  
13 when they inspect them?

14 A. They have a process of things that they  
15 do. I don't know exactly what they do. Like I  
16 said, I work in the office.

17 Q. All right. Do you know if they have --  
18 strike that. What do they do to -- what do they  
19 do to ensure that the engine they are selling  
20 through you as salesman is in good working order?

21 A. I'm not exactly sure of the process. I  
22 don't know. I go by what's in the computer, and  
23 if you look at that invoice, it says ran good on  
24 the invoice. That's what I see.

25 Q. It says what?

1           A. It says, Federal emissions, 2.4L- RAN  
2   GOOD.

3           Q. Yeah. Ran good, right? Is that  
4   referring to the engine?

5           A. Yes, sir.

6           Q. Okay. Had you heard -- heard or  
7   received any information that there had been any  
8   kind of problem with Kia engines catching on  
9   fire?

10          A. No, sir.

11          Q. And would there be a way for 301 to  
12   check to see if any of these engines had caught  
13   on fire in use? Do you know? Would you all be  
14   able to check that if you wanted to?

15                   MS. VARNADO: Objection. He's not  
16   offered for the business, Tom. He's individual.

17                   MR. TISDALE: I'm just asking him  
18   what he knows, that's all. Christie, I guess  
19   it's all right, but we're not seeing your  
20   picture, but I guess you know that and it's  
21   certainly okay, but --

22                   MS. VARNADO: Yeah, you're not  
23   seeing my picture because that's -- I need that  
24   so that I won't freeze up, but -- so yeah. But I  
25   can hear you and I can see you all.

1                   MR. TISDALE: But I can't see Mr.  
2 Lee. It is -- I can only see his little old box  
3 up there.

4                   (Technical interruption)

5           Q. (MR. TISDALE) Mr. Lee, I think I was  
6 asking you this: Obviously you all have  
7 computers that you use in your business, do you  
8 not?

9           A. Yes, sir.

10          Q. And do you have access to the computers  
11 at 301 Auto Parts?

12          A. I have access to my computer.

13          Q. Okay. Well, that's a computer for use  
14 at 301 Auto Parts, is it not?

15          A. Yes. I use it everyday, yes, sir.

16          Q. You use it everyday, right?

17          A. Yes, sir.

18          Q. All right. So do you know whether  
19 anybody at 301 Auto Parts has ever looked online  
20 to check to see if any recalls have been issued  
21 on any of the engines it sells?

22          A. I don't know, sir. I can't answer about  
23 what other people do. I don't know.

24          Q. Have you?

25          A. Have I done it?

1 Q. Yes, sir.

2 A. No.

3 Q. All right. And just to come down to  
4 this invoice a little bit, have you ever -- have  
5 you -- I know you've answered the question, but  
6 just for the record, have you ever used your  
7 computer to check online to see if Kia Motors has  
8 ever issued any recalls for engines that were  
9 prone to catch on fire?

10 A. No, sir.

11 Q. Okay. And you have not done that on  
12 your computer?

13 A. No.

14 Q. Do you know of anyone else at 301 Auto  
15 Parts who has made such a check as I have asked  
16 you about that you have not done?

17 A. I don't know. I don't know. I don't  
18 know if they have or they have not. I can't  
19 answer for what they do.

20 Q. Okay. Have you ever heard any  
21 conversation among the people -- between the  
22 people at 301 Auto Parts that Kia engines have  
23 been subject to recalls for engine fire  
24 possibilities?

25 A. No.

1           Q.   Okay.  All right.  Now, just so we'll  
2 understand the transaction here with Mr.  
3 Hamilton.  This invoice was prepared by you, was  
4 it not, **Exhibit 1**, that we are looking at on your  
5 computer?

6           A.   Yes.

7           Q.   And after you prepared that invoice,  
8 what happens to get the engine to Mr. Hamilton?

9           A.   Well, the customer makes the order, a  
10 pull ticket is made for it, then the guys in the  
11 back at the warehouse, they wash -- you know,  
12 take the engine off the shelf, wash it, turn it,  
13 place heat tabs on it, and then it's loaded on  
14 the truck and it's delivered the next day.

15          Q.   All right.  And in this case it was sent  
16 down to North Charleston to Russell Jenkins'  
17 shop, was it not?

18          A.   Yes.

19          Q.   Now, Mr. Ard talked about those heat  
20 tabs.  I just want to ask you a minute about  
21 those heat tabs.  What are those heat tabs for?  
22 Why do you put them on the engine?

23          A.   That's the only way you can tell if the  
24 engine has been run hot.

25          Q.   Okay.  And what is the significance of

1     that?  Why do you all want to know if the engine  
2     has run hot?

3             A.  Because when the engine overheats, it  
4     warps the valves and stuff like that, the head,  
5     messes it up.

6             Q.  You mean -- and would I be correct that  
7     you do that in case the client has problems with  
8     the engine as you described with the valves and  
9     so forth, and it's caused by heat.  Those heat  
10    tabs will indicate that; is that right?

11            A.  I don't really understand that question.

12            Q.  Okay.  What is the purpose of the heat  
13    tabs?

14            A.  The heat tabs are to make sure that the  
15    engine has not been run hot and the proper fluids  
16    have been put in it.

17            Q.  All right.  Now, would those heat tabs  
18    also give an indication if the engine had caught  
19    on fire?

20            A.  I don't know.

21            Q.  Don't know.

22            A.  I mean, I don't know if it burns up.  I  
23    don't know.

24            Q.  Okay.  Now, Mr. Hamilton, according to  
25    the invoice, paid \$1828 for the first engine,

1 correct?

2 A. Yes.

3 Q. And that included -- all right. And  
4 this is Exhibit 2 that we're talking about. You  
5 don't need to look at it. We agree on the price,  
6 but you can.

7 (Exhibit No. 2 was marked for  
8 identification.)

9 A. Exhibit 2 is the check?

10 Q. Yeah.

11 A. Okay.

12 Q. How much did Mr. Hamilton pay for the  
13 engine based on that check?

14 A. What was the question? I'm sorry, I  
15 didn't hear you.

16 Q. I'm sorry. How much did Mr. Hamilton  
17 pay for the engine? And you may refer to the  
18 check if you want to.

19 A. \$1,828.

20 Q. All right. Now -- and that was  
21 delivered, according to the invoice -- well, the  
22 invoice is dated 6/11/19, June 11th, '19, and was  
23 shipped on the same day. And it was received by  
24 him the next day at the latest, wasn't it? The  
25 engine. The first engine.

1           A. Hold on. Let me get back to the  
2 invoice. It should have been shipped on the  
3 11th.

4           Q. Yeah. And gotten it that day or the  
5 next, right?

6           A. Yes.

7           Q. All right. Now, were you notified at  
8 some point that that engine would not -- had  
9 defects and wouldn't work?

10          A. Yes, sir.

11          Q. Who notified you?

12          A. Mr. Hamilton.

13          Q. All right. And what did you tell Mr.  
14 Hamilton to do under those circumstances since  
15 the engine wouldn't work?

16                 Well, first of all, let me go back, Mr.  
17 Lee. What did Mr. Hamilton tell you?

18          A. I really don't remember the conversation  
19 word for word, sir. It's been a year ago.

20          Q. All right. Well, I'm not asking word  
21 for word. What was the import of the message  
22 that he was sending you in the conversation?

23          A. He let me know that the shop had put the  
24 engine in and it was bad.

25          Q. Did he -- and what did you say to him?

1           A. I told him that I could -- I don't know  
2 exactly what I told him. Nine out of ten times,  
3 I tell the customer that if we have another  
4 engine that I can give them another one -- send  
5 another engine or if we don't have another  
6 engine, we give them their money back.

7           Q. And in this case, what did you do?

8           A. We had another engine and we sent him  
9 another engine.

10          Q. And did you do anything to check that  
11 second engine that you didn't do on checking the  
12 first engine before -- checking it for, you know,  
13 quality before you sent it or was it the same  
14 process?

15          A. It should have been the same process. I  
16 don't know. Like I said, I'm a salesman.

17          Q. Do you remember if you asked Mr.  
18 Hamilton what was wrong with the engine that he  
19 was calling about?

20          A. I don't know. I can't remember. I  
21 don't --

22          Q. But did you send another engine down to  
23 him?

24          A. I did. I sent -- I don't know if it  
25 went to the same place. I think the second one

1     went to another place. I'm not sure.

2             Q.    Okay.

3             A.    But I sent him a second engine.

4             Q.    Yeah. Well, you did not go down to  
5     North Charleston to see about it, did you?

6             A.    No, sir.

7             Q.    Did anyone from 301 go down to North  
8     Charleston to see what was wrong with the first  
9     engine?

10            A.    Not that I'm aware of, no, sir.

11            Q.    And was the first engine returned to  
12     your company, 301? The one that had gone bad or  
13     wouldn't work?

14            A.    I'm pretty sure they picked the first  
15     engine up when they deliver the second one. I'm  
16     not sure. I can't remember.

17            Q.    Well, if you did pick it up, would you  
18     have picked it up in North Charleston? Would you  
19     have done that or somebody else?

20            A.    I wouldn't have done that, no, sir. I  
21     work at the office everyday.

22            Q.    All right. Well, I'm just trying to  
23     figure out if you know, maybe you don't, how --  
24     how does the second engine get delivered and how  
25     does the first engine -- what happens to the

1 first engine?

2 A. When you say first engine, is that the  
3 engine out of the car or the first engine I  
4 delivered to him?

5 Q. That you delivered to him.

6 A. The first engine should have been picked  
7 up whenever they took the second engine if they  
8 had it out. If they didn't have -- the shop  
9 didn't have the first engine out, they would've  
10 called and we would pick it up.

11 Q. Okay. But in any case, your company  
12 would've picked it up -- somebody would from your  
13 company?

14 A. Supposedly, yes, sir. I can't remember  
15 every specific about it. It's been a long time.

16 Q. I understand. I understand that. I'm  
17 just asking you questions so we'll know what you  
18 know. That's -- and I don't want to try to  
19 answer a question you don't know the answer to  
20 for whatever reason.

21 Well, what -- did you examine the  
22 defective engine that was brought back to 301,  
23 which would've been the first one that you sold?

24 A. No, sir. I'm just a salesman. I don't  
25 examine the cars.

1 Q. Do you know who examined that engine to  
2 find out what was wrong with it, if anybody did?

3 A. I don't know.

4 Q. What does the company, 301, normally do  
5 when an engine is returned -- a defective or  
6 problematic engine is returned to it? What is  
7 the process for getting it back in inventory, if  
8 that is done?

9 A. If it's defective, they usually core it.  
10 It's not put back in inventory.

11 Q. You just dispose of it somehow?

12 A. Yes, sir.

13 Q. That's an interesting question, not that  
14 it's got much to do with this, but what do they  
15 do with one they just want to get rid of? Is it  
16 sold for scrap or something?

17 A. I know they go in a bin. I don't know  
18 what they do with them.

19 Q. They go in a what?

20 A. They go in a bin. I don't know what  
21 they do with them.

22 Q. Okay. Does this happen very often that  
23 you sell a defective engine that has to be  
24 brought back?

25 A. No, sir.

1           Q. All right. And so the second engine was  
2 sent to the same place as the first engine; is  
3 that correct?

4           A. I don't think so. I'm not sure. There  
5 should be an invoice for it. Without looking at  
6 the invoice, I can't tell you exactly where it  
7 went.

8           Q. All right. Are you aware of what  
9 happened to the automobile after the second  
10 engine was installed?

11          A. Yes. I remember him calling me and  
12 telling me that his car burnt.

13          Q. All right. Did he give you any details  
14 of that?

15          A. Not -- no. Not that I remember. He  
16 just told me that the car burnt up.

17          Q. Did he say that the engine caught on  
18 fire or not?

19          A. I don't remember exactly what he said.  
20 All I know is that he told me that the car burnt.

21          Q. And what did you say to him when he made  
22 that report?

23          A. I asked him what did he want me to do.

24          Q. And what did he say?

25          A. He didn't really -- he didn't ever

1 really say. I mean, I don't know. He told me  
2 that he had a warranty, a 180-day warranty.

3 Q. Yeah.

4 A. And I told him that, you know, the  
5 engine wasn't burnt when he received it. You  
6 know, I didn't know what he wanted me to do.

7 Q. Well, does the company have a policy of  
8 replacing engines that -- in a circumstance like  
9 this?

10 MS. VARNADO: Objection. You can  
11 go ahead and answer.

12 Q. Did you understand my question, Mr. Lee?

13 A. My computer went off. I was waiting on  
14 it to come back on.

15 Q. I'm sorry. Did you understand the  
16 question that I asked you just now?

17 A. You can ask it one more time, if you  
18 don't mind.

19 Q. Well, I'm trying to remember what I  
20 asked. What is the policy of 301 to do when an  
21 engine that is sold to a customer catches on fire  
22 and burns the car up?

23 MS. VARNADO: Objection.

24 Q. What is the policy of the company?

25 A. I don't know. We've never had one do

1 this before.

2 Q. Okay. So far as you know, there's no  
3 policy or am I wrong or is there a policy?

4 A. I don't know. This is the first time  
5 that anybody's car's burnt and they want us to do  
6 something about it. I don't -- I don't know.

7 Q. So you don't know what the policy is, if  
8 there is one?

9 A. No, sir.

10 Q. Okay. After the fire in the car that  
11 Mr. Hamilton told you about, did you tell him  
12 what he ought to do or give him any advice or  
13 instructions as to what to do about the car and  
14 the engine?

15 A. Not that I'm aware of, no. Like I said,  
16 I can't remember what we talked about on the  
17 phone a year ago.

18 Q. Did he appear to be upset that the car  
19 had burned up -- the engine in the car had burned  
20 up?

21 A. I don't know. I mean, I imagine he was  
22 upset. I don't know how he felt.

23 Q. Okay. Have you had any complaints about  
24 Kia engines generally that you've sold?

25 A. No, sir.

1 Q. Besides your dealing with Mr. Hamilton?

2 A. No, sir.

3 Q. Have you ever given a -- I might've  
4 asked you this. Have you ever given a deposition  
5 like this before?

6 A. No, sir.

7 Q. All right. Have you been aware of any  
8 claims that have been made against 301 Auto Parts  
9 for defective engines, other than this case?

10 A. I don't know. I'm not aware.

11 Q. You're not aware of -- are you aware of  
12 any?

13 A. I don't know. I don't know if any's  
14 ever been made or not. I'm just a salesman.

15 Q. Okay. Did 301 charge Mr. Hamilton  
16 anything for the second engine that was sent to  
17 him?

18 A. I don't remember it. There should be an  
19 invoice for it. I don't know without looking at  
20 the invoice. I'm not sure. I can't answer that.  
21 I don't know.

22 Q. Don't know. All right. Bear with me  
23 for just a minute. I'm trying to save a little  
24 time. I think I asked you this. I know I asked  
25 you whether you checked on a computer for Kia

1 recalls, and I think you said you didn't, but if  
2 I'm wrong, correct that, but have you ever  
3 checked for recalls on any engine that you've  
4 sold before selling it -- before delivering it,  
5 to your knowledge?

6 A. No, sir, not that I'm aware of.

7 Q. All right. Is there anything that  
8 prevents you from doing that if you wanted to?

9 A. One more -- what's the question one more  
10 time. What's the question?

11 Q. I asked you earlier just now before this  
12 whether you checked on your computer about  
13 recalls, and you said, no, you hadn't, I think  
14 was your answer. You had not done that. Is that  
15 a correct answer that you gave?

16 A. Yes.

17 Q. All right. This is a follow-up to that.  
18 I think my question was could you do that if you  
19 decided you wanted to?

20 A. Our phone never quits ringing. I mean,  
21 I don't have time to check every engine or every  
22 thing that we sell. There's no way.

23 Q. If someone in the company that was ahead  
24 of you in the structure, like Mr. Ard for  
25 example, if he told you to check to see if this

1 engine have been recalled by a particular  
2 company, would you be able to do that?

3 A. So what's the question?

4 Q. The question is: If Mr. Ard asked you  
5 to check -- make a search to see if a particular  
6 engine had been subject to a recall by its  
7 manufacturer, would you be able to do that?

8 A. I would not have time, no, sir.

9 Q. Well, assuming you had the time, would  
10 you be able to do it?

11 A. So assuming I had the time -- is that  
12 the -- what's the question? Assuming I had the  
13 time, would I be able to do it?

14 Q. Yeah.

15 A. I don't know.

16 Q. Well, I mean, why couldn't you if Mr.  
17 Ard wanted you to?

18 MS. VARNADO: Objection.

19 Q. Are you able to answer that question,  
20 Mr. Lee?

21 A. Okay. What was the question? The  
22 computer keeps cutting off when you all object.

23 MR. TISDALE: Huh?

24 THE WITNESS: My computer goes  
25 black when you all object.

1 MR. TISDALE: I'm not objecting.

2 MS. PINCKNEY: Christie did.

3 MR. TISDALE: Oh, did she object to  
4 that question?

5 MS. PINCKNEY: Yeah.

6 MR. TISDALE: I didn't think she  
7 did.

8 Q. (MR. TISDALE) Okay. All right. Just  
9 to be clear then, I'm going to try one more time.  
10 If Mr. Ard or someone else in the company with  
11 authority asked you to check online if a  
12 particular engine had been recalled by its  
13 manufacturer, would you be able to do that and  
14 meet that request and give them an answer?

15 A. No, sir.

16 Q. Why?

17 A. The phone never quits ringing. The  
18 phone -- our phone never quits ringing here.  
19 There is no way that I would have time to do  
20 that.

21 Q. Okay. I haven't -- well, I won't get  
22 into whether or not the phone's been ringing  
23 during the deposition, but that's another matter.  
24 But, Mr. Lee, I'm going to try one more time.

25 Assuming you had the time -- forget

1 about the time factor for this question. If Mr.  
2 Ard or someone else in authority in the company  
3 asked you to check online to see if a particular  
4 engine had been recalled by its manufacturer  
5 prior to the date this request was made, would  
6 you be able to do that, assuming you had time to  
7 do it?

8 A. I don't understand the question. This  
9 is assuming that I would or -- I don't understand  
10 the question you're asking.

11 Q. All right. I'm going to break it down.

12 If Mr. Ard says to you, or someone else  
13 in authority, we have an order for an engine --  
14 Mr. Ard's saying this or somebody like him --  
15 will you go find out whether that engine has been  
16 recalled by the manufacturer for any defects? Do  
17 you understand what I've said so far? If Mr. Ard  
18 or somebody asked you that question. Do you  
19 understand that so far?

20 A. Yes.

21 Q. Okay. And you are not otherwise  
22 occupied with something else you had to do and  
23 you had 30 minutes free time at that point, could  
24 you go to your computer and check for Mr. Ard to  
25 meet his request to see if that engine had been

1     recalled.  Would you be capable of doing that?

2             A.  I still don't really understand the  
3     question.  Are you asking me if my boss asked me  
4     to do something, would I do it?  I mean, I don't  
5     understand what you're asking.

6             Q.  Yes.  Let's take that as number one.  
7     Would you?

8             A.  What's the question?  I'm asking you  
9     what your question is.

10            Q.  Okay.  You posed it quite nicely just  
11     now.  If Mr. Ard, or your boss, asked you to do  
12     something, would you do it?

13            A.  Yes.

14            Q.  Number one, we got that.  Number two, if  
15     the request was to go online on your computer,  
16     would you be able to do that?

17            A.  Yeah.  I got a computer, yes, sir.

18            Q.  Okay.  And if the question was to go  
19     online and search -- make a search to see if a  
20     particular engine that 301 was getting ready to  
21     sell had ever been recalled, could you do that  
22     search?

23            A.  No.  I don't have time to do research,  
24     sir.

25            Q.  I didn't say research.  I said search.

1           A.   No.

2           Q.   Do you know how to operate a computer?

3           A.   I do.

4           Q.   All right.  And do you search things on  
5 the computer to find out information?

6           A.   No.  Our computer system isn't searching  
7 things.  It's just inventory.

8           Q.   Well, you search inventory, don't you?

9           A.   Yes.

10          Q.   All right.  And are you saying that you  
11 could not answer Mr. Ard's question if he asked  
12 you to find out if an engine had previously been  
13 recalled?

14          A.   Our computer doesn't say that, no.  It's  
15 just got the parts that we have in inventory.

16          Q.   Okay.  So then would I be correct that  
17 you are unable to find out that information?

18          A.   Yes.  If that's the question you're  
19 asking.  I don't understand the question is what  
20 I was trying to tell you a while ago.

21          Q.   I've asked it about ten times, and I  
22 don't think I'm going to ask it anymore.  But I  
23 think I just heard you say that the company has  
24 no capability to find out whether an engine has  
25 been recalled or not; am I correct?

1 MS. VARNADO: Objection.

2 Q. Am I correct?

3 MS. VARNADO: Same objection.

4 MR. TISDALE: She's objected, and  
5 her objection's on the record, but you can still  
6 answer. Christie, is your computer locked up  
7 again?

8 MS. PINCKNEY: No. Timmy's is.

9 MS. VARNADO: No. I don't think  
10 so.

11 MR. TISDALE: Just wanted to be  
12 sure because we couldn't see you.

13 MS. PINCKNEY: Timmy's is though, I  
14 think.

15 MR. TISDALE: Timmy, is yours  
16 locked up?

17 THE WITNESS: No. I'm right here.

18 Q. (MR. TISDALE) Okay. Does the company  
19 -- I'm going to ask this question one more time.  
20 She's objected to it. Subject to her  
21 objection -- and I think she would say answer it  
22 if you can if you know the answer, and yes or no  
23 would be fine if it can be answered that way.

24 Does 301 Auto Parts have the capability  
25 of determining whether or not an engine it sells

1 to a customer has been previously recalled by the  
2 engine's manufacturer?

3 A. I don't know. I know my computer shows  
4 inventory. I don't know what everybody else's  
5 does.

6 Q. All right. So the answer to my question  
7 is -- am I correct -- is that you don't know?

8 A. That's correct.

9 Q. Good enough.

10 (Discussion off the record.)

11 MR. TISDALE: Christie, I don't  
12 think we have anymore questions. Mr. Lee has  
13 done a good job answering our questions, and we  
14 appreciate it. And if you -- if your lawyer has  
15 any questions, Mr. Lee, please answer them for  
16 her.

17 MS. VARNADO: Thank you. No, I  
18 don't have any questions. So we can end the  
19 deposition.

20 MR. TISDALE: Thank you very much.

21 THE WITNESS: Thank you.

22 (The deposition was concluded at  
23 12:22.)

24

25

1 CERTIFICATE OF REPORTER  
2 STATE OF SOUTH CAROLINA  
3 COUNTY OF KERSHAW

4 I, RACHAEL CLARK, Certified Verbatim  
5 Reporter and Notary Public for the State of South  
6 Carolina at Large, do hereby certify that the  
7 witness in the foregoing deposition was by me  
8 duly sworn to testify to the truth, the whole  
9 truth and nothing but the truth in the  
10 within-entitled cause; that said deposition was  
11 taken at the time and location therein stated;  
12 that the testimony of the witness and all  
13 objections made at the time of the examination  
14 were recorded by me and were thereafter  
15 transcribed by computer-aided transcription; that  
16 the foregoing is a full, complete and true record  
17 of the testimony of the witness and of all  
18 objections made at the time of the examination;  
19 and that the witness was given an opportunity to  
20 read and correct said deposition and to subscribe  
21 the same.

22 Should the signature of the witness not  
23 be affixed to the deposition, the witness shall  
24 not have availed himself/herself of the  
25 opportunity to sign or the signature has been  
waived.

26 I further certify that I am neither  
27 related to nor counsel for any party to the cause  
28 pending or interested in the events thereof.

29 Witness my hand, I have hereunto affixed  
30 my official seal on January 23, 2021 at Kershaw  
31 County, South Carolina.

32

33

34

35

36

37

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39

RACHAEL CLARK  
CERTIFIED VERBATIM REPORTER  
CVR (South Carolina)  
My Commission expires  
September 23, 2030

**WORD INDEX**

&lt; \$ &gt;

**\$1,828** 11:23 25:19**\$100** 13:4 15:6, 12,  
13, 14, 17, 23, 25  
16:4, 7**\$1828** 11:24, 25  
24:25

&lt; 1 &gt;

**1** 3:10 9:10, 13, 20  
11:13 13:1 23:4**10** 1:17**105** 2:5**11:15** 1:17**11th** 25:22 26:3**12:22** 42:23**13** 17:18**148910** 9:15 11:15**180-day** 32:2**19** 25:22**1981** 7:16**1999** 7:14

&lt; 2 &gt;

**2** 3:11 12:11 25:4,  
7, 9**2.4L** 20:1**200** 2:9**2010** 8:8**2013** 12:3**2019-CP-10-06567**  
1:6**2020** 1:17 8:7**2021** 43:17**2030** 43:22**23** 43:17, 22**25** 3:11**29401** 2:6, 10**29405** 1:23

&lt; 3 &gt;

**30** 38:23**301** 1:11 3:10 8:2,  
10, 11, 14, 23, 259:14 15:4, 22 16:3,  
16, 20 17:23 20:11  
21:11, 14, 19 22:14,  
22 28:7, 12 29:2230:4 32:20 34:8,  
15 39:20 41:24**38** 2:9

&lt; 4 &gt;

**4** 3:4**43** 3:6

&lt; 5 &gt;

**5367** 9:18

&lt; 6 &gt;

**6/11/19** 25:22

&lt; 8 &gt;

**843-762-6294** 1:23

&lt; 9 &gt;

**9** 3:10

&lt; A &gt;

**able** 5:17 20:14

36:2, 7, 10, 13, 19

37:13 38:6 39:16

**access** 10:20 21:10,  
12**activities** 7:19**address** 18:18**administer** 5:12, 16**advice** 33:12**affixed** 43:13, 16**ago** 7:21 8:6  
26:19 33:17 40:20**agree** 25:5**ahead** 5:12 32:11  
35:23**allowed** 4:24**alternator** 14:13**amount** 11:23**answer** 21:22  
22:19 29:19 32:11  
34:20 35:14, 1536:19 37:14 40:11  
41:6, 21, 22 42:6, 15**answered** 22:5

41:23

**answering** 42:13**anybody** 15:3

21:19 30:2

**anybody's** 33:5**anymore** 40:22  
42:12**any's** 34:13**anyway** 7:1**apologize** 12:18**apparently** 13:3**appear** 33:18**appreciate** 42:14**Ard** 10:19, 24  
23:19 35:24 36:4,  
17 37:10 38:2, 12,

17, 24 39:11

**Ard's** 38:14 40:11**asked** 18:8 22:1527:17 31:23 32:16,  
20 34:4, 24 35:1136:4 37:11 38:3,  
18 39:3, 11 40:11,

21

**asking** 4:8, 17 6:24  
10:1 12:25 20:17

21:6 26:20 29:17

38:10 39:3, 5, 8

40:19

**aspect** 18:12**ASSEMBLY** 12:12

13:3, 5

**ASSOCIATES** 1:22**assume** 18:8**assuming** 36:9, 11,  
12 37:25 38:6, 9**authority** 37:11  
38:2, 13**AUTO** 1:11 3:10  
8:2, 12 9:14 21:11,  
14, 19 22:14, 22

34:8 41:24

**automobile** 9:3

31:9

**available** 9:11**availed** 43:13**aware** 28:10 31:8  
33:15 34:7, 10, 11

35:6

&lt; B &gt;

**back** 12:23 15:16,  
21 16:3, 16, 20 18:6,  
23 19:4 23:11

26:1, 16 27:6

29:22 30:7, 10, 24  
32:14**bad** 26:24 28:12**based** 25:13**Bear** 34:22**BEHALF** 2:3, 6**believe** 16:24**bin** 30:17, 20**bit** 11:6 22:4**black** 36:25**block** 12:10**Body** 15:2 18:10**bogged** 16:13**born** 6:10, 11, 18,  
19, 24 7:15, 16**boss** 39:3, 11**bought** 8:20 11:23  
17:21, 23**box** 21:2**break** 5:2 10:24  
38:11**Broad** 2:5, 9**brought** 29:22  
30:24**burned** 33:19**burns** 24:22 32:22**burnt** 31:12, 16, 20  
32:5 33:5**business** 20:16 21:7**buying** 13:23 17:10

&lt; C &gt;

**call** 8:11 9:14**called** 18:9 29:10**calling** 27:19 31:11**capability** 40:24  
41:24**capable** 39:1**car** 13:17, 19, 20, 25  
14:9, 25 16:1529:3 31:12, 16, 20  
32:22 33:10, 13, 18,

19

**CAROLINA** 1:16:6, 12, 14 43:1, 4,  
17, 21**cars** 8:17, 19 19:5

29:25

**car's** 33:5

**CASE** 1:6 13:22  
 23:15 24:7 27:7  
 29:11 34:9  
**catch** 22:9  
**catches** 32:21  
**catching** 20:8  
**caught** 20:12 24:18  
 31:17  
**cause** 43:6, 15  
**caused** 24:9  
**certain** 4:17  
**certainly** 5:3 12:21  
 20:21  
**CERTIFICATE** 3:6  
 43:1  
**CERTIFIED** 1:22  
 43:2, 20  
**certify** 43:4, 15  
**charge** 12:14 13:3,  
 9, 11, 12, 14, 15, 16  
 14:3, 5 15:13, 14, 17,  
 25 34:15  
**charged** 15:6  
**charges** 13:13  
 14:14  
**CHARLESTON** 1:2,  
 23 2:6, 10 18:20  
 23:16 28:5, 8, 18  
**Check** 3:11 20:12,  
 14 21:20 22:7, 15  
 25:9, 13, 18 27:10  
 35:21, 25 36:5  
 37:11 38:3, 24  
**checked** 34:25 35:3,  
 12  
**checking** 18:25  
 27:11, 12  
**Christie** 20:18 37:2  
 41:6 42:11  
**CHRISTINE** 2:9  
**circumstance** 32:8  
**circumstances** 26:14  
**City** 7:3, 4, 8, 11  
**claims** 34:8  
**clarify** 4:16  
**CLARK** 1:20, 22  
 43:2, 20  
**clear** 15:20 37:9  
**client** 24:7

**Come** 8:19, 21  
 16:20 22:3 32:14  
**comes** 16:16  
**Commission** 43:21  
**COMMON** 1:1  
**COMPANION** 2:9  
**company** 4:4 8:11  
 28:12 29:11, 13  
 30:4 32:7, 24  
 35:23 36:2 37:10  
 38:2 40:23 41:18  
**company's** 4:22  
**complaints** 33:23  
**complete** 43:9  
**completely** 14:3  
 15:16  
**Compressor** 14:13  
**computer** 10:20  
 12:19 19:22 21:12,  
 13 22:7, 12 23:5  
 32:13 34:25 35:12  
 36:22, 24 38:24  
 39:15, 17 40:2, 5, 6,  
 14 41:6 42:3  
**computer-aided** 43:9  
**computers** 21:7, 10  
**concluded** 42:22  
**contacting** 17:9  
**conversation** 22:21  
 26:18, 22  
**core** 12:14, 17 13:9,  
 11, 12, 13, 14, 16  
 14:3, 5, 6, 7, 8, 12, 14  
 15:14, 15, 16, 18, 21  
 16:2, 3, 14, 21, 23, 25  
 30:9  
**CORE-DUE** 12:11  
 13:5 15:11  
**CORE-TWO** 13:2  
**correct** 13:21  
 14:20 24:6 25:1  
 31:3 35:2, 15  
 40:16, 25 41:2  
 42:7, 8 43:11  
**counsel** 43:15  
**COUNTY** 1:2 43:2,  
 17  
**course** 17:5  
**COURT** 1:1 5:10,  
 13, 15

**Coward** 6:12, 14  
 7:6, 7  
**crank** 19:5, 8, 12  
**CULBREATH** 1:6  
**customer** 14:4  
 15:15, 23 16:3  
 23:9 27:3 32:21  
 42:1  
**cutting** 36:22  
**CVR** 1:20 43:21  
  
**< D >**  
**DATE** 1:17 8:5  
 9:5 38:5  
**dated** 25:22  
**day** 23:14 25:23,  
 24 26:4  
**dealing** 34:1  
**DECEMBER** 1:17  
**decided** 35:19  
**defective** 29:22  
 30:5, 9, 23 34:9  
**defects** 26:9 38:16  
**Defendant** 1:11 2:6  
**deliver** 28:15  
**delivered** 18:6  
 23:14 25:21 28:24  
 29:4, 5  
**delivering** 35:4  
**DEPONENT** 1:11  
**DEPOSITION** 1:2  
 4:23, 25 5:6 9:7, 9  
 11:1 34:4 37:23  
 42:19, 22 43:5, 6, 11,  
 13  
**described** 24:8  
**DESCRIPTION** 3:9  
**details** 31:13  
**determining** 41:25  
**Different** 14:13, 14  
**discretion** 14:6  
**Discussion** 16:11  
 17:1 42:10  
**dispose** 30:11  
**doing** 35:8 39:1  
**due** 13:2  
**duly** 5:21 43:5  
  
**< E >**

**earlier** 35:11  
**either** 16:16  
**else's** 42:4  
**e-mail** 10:22  
**emissions** 20:1  
**engine** 4:11, 12 9:2  
 11:18, 23 12:1, 11,  
 15 13:3, 5, 10, 11, 12,  
 16, 19, 23, 24 14:1, 5,  
 8, 12, 18, 19, 24 15:1,  
 12, 18, 22 16:15  
 17:10 18:17 19:19  
 20:4 22:23 23:8,  
 12, 22, 24 24:1, 3, 8,  
 15, 18, 25 25:13, 17,  
 25 26:8, 15, 24 27:4,  
 5, 6, 8, 9, 11, 12, 18,  
 22 28:3, 9, 11, 15, 24,  
 25 29:1, 2, 3, 6, 7, 9,  
 22 30:1, 5, 6, 23  
 31:1, 2, 10, 17 32:5,  
 21 33:14, 19 34:16  
 35:3, 21 36:1, 6  
 37:12 38:4, 13, 15,  
 25 39:20 40:12, 24  
 41:25  
**engines** 12:5 13:13  
 14:13 18:25 19:12  
 20:8, 12 21:21  
 22:8, 22 32:8  
 33:24 34:9  
**engine's** 42:2  
**ensure** 19:19  
**enter** 4:5  
**events** 43:16  
**everybody** 42:4  
**everyday** 21:15, 16  
 28:21  
**exact** 8:5 9:5  
**exactly** 6:22 8:20  
 18:14 19:15, 21  
 27:2 31:6, 19  
**EXAMINATION**  
 3:2 4:1 43:8, 10  
**examine** 29:21, 25  
**examined** 5:21 30:1  
**example** 35:25  
**exclamation** 9:18  
**Excuse** 18:24

**Exhibit** 9:10, 13, 20, 24 10:8, 10, 17 11:13 13:1 16:9 23:4 25:4, 7, 9  
**EXHIBITS** 3:8 9:7 10:25  
**experience** 7:5 12:4, 8 18:22, 24  
**expires** 43:21  
**explain** 13:4  
**explained** 15:11  
**Extension** 9:18  
**extent** 17:4

< F >  
**factor** 38:1  
**far** 17:20 33:2 38:17, 19  
**Federal** 20:1  
**feel** 4:21  
**felt** 33:22  
**figure** 13:7 14:11 28:23  
**find** 10:24 30:2 38:15 40:5, 12, 17, 24  
**fine** 5:24 41:23  
**finish** 7:10  
**fire** 20:9, 13 22:9, 23 24:19 31:18 32:21 33:10  
**FIRM** 2:6  
**first** 5:21 6:2 18:23 24:25 25:25 26:16 27:12 28:8, 11, 14, 25 29:1, 2, 3, 6, 9, 23 31:2 33:4  
**fixed** 12:20  
**Floor** 2:5  
**Florence** 6:11, 16, 18, 19, 25  
**fluids** 24:15  
**follows** 5:22  
**follow-up** 35:17  
**foregoing** 43:5, 9  
**forget** 37:25  
**forth** 24:9  
**free** 38:23  
**freeze** 20:24

**freezing** 12:19  
**front** 10:11, 14  
**full** 43:9  
**further** 43:15

< G >  
**generally** 33:24  
**getting** 11:12, 21 14:1 30:7 39:20  
**give** 15:21, 22 16:2 24:18 27:4, 6 31:13 33:12 37:14  
**given** 5:6 34:3, 4 43:11  
**go** 5:11 7:2 10:24 11:8, 14 18:23 19:22 26:16 28:4, 7 30:17, 19, 20 32:11 38:15, 24 39:15, 18  
**goes** 36:24  
**going** 4:8, 15 5:16, 19 8:10 11:8 12:22 17:3 37:9, 24 38:11 40:22 41:19  
**good** 19:1, 20, 23 20:2, 3 42:9, 13  
**gotten** 26:4  
**grow** 6:8  
**guess** 9:10, 14 20:18, 20  
**guys** 18:5 23:10

< H >  
**HAMILTON** 1:2 4:7 9:3 11:19 13:23 14:19 17:9 18:8 23:3, 8 24:24 25:12, 16 26:12, 14, 17 27:18 33:11 34:1, 15  
**hand** 5:17 43:16  
**handed** 10:2  
**happen** 30:22  
**happened** 31:9  
**happens** 23:8 28:25  
**head** 24:4  
**hear** 20:25 25:15

**heard** 20:6 22:20 40:23  
**heat** 23:13, 19, 21 24:9, 12, 14, 17  
**HELLMAN** 2:3  
**hereunto** 43:16  
**high** 7:10, 17  
**himself/herself** 43:13  
**Hold** 26:1  
**hope** 9:11  
**hospital** 6:19, 21, 22  
**hot** 23:24 24:2, 15  
**Huh** 36:23

< I >  
**identification** 9:21 25:8  
**III** 1:2  
**imagine** 33:21  
**import** 26:21  
**included** 25:3  
**INDEX** 3:1  
**indicate** 24:10  
**indication** 24:18  
**individual** 20:16  
**information** 4:10 20:7 40:5, 17  
**inspect** 19:9, 13  
**install** 14:1  
**installed** 31:10  
**instructions** 33:13  
**insurance** 4:4  
**interested** 43:16  
**interesting** 30:13  
**interrupt** 5:14  
**interruption** 12:24 21:4  
**inventory** 30:7, 10 40:7, 8, 15 42:4  
**Invoice** 3:10 9:14, 15, 16 11:13, 15, 16 13:1, 6 17:17, 18, 19 19:23, 24 22:4 23:3, 7 24:25 25:21, 22 26:2 31:5, 6 34:19, 20  
**issue** 16:13  
**issued** 21:20 22:8  
**issues** 12:19

**its** 36:6 37:12 38:4

< J >  
**January** 43:17  
**Jenkins** 15:1 18:9 23:16  
**job** 8:10, 14, 22 42:13  
**June** 25:22

< K >  
**keep** 14:4  
**keeps** 15:15 36:22  
**kept** 16:16  
**KERSHAW** 43:2, 17  
**Kia** 9:3 12:3 17:18 20:8 22:7, 22 33:24 34:25  
**kind** 12:1 20:8  
**know** 4:16, 23 5:3 6:22 8:5, 20 9:5, 7, 25 10:19, 20 13:6 14:25 17:7, 8, 20 18:17 19:11, 15, 17, 22 20:13, 20 21:18, 22, 23 22:5, 14, 17, 18 23:11 24:1, 20, 21, 22, 23 26:23 27:1, 12, 16, 20, 24 28:23 29:17, 18, 19 30:1, 3, 17, 20 31:20 32:1, 4, 6, 25 33:2, 4, 6, 7, 21, 22 34:10, 13, 19, 21, 22, 24 36:15 40:2 41:22 42:3, 4, 7  
**knowledge** 12:6 35:5  
**knows** 20:18

< L >  
**Lake** 7:3, 4, 8, 11  
**Landscaping** 7:24 8:1  
**language** 13:1  
**Large** 43:4  
**latest** 25:24  
**LAW** 2:6  
**lawyer** 4:4, 21, 22

42:14  
**learn** 16:25  
**LEE** 1:2, 11 4:3  
 5:16, 20 16:17  
 21:2, 5 26:17  
 32:12 36:20 37:24  
 42:12, 15  
**life** 7:18  
**little** 6:14, 16 11:6  
 12:10 21:2 22:4  
 34:23  
**live** 6:2, 4 7:4  
**lived** 6:8 7:6, 7  
**LLC** 1:11  
**loaded** 18:6 23:13  
**LOCATION** 1:20  
 43:7  
**locked** 41:6, 16  
**long** 5:1 6:1 29:15  
**LONNIE** 1:2 4:7  
 11:19  
**look** 10:25 11:14  
 17:16 19:23 25:5  
**looked** 21:19  
**looking** 9:10 11:22  
 23:4 31:5 34:19  
**lot** 6:25  
  
**< M >**  
**making** 18:3  
**manufacturer** 36:7  
 37:13 38:4, 16 42:2  
**marked** 9:6, 20  
 25:7  
**marks** 9:18  
**matter** 5:18 37:23  
**McLeod** 6:21  
**mean** 10:14 12:12  
 13:23, 25 16:18  
 18:14 24:6, 22  
 32:1 33:21 35:20  
 36:16 39:4  
**means** 13:5, 8  
**meet** 37:14 38:25  
**message** 26:21  
**messes** 24:5  
**met** 4:7  
**might've** 34:3  
**mind** 32:18

**minute** 18:24 23:20  
 34:23  
**minutes** 38:23  
**money** 27:6  
**Motors** 22:7  
**moved** 7:21  
  
**< N >**  
**name** 8:11 9:16  
**near** 6:16  
**need** 4:21 5:1  
 11:3 16:13, 24  
 17:17 20:23 25:5  
**needed** 14:19  
**neither** 43:15  
**never** 16:23 32:25  
 35:20 37:17, 18  
**new** 13:23, 24 14:2,  
 20, 21  
**nicely** 39:10  
**Nine** 27:2  
**normally** 30:4  
**North** 18:20 23:16  
 28:5, 7, 18  
**Notary** 43:4  
**notes** 9:17  
**notified** 26:7, 11  
**Number** 9:10, 15  
 11:15 12:11 39:6,  
 14  
**numbers** 9:8  
  
**< O >**  
**oath** 5:12  
**object** 36:22, 25  
 37:3  
**objected** 41:4, 20  
**objecting** 37:1  
**objection** 4:5 19:10  
 20:15 32:10, 23  
 36:18 41:1, 3, 21  
**objections** 43:8, 10  
**objection's** 41:5  
**Obviously** 21:6  
**occasionally** 4:5  
**occupied** 38:22  
**offered** 20:16  
**office** 19:16 28:21  
**Office@clark-**

**associates.com** 1:24  
**Official** 3:11 43:17  
**Oh** 6:7 37:3  
**Okay** 5:4, 5, 9, 23,  
 24 7:7, 10, 17 8:25  
 9:6 10:18 11:4, 7  
 12:10 13:22 14:15  
 15:17, 19, 24 16:8  
 18:3, 16 20:6, 21  
 21:13 22:11, 20  
 23:1, 25 24:12, 24  
 25:11 28:2 29:11  
 30:22 33:2, 10, 23  
 34:15 36:21 37:8,  
 21 38:21 39:10, 18  
 40:16 41:18  
**Olanta** 6:2  
**old** 12:15 13:9, 11  
 14:19, 24 15:12, 22  
 21:2  
**online** 21:19 22:7  
 37:11 38:3 39:15,  
 19  
**operate** 40:2  
**opportunity** 43:11,  
 14  
**Optima** 12:3 17:18  
**option** 14:6  
**order** 9:17 18:1  
 19:1, 20 23:9 38:13  
**ordered** 17:12, 16  
 18:17  
**ought** 33:12  
**overheats** 24:3  
  
**< P >**  
**P.A** 2:3  
**PAGE** 3:2, 9  
**paid** 24:25  
**Paint** 15:1 18:10  
**Pamplico** 6:4, 6, 7  
**paper** 9:8  
**part** 11:1  
**particular** 7:1 17:4  
 36:1, 5 37:12 38:3  
 39:20  
**PARTS** 1:11 3:10  
 8:2, 12, 17, 18 9:14  
 14:14 21:11, 14, 19

22:15, 22 34:8  
 40:15 41:24  
**party** 43:15  
**pay** 14:5 25:12, 17  
**pending** 43:16  
**people** 19:4, 8  
 21:23 22:21, 22  
**phone** 18:15 33:17  
 35:20 37:17, 18  
**phone's** 37:22  
**physically** 14:24  
**pick** 28:17 29:10  
**picked** 28:14, 18  
 29:6, 12  
**picture** 20:20, 23  
**pieces** 9:8  
**PINCKNEY** 2:10  
 10:3 16:6 37:2, 5  
 41:8, 13  
**place** 18:9 23:13  
 27:25 28:1 31:2  
**PLAINTIFF** 2:3  
**Plaintiffs** 1:6  
**PLEAS** 1:1  
**please** 4:16 12:20  
 42:15  
**point** 26:8 38:23  
**policy** 32:7, 20, 24  
 33:3, 7  
**posed** 39:10  
**possibilities** 22:24  
**prepare** 11:15  
**prepared** 23:3, 7  
**PRESENT** 2:10  
**pretty** 28:14  
**prevents** 35:8  
**previously** 40:12  
 42:1  
**price** 25:5  
**Print** 11:2  
**prior** 38:5  
**Probably** 11:5 12:7  
**problem** 17:8 20:8  
**problematic** 30:6  
**problems** 19:2 24:7  
**process** 14:11  
 19:14, 21 27:14, 15  
 30:7  
**prone** 22:9

**proper** 24:15  
**Public** 43:4  
**pull** 23:10  
**purpose** 24:12  
**put** 9:8 23:22  
 24:16 26:23 30:10

< Q >

**quality** 27:13  
**question** 4:16 15:8  
 22:5 24:11 25:14  
 29:19 30:13 32:12,  
 16 35:9, 10, 18 36:3,  
 4, 12, 19, 21 37:4  
 38:1, 8, 10, 18 39:3,  
 8, 9, 18 40:11, 18, 19  
 41:19 42:6  
**questions** 4:6, 9  
 17:3 29:17 42:12,  
 13, 15, 18  
**quit** 8:1  
**quite** 39:10  
**quits** 35:20 37:17,  
 18

< R >

**RACHAEL** 1:20  
 43:2, 20  
**raise** 5:17  
**raised** 6:12, 13  
**ran** 19:23 20:1, 3  
**read** 43:11  
**reading** 15:10  
**ready** 11:12 39:20  
**really** 12:8 24:11  
 26:18 31:25 32:1  
 39:2  
**reason** 4:22 5:2  
 29:20  
**recall** 4:9 9:2, 4  
 11:11 17:19 36:6  
**recalled** 36:1 37:12  
 38:4, 16 39:1, 21  
 40:13, 25 42:1  
**recalls** 21:20 22:8,  
 23 35:1, 3, 13  
**received** 20:7  
 25:23 32:5  
**receiving** 18:1  
**Recess** 11:10

**record** 11:21 16:11  
 17:1 22:6 41:5  
 42:10 43:9  
**recorded** 43:8  
**refer** 9:9 25:17  
**referring** 20:4  
**refund** 15:23 16:4,  
 7, 9  
**related** 43:15  
**remember** 8:4 17:5,  
 9, 11, 15 18:14  
 26:18 27:17, 20  
 28:16 29:14 31:11,  
 15, 19 32:19 33:16  
 34:18  
**REMOTE** 1:20  
**remove** 13:19  
**removed** 13:25  
**repeat** 15:9  
**replaced** 4:12  
**replacing** 14:10  
 32:8  
**report** 31:22  
**REPORTED** 1:20  
**REPORTER** 1:22  
 3:6 5:10, 13, 15  
 43:1, 4, 20  
**represent** 4:7  
**represented** 4:3  
**request** 37:14 38:5,  
 25 39:15  
**research** 39:23, 25  
**returned** 28:11  
 30:5, 6  
**rid** 14:1 30:15  
**right** 5:17 6:1  
 7:25 8:16, 22  
 10:11 12:4 14:10,  
 15, 21, 23 15:3, 6  
 16:5, 10, 17, 25 17:2,  
 15, 25 18:2 19:7, 17  
 20:3, 19 21:16, 18  
 22:3 23:1, 15  
 24:10, 17 25:3, 20  
 26:5, 7, 13, 20 28:22  
 31:1, 8, 13 34:7, 22  
 35:7, 17 37:8  
 38:11 40:4, 10  
 41:17 42:6

**ringing** 35:20  
 37:17, 18, 22  
**room** 14:9, 20  
**run** 23:24 24:2, 15  
**Russell** 15:1 18:9  
 23:16  
 < S >  
**sale** 11:18  
**salesman** 8:15, 21,  
 23 19:4, 6, 20 27:16  
 29:24 34:14  
**salesmen** 8:25  
**SARAH** 2:10  
**save** 11:5 34:23  
**saying** 13:18 38:14  
 40:10  
**says** 9:13, 16 12:3,  
 11 13:2 15:10, 12  
 17:18 19:23, 25  
 20:1 38:12  
**SC** 1:23 2:6, 10  
**school** 7:2, 5, 8, 10,  
 18  
**scrap** 30:16  
**seal** 43:17  
**search** 36:5 39:19,  
 22, 25 40:4, 8  
**searching** 40:6  
**second** 27:11, 25  
 28:3, 15, 24 29:7  
 31:1, 9 34:16  
**see** 5:23, 24 12:12,  
 20 16:1 18:25  
 19:8, 12, 24 20:12,  
 25 21:1, 2, 20 22:7  
 28:5, 8 35:25 36:5  
 38:3, 25 39:19  
 41:12  
**seeing** 20:19, 23  
**seen** 16:23  
**SEIBELS** 2:6  
**sell** 8:16 30:23  
 35:22 39:21  
**selling** 9:2, 4 19:19  
 35:4  
**sells** 21:21 41:25  
**send** 15:2 18:18  
 27:4, 22

**sending** 26:22  
**sends** 15:15  
**sent** 10:19, 21 15:1  
 23:15 27:8, 13, 24  
 28:3 31:2 34:16  
**September** 43:22  
**shelf** 23:12  
**ship** 18:9  
**shipped** 25:23 26:2  
**shop** 16:18 18:10  
 23:17 26:23 29:8  
**show** 10:25  
**shows** 16:9 42:3  
**sign** 43:14  
**signature** 43:12, 14  
**significance** 23:25  
**sir** 4:19 5:8, 25  
 6:4, 9, 17, 20 7:6, 9,  
 12 8:9, 13, 24 9:22  
 10:12, 17 11:17, 20,  
 25 15:5 16:23  
 17:12, 14, 22, 24  
 18:21 19:3 20:5,  
 10 21:9, 15, 17, 22  
 22:1, 10 26:10, 19  
 28:6, 10, 20 29:14,  
 24 30:12, 25 33:9,  
 25 34:2, 6 35:6  
 36:8 37:15 39:17,  
 24  
**situation** 7:1  
**sold** 4:11 12:2, 7, 9  
 14:18 18:25 29:23  
 30:16 32:21 33:24  
 35:4  
**somebody** 28:19  
 29:12 38:14, 18  
**sorry** 5:13 13:2  
 25:14, 16 32:15  
**sort** 16:9  
**SOUTH** 1:1 6:6, 12,  
 14 43:1, 4, 17, 21  
**speak** 4:21  
**speaking** 17:11  
**specific** 29:15  
**spoke** 18:15  
**standby** 12:22  
**start** 11:14  
**started** 8:23

**STATE** 1:1 43:1, 4  
**stated** 43:7  
**stock** 12:11  
**Street** 2:5, 9  
**strike** 19:18  
**structure** 35:24  
**stuff** 19:5 24:4  
**subject** 22:23 36:6 41:20  
**subscribe** 43:11  
**Suite** 2:9  
**Supposedly** 29:14  
**sure** 19:21 24:14 28:1, 14, 16 31:4 34:20 41:12  
**swear** 5:18  
**sworn** 5:21 43:5  
**system** 40:6

< T >  
**tabs** 23:13, 20, 21 24:10, 13, 14, 17  
**take** 5:1 10:23 11:9 13:19 14:23, 24 15:7 23:12 39:6  
**taken** 14:9, 19 43:7  
**talked** 23:19 33:16  
**talking** 12:13 14:17 25:4  
**Technical** 12:24 21:4  
**telephone** 17:13, 14  
**tell** 5:18 14:15 17:6 23:23 26:13, 17 27:3 31:6 33:11 40:20  
**telling** 31:12  
**ten** 7:21 8:6 27:2 40:21  
**testified** 5:22  
**testify** 43:5  
**testimony** 43:7, 10  
**Thank** 42:17, 20, 21  
**Thanks** 9:17  
**thereof** 43:16  
**thing** 35:22  
**things** 19:14 40:4, 7  
**think** 4:8, 25 14:16 16:12, 24 21:5 27:25 31:4 34:24

35:1, 13, 18 37:6 40:22, 23 41:9, 14, 21 42:12  
**Third** 2:5  
**THOMAS** 2:5  
**Three** 9:1, 17  
**ticket** 18:2, 4 23:10  
**TIME** 1:17 11:6, 9 15:9 29:15 32:17 33:4 34:24 35:10, 21 36:8, 9, 11, 13 37:9, 19, 24, 25 38:1, 6, 23 39:23 41:19 43:7, 8, 10  
**times** 27:2 40:21  
**TIMMY** 1:2, 11 5:20 9:18 41:15  
**Timmy's** 41:8, 13  
**TISDALE** 2:3, 5 3:4 4:2, 6 5:10, 11, 15, 23 9:25 10:5, 9, 13 11:2, 5, 8, 11 12:21, 25 15:24 16:5, 8, 12 17:2 20:17 21:1, 5 36:23 37:1, 3, 6, 8 41:4, 11, 15, 18 42:11, 20  
**today** 4:3  
**told** 15:2 16:8 18:17 27:1, 2 31:16, 20 32:1, 4 33:11 35:25  
**Tom** 4:6 20:16  
**top** 9:13  
**town** 6:15, 16  
**transaction** 17:4 23:2  
**transactions** 4:10  
**transcribed** 43:9  
**transcription** 43:9  
**truck** 18:6 23:14  
**true** 43:9  
**truth** 5:18 43:5, 6  
**try** 4:15 17:6 29:18 37:9, 24  
**trying** 13:7 14:11 28:22 32:19 34:23 40:20

**turn** 23:12  
**Two** 13:2, 5 39:14  
  
 < U >  
**unable** 40:17  
**unclear** 16:14  
**understand** 4:14, 17 14:7, 16 15:8 16:15 23:2 24:11 29:16 32:12, 15 38:8, 9, 17, 19 39:2, 5 40:19  
**understanding** 13:18  
**upset** 33:18, 22  
**use** 20:13 21:7, 13, 15, 16  
**usually** 30:9

< V >  
**valves** 24:4, 8  
**VARNADO** 2:9 4:4 9:23 10:7, 18, 23 12:18 15:20 16:2, 10 19:10 20:15, 22 32:10, 23 36:18 41:1, 3, 9 42:17  
**VERBATIM** 1:22 43:2, 20  
**VIDEOCONFEREN**  
**CE** 1:20  
**vs** 1:6

< W >  
**wait** 12:23  
**waiting** 32:13  
**waived** 43:14  
**want** 4:13 5:11 14:4 23:20 24:1 25:18 29:18 30:15 31:23 33:5  
**wanted** 17:16 20:14 32:6 35:8, 19 36:17 41:11  
**warehouse** 23:11  
**warps** 24:4  
**warranty** 32:2  
**wash** 23:11, 12

**way** 15:10 20:11 23:23 35:22 37:19 41:23  
**Well** 6:11 7:20 15:10 21:13 23:9 25:21 26:16, 20 28:4, 17, 22 29:21 32:7, 19 36:9, 16 37:21 40:8  
**went** 7:7 27:25 28:1 31:7 32:13  
**we're** 11:22 12:22 20:19 25:4  
**We've** 32:25  
**within-entitled** 43:6  
**WITNESS** 10:11, 16, 21 11:4, 7 36:24 41:17 42:21 43:5, 7, 10, 11, 12, 13, 16  
**word** 26:19, 20, 21  
**words** 15:25 17:6  
**work** 7:24 8:2 19:16 26:9, 15 28:13, 21  
**worked** 7:20, 22  
**working** 19:1, 20  
**would've** 8:7 29:9, 12, 23  
**wrong** 14:16 27:18 28:8 30:2 33:3 35:2  
**WWW.CLARK-ASSOCIATES.COM** 1:24

< Y >  
**YATES** 2:3  
**Yeah** 5:11 6:7 9:15 12:14 16:18, 22 20:3, 22, 24 25:10 26:4 28:4 32:3 36:14 37:5 39:17  
**year** 7:13, 15 8:3 26:19 33:17  
**years** 7:21 8:6

< Z >  
**ZOE'LIA** 1:6

**WORD LIST**

&lt; \$ &gt;

\$1,828 (2)

\$100 (10)

\$1828 (3)

&lt; 1 &gt;

1 (7)

10 (1)

105 (1)

11:15 (1)

11th (2)

12:22 (1)

13 (1)

148910 (2)

180-day (1)

19 (1)

1981 (1)

1999 (1)

&lt; 2 &gt;

2 (5)

2.4L (1)

200 (1)

2010 (1)

2013 (1)

2019-CP-10-06567  
(1)

2020 (2)

2021 (1)

2030 (1)

23 (2)

25 (1)

29401 (2)

29405 (1)

&lt; 3 &gt;

30 (1)

301 (31)

38 (1)

&lt; 4 &gt;

4 (1)

43 (1)

&lt; 5 &gt;

5367 (1)

&lt; 6 &gt;

6/11/19 (1)

&lt; 8 &gt;

843-762-6294 (1)

&lt; 9 &gt;

9 (1)

&lt; A &gt;

able (10)

access (3)

activities (1)

address (1)

administer (2)

advice (1)

affixed (2)

ago (5)

agree (1)

ahead (3)

allowed (1)

alternator (1)

amount (1)

answer (16)

answered (2)

answering (1)

anybody (3)

anybody's (1)

anymore (2)

any's (1)

anyway (1)

apologize (1)

apparently (1)

appear (1)

appreciate (1)

Ard (12)

Ard's (2)

asked (18)

asking (14)

aspect (1)

ASSEMBLY (3)

ASSOCIATES (1)

assume (1)

assuming (6)

authority (3)

AUTO (12)

automobile (2)

available (1)

availed (1)

aware (8)

&lt; B &gt;

back (18)

bad (2)

based (1)

Bear (1)

BEHALF (2)

believe (1)

bin (2)

bit (2)

black (1)

block (1)

Body (2)

bogged (1)

born (7)

boss (2)

bought (4)

box (1)

break (3)

Broad (2)

brought (2)

burned (2)

burns (2)

burnt (5)

business (2)

buying (2)

&lt; C &gt;

call (2)

called (2)

calling (2)

capability (2)

capable (1)

car (16)

CAROLINA (8)

cars (4)

car's (1)

CASE (7)

catch (1)

catches (1)

catching (1)

caught (3)

cause (2)

caused (1)

certain (1)

certainly (3)

CERTIFICATE (2)

CERTIFIED (3)

certify (2)

charge (16)

charged (1)

charges (2)

CHARLESTON (9)

Check (16)

checked (3)

checking (3)

Christie (4)

CHRISTINE (1)

circumstance (1)

circumstances (1)

City (4)

claims (1)

clarify (1)

CLARK (4)

clear (2)

client (1)

Come (5)

comes (1)

Commission (1)

COMMON (1)

COMPANION (1)

company (14)

company's (1)

complaints (1)

complete (1)

completely (2)

Compressor (1)

computer (22)

computer-aided (1)

computers (2)

concluded (1)

contacting (1)

conversation (3)

core (30)

CORE-DUE (3)

CORE-TWO (1)

correct (13)

counsel (1)

COUNTY (3)

course (1)

COURT (4)

Coward (4)

crank (4)

CULBREATH (1)

customer (8)

cutting (1)

CVR (2)

## &lt; D &gt;

DATE (4)  
 dated (1)  
 day (4)  
 dealing (1)  
 DECEMBER (1)  
 decided (1)  
 defective (5)  
 defects (2)  
 Defendant (2)  
 deliver (1)  
 delivered (6)  
 delivering (1)  
 DEPONENT (1)  
 DEPOSITION (15)  
 described (1)  
 DESCRIPTION (1)  
 details (1)  
 determining (1)  
 Different (3)  
 discretion (1)  
 Discussion (3)  
 dispose (1)  
 doing (2)  
 due (2)  
 duly (2)

## &lt; E &gt;

earlier (1)  
 either (1)  
 else's (1)  
 e-mail (1)  
 emissions (1)  
 engine (102)  
 engines (13)  
 engine's (1)  
 ensure (1)  
 enter (1)  
 events (1)  
 everybody (1)  
 everyday (3)  
 exact (2)  
 exactly (8)  
 EXAMINATION (4)  
 examine (2)  
 examined (2)  
 example (1)

exclamation (1)  
 Excuse (1)  
 Exhibit (14)  
 EXHIBITS (3)  
 experience (5)  
 expires (1)  
 explain (1)  
 explained (1)  
 Extension (1)  
 extent (1)

## &lt; F &gt;

factor (1)  
 far (4)  
 Federal (1)  
 feel (1)  
 felt (1)  
 figure (3)  
 find (7)  
 fine (2)  
 finish (1)  
 fire (8)  
 FIRM (1)  
 first (19)  
 fixed (1)  
 Floor (1)  
 Florence (5)  
 fluids (1)  
 follows (1)  
 follow-up (1)  
 foregoing (2)  
 forget (1)  
 forth (1)  
 free (1)  
 freeze (1)  
 freezing (1)  
 front (2)  
 full (1)  
 further (1)

## &lt; G &gt;

generally (1)  
 getting (5)  
 give (10)  
 given (4)  
 go (18)  
 goes (1)  
 going (13)  
 good (7)

gotten (1)  
 grow (1)  
 guess (4)  
 guys (2)

## &lt; H &gt;

HAMILTON (20)  
 hand (2)  
 handed (1)  
 happen (1)  
 happened (1)  
 happens (2)  
 head (1)  
 hear (2)  
 heard (4)  
 heat (9)  
 HELLMAN (1)  
 hereunto (1)  
 high (2)  
 himself/herself (1)  
 Hold (1)  
 hope (1)  
 hospital (3)  
 hot (3)  
 Huh (1)

## &lt; I &gt;

identification (2)  
 III (1)  
 imagine (1)  
 import (1)  
 included (1)  
 INDEX (1)  
 indicate (1)  
 indication (1)  
 individual (1)  
 information (4)  
 inspect (2)  
 install (1)  
 installed (1)  
 instructions (1)  
 insurance (1)  
 interested (1)  
 interesting (1)  
 interrupt (1)  
 interruption (2)  
 inventory (6)  
 Invoice (25)  
 issue (1)

issued (2)  
 issues (1)  
 its (3)

## &lt; J &gt;

January (1)  
 Jenkins (3)  
 job (4)  
 June (1)

## &lt; K &gt;

keep (1)  
 keeps (2)  
 kept (1)  
 KERSHAW (2)  
 Kia (8)  
 kind (2)  
 know (80)  
 knowledge (2)  
 knows (1)

## &lt; L &gt;

Lake (4)  
 Landscaping (2)  
 language (1)  
 Large (1)  
 latest (1)  
 LAW (1)  
 lawyer (4)  
 learn (1)  
 LEE (14)  
 life (1)  
 little (7)  
 live (3)  
 lived (3)  
 LLC (1)  
 loaded (2)  
 LOCATION (2)  
 locked (2)  
 long (3)  
 LONNIE (3)  
 look (5)  
 looked (1)  
 looking (5)  
 lot (1)

## &lt; M &gt;

making (1)  
 manufacturer (5)

marked (3)  
marks (1)  
matter (2)  
McLeod (1)  
mean (14)  
means (2)  
meet (2)  
message (1)  
messes (1)  
met (1)  
might've (1)  
mind (1)  
minute (3)  
minutes (1)  
money (1)  
Motors (1)  
moved (1)

## &lt; N &gt;

name (2)  
near (1)  
need (8)  
needed (1)  
neither (1)  
never (5)  
new (6)  
nicely (1)  
Nine (1)  
normally (1)  
North (5)  
Notary (1)  
notes (1)  
notified (2)  
Number (7)  
numbers (1)

## &lt; O &gt;

oath (1)  
object (3)  
objected (2)  
objecting (1)  
objection (9)  
objections (2)  
objection's (1)  
Obviously (1)  
occasionally (1)  
occupied (1)  
offered (1)  
office (2)

Office@clark-  
associates.com (1)  
Official (2)  
Oh (2)  
Okay (47)  
Olanta (1)  
old (8)  
online (6)  
operate (1)  
opportunity (2)  
Optima (2)  
option (1)  
order (6)  
ordered (3)  
ought (1)  
overheats (1)

## &lt; P &gt;

P.A (1)  
PAGE (2)  
paid (1)  
Paint (2)  
Pamplico (3)  
paper (1)  
part (1)  
particular (7)  
PARTS (16)  
party (1)  
pay (3)  
pending (1)  
people (5)  
phone (6)  
phone's (1)  
physically (1)  
pick (2)  
picked (4)  
picture (2)  
pieces (1)  
PINCKNEY (7)  
place (5)  
PLAINTIFF (1)  
Plaintiffs (1)  
PLEAS (1)  
please (3)  
point (2)  
policy (6)  
posed (1)  
possibilities (1)  
prepare (1)

prepared (2)  
PRESENT (1)  
pretty (1)  
prevents (1)  
previously (2)  
price (1)  
Print (1)  
prior (1)  
Probably (2)  
problem (2)  
problematic (1)  
problems (2)  
process (6)  
prone (1)  
proper (1)  
Public (1)  
pull (1)  
purpose (1)  
put (5)

## &lt; Q &gt;

quality (1)  
question (31)  
questions (8)  
quit (1)  
quite (1)  
quits (3)

## &lt; R &gt;

RACHAEL (3)  
raise (1)  
raised (2)  
ran (3)  
read (1)  
reading (1)  
ready (2)  
really (6)  
reason (4)  
recall (6)  
recalled (9)  
recalls (6)  
received (3)  
receiving (1)  
Recess (1)  
record (7)  
recorded (1)  
refer (2)  
referring (1)  
refund (4)

related (1)  
remember (18)  
REMOTE (1)  
remove (1)  
removed (1)  
repeat (1)  
replaced (1)  
replacing (2)  
report (1)  
REPORTED (1)  
REPORTER (8)  
represent (1)  
represented (1)  
request (4)  
research (2)  
returned (3)  
rid (2)  
right (53)  
ringing (4)  
room (2)  
run (3)  
Russell (3)

## &lt; S &gt;

sale (1)  
salesman (9)  
salesmen (1)  
SARAH (1)  
save (2)  
saying (3)  
says (12)  
SC (3)  
school (5)  
scrap (1)  
seal (1)  
search (7)  
searching (1)  
second (9)  
see (24)  
seeing (2)  
seen (1)  
SEIBELS (1)  
sell (4)  
selling (4)  
sells (2)  
send (5)  
sending (1)  
sends (1)  
sent (10)

|                         |                          |                            |
|-------------------------|--------------------------|----------------------------|
| <b>September</b> (1)    | <b>telling</b> (1)       | <b>VIDEOCONFEREN</b>       |
| <b>shelf</b> (1)        | <b>ten</b> (4)           | <b>CE</b> (1)              |
| <b>ship</b> (1)         | <b>testified</b> (1)     | <b>vs</b> (1)              |
| <b>shipped</b> (2)      | <b>testify</b> (1)       | <b>&lt; W &gt;</b>         |
| <b>shop</b> (5)         | <b>testimony</b> (2)     | <b>wait</b> (1)            |
| <b>show</b> (1)         | <b>Thank</b> (3)         | <b>waiting</b> (1)         |
| <b>shows</b> (2)        | <b>Thanks</b> (1)        | <b>waived</b> (1)          |
| <b>sign</b> (1)         | <b>thereof</b> (1)       | <b>want</b> (10)           |
| <b>signature</b> (2)    | <b>thing</b> (1)         | <b>wanted</b> (7)          |
| <b>significance</b> (1) | <b>things</b> (3)        | <b>warehouse</b> (1)       |
| <b>sir</b> (53)         | <b>think</b> (19)        | <b>warps</b> (1)           |
| <b>situation</b> (1)    | <b>Third</b> (1)         | <b>warranty</b> (2)        |
| <b>sold</b> (11)        | <b>THOMAS</b> (1)        | <b>wash</b> (2)            |
| <b>somebody</b> (4)     | <b>Three</b> (2)         | <b>way</b> (6)             |
| <b>sorry</b> (5)        | <b>ticket</b> (3)        | <b>Well</b> (18)           |
| <b>sort</b> (1)         | <b>TIME</b> (27)         | <b>went</b> (5)            |
| <b>SOUTH</b> (8)        | <b>times</b> (2)         | <b>we're</b> (4)           |
| <b>speak</b> (1)        | <b>TIMMY</b> (5)         | <b>We've</b> (1)           |
| <b>speaking</b> (1)     | <b>Timmy's</b> (2)       | <b>within-entitled</b> (1) |
| <b>specific</b> (1)     | <b>TISDALE</b> (38)      | <b>WITNESS</b> (15)        |
| <b>spoke</b> (1)        | <b>today</b> (1)         | <b>word</b> (4)            |
| <b>standby</b> (2)      | <b>told</b> (11)         | <b>words</b> (2)           |
| <b>start</b> (1)        | <b>Tom</b> (2)           | <b>work</b> (7)            |
| <b>started</b> (1)      | <b>top</b> (1)           | <b>worked</b> (2)          |
| <b>STATE</b> (3)        | <b>town</b> (2)          | <b>working</b> (2)         |
| <b>stated</b> (1)       | <b>transaction</b> (2)   | <b>would've</b> (4)        |
| <b>stock</b> (1)        | <b>transactions</b> (1)  | <b>wrong</b> (6)           |
| <b>Street</b> (2)       | <b>transcribed</b> (1)   | <b>WWW.CLARK-</b>          |
| <b>strike</b> (1)       | <b>transcription</b> (1) | <b>ASSOCIATES.COM</b>      |
| <b>structure</b> (1)    | <b>truck</b> (2)         | <b>(1)</b>                 |
| <b>stuff</b> (2)        | <b>true</b> (1)          | <b>&lt; Y &gt;</b>         |
| <b>subject</b> (3)      | <b>truth</b> (4)         | <b>YATES</b> (1)           |
| <b>subscribe</b> (1)    | <b>try</b> (5)           | <b>Yeah</b> (16)           |
| <b>Suite</b> (1)        | <b>trying</b> (6)        | <b>year</b> (5)            |
| <b>Supposedly</b> (1)   | <b>turn</b> (1)          | <b>years</b> (2)           |
| <b>sure</b> (8)         | <b>Two</b> (3)           | <b>&lt; Z &gt;</b>         |
| <b>swear</b> (1)        | <b>&lt; U &gt;</b>       | <b>ZOE'LIA</b> (1)         |
| <b>sworn</b> (2)        | <b>unable</b> (1)        |                            |
| <b>system</b> (1)       | <b>unclear</b> (1)       |                            |
| <b>&lt; T &gt;</b>      | <b>understand</b> (19)   |                            |
| <b>tabs</b> (8)         | <b>understanding</b> (1) |                            |
| <b>take</b> (11)        | <b>upset</b> (2)         |                            |
| <b>taken</b> (3)        | <b>use</b> (5)           |                            |
| <b>talked</b> (2)       | <b>usually</b> (1)       |                            |
| <b>talking</b> (3)      | <b>&lt; V &gt;</b>       |                            |
| <b>Technical</b> (2)    | <b>valves</b> (2)        |                            |
| <b>telephone</b> (2)    | <b>VARNADO</b> (20)      |                            |
| <b>tell</b> (10)        | <b>VERBATIM</b> (3)      |                            |



Kia Motors America, Inc.  
Corporate Headquarters  
111 Peters Canyon Road, Irvine, CA 92606-1790 USA

# EXHIBIT C

25003



## IMPORTANT SAFETY RECALL

(Interim Notice)

(NHTSA Recall Number: 20V-100)

This notice applies to your vehicle: (5XXGN4A72DG188737)

April 13, 2020

Dear Kia Optima Owner:

### **Kia has identified a defect in your vehicle which relates to motor vehicle safety**

This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act. Kia Motors has decided that a defect which relates to motor vehicle safety exists in certain 2013-2014 MY Kia Optima vehicles equipped with the 2.4-liter Gasoline Direct Injection (GDI) and 2.0-liter GDI Turbo engines. The defect can result in a fire in your vehicle's engine compartment, thus increasing the risk of injury. Our records indicate that you own or lease one of the potentially affected vehicles.

This is only an interim letter as we evaluate a remedy. The purpose of this letter is to keep you informed of Kia's recall implementation plan. We will send you another letter when the remedy is available, and the repair will be performed at no cost to you. HOWEVER, PLEASE SEE THE "WHAT SHOULD YOU DO IN THE INTERIM" SECTION BELOW.

### **What Is The Problem?**



The material of the low pressure fuel tube may deteriorate over time and develop a crack from exposure to heat generated within the engine compartment under certain circumstances. If the fuel tube develops a crack, a fuel smell and eventually a fuel leak can occur. Leaking fuel increases the risk of fire, thereby increasing the risk of injury.

### **What Should You Do In The Interim?**

- If fuel smell is detected, please contact the closest authorized Kia dealership to have your vehicle towed to the dealer.
- To find your nearest dealer, visit [www.kia.com](http://www.kia.com) and click the "Find Dealer" button in the upper right corner ("Dealers" on a mobile device). You can also use the QR code below with your mobile device to access this information (see the bottom of this letter for more information about QR code use):



### **What If You Have Already Paid To Have This Situation Corrected?**

If you have incurred expense to remedy this issue prior to the date of this notice, you may have the opportunity to obtain reimbursement for that expense. You may submit your receipts online to Kia

via the Owners section of [www.kia.com](http://www.kia.com) or mail your receipts with a copy of the attached Request for Reimbursement form directly to Kia for review and consideration:

**Consumer Assistance Center  
Kia Motors America, Inc.  
P.O. Box 52410  
Irvine, CA 92619-2410  
1-800-333-4542**

Pursuant to the General Reimbursement Plan issued by Kia pursuant to Federal Regulation 49 CFR 573.13, Kia will use its best efforts to respond to your claim within sixty (60) days of receipt and at that time Kia may either accept or reject that claim or it may request more information to evaluate the claim.

### **Have You Changed Your Address Or Sold Your Kia?**

If you have changed your home address, sold your Kia vehicle, or no longer own your vehicle, please complete the attached prepaid "Change of Address/Ownership" card and mail it to us. You can also contact the Consumer Assistance Center phone number listed above.

### **What If You Are A Vehicle Lessor?**

**Federal regulation requires that any vehicle lessor receiving this recall notice must forward a copy of this notice to the lessee within ten days.**

### **What If You Have Other Questions?**

If your dealer does not respond to your service request in a timely manner, we suggest that you call Kia's Consumer Assistance Center at 1-800-333-4542. This number has TTY capability. If you still are not satisfied that we have remedied this situation without charge and within a reasonable amount of time, you may submit a complaint to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, S.E., Washington, DC 20590; or call the toll free Vehicle Safety Hotline at 1-888-327-4236 (TTY: 1-800-424-9153); or go to <http://www.safercar.gov>.

This action has been taken in the interest of your safety, and we regret any inconvenience this situation may cause you.

Sincerely,

Consumer Affairs Department

#### **QR Code Use:**

- A QR Code is a square, 2-dimensional barcode that can be read by mobile devices loaded with an appropriate barcode or **QR Code Reader App**. The app reads the barcode image and then launches/uploads the specific information the code contains, such as URLs, text, photos, videos.
- With a mobile device, **download a QR Code Reader App**. With many devices, you can do this through an app store or marketplace.
- **Open the QR Code Reader App on your mobile device. The app will utilize your device's camera.** Center the code in the camera viewing area. With some apps, the URL or other information will automatically load when the code is recognized. For others, you may have to snap or take a picture of the QR code. **Refer to the QR Reader Code App instructions.**

# Kia issues new recall for engine fire risk in Optima, Sorento models

## Actions

## EXHIBIT D

*Posted at 7:40 PM, Sep 03, 2020*

*and last updated 12:13 PM, Sep 05, 2020*

Kia announced another recall Thursday for an engine fire risk that affects hundreds of thousands of vehicles.

For more than two years, the I-Team has exposed dangerous defects causing fires in Kia and Hyundai vehicles, which have led to more than a million recalled vehicles nationwide.

The latest Kia recall includes more than 440,000 Optima and Sorento models, which the automaker reports are at risk of engine fires.

### RECOMMENDED:

- [Hyundai, Kia recall more than 591K vehicles for brake fluid leak that can cause fires](#)
- [Man dies from his injuries after rented Kia Soul caught fire](#)
- [UP IN FLAMES | The latest on the Kia/Hyundai fires investigation](#)

In a recall notice to federal regulators, Kia reported the cars could experience brake fluid leaks, which could lead to an electrical short in the hydraulic electronic control unit and an engine fire.

The recalled models include the 2013 to 2015 Kia Optima and the 2014 to 2015 Kia Sorento. Also covered are 151,000 Hyundai Santa Fe SUVs from 2013 to 2015.



SUMMIT ENGINEERING, L.L.P.  
P.O. BOX 211426  
COLUMBIA, SC 29221-6426

TEL (803) 731-1200  
FAX (803) 731-1202

January 25, 2021

# EXHIBIT E

Ms. Christie C. Varnado  
The Seibels Law Firm, P.A.  
38 Broad Street, Suite 200  
Charleston, South Carolina 29401

Reference: Hamilton and Culbreath vs. 301 Auto Parts, LLC  
C/A No.: 2019-CP-10-06567  
Summit File Number: DV268

Dear Ms. Varnado:

In follow-up to your request, Summit Engineering, L.L.P. has conducted an engineering investigation of a vehicle fire involving a 2013 Kia Optima owned by Mr. Hamilton and Ms. Culbreath. Mr. Hamilton purchased a replacement engine from 301 Auto Parts, LLC and had it installed by a mechanic in North Charleston during the summer of 2019. While the vehicle was being driven on September 10, 2019 in Greenwood, South Carolina, it is understood that the vehicle stopped running then a fire erupted in the engine compartment. The purpose of this investigation has been to conduct an engineering investigation of the fire with the 2013 Kia Optima vehicle.

The opinions and conclusions stated herein are stated to a reasonable degree of engineering certainty and are based on information available as of this writing. It is conceivable that additional information may be forthcoming which bears on these conclusions and opinions. The right is reserved, therefore, to review all conclusions and opinions at any future point in time should, in fact, additional information becomes available.

The following are observations made during this investigation.

1). The VIN (5XXGN4A72DG188737) shows there are three open recalls for this vehicle. There was a recall announced on February 21, 2020 NHTSA Campaign 20V100000 which included 2013 Kia Optima's with the 2.4L gas engine for "If the fuel hose cracks, a fuel leak can occur, increasing the risk of a fire...The low pressure fuel hose may deteriorate and crack over time due to heat generated within the engine compartment." Another recall dated December 9, 2018 states "...vehicles that had their engine replaced under previous recall 17V224. The defect may cause fuel to leak increasing the risk of fire...17V224 may not have been properly performed. In some cases, the high pressure fuel pipe may have been damaged, misaligned or improperly torqued during the engine replacement procedure, allowing fuel to leak, thereby increasing the risk of fire..." Both these recalls deal with engine compartment fires due to fuel delivery systems to the engine that may leak fuel due to damage to the fuel line when an engine was replaced or long term deterioration of fuel lines.

2). Records from Quality Greenwood show the engine sub-assembly was replaced under warranty in November 2017. On November 29, 2018, the vehicle was towed into Quality Greenwood due to oil leaks and engine would not start. Quality Greenwood found "oil drain plug missing in vehicle. Also found one under shield missing and the other cracked and broken. Upon further inspection we found lower radiator support bent and front bumper scratched..." The last service entry indicates the vehicle was driven over an object and damaged the underside components of the 2013 Kia Optima.

3). 301 Auto Parts sold Mr. Hamilton a replacement engine in June 2019, six months after the engine was found to be inoperable in November 2018. I have not seen any service records between November 2018 and June 2019 when someone replaced the old engine with a replacement engine purchased from 301 Auto Parts. The first engine from 301 Auto Parts installed in the subject Kia Optima did not operate for some unknown reason. A second engine from 301 Auto Parts (shipped July 15, 2019) was provided and installed in the subject 2013 Kia Optima. The vehicle reportedly was operated for about a month before the engine stopped and a fire erupted in the engine compartment.

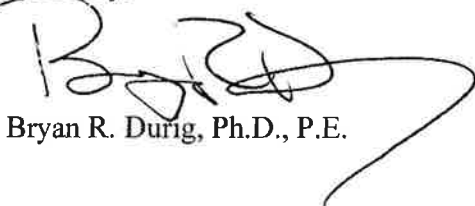
4). The fire damaged 2013 Kia Optima was examined in Greenwood, South Carolina on November 24, 2020. The fire damage was primarily contained to the engine compartment. The engine compartment was visually examined. It was noted that there were parts missing and evidence other parts had been removed prior to my inspection (the ignition coils had been removed and laying on top of the engine). Other components were found on the ground in front of the vehicle and in the rear of the vehicle. The fire damage shows most of the fire damage was high on the engine. The radiator at the front of the engine compartment was not significantly damaged. The description that the vehicle stopped operating and smoke was observed coming out of the engine compartment may be consistent with a fuel leak in the engine compartment.

5). The fire damage indicates the fire originated in the engine compartment. However, the exact cause of the fire could not be determined. There are known defects with the fuel system for this model 2013 Kia Optima (multiple recalls by Kia). The fuel system could have been damaged during one of the engine replacement operations (one by Quality Greenwood and two by someone in Charleston) or the low pressure fuel line failure that Kia had a recall after this fire due to failures resulting from long term deterioration.

6). There has been nothing reviewed to date to show the engine compartment fire was caused by the engines sold by 301 Auto Parts, LLC to Mr. Hamilton in June/July 2019.

If you have any questions, please do not hesitate to call.

Sincerely,



Bryan R. Durg, Ph.D., P.E.

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**

**Aug 29 2022**

**SC Court of Appeals**

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APPEAL FROM THE CHARLESTON COUNTY  
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

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Appellate Case No. 2022-000805

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301 Auto Parts, LLC, Respondent,

v.

Lonnie Hamilton, III and  
Zoe'Lia L. Culbreath, Appellants.

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PROOF OF SERVICE

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I certify that I have served the Appellants' Response in Opposition to the Respondent's Motion to Strike unto the Respondent 301 Auto Parts, LLC by way of electronic mail to the Respondent's attorney of record, Peter Gunnar Nistad, whose email address as listed in the South Carolina Attorney Information System is [gnistad@seibelsfirm.com](mailto:gnistad@seibelsfirm.com), on August 29, 2022.

August 29, 2022  
Charleston, South Carolina

/s/ Thomas S. Tisdale  
Thomas S. Tisdale, 5584  
Salvatore G. Davi, 104954  
Law Offices of Thomas S. Tisdale, LLC  
4 North Atlantic Wharf, Suite 100  
Charleston, South Carolina 29401  
(843) 823-4100  
[tst@chancellorsc.com](mailto:tst@chancellorsc.com)  
[sd@chancellorsc.com](mailto:sd@chancellorsc.com)  
*Attorneys for Appellants*