

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
CASE TYPE: PERSONAL INJURY
AND PROPERTY DAMAGE

CHAD REIS and THOMAS LAMB,

Plaintiffs,

And

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Intervenor,

v.

POLARIS INDUSTRIES INC., a Minnesota
corporation; and JOHN DOES I-X,

Defendants.

Case No. 27-CV-19-13677
Judge Susan M. Robiner

**DEPOSITION
DESIGNATIONS AND
OBJECTIONS FOR
SCOTT WINE**

The parties in the above-captioned matter jointly submit their respective deposition designations and objections for the deposition of Scott Wine. Attached as Exhibit A is a color-coded transcript showing Plaintiffs' affirmative deposition designations (highlighted in orange), Polaris's objections (in blue), Polaris's counter-designations (in purple) and Plaintiffs' objections to Polaris's counter-designations (in yellow). The transcript also shows Polaris's affirmative deposition designations (in green), with Plaintiffs' objections (again in yellow). Attached as Exhibit B is a chart showing the basis for the parties' objections to the deposition designations. The parties reserve the right to amend or withdraw their respective designations and objections. The parties maintain all objections previously made to any documents either side attempts to admit through the testimony of Mr. Wine.

Dated: June 2, 2023

Respectfully submitted,

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EXHIBIT A

1 STATE OF MINNESOTA

SS.

2 COUNTY OF HENNEPIN

3 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
HENNEPIN COUNTY, MINNESOTA

4 COLBY THOMPSON,

5 Plaintiff,

6 vs.

No. 27-CV-17-12608

7 POLARIS INDUSTRIES, INC., a
8 Minnesota corporation; and
JOHN DOES I-X,

9 Defendants.

10 * * * * *

11 STATE OF CALIFORNIA

SS.

12 COUNTY OF RIVERSIDE

13 SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

14 MELINDA RICHMOND, Successor in
15 Interest to the ESTATE OF
PAIGE RICHMOND, and in her
16 Personal Capacity; ROBERT
RICHMOND; JOSHUA WHITFIELD,

17 Plaintiffs,

18 vs.

No. RIC 1804451

19 POLARIS INDUSTRIES, INC.,
20 POLARIS SALES, INC.; EPIC
MOTORSPORTS, INC., et al.,

21 Defendants.
22
23
24
25

1 STATE OF ILLINOIS

SS.

2 COUNTY OF COOK

3 The videotaped deposition of SCOTT WINE
4 taken before Kristi Landolina, Certified Shorthand
5 Reporter, at 6900 Veterans Boulevard, Burr Ridge,
6 Illinois, commencing at 9:15 a.m. on the 22nd day of
7 March, A.D., 2022.

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9 On behalf of the Deponent.

10 ALSO PRESENT: Mr. Anthony Micheletto (videographer)

11 * * * * *

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1 THE VIDEOGRAPHER: We're on the record. Today's
2 date is March 22nd, 2022. The time is 9:16 a.m., as
3 indicated on the video screen.

4 This is the videotaped deposition of Scott
5 Wine in the matter of Colby Thompson vs. Polaris
6 Industries Incorporated, Case No. 27 CV 1712608, filed
7 in the County of Hennepin.

8 The court reporter's name is Kristi Landolina.
9 My name is Anthony Micheletto, the legal videographer.
10 We're with the Benchmark Reporting Agency.

11 Will counsel please identify themselves for
12 the video record.

13 MR. OLSON: Eric Olson, representing plaintiff.

14 MR. FIGLIULO: Jim Figliulo representing the
15 witness.

16 MR. GODFREY: Richard Godfrey and Paul Collier
17 representing Polaris.

18 THE VIDEOGRAPHER: Will the reporter please swear
19 in the witness.

20 MR. OLSON: Before I get into questioning, I want
21 to state for the record that I have provided a binder of
22 exhibits for the witness, Mr. Wine, and I will refer to
23 the exhibit numbers by the corresponding tab when it's
24 time to look at them. I have also put some highlights
25 on the exhibits. I'm happy to talk about removing those

1 or substituting clean exhibits after the deposition.
2 The purpose of the highlights is to better help orient
3 everyone on the portions of the document that I want to
4 talk about.

5 MR. GODFREY: We agree with highlighting for
6 purposes of the deposition. Obviously, we would want
7 the highlighting removed if we go to trial.

8 Question: Are the exhibits being marked as
9 exhibits, like Exhibit 1 to Wine deposition, or are we
10 simply referring to the tabs? How are you going to mark
11 the exhibits?

12 MR. OLSON: I'll refer to them Exhibit No. X, and
13 that is also the same number tab. If I say, "Please
14 turn to Exhibit 2," that means turn to Tab 2.

15 MR. GODFREY: Is that acceptable for the court
16 reporter?

17 THE COURT REPORTER: Yes.

18 MR. FIGLIULO: For the record, Mr. Wine was
19 provided the hard copies of these exhibits this morning
20 and we were provided the -- electronically copies of the
21 exhibits last night.

22 MR. OLSON: Okay.

23 (Witness sworn.)
24
25

1 WHEREUPON:

2 SCOTT WINE,
3 called as a witness herein, having been first duly
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. OLSON:

7 Q. Could you please state your full name for the
8 record.

9 A. Scott Wellington Wine.

10 Q. And you were CEO of Polaris starting in 2008,
11 correct?

12 A. Correct.

13 Q. As CEO, you were the highest ranking officer
14 of the company?

15 A. The operating, yes. The chairman of the
16 board, for the first five years, was actually senior,
17 but not from an operating perspective.

18 Q. As CEO, was your job to manage the company's
19 overall operations?

20 A. I was accountable for everything that happened
21 at the company.

22 Q. There was no one person who could boot you out
23 or fire you from the company, was there?

24 A. I reported to the board of directors, who
25 responded to the shareholders. They had the authority

1 to take me out at any time.

2 Q. But there was no one person who could do that,
3 correct?

4 A. There is no one person who could do that.

5 Q. The board of directors is the group of people
6 who represent the shareholders of Polaris, correct?

7 A. Correct.

8 Q. The shareholders were the actual owners of the
9 company, right?

10 A. Correct.

11 Q. In addition to being CEO, you became a member
12 of the board at some point, correct?

13 A. I was a member of the board as soon as I
14 joined the company.

15 Q. You became chairman in 2013?

16 A. I'm not sure of the date, but at some point
17 around there, yes.

18 Q. As chairman, you were the leader of the board
19 of directors; is that correct?

20 A. I was the chair of the board. There was a
21 lead -- independent lead director that was also, but I
22 was the chairman, yes.

23 Q. Before becoming CEO, did you have some work
24 experience in education and business?

25 A. Obviously, I had quite a bit. That's why I

1 was selected to be the CEO. I was trained out of the
2 naval academy, went into the Navy, learned a lot about
3 the standard operating procedures, safety, all of the
4 stuff the Navy is known for. And I was able to
5 translate those leadership skills into jobs at
6 AlliedSignal, Honeywell, United Technologies, Danaher,
7 and, ultimately, Polaris.

8 MR. OLSON: Move to strike portions of the
9 question. That's nonresponsive.

10 BY MR. OLSON:

11 Q. Is it correct, Mr. Wine, that before becoming
12 CEO, you had learned some things on how to run a
13 successful business?

14 A. Yes.

15 Q. And do you believe that you got the job as CEO
16 and chairman, at least in part, because of your
17 qualifications?

18 A. Yes.

19 Q. You didn't get the job because you're the
20 boss' son or because you had roommates on the board or
21 some other personal connection; is that right?

22 A. Correct.

23 Q. You had worked your way up in the business
24 world to qualify yourself to do that job?

25 A. Correct.

1 Q. While you were at Polaris, did you get to know
2 some of the engineers who designed the vehicles?

3 A. Many.

4 Q. Did you become impressed by their work?

5 A. Very much so.

6 Q. Polaris has employed some very bright
7 engineers, correct?

8 A. I would say, yes, quite many.

9 Q. Do you believe that Polaris has always had
10 enough expertise to design a side-by-side that does not
11 sometimes start on fire while being driven?

12 MR. GODFREY: Objection as to form.

13 BY THE WITNESS:

14 A. Repeat the question, please.

15 Q. Sure. Do you believe that -- Based on working
16 at Polaris and your knowledge of its expertise and its
17 capabilities and getting to know the engineers, do you
18 believe that Polaris has always had enough expertise to
19 design a side-by-side that does not sometimes start on
20 fire?

21 MR. GODFREY: Objection as to form.

22 BY THE WITNESS:

23 A. I believe that we had exceptionally talented
24 engineers that regularly designed the best off-road
25 vehicles and motorcycles in the industry.

1 Q. Do you believe that they had the expertise, if
2 given the resources, to design a side-by-side that would
3 not sometimes start on fire?

4 MR. GODFREY: Objection as to form.

5 BY THE WITNESS:

6 A. I believe that there were exceptionally
7 talented engineers at Polaris that designed the best
8 off-road vehicles in the industry.

9 Q. And you're familiar with the RZR, correct?

10 A. Quite -- Very much so.

11 Q. Was that Polaris' most popular product?

12 A. No.

13 Q. At some point was it?

14 A. No.

15 Q. It never was?

16 A. No.

17 Q. RZRs are considered consumer products,
18 correct?

19 A. Yes. Consumer -- Recreational sport vehicles
20 is how we refer to them.

21 Q. They are intended to be used for recreation,
22 correct?

23 A. Yes.

24 Q. By friends and family?

25 A. By anyone that uses them.

1 Q. Including friends and family, correct?

2 A. Friends and family are part of everyone that
3 uses them, yes.

4 Q. All right. Is it correct that Polaris started
5 producing a RZR XP 900 in model year 2011?

6 A. I don't recall the exact year that that
7 product was at launch, but I -- it's about that time.

8 Q. And, after that, Polaris started producing a
9 RZR 1000 for model year 2014; does that sound right?

10 A. Probably, yes.

11 Q. Then, after that, Polaris started producing a
12 new RZR 900 for new model year 2015; does that sound
13 right?

14 A. The business model was that we would regularly
15 bring out new products along a product line that was
16 successful, yes.

17 Q. Okay. Do you remember a vehicle referred to
18 as Apex within Polaris?

19 A. I remember -- Quite honestly, I had a
20 difficult time following all of the engineering names
21 because we had an engineering name and then we had other
22 things. But, yes, I do remember Apex was one of the
23 products.

24 Q. Then in -- Is it also correct that in -- for
25 model year 2016, Polaris started producing a RZR Turbo?

1 A. Again, I'm not sure of the exact year, but we
2 did bring it about that time.

3 Q. Is it your understanding that Polaris made
4 some improvements in those vehicles from one model to
5 the next?

6 A. It is my belief that we consistently made
7 improvements every year based on the rider experience
8 based on feedback. It was a continuous improvement
9 culture, and that's what we drove.

10 Q. Without getting, you know, deep into any
11 engineering, did those vehicles, as you understood it,
12 kind of build off of one another from the XP 900 to the
13 1000 to the 900 to the Turbo?

14 A. I can't say that they all built off --
15 Obviously, we had engineers that many were on the same
16 programs, but there were times where the program would
17 deviate in many meaningful ways. So I wouldn't say they
18 were built off each other, no.

19 Q. Let me ask you a couple questions about
20 business. If you were going to start a company from the
21 ground up that manufactured products, is one of the
22 things that you would not want your product to do is
23 hurt people?

24 MR. FIGLIULO: Objection; form.

25 MR. GODFREY: Join the objection.

1 BY THE WITNESS:

2 A. It's a hypothetical question. I think the
3 fact is, you know, what we strove to do always -- one of
4 the guiding principles was safety and ethics always. If
5 I started a company, that would also be one of my
6 guiding principles, so yes.

7 Q. Okay. And unless the product you were
8 producing was something like a firework, you would not
9 want the product to suddenly start on fire sometimes and
10 consume itself, correct?

11 MR. FIGLIULO: Objection; form.

12 MR. GODFREY: Join the objection.

13 BY THE WITNESS:

14 A. Again, I would say that with the guiding
15 principle of safety and ethics always and another one of
16 customer loyalty, by definition, with those as your
17 guiding principles, you would not want things to catch
18 on fire.

19 Q. That's especially true if the user would be
20 strapped or buckled into the product when it starts on
21 fire?

22 A. No. It's always true, regardless of how they
23 are riding.

24 Q. If you were running that business and you
25 learned that one of your products started on fire, you

1 would want that investigated, correct?

2 MR. FIGLIULO: Objection; form. It's a
3 hypothetical.

4 MR. GODFREY: Join the objection.

5 BY MR. OLSON:

6 Q. Would you want that investigated?

7 MR. FIGLIULO: Same objection.

8 MR. GODFREY: Join the objection.

9 BY THE WITNESS:

10 A. I wouldn't suggest that I would want anything.
11 We regularly investigated issues with any of our
12 vehicles.

13 MR. GODFREY: Excuse me for interrupting. Can you
14 hear -- I don't have a mike on. Can you hear me
15 Mr. Collier and myself?

16 THE VIDEOGRAPHER: I can hear you faintly.

17 MR. GODFREY: Do I need to speak up?

18 THE VIDEOGRAPHER: Yes.

19 BY MR. OLSON:

20 Q. In this hypothetical business you would
21 understand that if the word got out that your product
22 sometimes started on fire that that would be bad for the
23 business; is that correct?

24 MR. FIGLIULO: Objection; form.

25 MR. GODFREY: Join the objection.

1 BY THE WITNESS:

2 A. Going back to your original statement, I was
3 the CEO trying to run a successful company, of course
4 creating customer loyalty, brand loyalty was important
5 to that business.

6 Q. If you figured out the real reason the RZR --
7 the vehicle started on fire in this hypothetical, you
8 would want to fix it so it would never happen again,
9 correct?

10 MR. FIGLIULO: Objection; form.

11 MR. GODFREY: Join the objection.

12 BY THE WITNESS:

13 A. I don't find it helpful to talk about
14 hypothetical businesses when I actually ran a business
15 that did this. And I think identifying and correcting
16 systemic issues was exactly what we always did.

17 Q. Are you familiar with the term "business
18 ethics"?

19 A. I'm -- Yes.

20 Q. In a nutshell, what is business ethics?

21 A. Business ethics is just doing the right thing.

22 Q. As CEO of Polaris, did you feel like Polaris
23 had a responsibility to run its business ethically?

24 A. As I think I said earlier, safety and ethics
25 always was one of our guiding principles, and it was

1 absolutely how we ran the company.

2 Q. Was that a guiding principle or a motto the
3 entire time you were at Polaris or did that come into
4 creation at some point?

5 A. I think -- I started in September, and I think
6 that became part of our culture in the beginning of
7 2012 -- or of 2009, January 2009.

8 Q. Did you feel that Polaris had a responsibility
9 to consider customer safety when it was designing its
10 products?

11 MR. GODFREY: Objection as to form.

12 BY THE WITNESS:

13 A. Again, I was trying to run a successful
14 business. If you don't -- One of our other guiding
15 principles was safety and ethics always. It doesn't
16 mean you can compromise that. We always tried to keep
17 our customers safe, and that was the design of the
18 vehicle and the way we communicated with customers.

19 Q. Did you feel like Polaris had a responsibility
20 to change a design if it created a safety concern?

21 A. If the root cause for something was a safety
22 concern, we would, yes.

23 Q. Did you feel like Polaris had a responsibility
24 to warn customers about dangers of the product?

25 MR. GODFREY: Objection as to form.

1 BY THE WITNESS:

2 A. I don't think that was their responsibility.
3 I think that was a legal requirement.

4 Q. Did you feel that customer safety should be
5 more important than profit when you were CEO at Polaris?

6 MR. FIGLIULO: Objection; form.

7 BY THE WITNESS:

8 A. I think they go hand-in-hand. If you don't
9 design and sell safe products, you will not make a
10 profit long term.

11 Q. And customer safety should be more important
12 than beating a competitor in the industry. Do you
13 agree?

14 MR. FIGLIULO: Same objection.

15 MR. GODFREY: Join the objection.

16 BY THE WITNESS:

17 A. You don't compromise safety for anything.

18 Q. Are you familiar with the term "speed to
19 market"?

20 A. Yes.

21 Q. Does that refer to generally how long it takes
22 to design and get -- to design a new vehicle and start
23 selling it?

24 A. Yes.

25 Q. Did you feel that designing safe vehicles

1 should be more important than speed to market?

2 A. I think they are both important to the
3 business, but we would not compromise safety to launch a
4 product. We have validation processes in place to
5 ensure that didn't happen.

6 Q. Do you agree that if a RZR suddenly starts on
7 fire while it's being used that that's a safety concern?

8 A. It could be a safety -- It's certainly a
9 safety concern. But the work that we did was to find
10 what the root cause was, and if it was a systemic issue,
11 we would fix it.

12 Q. That would be especially true if the customer
13 doesn't know that the RZR could start on fire suddenly.

14 Do you agree?

15 MR. FIGLIULO: Objection; form, hypothetical.

16 MR. GODFREY: Join the objection.

17 BY THE WITNESS:

18 A. I don't believe you would differentiate
19 between the customer that knew and didn't know. It's a
20 dangerous situation and it's a sport and everything.

21 Q. You would agree it would be especially
22 dangerous if the fire started right behind the customer,
23 you agree -- or under them?

24 MR. FIGLIULO: Objection; hypothetical, form.

25 BY THE WITNESS:

1 A. I don't think that type of fire would be any
2 more dangerous than any fire in the vehicle.

3 Q. And especially dangerous if the sudden fire
4 behind or under them was a gasoline or fuel fire; would
5 you agree?

6 MR. FIGLIULO: Objection; hypothetical, form.

7 MR. GODFREY: Join the objection.

8 BY THE WITNESS:

9 A. Again, we strove to eliminate fires,
10 regardless of where they were located.

11 Q. Polaris started selling 2017 model year RZR's
12 in about the fall of 2016; is that correct?

13 A. That would have been -- That's the time frame.
14 Summer/fall would be the time frame we launched the
15 product, yes.

16 Q. You knew for several years before the 2017
17 models were released for sale that some RZR's started on
18 fire when used, correct?

19 A. Correct.

20 Q. If you could, please go to Exhibit 2 in the
21 binder.

22 Mr. Wine, do you recognize Exhibit 2?

23 (Wine Deposition Exhibit No. 2 marked
24 as requested.)

25 BY THE WITNESS:

1 A. I mean, I recognize it's a Polaris e-mail, but

2 I don't recall the ...

3 Q. Have you seen it?

4 A. This morning Jim, he, actually, read it to me.

5 He didn't show it to me.

6 Q. Let me focus your attention to the very

7 bottommost e-mail. Does that appear to be an e-mail

8 from Mr. Michael Mallow to yourself?

9 A. Yes.

10 Q. The date of that e-mail is November 5 of 2012?

11 A. Correct.

12 Q. And the subject line says, "Help. New RZR XP

13 fire first ride"?

14 A. Yes.

15 Q. From the body of the e-mail, does it appear

16 Mr. Mallow was an RZR customer?

17 A. It would appear from the e-mail, yes.

18 Q. He notified you in substance from this e-mail

19 that a few days prior he had his RZR XP burned to the

20 ground on his first ride in 30 minutes; is that correct?

21 MR. FIGLIULO: Objection; form.

22 MR. OLSON: What's the basis?

23 BY THE WITNESS:

24 A. The e-mail says, "I hope you get this e-mail.

25 Four days ago my XP burned to the ground on my first

1 30-minute ride. Post-fire analysis revealed a trail of
2 oil that was dripping from the engine."

3 Q. Okay. You understand from that, though, that
4 he had had a new RZR XP start on fire and consume
5 itself, correct?

6 A. Yes.

7 Q. He also stated, quote, "I want you to be aware
8 of an issue that could tragically injure or kill
9 someone."

10 Do you see that?

11 A. Yes.

12 Q. Did you learn from this that a RZR could start
13 on fire from something as simple as an oil leak?

14 A. I don't know that that's what I learned from
15 this. I did what I always do. I referred it to our
16 team for follow-up and root cause and corrective action
17 detection.

18 Q. Okay. Then let's look at the next e-mail up.
19 It looks like what you did is you sent that e-mail to
20 Bill Fisher, Dave Longren, and Stacy Bogart, correct?

21 A. Yes.

22 Q. You changed the subject line from, "Help. New
23 RZR XP first ride" to "attorney-client privilege"; is
24 that correct?

25 A. Yes.

1 Q. Did you do that because you didn't want this
2 e-mail to get out?

3 MR. GODFREY: Objection; form.

4 MR. OLSON: What's the basis?

5 MR. GODFREY: You're making an assumption. You're
6 asserting a fact that you have no basis to make. It's
7 not a good-faith question. You can ask him why he did
8 it. You can't assert the fact that he was trying to use
9 it improperly.

10 MR. OLSON: Thank you for explaining the basis.

11 BY MR. OLSON:

12 Q. Is it correct that you changed the subject
13 line when you sent it to Mr. Fisher, Mr. Longren, and
14 Ms. Bogart?

15 A. I did change it, and I don't recall -- Again,
16 this was 2012. Actually, we're, you know, nine and a
17 half years ago. I don't recall why I changed it.

18 Q. Can you think of any reason why you would have
19 changed that, other than not wanting that e-mail to get
20 out?

21 MR. GODFREY: Objection as to form. Again, you are
22 asserting a fact not in evidence to impugn the integrity
23 of the witness. That's not proper, Counsel.

24 MR. OLSON: Counsel, I disagree. Unless I ask for
25 further explanation, please keep it to form.

1 BY THE WITNESS:

2 A. Again, I do not recall why I changed it to
3 "attorney-client privilege," but I copied Stacy Bogart
4 and sent it to her because I wanted a legal view of how
5 this was done.

6 Q. Ms. Bogart was the general counsel, correct?

7 A. She was.

8 Q. And Mr. Longren was the head of ORV business
9 and engineering; is that right?

10 A. Correct. That's correct.

11 Q. ORV business would include the RZR; is that
12 right?

13 A. Correct.

14 Q. And Mr. Fisher was who?

15 A. He was in charge of service and customer
16 warranty.

17 Q. Now, all you said in the e-mail was, "Can you
18 give me a brief response I can send to this customer,"
19 right?

20 A. Yes.

21 Q. You didn't express any sort of shock in that
22 e-mail to them, did you?

23 A. No. I would typically walk down the hall in
24 the office and speak to someone directly and express my
25 requirement for aggressive follow-up.

1 Q. You didn't ask in this e-mail to them, for
2 example, something to the effect of, How could this
3 happen?

4 A. Again, I did that in my verbal conversations
5 that followed up with these individuals. But the e-mail
6 was specifically I needed to respond to the customer,
7 and that was my request.

8 Q. Is that because you already knew by this point
9 in time that some RZR XP 900s started on fire or melted?

10 MR. FIGLIULO: Objection; form.

11 BY THE WITNESS:

12 A. I do not recall that I was aware that that was
13 a concern, no.

14 Q. So are you saying this was the first time you
15 were made aware of a RZR XP 900 starting on fire or
16 melting?

17 A. I do not recall, previous to this, being made
18 aware. I regularly was notified by customers of many
19 different issues with their vehicles. I don't recall
20 which ones were fire related or not.

21 Q. Do you remember whether or not you were
22 shocked when you got this e-mail from Mr. Mallow, or
23 surprised?

24 A. I do not recall my state of mind. I don't --

25 Q. Okay. But you would agree that your first

1 response to this, forwarding it onto your colleagues,
2 does not express any indication of surprise.

3 Do you agree with that?

4 A. The e-mail states, "Can you give me a brief
5 response I can send to the customer?" That's exactly
6 what I intended the e-mail to communicate.

7 Q. That's all you communicated?

8 A. No. That's all I communicated in this e-mail.

9 Q. All right. Go to Exhibit 3, if you could,
10 please. And I want to focus your attention on the first
11 two pages, but let me first ask you if you recognize
12 this document?

13 (Wine Deposition Exhibit No. 3 marked
14 as requested.)

15 BY THE WITNESS:

16 A. Jim brought it to my attention this morning.
17 That's the first time I have seen it in quite some time.

18 Q. Okay. Does it appear to be a letter that was
19 addressed to you?

20 A. It does, yes.

21 Q. Then, if you look at the very last page of
22 this exhibit, does that appear to be an envelope
23 addressed to you via certified mail?

24 A. Yes. It does.

25 Q. Does it appear that the postage date is

1 July 21 of 2014?

2 A. It, actually, looks like June 21.

3 Q. Okay. I'm looking in the top right-hand
4 corner. I see J U L 21, '14?

5 A. I'm looking at the insurance form.

6 Q. Very last page.

7 MR. GODFREY: Bates No. 3790, is that the page,
8 Mr. Olson?

9 MR. OLSON: Yes.

10 BY THE WITNESS:

11 A. July 21st, 2014, yes.

12 Q. I should have asked this earlier: Was it your
13 routine practice, unless something appeared to be a spam
14 e-mail or junk mail, to read things that were sent to
15 you?

16 A. I, generally, read most everything that was
17 sent to me.

18 Q. Okay. Thank you. All right. So I have a
19 couple of questions about these -- this letter. Does
20 this appear to be a letter from another Polaris
21 customer?

22 A. The first sentence says, "I have been a
23 committed Polaris ATV customer for many years." So,
24 yes, this would be a customer.

25 Q. All right. Is it correct that in this letter

1 the customer described for you a RZR fire that he was
2 involved in?

3 A. Yes, it does appear that -- Yes.

4 Q. If you look at the Bates No. 3784, does it
5 appear that the RZR issue is a RZR 1000 XP?

6 A. Yes.

7 Q. Back to his letter, does he ascribe, in
8 essence, to you that he was driving down the road in his
9 RZR and it started on fire?

10 A. Yes.

11 Q. He also includes a photo of the RZR consumed
12 in flames, correct?

13 A. There is a photo, yes.

14 Q. He notes in the photo that there was a trail
15 of gas or oil that was previously burning some distance
16 away from the RZR, correct?

17 A. Yes. I mean, he states he replaced the fuel
18 pump several times and that is what he believes had
19 something to do with the fuel leaking.

20 Q. I'm sorry. I'm talking about in the actual
21 photo he has a note that indicates there was a trail of
22 gas or oil that was previously burning.

23 Do you see that?

24 A. It says in the photo, "Trail of gas that was
25 previously burning."

1 Q. Okay. Did you learn from this incident that a
2 RZR could start on fire and consume itself from
3 something as simple as a fuel leak?

4 MR. FIGLIULO: Objection; form.

5 MR. GODFREY: Join the objection.

6 BY THE WITNESS:

7 A. I don't know that I learned -- I don't recall
8 what I learned from this. I did know -- notice that the
9 fuel pump had been replaced twice. Whenever you engage
10 dealer service events, it can -- you know, it can cause
11 issues. I don't know what I took away from this event.

12 Q. Did you learn that in August of 2014, one of
13 Polaris' own employees was burned by a fire involving a
14 RZR 1000?

15 A. I don't recall.

16 Q. Go to Exhibit 4, if you would, please. I'll
17 note for the record that the exhibit we have here is
18 redacted, but I have other documents that indicate this
19 is documents from a Mr. Braddock (phonetic), or what
20 I'll refer to as the Braddock fire.

21 Do you recognize Exhibit 4?

22 (Wine Deposition Exhibit No. 4 marked
23 as requested.)

24 BY THE WITNESS:

25 A. It looks like an e-mail that was sent to me on

1 | October 3rd that I responded to on October 4th.

2 | Q. Does that appear to be another e-mail from a
3 | RZR customer?

4 | A. It's redacted. I'm assuming it probably is
5 | from a customer, yes.

6 | Q. All right. Does the customer describe he and
7 | his son were involved in a RZR fire involving a new RZR
8 | 1000?

9 | A. Can you give me time to read the document?

10 | Q. Absolutely.

11 | A. Yes, I have read it.

12 | Q. Okay. Does this appear to be an e-mail from a
13 | customer who describes that he was involved in a RZR
14 | fire?

15 | A. Yes, it does.

16 | Q. His RZR was a new RZR 1000?

17 | A. Yes. But -- A 2015 RZR XP 1000.

18 | Q. Okay. He states in there that he does not
19 | believe that the fire was due to him being negligent.

20 | Do you see that?

21 | A. I'm confident that it is -- yeah -- yes. I
22 | believe that's what he said.

23 | Q. And he explains that he and his son are
24 | dealing with some trauma from the event; is that
25 | correct?

1 A. "I am between dealing with the trauma of this
2 with myself and my son. Solidifying a claim with my
3 insurance company." Yes.

4 Q. He expresses that he feels like his story is
5 being questioned by Polaris, correct?

6 A. Yes, he does.

7 Q. And that it's not being taken seriously?

8 A. I don't know that that ...

9 Q. Do you see where he says, quote, "I'm getting
10 the impression, after such a large purchase, that my
11 story is being questioned and not taken seriously."

12 Do you see that?

13 A. Yes, I do.

14 Q. He expresses that he feels like this event is
15 extreme enough that it should get someone's attention?

16 A. That's essentially what he says, yes.

17 Q. Then he also references a photo that he
18 attached to the e-mail, correct?

19 A. Yes.

20 Q. The photo that's attached to this exhibit
21 appears to be a RZR that's engulfed in flames, correct?

22 A. Correct.

23 Q. Do you see at the bottom of the first page of
24 his e-mail, he says, "I can't fathom a brand new unit
25 just going up in blaze."

1 Do you see that?

2 A. Yes.

3 Q. Mr. Wine, you could fathom a new unit going up
4 in blaze because you were aware of that happening
5 before, correct?

6 MR. FIGLIULO: Objection; form.

7 MR. GODFREY: Join the objection.

8 BY THE WITNESS:

9 A. I don't recall that I was aware that new units
10 would go up in --

11 Q. Well, if we look at Exhibit 2, you were
12 informed by Mr. Mallow that his new RZR XP 900 started
13 on fire, correct?

14 A. Yes. We did, you know, sell thousands of
15 these products and I got numerous e-mails from
16 customers, so, I mean, I wouldn't say one or two
17 e-mails, even three e-mails, would have prompted me to
18 identify any trend. We had a process in place to
19 investigate, we would do those things, but it
20 wouldn't -- A specific e-mail from a customer would
21 not -- I mean, if I reacted in a way that changed the
22 trajectory of the company every customer e-mail, I
23 wouldn't run a very successful company, so ...

24 Q. My question was simply: You can see where he
25 says he couldn't fathom a new unit going up in blaze,

1 but you could because you had known about it, right?

2 MR. FIGLIULO: Objection; form.

3 MR. GODFREY: Join.

4 BY THE WITNESS:

5 A. That is incorrect.

6 Q. In Exhibit 2 you were told by Mr. Mallow that
7 his new RZR did start on fire, correct?

8 A. Yes, that's what he said.

9 Q. Back to Exhibit 4. The RZR 1000 was supposed
10 to be new and improved in some ways, correct?

11 A. Yes.

12 Q. All right. Did you become aware that another
13 Polaris employee was involved in a RZR fire in 2015 that
14 involved a 2015 RZR 900?

15 A. I'm not aware of that.

16 Q. A Tara Ivory; does that ring a bell?

17 A. No, it does not.

18 Q. Does the name Baylee Hoaldridge ring a bell to
19 you?

20 A. Yes.

21 Q. Baylee was a teenage girl, correct?

22 A. Yes, I believe so.

23 Q. And she was involved in a RZR fire on July 4,
24 2015; is that correct?

25 A. Yes.

1 Q. Her -- The RZR she was in was a new 2015 RZR
2 900?

3 A. I don't recall the age of the vehicle.

4 Q. Take a look at Exhibit 7, please. Are you
5 familiar with Exhibit 7?

6 (Wine Deposition Exhibit No. 7 marked
7 as requested.)

8 BY THE WITNESS:

9 A. No, I'm not.

10 Q. Feel free to familiarize yourself with it.
11 I'll primarily be asking you about the first paragraph.

12 A. Yes.

13 Q. Does this appear to be a letter from the
14 family who is representing the Hoaldrige family?

15 A. No. It, actually, appears to be a letter from
16 a law firm that's representing the family, not the
17 family that's representing the family.

18 Q. Thank you for correcting me.

19 Exhibit 7 appears to be a letter from the law
20 firm who is representing the Hoaldrige family; is that
21 correct?

22 A. That's correct.

23 Q. And the letter is addressed to Polaris care of
24 yourself, correct?

25 A. Correct.

1 Q. The date of the incident is indicated as
2 July 4, 2015?

3 A. 2014.

4 Q. In the date of incident field it says, "July 4
5 of 2015," correct, in the re segment?

6 A. It does, but it says in the written document
7 that it's July of '14.

8 Q. You're aware, as you answered earlier, that
9 this is a fire that occurred on July 4 of 2015; is that
10 correct?

11 A. I don't recall the date. Looking at this
12 document, it's got two different dates. It's got
13 July 4th, 2015 as the date of the incident. In the
14 paragraph that you just had me read, it says "July 4th,
15 2014." So I'm not sure -- I don't recall seven years
16 ago which of these dates is correct, but it was -- I do
17 recall the incident.

18 Q. All right. And it does say in the body of the
19 e-mail that the RZR involved was a new Polaris RZR 900,
20 correct?

21 A. Yes.

22 Q. It also indicates that she would remain
23 hospitalized and was severely burned, correct?

24 A. Yes.

25 Q. If you would, please, go to Exhibit 6. This

1 is a bigger document. I just have questions about one
2 or two pages in it. Just looking at the front page, do
3 you recognize this document?

4 (Wine Deposition Exhibit No. 6 marked
5 as requested.)

6 BY THE WITNESS:

7 A. No, I do not.

8 Q. Does it appear to be a Polaris document?

9 MR. FIGLIULO: Objection; form.

10 BY MR. OLSON:

11 Q. If you look through a couple of pages.

12 MR. GODFREY: Join the objection.

13 BY THE WITNESS:

14 A. It looks -- It appears to be a slide from a
15 Polaris document, yes.

16 Q. Thank you. Go to Page 69, if you could,
17 please.

18 Does this slide reference the Hoaldrige fire?

19 A. The title of the slide is "Hoaldrige Fire,
20 Utah, July 4, 2015."

21 Q. Does that clarify for you that the -- her fire
22 occurred on July 4 of 2015?

23 A. Yes, it does.

24 Q. All right. Back to Exhibit 7, please. Did
25 you receive Exhibit 7?

1 A. I don't recall, but it's likely it came to my
2 assistant and my assistant signed for it and then I got
3 it. That's generally what would have happened.

4 Q. Up to this point in time, July of 2015, was
5 this the worst burn injury that you had become aware of
6 from a RZR fire?

7 A. I believe so, yes.

8 Q. In addition to getting this letter in July
9 of 2015, do you remember that there was also a
10 significant amount of news coverage for the Hoaldrige
11 fire?

12 A. I don't recall what was -- we were pub -- We
13 were a public powersports company. There's lots of news.
14 I don't know that this was -- I cannot classify what is
15 significant news coverage.

16 Q. Okay. Was this fire significant to Polaris?

17 A. Yes.

18 Q. Polaris sent Ms. Bogart and Mr. Longren out to
19 Utah to meet the family, correct?

20 A. We sent many people out to investigate the
21 incident. Following those meetings we did send Stacy
22 Bogart, our general counsel, and Dave Longren, who was
23 the general manager of the off-road vehicle business, to
24 meet the family.

25 Q. Did you learn that Baylee burned over

1 60 percent of her body?

2 A. We did, yes.

3 Q. And she died a few months after the fire in
4 the hospital?

5 A. I believe it was almost six months. Very,
6 very tragic.

7 Q. Did you learn that part of what was done to
8 try and save her life was to cut off portions of her
9 leg?

10 MR. FIGLIULO: Objection; form.

11 BY THE WITNESS:

12 A. I do not recall.

13 Q. Go to Exhibit 14, if you would, please. Are
14 you familiar with Exhibit 14?

15 (Wine Deposition Exhibit No. 14
16 marked as requested.)

17 BY THE WITNESS:

18 A. I am not.

19 Q. Feel free to familiarize yourself with it
20 generally.

21 A. Okay.

22 Q. Does this appear to be an e-mail string that
23 you were involved in?

24 A. Yes, it does.

25 Q. And Kelsey Basgen --

1 A. Kelly Basgen.

2 Q. Kelly Basgen drafted the first part of this
3 e-mail; is that correct?

4 A. I don't know where it started, but -- Yes, it
5 looks like she did, on Tuesday, April 19th.

6 Q. She was the director of strategic
7 communications at Polaris; is that correct?

8 A. That's correct.

9 Q. Does it appear to you that some of what she
10 did in these e-mails was summarize what various news
11 sources were saying about a Polaris recall; is that
12 correct?

13 A. That's correct.

14 Q. Was that part of her job, to monitor that and
15 provide some summaries to management?

16 A. Yes.

17 Q. Do you see that on the second page of the
18 e-mail in the KSTU-TV Fox News at 5:00 paragraph, there
19 is a sentence that says, "A lot of people don't know but
20 Baylee had so many infections they had excised so much
21 off her legs that the tendons on the forefront of her
22 foot were compel try exposed?"

23 MR. GODFREY: Objection as to form.

24 BY MR. OLSON:

25 Q. Do you see that?

1 A. Yes, I see that.

2 Q. This is a statement in an e-mail that was sent
3 to you by Ms. Basgen, among others, correct?

4 MR. FIGLIULO: Objection; form.

5 MR. GODFREY: Join the objection.

6 BY THE WITNESS:

7 A. The e-mail was sent to myself, Bennett Morgan,
8 Matt Homan, Mike Speetzen, Tim Larson, Richard Edwards,
9 Ken Pucel, Jim Williams, and Holly Spaeth, copied to
10 Stacy Bogart, Paul Vitrano and James Fuller.

11 Q. Okay. As a recipient of this e-mail, did you
12 learn that part of what was done to try and save
13 Baylee's life was cut off portions of her leg?

14 MR. FIGLIULO: Objection; form.

15 MR. GODFREY: Join the objection.

16 BY THE WITNESS:

17 A. I cannot say that I actually read that part of
18 e-mail.

19 Q. But it's in there; you agree?

20 A. I would agree -- Yes, I can see that it's in
21 this document.

22 Q. And that it indicates that doing that left the
23 tendons exposed on the forefront of her foot?

24 MR. FIGLIULO: Objection; form.

25 BY THE WITNESS:

1 A. I just read that.

2 MR. GODFREY: Join the objection.

3 BY MR. OLSON:

4 Q. Did you ever see photos of that?

5 MR. FIGLIULO: Objection.

6 BY THE WITNESS:

7 A. I saw several photos. I don't recall ever
8 seeing that particular photo.

9 Q. Did you ever listen to the 911 call from her
10 dad who was driving the RZR that started on fire?

11 A. I believe it was her grandfather that was
12 driving.

13 Q. Did you ever listen to the 911 call from her
14 dad?

15 A. I did not.

16 Q. Did anyone at Polaris ever tell you about how
17 her dad on that call, BJ, was wailing to the 911
18 operator as he waited at the scene for help for Baylee?

19 MR. FIGLIULO: Objection; form.

20 BY THE WITNESS:

21 A. I do not recall being made aware of that.

22 Q. If you would, please, go to Exhibit 8.

23 Do you recognize this document?

24 (Wine Deposition Exhibit No. 8 marked
25 as requested.)

1 BY THE WITNESS:

2 A. I do not.

3 Q. Feel free to familiarize yourself, Mr. Wine.

4 Does this appear to be a lawsuit?

5 A. Yes, it does.

6 Q. Does it appear to be filed on behalf of a
7 James Joseph Klingaman against Polaris?

8 A. Yes, it does.

9 Q. Does it appear that this was filed on July 30
10 of 2015?

11 A. Yes.

12 Q. Could you briefly go back to Exhibit 6?

13 MR. OLSON: Feel free to pour yourself a cup of
14 water.

15 THE WITNESS: It's coffee.

16 BY MR. OLSON:

17 Q. If you would, please, go to Page 77. Does
18 this page of this document reference the Klingaman fire?

19 A. It appears to, yes.

20 Q. It indicates that notice was received on 7/31
21 of 2015?

22 A. The document says, "Notice not received until
23 7/31/15."

24 Q. If you go back to Exhibit 8, what this
25 describes is another RZR fire, correct?

1 A. Is there -- Yes.

2 Q. Sorry. Go back to Exhibit 8. The complaint
3 describes another RZR fire, correct?

4 MR. FIGLIULO: Objection; form.

5 BY THE WITNESS:

6 A. The lawsuit appears to indicate a fire in a
7 RZR vehicle, yes.

8 Q. That's a RZR 1000?

9 A. Yes, it is.

10 Q. This is a fire that involved a 13-year-old
11 boy?

12 A. It appears so, yes.

13 Q. Who burned 45 percent of his body?

14 MR. FIGLIULO: Objection; form, assumes facts not
15 in evidence.

16 BY MR. OLSON:

17 Q. According to the document, he burned
18 45 percent of his body; is that correct?

19 A. That's what the document says, yes.

20 Q. Did you learn about this Klingaman lawsuit?

21 A. I was aware of the Klingaman lawsuit, not the
22 specifics, but aware that there was an incident.

23 Q. Did you become -- Do you believe that you
24 would have become aware of the lawsuit around the time
25 that it was filed in July or August of 2015?

1 A. Typically, I would have been notified if there
2 was a lawsuit, yes.

3 Q. Then, if you would, please, go to Exhibit 20.

4 Do you recognize this e-mail?

5 A. I do not.

6 Q. Feel free to familiarize yourself with it.

7 A. Yes. I recall that now that I read it.

8 (Wine Deposition Exhibit No. 20

9 marked as requested.)

10 BY MR. OLSON:

11 Q. Mr. Wine, this appears to be an e-mail string
12 you're involved in, correct?

13 A. Actually, it appears to be an e-mail that I
14 wrote.

15 Q. Okay. There's two e-mails in this exhibit,
16 correct?

17 A. Correct.

18 Q. The bottom e-mail is one that you wrote to the
19 board; is that correct?

20 A. That is -- It appears to be, yes.

21 Q. That was on July 28 of 2016, correct?

22 A. Correct.

23 Q. One of the things that you document in this
24 e-mail is that you had become aware of a RZR fire,

25 correct?

1 A. Yes. I said, "Unfortunately, last Sunday,
2 July 24th, a RZR Turbo caught fire." Yes.

3 Q. All right. And that fire burned a little
4 girl, correct?

5 A. It looks like there were two children on board
6 and it did burn one of the children, yes.

7 Q. 40 percent of her body?

8 A. That's what the e-mail says, yes.

9 Q. It also started a forest fire, correct?

10 A. It looks like it burned 15 acres, yes.

11 Q. By this point in time, to recap, you had been
12 personally made aware of a new RZR XP 900 starting on
13 fire with Mr. Mallow, correct?

14 A. Yes.

15 Q. A new XP 1000 starting on fire with
16 Mr. Braddock, correct?

17 A. Yes.

18 Q. A new 2015 RZR 900 starting on fire with
19 Baylee Hoalddridge, correct?

20 A. Correct.

21 Q. And this is a RZR Turbo fire, correct?

22 A. Correct.

23 Q. It wasn't your job to receive all of the
24 reports for all of the fires that occurred, was it?

25 A. No.

1 Q. Those four models were each new models that
2 Polaris created for RZRs between 2011 and 2016, right?

3 A. Correct.

4 Q. All of them had fires that you were personally
5 notified of, correct?

6 A. I do not recall that I was notified that every
7 model year had any fires, no, I cannot say that.

8 Q. I'm sorry. What I meant to ask is: As we
9 have gone through today, you had been personally
10 notified of fires on all four of those models that were
11 released between 2011 and 2016; is that correct?

12 A. I didn't notice, even as we were going
13 through, that they were separate model years. I don't
14 know the model years of the vehicles, but I do know the
15 incident we referred to and I would agree that there
16 were fires on RZR vehicles, but I didn't write down the
17 model year to know they were different.

18 Q. Okay. But we have gone through them today as
19 we have gone through the e-mails, right?

20 A. I know. But I didn't -- I don't know the
21 model years of the vehicles involved. We can go back
22 and look and I can write it down so I'm sure of that,
23 but I can't say from recollection that they were
24 different model years.

25 Q. But those models, from the XP 900, to the XP

1 1000, to the 2015 900, to the 2016 Turbo, those were
2 supposed to be new and improved models, correct?

3 A. We typically launch products that had, you
4 know, all of the improvements taken year over year, yes.

5 Q. They weren't supposed to keep starting on
6 fire, right?

7 MR. FIGLIULO: Objection; form.

8 BY THE WITNESS:

9 A. No product is supposed to catch on fire.

10 Q. Apart from being personally notified of fires
11 on each of these models, you had learned by this point
12 in time that three children had been burned in these
13 fires, correct?

14 A. These e-mails say that, yes.

15 Q. One of them had been killed, right?

16 MR. FIGLIULO: Objection; form.

17 MR. GODFREY: Join the objection.

18 BY THE WITNESS:

19 A. Baylee Hoaldridge did pass away, yes.

20 Q. Do you have children, Mr. Wine?

21 A. I do.

22 Q. Prior to the fall of 2016, Polaris did
23 multiple recalls for different groups of RZR's related to
24 the potential for them to start on fire or melt; is that
25 correct?

1 A. That's correct.

2 Q. Those recalls did not fix the problem with
3 RZR's sometimes starting on fire, did they?

4 MR. FIGLIULO: Objection to form.

5 MR. GODFREY: Objection as to form.

6 BY THE WITNESS:

7 A. I cannot agree that that's a correct
8 statement.

9 Q. You knew by fall of 2016 that the recalls had
10 not fixed the problem with RZR's starting on fire, didn't
11 you?

12 MR. FIGLIULO: Objection; form.

13 MR. GODFREY: Join the objection.

14 BY THE WITNESS:

15 A. I do not recall what I knew in 2016. From
16 this note, I think it is clear that it was an
17 all-hands-on-deck effort to ensure that we remediated
18 any systemic issues from our vehicles. That's what we
19 strove to do, and that's what this e-mail communicated.

20 Q. It's correct that Polaris did a recall on the
21 2011 RZR XP 900 in 2013 because it could overheat and
22 melt; is that right?

23 MR. FIGLIULO: Objection; form.

24 BY THE WITNESS:

25 A. I do not recall.

1 Q. Go to Exhibit 41, if you would, please.

2 Does this appear to be an e-mail string that
3 you were brought onto by Bennett Morgan?

4

5 (Wine Deposition Exhibit No. 41

6 marked as requested.)

7 BY THE WITNESS:

8 A. Yes.

9 Q. This is as of June 20, 2013; is that correct?

10 A. June 20th, 2013, yes.

11 Q. If you look down further in the e-mail, what
12 it shows is that Polaris recalled the 2011 Ranger RZR XP
13 900, correct?

14 A. Yes.

15 Q. That was done because part of the -- the part
16 behind the seats could overheat and melt, posing a burn
17 hazard?

18 A. The document says, "2011 Polaris RZR XP 900
19 recreational vehicles and roughly five 100 ATG
20 lithium-ion batteries, as both products could
21 potentially overheat."

22 Q. In the next paragraph it indicates that the
23 RZRs were being recalled because the part behind the
24 driver seats could overheat and melt, right?

25 A. "The CPSC said Polaris Industries, Inc., is

1 voluntarily recalling the off-road vehicles because the
2 firewall behind the driver and passenger seats can
3 overheat and melt, posing a burn hazard."

4 Q. As we have already talked about today, after
5 this recall that's referenced in this exhibit, you did
6 become aware of RZR's that still started on fire, right?

7 MR. FIGLIULO: Objection; form.

8 BY THE WITNESS:

9 A. There were times where I was notified of RZR's
10 catching on fire, yes.

11 Q. Even after this 2013 recall was done, correct?

12 A. Yes.

13 Q. All right. If you would, please, go to
14 Exhibit 25. Mr. Wine, before I ask you questions about
15 this e-mail, maybe you'll know from memory.

16 Is it correct that Polaris did a
17 thermal-related recall for RZR's in October of 2015 for
18 RZR 900s and 1000s?

19 A. I'm not aware.

20 (Wine Deposition Exhibit No. 25
21 marked as requested.)

22 BY MR. OLSON:

23 Q. Okay. Feel free to look at Exhibit 25 to
24 refresh your memory.

25 MR. GODFREY: While he's doing that, Mr. Olson -- I

1 should have asked this earlier -- are you going to give
2 a copy of the notebook of exhibits to the court reporter
3 so we have an official record; is that the plan?

4 MR. OLSON: Sure.

5 MR. GODFREY: All right. While Mr. Wine was
6 reading, I thought I could ask that question. I meant
7 to ask you earlier and I forgot.

8 BY MR. OLSON:

9 Q. Does Exhibit 25 appear to have been an e-mail
10 string?

11 A. Yes, it does.

12 Q. The bottom e-mail is an e-mail from yourself
13 to all Polaris corporate, correct?

14 A. That's correct.

15 Q. In the e-mail you state that there was a
16 thermal-related recall done for RZR 900s and 1000s in
17 October of 2015; is that correct?

18 A. Yes, that's correct.

19 Q. Then Polaris did another thermal recall of RZR
20 900 and 1000s in April 2016, correct?

21 A. That's correct.

22 Q. Neither of those recalls fixed the problem
23 with RZRs sometimes starting on fire, did they?

24 MR. FIGLIULO: Objection; form.

25 MR. GODFREY: Objection as to form.

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BY THE WITNESS:

A. I believe that every recall action we took improved the thermal efficacy of our vehicles.

Q. You would agree that neither of those recalls made it so that RZR's wouldn't still sometimes start on fire?

MR. FIGLIULO: Objection; form.

BY THE WITNESS:

A. I do not agree with that.

Q. But you would agree that RZR's still did sometimes start on fire, even after getting those recalls, correct?

A. Any vehicle with an internal combustion gas engine in it has the opportunity to catch on fire. Automotive, tractors, our vehicles; so, yes, that is true.

Q. Is that just because engines run hot?

A. There are multiple causes.

Q. Go to Exhibit 19, if you would, please. We're already there. Well, I'm there. Go to Exhibit 19, if you would, please.

Are you familiar with this e-mail?

(Wine Deposition Exhibit No. 19
marked as requested.)

1 BY THE WITNESS:

2 A. I'm not.

3 Q. Feel free to familiarize yourself.

4 A. I read it.

5 Q. Does this appear to be an e-mail string you
6 were involved in?

7 A. It was an e-mail sent to me by Mr. Chris
8 Brewer on July 6, 2016.

9 Q. And Mr. Brewer was a Polaris dealer, correct?

10 A. Polaris dealer in North Carolina.

11 Q. He had been a dealer for 35 years?

12 A. Yes.

13 Q. And a dealer for Polaris since 1992?

14 A. Yes.

15 Q. One of the things he told you is that he had a
16 RZR that caught on fire after he did the recall,
17 correct?

18 A. That's correct.

19 Q. This was on July 6 of 2016, after the
20 April 2016 recall, correct?

21 A. That's correct.

22 Q. Mr. Brewer informed you that he believed that
23 Polaris was more concerned about the sale and not as
24 much about the customer; is that right?

25 MR. FIGLIULO: Objection; form. He did not finish

1 the sentence.

2 BY MR. OLSON:

3 Q. Did you understand from this e-mail, Mr. Wine,
4 that Mr. Brewer was concerned -- felt that Polaris was
5 more concerned about the sale than the customer?

6 MR. FIGLIULO: Objection; form.

7 MR. GODFREY: Join.

8 BY THE WITNESS:

9 A. He said, "We feel like Polaris is more
10 concerned about the sale and not as much about customer
11 and dealer support."

12 Q. And he also relayed to you that he notified
13 Polaris about the RZR starting on fire after doing the
14 recalls, right?

15 A. Yes. Correct.

16 Q. He explained to you that the response from
17 Polaris was that engineers could get out to look at it
18 in six to eight weeks or the customer could buy another
19 RZR, correct?

20 A. Yes, that's what it says.

21 Q. He expressed to you that he was shocked by
22 that?

23 A. His words were "I was shocked," so, yes,
24 that's correct.

25 Q. Mr. Wine, you knew by the fall of 2016, that

1 | there would likely be more recalls related to RZR fires,
2 | correct?

3 | A. I knew in the fall of 2016 that there was an
4 | extensive effort to remediate all systemic thermal
5 | issues from our vehicles; and if that involved recalls,
6 | we would do them.

7 | Q. Did you believe, at that point in time, there
8 | would likely be more recalls for RZRs?

9 | MR. FIGLIULO: Objection; form, hypothetical.

10 | MR. GODFREY: Join in the objection.

11 | BY THE WITNESS:

12 | A. Again, it wasn't -- I didn't project, predict
13 | recalls. I knew we would take -- we would look for root
14 | causes, systemic issues, and when we found them, we
15 | would issue a recall.

16 | Q. Go to Exhibit 16, if you would, please. 16.

17 | (Wine Deposition Exhibit No. 16

18 | marked as requested.)

19 | BY THE WITNESS:

20 | A. Yes.

21 | Q. This is an e-mail that you sent to various
22 | Polaris executives, correct?

23 | A. The entire Polaris executive team, yes.

24 | Q. You sent that on June 14 of 2016; is that
25 | correct?

1 A. I did.

2 Q. You informed them in the e-mail that there
3 would likely be more recalls to follow, correct?

4 A. I informed them of many things that I was
5 dissatisfied about the performance of the company. That
6 was one of them.

7 Q. You said, quote, "We let RZR thermal issues
8 get so out of hand that we had our largest recall in
9 history with more likely to follow"?

10 A. That is exactly what I wrote.

11 Q. Is that because you believed there would be
12 more recalls likely to follow?

13 A. I would not have written it if I didn't
14 believe it.

15 Q. Okay. Go to Exhibit 26, please. And
16 familiarize yourself with that e-mail, if you would,
17 please?

18 (Wine Deposition Exhibit No. 26
19 marked as requested.)

20 BY THE WITNESS:

21 A. Yes. I'm familiar with it now.

22 Q. The bottom e-mail in this exhibit is an e-mail
23 that you wrote, correct?

24 A. Yes.

25 Q. To the board?

1 A. Yes.

2 Q. On August 30 of 2016?

3 A. Yes.

4 Q. The subject was "Thermal update," correct?

5 A. Yes.

6 Q. In the e-mail, did you tell the board that you
7 anticipated further recalls?

8 A. Again, our policy was if there were systemic
9 issues, we would address them and issue recalls. And I
10 think that's what I said in this e-mail.

11 Q. Let's read what you said. Do you see where it
12 says, "Given what we know today about the cost of:
13 Improving field recall execution; the Turbo recall;
14 further anticipated recalls; more aggressive brand and
15 consumer retention; and the anticipated reduction of
16 retail/shipments, we anticipate the impact of earnings
17 to be approximately \$2.30."

18 Do you see that?

19 A. Yes.

20 Q. You were anticipating an impact on earnings,
21 correct?

22 A. That's what I was -- That was part of my job.

23 Q. In anticipating the impact, you were
24 anticipating further recalls, right?

25 A. Yes.

1 Q. That was as of August 30 of 2016?

2 A. Correct.

3 Q. So as of that time, you anticipated additional
4 recalls enough to include that in your analysis of
5 impact on earnings; is that correct?

6 A. I don't know that we could quantify what it
7 was. We just knew that -- Again, we were doing
8 extensive research, we had SAE, we had Exponent. We had
9 a lot of people helping us evaluate to see if there were
10 systemic issues. If there were systemic issues, we
11 would issue a recall. My statement here is my belief
12 that we would engage further systemic issues that we
13 didn't yet know about.

14 MR. OLSON: Move to strike the portion as
15 nonresponsive.

16 MR. FIGLIULO: Objection.

17 BY MR. OLSON:

18 Q. My question was: Did you anticipate recalls
19 enough to take into account in anticipating impact on
20 earnings?

21 MR. FIGLIULO: Objection; asked and answered.

22 BY THE WITNESS:

23 A. My statement reads, Given what we know today
24 about the cost of, colon, improving field recall
25 execution; the Turbo recall; further anticipated

1 recalls; more aggressive consumer brand and consumer
2 retention; and the anticipated reduction of
3 retail/shipments, we anticipate the impact to earnings
4 to be approximately \$2.30.

5 Q. Mr. Wine, by fall of 2016, you knew that
6 Polaris had screwed up by producing RZR's that sometimes
7 started on fire and by not fixing the problem already,
8 correct?

9 MR. FIGLIULO: Objection; form.

10 MR. GODFREY: Join in the objection.

11 BY THE WITNESS:

12 A. I don't know that I used those terms, no.

13 Q. If you could go to Exhibit 17, and familiarize
14 yourself with that document.

15 (Wine Deposition Exhibit No. 17

16 marked as requested.)

17 BY THE WITNESS:

18 A. Yes.

19 Q. Are you familiar with Exhibit 17?

20 A. Yes. It was something that I created to
21 present to our PCR, our broad executive leadership team
22 players.

23 Q. All right. Could you explain what does a PCI
24 mean?

25 A. PCI -- The original name was partners and

1 continuous improvement, but really it was senior
2 managers and above at Polaris, a group of several
3 hundred people that really represented the broad
4 employee population of Polaris.

5 Q. So you created Exhibit 17?

6 A. Yes.

7 Q. And, then, you did a presentation based on
8 the -- using the contents of Exhibit 17; is that right?

9 A. Yes.

10 Q. If you would, please go to Page 87144. In
11 this portion of the presentation you state across the
12 middle, "Things we screwed up," right?

13 A. That is how I spoke to the team. I like to
14 take accountability and admit very bluntly if we weren't
15 as good as we should or could be.

16 MR. OLSON: Move to strike the nonresponsive
17 portion.

18 MR. FIGLIULO: Objection to the motion.

19 MR. GODFREY: Object to that.

20 BY MR. OLSON:

21 Q. Then you also include a heading that says,
22 "Things we screwed up"; is that right?

23 A. The heading of the slide is called, "Current
24 reality." On the right-hand side there is a title that
25 says, "Things we screwed up," yes. Again, it's a ...

1 Q. Okay. This is as of June 22nd of 2016, right?

2 A. Yes.

3 Q. The first thing listed under the "things we
4 screwed up" heading is the RZR recall, right?

5 A. Yes.

6 Q. And you were referring to the April 2016 RZR
7 recall?

8 A. I don't recall which I was referring to. I
9 was just saying from it was what -- it was the recalls
10 related to RZR is what I called it, and I think that's
11 what I was referring to.

12 Q. Okay. Wasn't the April 2016 recall the
13 largest in company history?

14 A. I don't recall.

15 Q. Okay. But you -- All right. Did you believe
16 that Polaris had screwed up by having to do the largest
17 recall in history for RZRs?

18 A. That was one of the things that I felt like if
19 we hadn't screwed it up, we probably wouldn't have done
20 the recall.

21 Q. The recall was needed because RZRs would
22 sometimes start on fire, right?

23 MR. FIGLIULO: Objection; form, time.

24 MR. GODFREY: Join the objection.

25 MR. OLSON: Let me rephrase that.

1 BY MR. OLSON:

2 Q. It was your understanding at this time, wasn't
3 it, that the reason the recall needed to be done was
4 that RZR's would sometimes start on fire?

5 A. There were several RZR recalls. Some of them
6 were related to thermal efficacy, so yes.

7 Q. If you would, please go to Page 87146. On
8 this page you list the reasons for the failure, right?

9 A. Yes.

10 Q. So does this include the things that you
11 believed were the reasons for the screw up?

12 MR. FIGLIULO: Objection; form, foundation, time.

13 BY THE WITNESS:

14 A. The title of the slide is, "Reason For
15 Failure." I didn't title it reasons for screw up. I
16 titled it "Reason For Failure" because that's what I
17 intended to speak to.

18 Q. When you're talking about the failure two
19 slides later, weren't you referring to the screw-up?

20 A. Again, I was quite specific how I created
21 this. It says, "Reason For Failure" is what I was
22 addressing on this slide.

23 Q. Needing to do the largest recall in history
24 was a failure, fair?

25 A. I did not list it here, no.

1 Q. I'm not asking if you listed it. I'm asking
2 if you agree?

3 MR. FIGLIULO: Objection; form.

4 BY THE WITNESS:

5 A. I do not agree. What I presented at this
6 meeting was reasons for failure, and it's related to --
7 one, two, three, four, five, six, seven, eight -- 11
8 things I issued there.

9 Q. The first one is "Lack of
10 capability/expertise"; is that right?

11 MR. FIGLIULO: Objection; form. It doesn't.

12 BY THE WITNESS:

13 A. It says, "Lack of capability/expertise to
14 accomplish projects/objectives."

15 Q. Would an example of this be a lack of thermal
16 expertise in making side-by-sides?

17 A. I believe that that was probably one of the
18 things I was referring to.

19 Q. Then the next item refers to "Underinvested in
20 key areas."

21 Do you see that?

22 A. Yes.

23 Q. Would an example of that be underinvesting in
24 product safety employees?

25 A. I would not say that, no.

1 Q. Or in field investigation employees?

2 A. I don't know that that was something I was
3 referring to then.

4 Q. The next one down is "Ability/willingness to
5 see future risks," right?

6 A. That's correct.

7 Q. Would an example of this be Polaris not seeing
8 the seriousness of the RZR fire problem?

9 A. I do not believe that that's something I
10 referred to there, no.

11 Q. Would an example of that item be seeing that
12 people were going to get hurt by RZR fires?

13 A. I don't believe that was something I was
14 referring to there.

15 Q. If you go over to the other side of the page,
16 do you see the one that says, "Too much hubris, too
17 little data"?

18 A. Yes.

19 Q. What did you intend "hubris" to mean here?

20 A. I think there was a confidence that we could
21 fix things. We had very, very good engineers and those
22 engineers felt like they could -- they could fix things.

23 Q. Is a fair definition of hubris excessive
24 confidence?

25 MR. FIGLIULO: Objection; form.

1 BY THE WITNESS:

2 A. I don't have a dictionary. I don't know.

3 Hubris was related to overconfidence.

4 Q. Would an example of this "too much hubris, too
5 little data" be engineers believing that they would be
6 able to figure out the problem with RZR fires without
7 actual data or validation of that?

8 MR. FIGLIULO: Objection; form.

9 BY THE WITNESS:

10 A. I believe what I was referring to is that
11 prior to this date we did not have trending data to get
12 us to the systemic root causes of what was contributing
13 to a lot of the issues with RZR.

14 Q. If you go down further below, there's one that
15 refers to "failure to have the right hands in the huddle
16 on key decisions."

17 Do you see that?

18 A. I do.

19 Q. What were you referring to here?

20 A. I'm quite sure I was referring to numerous
21 things in that just because of the way -- we were more
22 of a functional organization, and I think sometimes
23 everybody that should or could have been involved in a
24 decision wasn't, so it was probably a holistic
25 statement. It may also -- So I don't ...

1 Q. Would an example of this be those who were
2 reviewing all of the RZR fire data not communicating
3 that fact to engineers?

4 A. I don't know that that's something I was
5 specifically referring to there. Again, there was --
6 This meeting was with the broad Polaris leadership team,
7 so it was every function, every business unit. So it
8 was -- It wasn't a narrow meeting. It was a broad
9 meeting. So I suspect that I meant that in the broader
10 terms.

11 MR. OLSON: Move to strike the nonresponsive
12 portion.

13 MR. GODFREY: Object to the motion.

14 MR. FIGLIULO: Objection.

15 BY MR. OLSON:

16 Q. If you would, please, go to Exhibit 16 and
17 familiarize yourself with that exhibit, please.

18 A. Same e-mail I read before. Yes.

19 Q. At this point in time, in July of 2016, you
20 felt that Polaris had gotten itself into a metaphorical
21 ditch, correct?

22 A. That's exactly the words I used, yes.

23 Q. That was, in part, because they let the RZR
24 fires get out of hand?

25 A. I listed several things, but that was one of

1 | them, yes.

2 | Q. You felt like that was an irrefutable fact?

3 | A. I did say that "When I suggest we drove in a
4 | ditch, I'm referring to a few irrefutable facts."

5 | Q. One of them was that you let RZR thermal
6 | issues get so out of hand?

7 | MR. FIGLIULO: Objection; form.

8 | BY THE WITNESS:

9 | A. One of several issues -- several -- I said a
10 | few irrefutable facts. We let dealer inventory get too
11 | high while markets slowed, we lost market share in ATV
12 | and Rangers, we incurred tremendous costs related to the
13 | Spirit Lake paint debacle, we let RZR thermal issues get
14 | out of hand; so yes.

15 | Q. By "irrefutable," did you mean a fact that
16 | could not be seriously contested?

17 | A. Yes, that's exactly what I meant.

18 | Q. Then, down at the bottom, you state that you
19 | were there during all of this and you accept full
20 | responsibility?

21 | A. I think I said at the beginning of the
22 | meeting, as CEO, I was accountable for everything that
23 | happened in the business.

24 | Q. And that's you said in this e-mail as well,
25 | correct?

1 A. That was true for the entire time I was there.

2 Q. Would you agree that saying that is not the
3 same thing as doing it?

4 A. I think they are the same thing.

5 Q. Do you think simply saying "I take
6 responsibility" is the same thing as actually taking
7 responsibility?

8 A. As the CEO, you are accountable and
9 responsible for what happens to the organization. In
10 this document I stated that -- I don't even know what I
11 said. Where is it? Let me find -- I want to know what
12 I wrote.

13 Q. Let me see if I can help you. What portion
14 are you looking for?

15 A. The portion you were referring -- what I said
16 about being accountable for it.

17 Q. I wasn't asking what you said.

18 My question was: Do you agree that simply
19 saying "I take responsibility" is not necessarily the
20 same as actually taking responsibility?

21 A. As the CEO, I was accountable for the business
22 in all aspects.

23 Q. In this e-mail, as you read further down, you
24 raise some -- some reasons for why these failures
25 occurred, right?

1 A. That's -- Yes.

2 Q. One of the things you wondered is whether
3 Polaris' willful ignorance was one of the explanations
4 for why the RZR thermal issues got out of hand?

5 MR. FIGLIULO: Objection; form.

6 MR. GODFREY: I join the objection.

7 BY THE WITNESS:

8 A. I don't see that in here.

9 Q. If you go down to the third-to-last paragraph,
10 do you see where you reference willful ignorance?

11 A. Yeah. But that was -- That was a broader
12 statement, not related to RZR recalls particularly.

13 Q. Well, wasn't that one of the potential whys in
14 terms of why the failures happened?

15 MR. GODFREY: Objection as to form.

16 BY THE WITNESS:

17 A. I think it's helpful if I read what I wrote.

18 "We will need to focus on enterprise issues."

19 Enterprise is the broad business. "Was it lack of

20 process -- This was a question. "Was it lack of

21 processes, focus on incorrect/misguided metrics, willful

22 ignorance, lack of talent/resources/proper leadership,

23 or a combination of these and other mistakes that led us

24 astray?" That was a question. Not a statement.

25 Q. What you were wondering when you said "was

1 it," you were talking about the potential explanations
2 for the failures; is that fair?

3 MR. FIGLIULO: Objection; form.

4 MR. GODFREY: Join the objection.

5 BY THE WITNESS:

6 A. I believe I was referring to all of the -- we
7 talked -- I used very blunt terms. That's how I speak.
8 When I suggest we drove into the ditch, I'm referring to
9 a few irrefutable facts. And, therefore, later when I
10 was referring to this, it was related to those things.

11 Q. Yeah. And so my question was: One of the
12 things you wondered about is whether it was willful
13 ignorance, right?

14 MR. FIGLIULO: Objection; form.

15 MR. GODFREY: Join the objection.

16 BY THE WITNESS:

17 A. One of the things -- Again, it was related to
18 the broader enterprise issues. I mean, I specifically
19 state, "We will need to focus on enterprise issues."
20 That's what I'm referring to. I'm very, very blunt when
21 I write.

22 Q. You also state, "How did elements of our
23 git'er done culture contribute to our failures," right?

24 A. Yes.

25 Q. The failures referenced there include the fact

1 that RZR thermal issues got so out of hand, right?

2 MR. FIGLIULO: Objection.

3 A. The failures --

4 MR. FIGLIULO: Objection; form. You keep
5 short-handing the thing don't read the full sentence
6 when you're referring to the document.

7 MR. OLSON: I'm not asking --

8 MR. GODFREY: Join the objection.

9 BY MR. OLSON:

10 Q. I'm not asking you to read the document,
11 Mr. Wine, but you wrote this. So part of what I'm
12 asking you is to help interpret the document.

13 A. Again, I do take --

14 MR. FIGLIULO: Objection to the form of the
15 question.

16 BY THE WITNESS:

17 A. The paragraph starts, "We will need to focus
18 on enterprise issues." Everything following that is
19 related to enterprise issues.

20 Q. But you use the word "failures." Do you see
21 that, when you're referencing git'er done culture?

22 A. Yeah. Failures is -- relates back to the
23 enterprise issues.

24 Q. One of those failures was letting the RZR
25 thermal issues get out of hand, was it not?

1 MR. FIGLIULO: Objection; form. That does not
2 represent what the document specifically says. You're
3 short-handing it. Objection to the form. It's
4 misleading.

5 MR. GODFREY: Join the objection.

6 BY THE WITNESS:

7 A. I did not state that.

8 Q. Let's talk a little bit about -- Well, you did
9 believe, when you wrote this, that Polaris' git'er done
10 culture had contributed to failures; is that fair?

11 MR. GODFREY: Objection; form.

12 BY THE WITNESS:

13 A. I ask a question. The question -- The
14 sentence reads as a question, "How did elements of our
15 git'er done culture contribute to our failures?"

16 Q. Did you write that -- Did you ask how that
17 happened because you believe it did happen?

18 A. I was asking a question.

19 Q. All right. Let's talk a little bit about
20 culture. Would you agree that a company's culture
21 includes its attitudes beliefs and behavior?

22 A. Say that again.

23 Q. Would you agree that business culture includes
24 the attitudes, beliefs, and behavior of the company in
25 general?

1 A. Yes, I do.

2 Q. So if you look back at Exhibit 17, which is
3 your presentation of June 22 of 2016, and then go to --
4 go to Slide 87149.

5 A. I'm there.

6 Q. You explain that Polaris' culture was not
7 perfect, right?

8 A. Correct.

9 Q. You give some examples of that; is that right?

10 A. I listed one, two, three, four, five, six,
11 seven, eight, nine, ten -- I listed 11 detractors that I
12 thought were not positive influences on our culture.

13 Q. Okay. One of them was "Ignore external
14 reality/risks"; is that right?

15 A. I did write, "Ignore external reality/risks."

16 Q. Did you believe that Polaris had ignored some
17 of the risks related to RZR fires?

18 A. I do not recall that that was something that I
19 was referring to when I wrote this.

20 Q. You also wrote, "Continue to run the same
21 playbook"; is that right?

22 A. I did write "Continue to run the same
23 playbook."

24 Q. As an example of that, of Polaris continuing
25 to use the same basic architecture from the RZR XP 900

1 to the XP 1000 to the 2015 900 to the Turbo?

2 MR. FIGLIULO: Objection; form.

3

4 BY THE WITNESS:

5 A. I doubt, very seriously, that's what I was
6 referring to when I wrote that.

7 Q. Did you believe -- Would an example of that be
8 that Polaris continued to use the same general thermal
9 strategy to try and manage RZR fires from one model to
10 the next?

11 A. I do not believe -- I'm certain I did not
12 refer to that when I offered that explanation for
13 detractors in our culture.

14 Q. Let's talk about the next one. The next one
15 is, "Demand accountability without ensuring adequate
16 resources," right?

17 A. Yes.

18 Q. Would an example of that be imposing
19 requirements on an employee to get something done
20 without giving the employee the help or the tools to
21 actually accomplish it?

22 A. I meant very much what I said, "Demand
23 accountability without ensuring adequate resources." My
24 belief was for our enterprise issues there were times
25 where we did not have adequate resources.

1 Q. The next one says, "Invest what we can afford
2 versus what is required to win."

3 Do you see that?

4 A. I do.

5 Q. Would an example of that be not spending
6 enough to fix the RZR fire problem?

7 A. I do not believe that that's something I
8 referred to when I -- I wrote these and then I spoke to
9 them, and I don't believe that that's something that I
10 wrote about or spoke to when I wrote that down.

11 Q. The next one is "Passive aggressive," right?

12 A. Yes.

13 Q. Would an example of being passive aggressive
14 being aggressive in a way that is indirect?

15 A. Passive aggressive tends to be when you don't
16 directly address issues but you act like you're okay
17 with something and you don't deal with it.

18 Q. Would an example of that be telling an
19 employee that they are not cutting it, even if they are,
20 because you want them to quit or you need a reason to
21 fire them?

22 MR. FIGLIULO: Object to form.

23 BY THE WITNESS:

24 A. I am certain that is not why I wrote that or
25 what I said when I spoke to it.

1 Q. The next one is, "Too little candor/humility."
2 Candor is being open and up front; is that a fair
3 definition?

4 A. That's correct.

5 Q. A few down is "Speed over quality."

6 Do you see that?

7 A. Yes.

8 Q. Here you're talking about speed to market, as
9 opposed to vehicle speed; is that right?

10 MR. FIGLIULO: Objection to form.

11 BY THE WITNESS:

12 A. I, probably, was talking about the speed of
13 which we executed programs.

14 Q. Which would include speed to market, would it
15 not?

16 A. That's part of speed to market, is the
17 development process.

18 Q. An example of putting speed over quality would
19 be skipping safety or quality analysis of a vehicle
20 because you want to get a better vehicle to market
21 before a customer, true?

22 A. I did not say that, no.

23 Q. The last one you put down is, "We don't
24 speak -- "We don't listen, speak up," right?

25 A. Yes.

1 Q. When you were referring to "we," you're
2 referring to yourself and the group you were presenting
3 to; is that right?

4 A. It was the collective "we," yes.

5 Q. That was a group of management; is that right?

6 A. Yes.

7 Q. Would an example of not speaking up be some
8 members of management not telling other people in the
9 company about problems with RZRs starting on fire?

10 MR. FIGLIULO: Objection; form.

11 MR. GODFREY: Join the objection.

12 BY THE WITNESS:

13 A. I do not believe that was something I was
14 referring to when I wrote or spoke to this.

15 Q. Would an example of not listening be ignoring
16 concerns expressed by an employee?

17 A. I think it was a broader sense that we didn't
18 listen, whether it's to an individual or collective
19 market inputs, we didn't -- we didn't always have the
20 ability or tools or foresight to listen, and that was
21 the intent of the statement.

22 Q. If you would, please, go to Page 87150 of
23 Exhibit 17.

24 A. Uh-huh.

25 Q. The title of this slide is, "Speak up and

1 | listen" with exclamations; is that right?

2 | A. Yes.

3 | Q. You capitalized the "and"; is that right?

4 | A. Yes.

5 | Q. And that's because you wanted to emphasize the
6 | importance of listening, right?

7 | A. I capitalized "and" because I believe both
8 | speaking up and listening were important.

9 | Q. What you include in this slide is an image of
10 | a Bloomberg Businessweek magazine cover that you had
11 | made some changes to; is that right?

12 | A. We -- I don't recall doing it, but it appears
13 | that we mocked up a Businessweek.

14 | Q. By "mocked up," do you mean you took an actual
15 | Businessweek magazine cover and made some changes of it
16 | for purposes of your presentation?

17 | A. To be very specific, I believe what I did is
18 | had a firm called Media Loft, who is a partner of ours
19 | making presentations, and asked them to make a document
20 | that -- a hypothetical that it would -- so the employees
21 | could see what I was trying to prevent.

22 | Q. If you look at -- So this page would be a
23 | hypothetical Businessweek magazine cover that you want
24 | to prevent; is that right?

25 | A. I believe that's what I did. I don't recall

1 exactly. But I believe that was my intent.

2 Q. Okay. Take a look at Exhibit 18, while
3 keeping your finger on this page, if you would, please.

4 Does Exhibit 18 appear to show the actual
5 magazine cover that you had some changes made for
6 purposes of your presentation?

7 (Wine Deposition Exhibit No. 18
8 marked as requested.)

9 BY THE WITNESS:

10 A. Thank you for bringing to my recollection what
11 I did. Yes, that's what it is.

12 Q. So back to page -- We'll jump back and forth
13 between these two. But, basically, Exhibit 18
14 references Takata, right?

15 A. Exhibit 18 refers to a Bloomberg Businessweek
16 article. I can't see the date on it. But it says, "If
17 we go forward with this, somebody will be killed.
18 Takata and the biggest automobile recall in history."

19 Q. And you were -- Were you familiar with Takata?

20 A. I was.

21 Q. And Takata was an automobile parts
22 manufacturer, correct?

23 A. They made airbags for automobiles.

24 Q. And you were aware at this time that they had
25 to do a large automobile recall, right?

1 A. I was, yes.

2 Q. You were aware at this time that there was a
3 statement that was attributed to one of Takata's
4 employees, right?

5 A. Yes.

6 Q. That statement was, "We go forward with this,
7 somebody will be killed," right?

8 A. That's correct.

9 Q. So back to 87150. What you did is you had
10 that same business magazine cover put into this slide
11 with the very bottom sentence changed; is that right?

12 A. Yes.

13 Q. What you added was "Polaris and the biggest
14 powersports recall in history," right?

15 A. Yes.

16 Q. Okay. You did this because you wanted to
17 avoid some sort of similar magazine cover coming out for
18 Polaris; is that right?

19 MR. FIGLIULO: Objection; form.

20 BY THE WITNESS:

21 A. The entire purpose of my presentation was to
22 elevate the concern for our team in remediating all of
23 the issues that I referred to earlier. I wanted to
24 ensure that this type of headline could not or would not
25 appear on anything. That was the purpose of me stating

1 | this, to drive home to the team that we did not want,
2 | nor could we allow, for this type of thing to happen.

3 | Q. Part of making sure that didn't happen was to
4 | speak up and listen; is that fair?

5 | A. The title of the slide was "Speak up and
6 | listen," I would say it was not only part of it. It was
7 | the key part of the slide.

8 | Q. By including this slide, you wanted to drive
9 | home that you did not want someone to get killed by a
10 | RZR fire?

11 | A. I did not say that.

12 | Q. But --

13 | A. I never wanted anyone to get killed on a
14 | RZR -- on any RZR vehicle ever.

15 | Q. My question was: Was one of the reasons you
16 | included this slide with this quote is that you wanted
17 | to drive home that you did not -- you wanted to make
18 | sure that nobody died in a RZR fire?

19 | A. Again, that is an ubiquitous statement. It
20 | didn't -- It wasn't the reason I wrote the slide. I did
21 | not want the company to have an issue so broad that we
22 | would have an issue with this type of exposure, and that
23 | included remediating thermal efficacy of our vehicles.

24 | Q. By this point in time, somebody had already
25 | been killed by a RZR fire, correct?

1 A. That's a fact.

2 Q. If you go to Page 87141, please, this shows
3 you actually included a slide showing Baylee Hoaldridge,
4 right?

5 A. Yes, I did.

6 Q. Did you ever see any less pleasant photos of
7 Baylee after her fire?

8 A. I don't recall.

9 Q. You included this slide because you wanted to
10 drive home that safety -- the safety and ethics always
11 motto, right?

12 A. Safety and ethics always was one of our three
13 guiding principles that was spoken about at every PCI
14 meeting we had. I used this as a reminder of the
15 importance of that statement.

16 Q. Did you include this because Polaris had not
17 lived up to the safety and ethics always motto?

18 A. I included this because I wanted to remind
19 people of our responsibility of safety and ethics, and I
20 thought this was a very sad and tragic reminder of the
21 work that we do.

22 Q. Did you include Baylee's photo to emphasize
23 that those who could get injured or killed in a RZR fire
24 are real people?

25 A. That was part of what I was trying to drive

1 home, yes.

2 Q. They are not just numbers, right?

3 A. I didn't refer to it that they are not just
4 numbers. I wanted to drive home that, you know, what we
5 were doing had real implications.

6 Q. Those who are injured or burned in RZR fires
7 are just as important as you and the other executives at
8 Polaris, correct?

9 MR. FIGLIULO: Objection; form.

10 BY THE WITNESS:

11 A. All of our customers are important.

12 Q. At this point in time, June of 2016, you knew
13 you couldn't allow anybody else to die in a -- by a
14 problem -- due to a problem in a RZR fire; would you
15 agree?

16 MR. FIGLIULO: Objection --

17 MR. GODFREY: Objection; form.

18

19 BY THE WITNESS:

20 A. I do not agree.

21 Q. Let me rephrase that question. At this point
22 in time, you knew you could not allow a problem in a RZR
23 to kill anyone else, true?

24 MR. FIGLIULO: Objection; form.

25 MR. GODFREY: Join the objection.

1 BY THE WITNESS:

2 A. The entire focus of our team was to remediate
3 systemic issues with our vehicles. That is the work
4 that was done with every available resource was to
5 identify and correct systemic issues with our vehicles.

6 MR. OLSON: Why don't we take a short break.

7 THE VIDEOGRAPHER: We're off the record at
8 10:55 a.m.

9 (A short break was had.)

10 THE VIDEOGRAPHER: We're back on the record at
11 11:07 a.m.

12 BY MR. OLSON:

13 Q. Mr. Wine, the document that we were just
14 talking about is dated June 22nd of 2016; is that right?

15 A. Yes.

16 Q. About six weeks after that, you received a
17 report on an audit that was done of Polaris, correct?

18 A. I don't recall.

19 Q. Take a look at Exhibit 22, if you would,
20 please.

21 A. Okay.

22 (Wine Deposition Exhibit No. 22
23 marked as requested.)

24 BY MR. OLSON:

25 Q. Are you familiar with Exhibit 22?

1 A. Yes, I am.

2 Q. Okay. This is an audit report done by the Law
3 Firm of Crowell & Moring; is that correct?

4 A. I don't recall it being an audit necessarily.
5 It was a document that Ms. Bogart, our general counsel,
6 and I had requested to be done for the board of
7 directors to understand from the former general counsel
8 of the Consumer Product Safety Commission how well
9 Polaris was dealing with the legal and prepared for the
10 legal engagement with the Consumer Product Safety
11 Commission.

12 Q. It's a report, correct?

13 A. Report and recommendations, yes. It's
14 recommendations.

15 Q. Regarding an audit of safety processes and
16 policies, right?

17 A. Yes.

18 Q. It was done by Crowell & Moring, correct?

19 A. Correct.

20 Q. They are a law firm, right?

21 A. They are, yes.

22 Q. The date of the report is August 4 of 2016; is
23 that right?

24 A. Correct.

25 Q. And you received and reviewed the report on or

1 about that day; is that correct?

2 A. Yes.

3 Q. All right. A little bit of background on this
4 report, is it correct that Polaris hired Crowell &
5 Moring in about May of 2016 to do this report?

6 A. I don't recall when we engaged them. But as I
7 said earlier, Ms. Bogart -- we -- she and I decided it
8 would be good to have an external third-party law
9 firm -- the lady was formerly with the Consumer Product
10 Safety Commission -- to evaluate the work we had done in
11 response to the Consumer Product Safety Commission.

12 Q. Go to Page 3 of the audit, if you would,
13 please.

14 MR. FIGLIULO: Objection; form.

15 BY MR. OLSON:

16 Q. Can you see on the first page that it
17 indicates that Polaris hired Crowell & Moring in early
18 May of 2016?

19 A. The document states, "We were retained in
20 early May 2016," yes.

21 Q. In that -- On that same first page it
22 indicates that one of the things Crowell & Moring did is
23 interview employees of Polaris and review Polaris
24 records as part of its investigation, correct?

25 A. The document reads, "We have interviewed

1 company employees and reviewed records made available to
2 us.

3 Q. Is it your understanding that that's what they
4 did?

5 A. The request was for them to make
6 recommendations for us. In order to make
7 recommendations, they had to do some research, yes.

8 Q. Okay. Then -- We're going to come right back
9 to Exhibit 22, but take a look at Exhibit 23, if you
10 would, please; and briefly familiarize yourself with
11 this document, if you would?

12 A. Okay.

13 (Wine Deposition Exhibit No. 23
14 marked as requested.)

15 BY MR. OLSON:

16 Q. Does Exhibit 23 appear to you to be a response
17 by Polaris to an interrogatory?

18 MR. FIGLIULO: Objection; form.

19 BY THE WITNESS:

20 A. The document is stamped on it "Polaris
21 Incorporated's response to Plaintiff's interrogatories:
22 Subject 3 of October 15, 2019, Rule 30.02(f) notice
23 video-recorded deposition. Defendant - similarity and
24 fire county."

25 Q. In reading this document, can you see that one

1 of the things Polaris did in this response is identify
2 the individuals that it understands Crowell & Moring
3 interviewed as part of creating the August 4, 2016,
4 report?

5 MR. FIGLIULO: Objection; form.

6 BY THE WITNESS:

7 A. The document reads, "Polaris identifies the
8 following individuals who it understands Crowell &
9 Moring interviewed or spoke with in furtherance of the
10 report dated August 4th, 2016, based on information
11 available to it." And it lists one, two, three, four,
12 five -- It lists 27 individuals that they interviewed.

13 Q. All right. Do you know all of those
14 individuals?

15 A. No, I do not.

16 Q. Okay. Which ones do you not know?

17 A. I don't know Tim Heffron. I don't know Dan
18 Moser. I don't know Subbiaiah Malladi. I don't know
19 Travis Oye. I don't know Alex Scheuerell. That's it.

20 Q. Okay. But you know the others?

21 A. Yes.

22 Q. And those that you do know are -- were Polaris
23 employees or officers; is that correct?

24 A. I don't -- I think there were some that were
25 not, but most were Polaris not officers but employees.

1 Q. All right. Then back to Exhibit 22, if you
2 would, please. Go to Page 4. Let me refer you to a
3 sentence at the bottom. It says, quote, "While we find
4 some room for improvement on design process, generally
5 speaking" --

6 A. Hold on. I'm not with you. Where are you?

7 Q. Bottom of Page 4.

8 A. Oh, Page 4.

9 MR. DREYER: I believe it's in yellow.

10 THE WITNESS: Okay.

11 BY MR. OLSON:

12 Q. It says, "While we find some room for
13 improvement on design process, generally speaking, this
14 is not a story about lack of competence. Rather, it is
15 a story about failure to assume responsibility for
16 safety risks presented by these vehicles and a
17 reluctance to engage in field action to remedy those
18 risks."

19 Do you see that?

20 A. I do.

21 Q. Mr. Wine, would an example of field action be
22 investigating a fire that a consumer had?

23 MR. FIGLIULO: Objection; form, foundation.

24 BY THE WITNESS:

25 A. I don't know -- I don't know what the report

1 is referring to when they said "field actions." There
2 are many aspects of field actions, and I don't know what
3 they are referring to.

4 Q. As you understand it, would one field action
5 be -- an example of a field action be investigating a
6 fire reported by a consumer?

7 MR. GODFREY: Objection; asked and answered.

8 MR. FIGLIULO: Objection; form.

9 BY THE WITNESS:

10 A. I do not know what they are referring to here.

11 Q. As you understood the reference to field
12 action, would an example of that be doing a recall?

13 MR. GODFREY: Objection; asked and answered.

14 BY THE WITNESS:

15 A. That would be -- A recall would be a field
16 action, yes.

17 Q. All right. Let's keep reading. Now we're on
18 Page 5. Do you see where it says, "The line between a
19 riding safety risk" --

20 A. Hold on. I'm not -- Where are you?

21 Q. Top of Page 5.

22 A. Okay.

23 Q. Do you see where it says, "The line between a
24 riding safety risk, which apparently is an accepted part
25 of the powersports experience, and a product safety

1 risk, which adds unnecessary risk from a product defect

2 from that equation, became blurred"?

3 A. That is what the document says.

4 Q. Do you agree that there is a difference
5 between an unavoidable or expected risk of a product and
6 an unavoidable risk from a defect?

7 MR. GODFREY: Objection; form.

8 MR. FIGLIULO: Objection; form. If I could just
9 ask, are you asking him to interpret this document or
10 are you asking him to step back just generally speaking?

11 MR. OLSON: Please just state your objection.

12 MR. FIGLIULO: I think it's confusing. Objection;
13 form.

14 BY THE WITNESS:

15 A. I do not understand the question.

16 Q. Do you agree, based on your experience at
17 Polaris, that there is a difference between an
18 unavoidable or expected risk of a product and an
19 unavoidable risk from a defect?

20 MR. GODFREY: Objection; form.

21 BY THE WITNESS:

22 A. I don't necessarily -- I do not necessarily
23 agree with that.

24 Q. Would you agree that an example of an
25 unavoidable risk might be that a driver could crash the

1 vehicle like someone might crash a car?

2 MR. FIGLIULO: Objection; form.

3 MR. GODFREY: Join the objection.

4 BY THE WITNESS:

5 A. No, I would not necessarily agree with that.

6 Q. Would you agree that having a RZR start on
7 fire and consume itself would not be an expected risk of
8 getting into a RZR?

9 MR. GODFREY: Objection; form.

10 MR. FIGLIULO: Objection; hypothetical, form.

11 BY THE WITNESS:

12 A. I don't believe that anyone should get into
13 any vehicle and expect it to catch on fire.

14 Q. Let's read the next sentence. It says, quote,
15 "We found a corporate culture that tolerated more risk
16 in vehicles, particularly fire risks and, frankly,
17 expected more from its consumers than is acceptable."

18 Do you see that?

19 A. I read that, yes.

20 Q. Do you agree that Polaris had such a culture?

21 A. I do not agree that -- This was an
22 interpretation of various meetings. So I do not
23 necessarily agree with that.

24 Q. Let's go further down on this page. Do you
25 see the sentence that says, "But unfortunately, when it

1 | came to taking action to address the fire issues in the
2 | RZR 900 and RZR 1000, many of those same employees were
3 | all too quick to discount the severity of the risk or
4 | the likelihood of occurrence, blame the consumer for the
5 | problems, classified fires as of undetermined cause, or
6 | accept a certain level of fire in powersports vehicles"?

7 | A. That's what's written in the report. That is
8 | the interpretation that she made. I don't necessarily
9 | agree with it.

10 | Q. Did you find out who she believed those same
11 | employees were who were too quick to do these things?

12 | A. I did not.

13 | Q. Next sentence -- Do you see the next sentence
14 | that says, "Retroactive field repairs the RZR 900 and
15 | RZR 1000 were not considered until much too late and
16 | (other than with respect to the October 15 kinked vent
17 | line recall) only when forced upon the company by the
18 | regulator."

19 | Do you see that?

20 | A. I can read that, yes.

21 | Q. Who was responsible at Polaris, as you
22 | understood it, for doing a recall earlier?

23 | MR. FIGLIULO: Objection; form, time.

24 | BY THE WITNESS:

25 | A. The recall process at that time was Dave

1 Longren, who was responsible for the business, would
2 work with the safety team and the legal team, and make
3 that decision to recommend a recall.

4 Q. So was Dave Longren one of the individuals who
5 was responsible?

6 A. He was one of the individuals responsible.

7 Q. What are the names of the others who were
8 responsible?

9 MR. FIGLIULO: Objection; form, foundation, time.
10 When?

11 BY THE WITNESS:

12 A. I don't recall specifically who, at the time,
13 was working for Dave in those roles.

14 Q. You mentioned a safety team or legal counsel.
15 Can you give me the name of the legal counsel person
16 you're referring to?

17 MR. FIGLIULO: Objection.

18 BY THE WITNESS:

19 A. Stacy Bogart was the general counsel, so she
20 was typically involved in that, yes. Paul Vitrano was
21 our government affairs officer, so he was usually
22 involved as well.

23 Q. Go to Page 10, if you would, please. Do you
24 see the sentence that says, "Many fires" --

25 A. What page are you on?

1 Q. Page 10?

2 A. Page 10 -- Oh, of the document. I'm sorry.

3 Q. Exhibit 22, Page 10. Do you see the sentence
4 where it says, "Many fires were blamed on consumers
5 failing to secure gasoline containers carried in the
6 cargo bed at the back of the vehicle"?

7 A. The document reads, "Many fires were blamed on
8 consumers failing to secure gasoline containers carried
9 in the cargo bed at the back of the vehicle. Even
10 though this misuse was a foreseeable risk, employees did
11 not consider the issue one for which Polaris was
12 responsible to address."

13 Q. Thank you. You read the next sentence; is
14 that what you did?

15 A. I did.

16 Q. Do you agree that it was known by Polaris well
17 in advance of the date of this report that consumers
18 would carry fuel containers, at times, in their cargo
19 bed?

20 A. I believe it was known by some employees at
21 Polaris that that was a common occurrence.

22 Q. Did you know that?

23 A. I was aware that some consumers did carry
24 gasoline in the back of their vehicles, yes.

25 Q. Is it correct that, as far as you know,

1 Polaris did, in fact, blame on consumers -- blame fires
2 on consumers for failing to secure gasoline containers?

3 MR. FIGLIULO: Objection; form.

4 MR. GODFREY: Join the objection.

5 BY THE WITNESS:

6 A. I do not recall specific issues for that. But
7 I do know that that had been identified as a root cause
8 of some fires.

9 Q. Go to Page 9, if you would, please.

10 Do you see that in about the middle of the
11 page there's a sentence that says, "In an effort to
12 offer additional protection, Polaris included exhaust
13 shielding in the recalled RZR's to prevent ignition of
14 any fuel spills in the cargo box?"

15 A. That's what the sentence says, yes.

16 Q. Are you aware that, even after that additional
17 exhaust shielding was put in the RZR's to prevent spills
18 from igniting, Polaris continued to blame some fires on
19 consumers for carrying a fuel container?

20 MR. FIGLIULO: Objection; form.

21 BY THE WITNESS:

22 A. I do know we did an extensive -- We had a
23 post-sales surveillance team created at this time. The
24 post-sales surveillance team would review every incident
25 and ultimately get to the root cause and sometimes the

1 | root cause was fuel in the back of the vehicles, which
2 | is why we warned consumers in many different ways,
3 | including stickers on the vehicles not to do that.

4 | Q. So you were aware, then, that even though
5 | Polaris included a shield to prevent spilled fuel in the
6 | bed from igniting, that Polaris continued to blame some
7 | fires on customers for carrying a fuel container?

8 | MR. FIGLIULO: Objection; form.

9 | BY THE WITNESS:

10 | A. I was very specific in what I said. We
11 | investigated every thermal incident, and if it was
12 | related to fuel as the root cause, we would state such a
13 | fact. We did not blame. We stated as a fact the root
14 | cause of our investigations.

15 | Q. Sounds like you're still blaming some fires on
16 | consumers carrying --

17 | MR. FIGLIULO: Object; form.

18 | MR. GODFREY: Join the objection.

19 | BY THE WITNESS:

20 | A. Let's be clear. Blame is your root. I said
21 | "root cause."

22 | Q. Well, blame is actually the word used by
23 | Crowell & Moring on Page 10, right?

24 | A. Crowell & Moring was making recommendations to
25 | us on how they believed we could be better at fulfilling

1 | our requirements to the Consumer Product Safety
2 | Commission. I cannot attest to their words. They are
3 | their recommendations to me. They aren't what I'm
4 | saying. We went to the root cause and identified the
5 | root cause and stated the fact. We did not place blame.

6 | Q. Mr. Wine, there will be times where the other
7 | lawyers make objections. Could you -- I know you don't
8 | always know when they are going to object. Would you
9 | please, if they make an objection, try to hold off on
10 | your answer until the objection is made so we have a
11 | clear record.

12 | MR. FIGLIULO: And the reason he's saying that is
13 | sometimes the court reporter can't take both of us
14 | talking. But I don't want to slow the process down.
15 | I'll try to make my objections as short as possible.
16 | Thank you.

17 | BY MR. OLSON:

18 | Q. Okay. Back to Page 9, then. Can you see that
19 | the second-to-last full sentence says, "It is clear,
20 | however, that the possibility of thermal issues with the
21 | RZR 1000 was identified relatively soon after the
22 | product launch"?

23 | A. That's what the document states.

24 | Q. But, Mr. Wine, you yourself had fires reported
25 | to you even before the RZR 1000 was launched, right?

1 A. I don't recall if there were RZR fires on the
2 1000 prior to the launch. Is that what you were saying?

3 Q. No. There were -- Well, you knew, even prior
4 to the RZR 1000 launch, that some RZRs started on fire,
5 including the RZR XP 900?

6 A. That -- That is a correct statement.

7 Q. Similarly, for the record, if you know what
8 I'm asking before I finish my question, please let me
9 finish it so the transcript is clear.

10 Can you see at the bottom of this Page 9 that
11 there is a reference to the Thermal Mitigation
12 Committee?

13 A. Yes.

14 Q. Who was in charge of the Thermal Mitigation
15 Committee?

16 A. I do not know.

17 Q. When did you learn that there was a Thermal
18 Mitigation Committee?

19 A. I do not know.

20 Q. If you would, please go to Page 11. Can you
21 see toward the top that there is a sentence that says,
22 "Similarly, the tendency to blame fires on consumers
23 that overly accessorize their vehicles demonstrates a
24 litigation defense mentality to managing safety claims
25 and a lack of perception about the types of risks the

1 CPSC expects to have reported to it."

2 Do you see that?

3 A. That's what the document says.

4 Q. Who was responsible for managing claims at
5 Polaris?

6 A. There was a safety team. When it was related,
7 the safety team would -- if it was a fire, they would
8 take the issue and work with engineering to get to the
9 root cause of it.

10 Q. Did you understand from this reference to
11 Polaris taking a litigation defense mentality to
12 managing safety claims, that what Crowell & Moring was
13 trying to communicate is that in handling the claims,
14 Polaris would fight the claims?

15 MR. FIGLIULO: Objection; form, foundation.

16 MR. GODFREY: Agree. Join the objection.

17 BY THE WITNESS:

18 A. My interpretation of the document, it was a
19 recommendation on how we could be better in our
20 responsiveness to the Consumer Product Safety
21 Commission.

22 Q. Then, going further down on that page, do you
23 see the sentence where it says, "It does not appear that
24 in launching either the RZR 900 or RZR 1000, sufficient
25 FMEA work was done to consider potential thermal

1 | issues"?

2 | A. That's what the document states, yes.

3 | Q. Do you have an understanding of what FMEA is?

4 | A. Failure modes and effects analysis.

5 | Q. And did you understand from her sentence here
6 | that she did not believe that sufficient FMEA was done
7 | in launching the RZR 900 or 1000?

8 | MR. FIGLIULO: Objection; form, foundation.

9 | MR. GODFREY: Join the objection.

10 | BY THE WITNESS:

11 | A. Again, it was her -- she interviewed, I
12 | think -- I can recount if you want, but based on her
13 | interviews, I think she felt that that wasn't done. It
14 | was a recommendation that she made. I --

15 | Q. And do you have an understanding that part of
16 | FMEA work needs to be done during the design process of
17 | a vehicle?

18 | A. That's called a design -- that's a DFMEA,
19 | design failure modes and effect analysis.

20 | Q. And so did you have an understanding, from
21 | what she said here, that there was insufficient done --
22 | insufficient FMEA done on the RZR 900 and 1000 --

23 | MR. FIGLIULO: Objection --

24 | BY MR. OLSON:

25 | Q. -- for launch?

1 A. I did --

2 MR. FIGLIULO: Objection; form, foundation.

3 BY THE WITNESS:

4 A. I did not -- There was lots of recommendations
5 in here. I did not take that specific one away.

6 Q. Did you have an understanding that some FMEA
7 can't be done after a design is already finalized and
8 the product is in production?

9 A. I would not agree with that.

10 MR. FIGLIULO: Objection; form, foundation.

11 MR. GODFREY: Join the objection.

12 MS. COURT REPORTER: Can you repeat your answer?

13 BY THE WITNESS:

14 A. I said I would not agree with that.

15 Q. If you would, please go to Page 12.

16 Can you see the sentence down at the bottom
17 that says, "We learned that there were insufficient
18 resources devoted to investigating field failures in a
19 timely manner"?

20 A. Yes, I see that.

21 Q. What was the name of the person who was
22 responsible for investigating RZR fires, as best you
23 recall?

24 MR. FIGLIULO: Objection; time.

25

1 BY MR. OLSON:

2 Q. In the three or four years before 2016.

3 A. I don't recall who it was.

4 Q. Go to Page 13, if you would, please.

5 Can you see down in the last full paragraph
6 where it says, We repeat -- "We were repeatedly told
7 that the business leaders did not want to initiate or
8 use the PAP process and considered a recall a threat to
9 the brand"?

10 A. If that's what -- The document states, "We
11 were repeatedly told that the business leaders did not
12 want to initiate or use the PAP Process and considered a
13 recall a threat to the brand." That's what the document
14 states.

15 Q. And the PAP Process was the process through
16 which Polaris would decide whether to do a recall; is
17 that generally correct?

18 A. That was part --

19 MR. FIGLIULO: Objection; time.

20 BY MR. OLSON:

21 Q. During the five years prior to 2016.

22 A. I'm not sure.

23 Q. Did you have any understanding of what the PAP
24 was?

25 A. Yes.

1 Q. And what was your understanding, at this point
2 in time, what the PAP was?

3 A. From my understanding, the PAP was used to
4 identify root causes and corrective actions.

5 Q. Which may include deciding whether to do a
6 recall; is that fair?

7 A. They would make recommendations, not
8 decisions.

9 Q. All right. And then this refers to -- It
10 says, "We were repeatedly told that business leaders did
11 not want to initiate or use the PAP process."

12 Do you see that?

13 A. That's what the document says.

14 Q. After getting this, did you find out who those
15 business leaders were?

16 MR. FIGLIULO: Objection; assumes facts not in
17 evidence, form.

18 BY THE WITNESS:

19 A. By the time -- We had already done much of the
20 remediation work. This was a document -- You know, we
21 were well into our efforts to find corrective actions
22 and so this was a follow-up on a report. So we had
23 already taken a lot of those steps. So I think by the
24 time I got this report, I didn't need to do that work.

25 MR. OLSON: Okay. Move to strike the nonresponsive

1 portion.

2 MR. FIGLIULO: Objection.

3 MR. GODFREY: Object to that.

4 BY MR. OLSON:

5 Q. So where it says that Crowell & Moring was
6 told that business leaders did not want to use the PAP
7 process, did you find out who those business leaders
8 were that were referenced in this sentence?

9 A. I do not.

10 MR. FIGLIULO: Objection; form.

11 MR. GODFREY: Join. Agree to the objection.

12 BY MR. OLSON:

13 Q. Did you already know who they were?

14 MR. FIGLIULO: Objection; form, assumes facts not
15 in evidence.

16 BY THE WITNESS:

17 A. I do not know.

18 Q. All right. The next sentence says, "From a
19 government standpoint, Polaris had some of the most
20 senior leaders engaging in safety and compliance process
21 and, yet, we were repeatedly told during our audit, a
22 tremendous top down pressure, not to engage in the PAP
23 and to avoid recalling products."

24 Do you see that?

25 A. I do.

1 Q. Did you find out -- Well, let me ask you this:

2 Who were the senior leaders that were engaged in the
3 safety and compliance process at Polaris?

4 MR. FIGLIULO: Objection; form, foundation, time,
5 context.

6 BY THE WITNESS:

7 A. I do not know who they are referring to here.

8 Q. During the five years prior to 2016, did
9 Polaris have a safety and compliance process?

10 A. Yes, we did.

11 Q. Can you tell me any of the names of the senior
12 business leaders who were involved in that process?

13 A. Dave Longren, I'm sure was involved.
14 Stacy Bogart was involved. I don't know the other
15 involved.

16 Q. Okay. Did you consider that recalls were a
17 threat to the brand?

18 MR. FIGLIULO: Objection; form, foundation.

19 BY THE WITNESS:

20 A. I think I had previously written that recalls
21 could have a negative effect on the brand. I have
22 stated that, yes.

23 Q. Did you not want to engage in the PAP
24 procedure when you were CEO of Polaris?

25 A. It was not the CEO --

1 MR. FIGLIULO: Objection; time.

2 BY THE WITNESS:

3 A. It was not the CEO's role to engage in the PAP
4 Procedure.

5 Q. Whether it was your role or not, did you not
6 want it to be engaged?

7 MR. FIGLIULO: Same objection.

8 MR. GODFREY: Join the objection.

9 BY MR. OLSON:

10 Q. Go ahead.

11 A. I -- I never thought about to be engaged or
12 not to be engaged. It was not a role that the CEO
13 should be involved in.

14 Q. Do you have an understanding -- understanding
15 that "top down pressure" refers to pressure from upper
16 management to those below?

17 MR. FIGLIULO: Objection; foundation.

18 MR. GODFREY: Join the objection.

19 BY THE WITNESS:

20 A. No, I don't know.

21 Q. You don't know what top down pressure means?

22 A. I do know --

23 MR. FIGLIULO: Objection; form.

24 BY THE WITNESS:

25 A. -- what top down pressure means. I don't know

1 | what it refers to in relation to Polaris.

2 | Q. Okay. Well, do you understand that top down
3 | pressure refers to pressure from upper management to
4 | those below?

5 | MR. FIGLIULO: Objection; form.

6 | BY THE WITNESS:

7 | A. That is -- That is one possible definition of
8 | top down pressure.

9 | Q. When you got this report, did you find out who
10 | it was who exerted top down pressure to not engage the
11 | PAP?

12 | MR. FIGLIULO: Objection; assumes facts not in
13 | evidence, form.

14 | BY THE WITNESS:

15 | A. Again, I got the report which made
16 | recommendations to us and many of the things we had
17 | already addressed. That was one of them that we had
18 | addressed.

19 | Q. Let's -- Let's read a couple of sentences
20 | down. The last sentence that starts on that -- at the
21 | bottom of Page 13, it says, "We were also told that the
22 | threat of a stop sale caused by engagement with the
23 | regulator loomed large given this was the most
24 | profitable, fastest selling vehicle Polaris makes."

25 | Do you see that sentence?

1 A. I do.

2 Q. And do you understand that the regulator
3 referred to in this sentence is the CPSC?

4 MR. FIGLIULO: Objection; foundation.

5 BY THE WITNESS:

6 A. I don't know, but I would assume that it was
7 the regulator -- If it was a motorcycle, it was the --
8 it was NHTSA. And on the off-road vehicle side, it was
9 the Consumer Product Safety Commission.

10 Q. But this report is primarily talking about
11 RZR's, right?

12 A. I -- Yes.

13 Q. Okay. And the Consumer Product Safety
14 Commission would be the regulator for the RZR, correct?

15 A. Correct.

16 Q. Do you remember discussions prior to getting
17 this report about threats of a stop sale of RZR's due to
18 them sometimes starting on fire?

19 A. Yes.

20 Q. And when do you remember those conversations
21 occurring?

22 A. I do not recall.

23 Q. And is it -- Is it true that at Polaris you
24 did feel that there was a threat of a stop sale by the
25 Consumer Product Safety Commission prior to August

1 of 2016?

2 A. I do not recall.

3 Q. Would you agree that a stop sale for RZR's in
4 2014, '15, or '16 would have been bad for business?

5 A. Any time you stop selling a product that
6 customers want, it's not good for business.

7 Q. And do you agree that at this point in time,
8 in 2016, that the most profitable, fastest selling
9 vehicle was the Polaris RZR?

10 MR. FIGLIULO: Objection; form.

11 BY THE WITNESS:

12 A. I don't know that to be true. Our Ranger
13 product line is still much larger and possibly as
14 profitable as the RZR product line. So I can't say with
15 a fact that that was, in fact, true.

16 Q. Let's read the next sentence. It says -- Do
17 you see where it says, "We were also told that the
18 senior business leaders beat down dissenters, making it
19 very difficult for anyone to raise their hand and call
20 for a recall. Many who raised concerns about thermal
21 issues were beaten down over time and just stopped
22 asking."

23 Do you see that?

24 A. I do.

25 Q. Did you find out who those business -- those

1 senior business leaders were who this sentence indicate
2 beat down dissenters?

3 MR. FIGLIULO: Objection; form, assumes facts not
4 in evidence.

5 MR. GODFREY: Join the objection.

6 BY THE WITNESS:

7 A. I did not. I -- the report was done after we
8 had already taken many remediation efforts to improve
9 the thermal efficacy of our vehicles and that work --
10 Much of what was done in the report of recommendations
11 for us to improve our process with the CPSC had already
12 been taken action and so I didn't go back and do work
13 that we'd already done.

14 Q. When you -- Did you know prior to getting this
15 report that some people at Polaris felt like the senior
16 business leaders beat them down --

17 MR. FIGLIULO: Objection; form.

18 BY MR. OLSON:

19 Q. -- when it came to raising their hand or
20 calling for a recall?

21 A. I'm quite confident that I never uttered the
22 words or the thought of beating down dissenters. That's
23 not verbiage I would use and it's not my thought
24 process.

25 Q. But did you know that there were some people

1 at Polaris who felt that some senior business leaders,
2 in essence, beat them down when it came to raising their
3 hand or calling for a recall?

4 MR. FIGLIULO: Objection; form.

5 BY THE WITNESS:

6 A. Again, I did not -- beating someone down is
7 not a term that I would have used, nor do I ever recall
8 feeling or believing that.

9 Q. Prior to getting this report, were you aware
10 that any business -- senior business leaders beat down
11 dissenters for wanting to raise safety concerns or do a
12 recall?

13 MR. FIGLIULO: Form -- Objection; form.

14 BY THE WITNESS:

15 A. The term "beat down" is not something in my
16 vernacular, nor have I ever said it or written it or
17 believed that that was something that happened at
18 Polaris.

19 Q. Do you have an understanding of what
20 Crowell & Moring meant by beat down?

21 MR. FIGLIULO: Objection; foundation.

22 BY THE WITNESS:

23 A. I mean, generally speaking, I think the term
24 "beat down" implies pushing back on something, but I
25 don't know the specific nature of Crowell & Moring

1 making that recommendation and stating that term.

2 Q. Prior to getting this report, did you know
3 that there were senior business leaders who pushed back
4 or resisted recalls related to RZR fires?

5 A. Yes, I was.

6 Q. Who did that?

7 A. I don't recall. There were several leaders in
8 the business that -- for various reasons, felt like that
9 there were better ways to address things.

10 Q. Give me the names, please.

11 A. David Longren was one.

12 Q. Who else?

13 A. Bennett Morgan was the chief operating
14 officer. And I think they felt like that they would get
15 to the root cause and correct it and that was the right
16 way to go so ...

17 Q. Who else?

18 A. I don't recall who else.

19 Q. And so when you read this sentence about
20 business leaders beating down dissenters, did you
21 believe that that was a reference to David Longren and
22 Bennett Morgan?

23 MR. FIGLIULO: Objection; form, asked and answered.

24 BY THE WITNESS:

25 A. I do not believe that I read this and

1 associated those names, no.

2 Q. Well, when you found out that Crowell & Moring
3 believed that there were senior business leaders beating
4 down dissenters, didn't you want to find out who that
5 was?

6 MR. FIGLIULO: Objection; form.

7 MR. GODFREY: Join the objection.

8 BY THE WITNESS:

9 A. The report was written after we had already
10 taken many remediations. That was one of the
11 remediation efforts we had taken.

12 Q. Well --

13 A. So why would I go back and do something that I
14 had already done?

15 Q. You read here that Crowell & Moring believes
16 that there are senior business leaders who were beating
17 down dissenters, right, you read that?

18 A. It's in the document, yes.

19 Q. And you've told me, you don't know who they're
20 referring to, right?

21 A. I just told you, it was -- David Longren was
22 one and Bennett Morgan was another.

23 Q. Okay. So you did understand who they were
24 referring to?

25 A. No. I said my previous -- You said pressure.

1 I didn't say -- "Beating down" is not a term that I've
2 used. This document was prepare at my request, Stacy
3 Bogart's request, for the board of directors to
4 understand how well we were fulfilling our requirements
5 to the Consumer Product Safety Commission.

6 I had already done so much work to rectify and
7 remediate these situations, I didn't look at every
8 element in here and say that's something I need to react
9 to. I made sure that we'd already done it and this was
10 one that I'd already done.

11 Q. So you were sure there wasn't anybody else,
12 other than Mr. Morgan and Mr. Longren?

13 A. No. You can't be sure in an organization who
14 someone is referring to.

15 Q. Then why didn't you find out?

16 A. Because the work had already been done. The
17 culture shift had already been driven. The report
18 didn't start our efforts to remediate thermal risks.
19 That was done well before the audit.

20 Q. Is it your sworn testimony that by
21 August 2016, Polaris had already changed its culture
22 problems?

23 A. By August 2016, we were making many, many
24 improvements. Once we understood fire risks, there was
25 aggressive action -- and you can see that in the

1 documents -- that we took to remediate thermal risks in
2 our -- any systemic thermal risk in our vehicles. That
3 was a -- That was very -- a very focused effort to do
4 that.

5 Q. Did you ever find out who were the employees
6 who felt beat down?

7 A. I did not.

8 Q. Why not?

9 A. Because that was not helpful to remediating
10 the vehicles. I mean, ultimately, my -- was to make our
11 vehicles reduce -- improve the thermal efficacy of our
12 vehicles, reduce any systemic risks in our vehicles.
13 That was where my energy and effort was focused, that
14 was the work that we did quite successfully, I might
15 add.

16 Q. All right. Let's keep reading in this
17 paragraph on Page 14. And do you see where it says, "In
18 the end, it appears that legal under tremendous
19 pressure" -- or excuse me, "under tremendous
20 investigative pressure from the CPSC drove the expert
21 analysis as to the various root causes."

22 Do you see that?

23 A. That's what the document says.

24 Q. And then it says, "But, even then, business
25 leaders continued to exert pressure to resist a recall

1 or narrow its scope."

2 Do you see that?

3 A. That is what the document says.

4 Q. Is it true, to your knowledge, that even after
5 the analysis into why RZRs were starting on fire
6 started, that some business leaders at Polaris continued
7 to exert pressure to resist a recall or to narrow them
8 in scope?

9 A. The decision to execute a recall has many
10 factors to consider. The ability of the dealer to do it
11 successfully and we -- All of those issues were taken
12 into consideration, is -- Will you make the vehicle
13 safer? Are you remediating a systemic risk to the
14 vehicles?

15 A lot of times the Consumer Product Safety
16 Commission did not have the proper knowledge to make
17 recommendations and we would use engineering data and
18 facts to push back to make sure the recall was going to
19 make our consumers safer and our vehicles better from a
20 thermal efficacy perspective.

21 MR. OLSON: Move to strike as nonresponsive.

22 MR. FIGLIULO: Object to that.

23 MR. GODFREY: Objection.

24 BY MR. OLSON:

25 Q. After Polaris started doing recalls, did

1 business leaders at Polaris continue to try to resist
2 recalls and narrow them?

3 MR. FIGLIULO: Objection; asked and answered.

4 BY THE WITNESS:

5 A. The Consumer Product Safety Commission was the
6 regulator that we worked with to execute recalls. The
7 regular part of that process was to negotiate to ensure
8 that the scope of the recall was to improve, to reduce,
9 to correct any systemic issues with our vehicles. We
10 did push back if we did not feel like we were going to
11 make our consumers safer.

12 Q. And you believed that continuing to push back
13 was an example of Polaris' improved culture?

14 MR. FIGLIULO: Objection; form.

15 MR. GODFREY: Join the objection.

16 BY THE WITNESS:

17 A. I do not believe those have any correlation
18 whatsoever.

19 Q. Let's go down further on Page 14. Do you see
20 where it says, "We found it surprising that the product
21 launch team engineers were not much more engaged in
22 determining what was going on with the fires in the
23 RZR's."

24 When you read this, were you surprised that
25 Polaris engineers were not much more involved in trying

1 | to find out why the vehicles they had engineered were
2 | starting on fire?

3 | MR. FIGLIULO: Objection; assumes facts not in
4 | evidence.

5 | MR. GODFREY: Objection; misstates the document.

6 | BY THE WITNESS:

7 | A. I did not -- I did not read that, no.

8 | Q. Well, did you read the sentence, "We found it
9 | surprising that the product launch team engineers were
10 | not much more engaged in determining what was going on
11 | with the fires in the RZR's."

12 | Did you read that sentence?

13 | A. I read it, but it was a recommendation to me.
14 | It's something that they stated. I would not state it
15 | as a fact.

16 | Q. And were you surprised by that statement?

17 | MR. FIGLIULO: Objection; form.

18 | BY THE WITNESS:

19 | A. I don't recall how I felt when I read it.

20 | Q. Reading further down, do you see the sentence
21 | where it says, "It also appeared to us that even the
22 | safety claims engineering team in Roseau" --

23 | A. Roseau.

24 | Q. Roseau. Thank you.

25 | -- "lacked a sense of urgency in determining

1 the root cause of the thermal issue."

2 Do you see that?

3 A. I do see that.

4 Q. Who was in charge of the safety claims
5 engineering team in Roseau in 2014, '15, and/or '16?

6 A. I do not know.

7 Q. If you would, please go to Page 15.

8 And do you see the sentence in about the
9 middle of the page that says, "For that reason, among
10 others, the company did not act with the urgency
11 necessary to address the severity of the risk presented
12 by the thermal incidents on the RZR 900 and RZR 1000 and
13 was too quick to explain away the incidents and blame
14 consumer misuse as the cause."

15 Do you see that?

16 A. Yes, I see that.

17 Q. Do you know who it was at Polaris who was too
18 quick to explain away the incidents?

19 MR. FIGLIULO: Objection; form.

20 BY THE WITNESS:

21 A. I do not.

22 MR. FIGLIULO: Objection; form and foundation.

23 BY MR. OLSON:

24 Q. Did you try to find out who it was that
25 Crowell & Moring believed was too quick to explain away

1 the incidents?

2 MR. FIGLIULO: Objection; form, foundation, assumes
3 facts not in the evidence, and fails to put context in
4 that sentence.

5 BY THE WITNESS:

6 A. I viewed the recommendations from the
7 Crowell & Moring report as ways that we could become
8 more responsive to the Consumer Product Safety
9 Commission. That's what I believe. I did not take
10 everything that was written from a -- some -- a
11 third-party coming in as a statement of fact.

12 Q. But if they believed that there were employees
13 who were too quick to explain away incidents, didn't
14 that concern you?

15 MR. FIGLIULO: Objection; form, foundation.

16 BY THE WITNESS:

17 A. Again, by the time the report was written, we
18 had already done much, much work. I wouldn't say that
19 that was something that concerned me. I think that we
20 had already taken action on situations like that.

21 Q. You don't even know who they were referring
22 to, right?

23 A. I do not know who they refer -- It's a long
24 list of people that they interviewed. Somebody in that
25 list, I would suspect, is -- referred that, but I do not

1 know.

2 Q. And you didn't try to find out, did you?

3 A. We did not try to blame anyone for statements
4 here. We looked at this as a recommendation on how we
5 could improve.

6 Q. Go to Page 16, if you would, please. And do
7 you see the sentence -- I'm sorry. It, actually, starts
8 on the bottom of Page 15.

9 Do you see the sentence where it says, "If the
10 root cause could not be identified, whether because the
11 incident unit was too damaged or the evidence suggested
12 consumer misuse, it appears that the incident may have
13 been discounted or considered irrelevant to continue
14 data analysis and trending."

15 A. I see that statement, yes.

16 Q. Did you ever discount fires if the cause was
17 undetermined?

18 A. No.

19 Q. We'll come back to this, but let's go to
20 Exhibit 12. Please familiarize yourself with this
21 document.

22 MR. DREYER: Mr. Olson, what's the date on the
23 document?

24 MR. OLSON: April 18th of 2016.

25 MR. DREYER: Okay.

1 (Wine Deposition Exhibit No. 12

2 marked as requested.)

3 BY MR. OLSON:

4 Q. And does this appear to be an e-mail you sent
5 to the board on April 18th of 2016?

6 A. Yes.

7 Q. And this was right before the April 2016
8 recall of RZR 900 and 1000s was released; is that right?

9 A. Yes.

10 Q. And along with the recall, there was an
11 announcement that was made of the recall; is that
12 correct?

13 A. That is -- There's a press release that's
14 issued with every recall.

15 Q. Okay. And there was a joint press release
16 that was issued for that recall by the CPSC and Polaris;
17 is that correct?

18 A. I don't believe so. I think -- what I
19 stated -- Our goal was to issue one joint release, but
20 the Consumer Product Safety was insistent that we
21 include one potentially related to a fatality in the
22 headline and in the body of the release. So I don't
23 know that we, ultimately, issued a joint release. There
24 were times when we would not issue joint releases, and I
25 believe this might have been one of those times.

1 Q. Okay. But your initial goal was to do a joint
2 release, right?

3 A. It's -- We believe it's less disruptive to
4 customers if we can issue one document that relates --
5 correlates our alignment with the Consumer Product
6 Safety Commission.

7 Q. Your goal was to issue one joint release; is
8 that right?

9 A. We usually felt like it was -- Not always.
10 I mean, sometimes we felt it was more important to go
11 quickly, rather than to get the Consumer Product Safety
12 to join us with it. So it wasn't -- That's not
13 necessarily always the goal.

14 Q. But with regard to the announcement or the
15 release for this recall, the CPSC insisted on mentioning
16 in the announcement that someone had died due to the RZR
17 fires, right?

18 A. Yes.

19 Q. And Polaris did not want to include that
20 reference in the joint announcement, true?

21 A. That is correct.

22 Q. And the reason that Polaris gave to the CPSC
23 for not including a reference to a fatality is that
24 Polaris had not determined the cause of the fire, right?

25 A. That is correct.

1 Q. And isn't that discounting a fire because you
2 haven't determined the cause?

3 A. Absolutely not.

4 Q. Well, your reasoning for not telling the
5 public in a joint release about the Hoaldridge fire was
6 that you hadn't determined the cause, right?

7 A. I believe the information about the Hoaldridge
8 fire was -- as you showed me earlier, was readily
9 available, was widely in the community. The root cause
10 and corrective action that we did, we could not identify
11 the root cause, but that does not mean that -- There's
12 no indication ever that we're minimizing, disregarding,
13 suggesting. That is not -- That is not a factual
14 statement.

15 Q. You did not want to include the reference to
16 Baylee's death in the announcement, true?

17 A. We did not believe that anything we were
18 recalling was going to prevent an issue like that one.
19 We could not -- We could not in any way identify a
20 systemic issue that was the likely cause of that fire
21 that we were addressing with this recall, therefore, it
22 made no sense to include it in this announcement.

23 Q. And your reasoning for why you didn't want to
24 include it is you couldn't determine the cause, right?

25 A. The recall that we were executing, we had no

1 indication that it was going to prevent a systemic risk
2 that we were correcting with the recall.

3 Q. In your view, it was less relevant because you
4 had not determined the cause, true?

5 A. That's not true.

6 Q. All right. Let's go back to the Crowell &
7 Moring report on Page 16 of Exhibit 22. All right.

8 And we ended on the sentence where Crowell &
9 Moring indicated that if the root cause could not be
10 identified, then it was discounted or considered
11 irrelevant, right?

12 MR. FIGLIULO: Objection; that's not what it says.
13 Objection; form.

14 MR. GODFREY: Join the objection.

15 BY MR. OLSON:

16 Q. Do you understand --

17 A. Let me just read it so we're all clear exactly
18 what it says. It says, "If the root cause could not be
19 identified, whether because the incident unit was too
20 damaged or the evidence suggested consumer misuse, it
21 appears that the incident may have been discounted or
22 considered irrelevant to continue data analysis and
23 trending."

24 Q. And despite what we just read about the
25 Hoaldridge fire and the announcement, you still don't

1 | believe that you ever discounted or considered a fire
2 | irrelevant because the cause was undetermined; is that
3 | right?

4 | A. I do not believe we did, no, sir.

5 | Q. All right. Let's look at the heading on this
6 | page. It says, quote, An organizational culture prone
7 | to accept unreasonable -- unreasonable risks, end quote.

8 | Do you see that?

9 | A. Yes.

10 | Q. And do you agree that Polaris had a culture
11 | that was prone to accept unreasonable risks?

12 | A. No, I do not.

13 | Q. You disagreed with a lot of what the
14 | Crowell & Moring found; is that true?

15 | MR. FIGLIULO: Objection; form.

16 | BY THE WITNESS:

17 | A. No, that's not true at all.

18 | Q. And you agree that they were hired to be
19 | independent, right?

20 | MR. FIGLIULO: Objection; form.

21 | MR. GODFREY: Join the objection.

22 | BY THE WITNESS:

23 | A. They were hired to do a -- She was the general
24 | counsel from the Consumer Product Safety Commission to
25 | make sure that we were doing the right things in how we

1 | communicated and prepared for the Consumer Product
2 | Safety Commission. Those were the recommendations that
3 | we had asked her to provide for us.

4 | Q. Go to Page 3, please. Do you see the first
5 | sentence of the second full paragraph that says, "Since
6 | being retained in mid-May, we have had the full
7 | cooperation of Polaris as we have independently gathered
8 | information in an effort to understand how best to
9 | improve the process Polaris uses to assess safety
10 | risks."

11 | Do you see that?

12 | A. Yes.

13 | Q. They were hired to be independent, correct?

14 | MR. FIGLIULO: Objection; form.

15 | MR. GODFREY: Join the objection.

16 | BY THE WITNESS:

17 | A. I don't know that being independent -- It was
18 | a third-party, somebody that wasn't influenced by what I
19 | said or what somebody else in the company said, could
20 | give us an assessment of how we were doing as a company.
21 | That was it.

22 | Q. And as we have gone through this, you have
23 | disagreed with various of the things in this report. Do
24 | you agree with that?

25 | A. I -- For the record, I have said what I

1 | disagreed with. I wouldn't make it as a general
2 | statement, no.

3 | Q. But you're not independent when it comes to
4 | what's in this report. Do you agree?

5 | A. I'm not independent? No.

6 | Q. All right. Back to Page 16. And under that
7 | heading do you see the sentence where it says, "The
8 | organizational culture accepts certain risks inherent in
9 | Polaris products as part of the powersports experience,
10 | e.g., engines run hot."

11 | Do you see that?

12 | A. I do.

13 | Q. Did you also accept certain inherent risks in
14 | Polaris products as part of the powersports experience?

15 | MR. FIGLIULO: Objection to the form.

16 | BY THE WITNESS:

17 | A. I don't recall, no.

18 | Q. Do you remember earlier in today's deposition
19 | when you indicated that -- something to the effect of
20 | any time you have an engine that is combustion -- a
21 | combustion engine, you can have a fire?

22 | A. I think the evidence that I have learned is
23 | internal combustion engines that use gasoline, there is
24 | an inherent risk of fire. By def- -- It's a spark.
25 | You're creating a spark to make the engine work. And,

1 by definition, I think that history has shown, data will
2 show that there is an inherent risk, yes.

3 Q. Okay. And so are you saying that you believe
4 that the risk of fire was a certain inherent risk in the
5 RZR because it was a combustion engine?

6 A. In all of the products that we design that had
7 an engine in it, we certainly tried to maintain --
8 reduce that risk that's inherent, yes.

9 Q. But as you read this first sentence and this
10 paragraph under this heading, is it your read that
11 Crowell & Moring is criticizing that idea that a RZR can
12 start on fire because it has a combustion engine or
13 engines run hot?

14 MR. FIGLIULO: Objection; form.

15 MR. GODFREY: Join the objection.

16 BY THE WITNESS:

17 A. I do not -- I do not read that here.

18 Q. All right. Well, let's read the next
19 sentence. Do you see where it says, "This appears to
20 lead to systemic issues, including the failure to
21 identify certain field reports as raising addressable
22 issues needing remediation, the failure to anticipate
23 unintentional uses of the product and their risks from a
24 design standpoint and the tendency to blame the consumer
25 for improper use of the product."

1 Do you see that?

2 A. Yes.

3 Q. And do you agree that that attitude, that
4 fires happen because they are combustion engines or
5 because engines -- engines run hot can lead to the
6 problems that are described by Crowell & Moring in that
7 sentence I just read?

8 MR. FIGLIULO: Objection; form, assumes facts not
9 in evidence, mischaracterizes prior testimony.

10 MR. GODFREY: Join the objection.

11 BY THE WITNESS:

12 A. No, that is not how I read the document.

13 Q. All right. Let's -- Let's keep reading. Do
14 you see where it says, "The cultural issue appears to be
15 twofold." There is -- "One, there is a reluctance to
16 initiate a process that may result in the evaluation of
17 a safety issue that could result in a recall; but, two,
18 more often it appears that the issue is that the product
19 is not viewed as presenting a safety concern at all
20 because some level of risk is inherent in the use of the
21 product."

22 Do you see that?

23 A. I do see it.

24 Q. Is a fair -- Is a fair definition of
25 reluctance, meaning you don't want to do something?

1 MR. GODFREY: Objection; form.

2 BY THE WITNESS:

3 A. I don't know what they were referring to here.

4 Q. Well, do you agree that Polaris had the
5 culture that was described in the sentence I just read?

6 A. I do not.

7 Q. You don't think Polaris had a culture that did
8 not want to recall?

9 A. I believe that our process was that we would
10 try to remediate systemic risk. If we identified
11 systemic risk, we would issue a recall.

12 Q. Let's read the next sentence. It says, "As
13 one witness stated, if there is no immediate or imminent
14 threat presented by the issue, it is simply not
15 considered a safety issue."

16 Do you see that?

17 A. I do.

18 Q. Was that a view at Polaris that you were aware
19 of?

20 A. No, it is not.

21 Q. Did you find out who it was who believed that
22 was the case?

23 MR. FIGLIULO: Objection; form, foundation.

24 THE COURT REPORTER: What was your answer?

25 BY THE WITNESS:

1 A. I said, I did not.

2 Q. Let's go to Page 18, please. Do you see up
3 toward the top, the first sentence next to the top
4 heading, it says, "There was no single leader with the
5 clear responsibility to make the decision to report the
6 potential hazards and risks presented by the RZR 900 and
7 RZR 1000 to the CPSC."

8 Do you see that?

9 A. I do.

10 Q. Is that a true statement?

11 A. I do not -- I do not agree that that was a
12 true statement.

13 Q. Who was the single leader with the clear
14 responsibility to make the decision to report the
15 potential hazards and risks presented by the RZR 900
16 and 1000?

17 MR. FIGLIULO: Objection; foundation, time.

18 BY THE WITNESS:

19 A. I do not know who the specific person was, but
20 certainly that person existed in Polaris.

21 Q. All right. Let's read the next sentence. Do
22 you see where it says, "Historically, the individuals
23 involved in the compliance function have been described
24 to us as weak and ineffectual and several witnesses
25 indicated that moving into safety engineering is a

1 dead-end that is isolated from the design engineering
2 function."

3 Let me ask you this: Would the compliance
4 function include the products compliance safety
5 specialist at Polaris?

6 MR. FIGLIULO: Objection; form, because you read a
7 sentence and you ask an unrelated question.

8 MR. OLSON: I don't think it was unrelated, but I'm
9 happy to clarify.

10 MR. FIGLIULO: Thank you.

11 BY MR. OLSON:

12 Q. You can see where it references the compliance
13 function in that sentence I just read, right?

14 A. The sentence reads, "Historically, the
15 individuals involved in the compliance function have
16 been described as weak and ineffectual and several
17 witnesses indicated that moving into safety engineering
18 is a dead-end and that is isolated from the design
19 engineering function."

20 Q. As you understood that, would an example of
21 someone in the compliance function at Polaris be the
22 product compliance specialist?

23 A. I did not -- When I read that, I did not think
24 of that word. So, no, I did not think that.

25 Q. Well, do you think that as you read it now?

1 A. It could be, yes.

2 Q. And would it also include the global product
3 safety manager at Polaris?

4 MR. FIGLIULO: Objection; time.

5 BY THE WITNESS:

6 A. Yes, it could.

7 Q. And had you ever heard other Polaris employees
8 or officers describe those -- the product compliance
9 safety specialist or the global product safety manager
10 as weak or ineffectual?

11 MR. FIGLIULO: Objection; form.

12 BY THE WITNESS:

13 A. I did not.

14 Q. Did you know Don Good?

15 A. I did not know Don personally, but I knew him
16 in the organization, yes.

17 Q. How about Mark Thomas?

18 A. Same way I knew of Mark Thomas, but didn't
19 know him on a personal basis.

20 Q. How about Ken d'Entremont?

21 A. Same. I knew of Ken, but I did not know him
22 personally.

23 Q. Let's jump down to the last part of that page
24 next to, "No accountability for delay." Do you see
25 where it says, "The lack of ownership on these issues

1 | also seems to have made it difficult for the company to
2 | hold any one person accountable for the delay."

3 | Was there anybody who was disciplined for the
4 | delay in recalling RZR's?

5 | A. There was lots of action taken. Our -- My
6 | goal was to remediate and correct the problem. It
7 | wasn't to apply blame.

8 | Q. Was anyone at Polaris, to your knowledge,
9 | disciplined for the delay in the RZR recall?

10 | MR. FIGLIULO: Objection; form, foundation.

11 | BY THE WITNESS:

12 | A. I do not know.

13 | Q. Did you discipline anyone related to the delay
14 | in the RZR recall or the fact that RZR's were starting on
15 | fire?

16 | MR. FIGLIULO: Objection; form, assumes facts not
17 | in evidence.

18 | BY THE WITNESS:

19 | A. I do not recall disciplining anyone, no.

20 | Q. But you had the ability to discipline as the
21 | CEO; is that true?

22 | A. Yes.

23 | Q. Then let's read the next sentence. Do you see
24 | that it says, "The absence of any disciplinary action
25 | for the lack of urgency and timeliness in bringing these

1 | safety issues to light sends a message that such

2 | behavior is tolerated within the organization."

3 | Do you see that?

4 | A. I do.

5 | Q. Do you agree that the absence of disciplinary

6 | action does send the message this described?

7 | A. I do not.

8 | Q. And is that why you didn't discipline anybody?

9 | MR. FIGLIULO: Objection; form.

10 | BY THE WITNESS:

11 | A. That's an incorrect statement.

12 | Q. But you didn't, right?

13 | MR. FIGLIULO: Objection; form.

14 | BY THE WITNESS:

15 | A. It's an incorrect -- I -- I do not recall --

16 | There was a lot of very difficult conversations. I do

17 | not recall what specific disciplinary action was

18 | administered.

19 | Q. Who were the difficult conversations with that

20 | you just referenced?

21 | A. I do not recall.

22 | Q. Did you ask anybody to resign related to the

23 | RZR fire issue or the recalls?

24 | A. I did not.

25 | Q. So even though you knew that some of these

1 | references were about Bennett Morgan and Dave Longren,
2 | you didn't ask them to resign?

3 | A. I did not.

4 | MR. FIGLIULO: Objection; form.

5 | BY MR. OLSON:

6 | Q. You didn't fire them or recommend that they be
7 | fired or removed from office?

8 | A. I did not.

9 | Q. You were okay with what they had done?

10 | MR. GODFREY: Objection; form, lack of foundation.

11 | BY THE WITNESS:

12 | A. The people -- Mr. Morgan and Mr. Longren were
13 | very knowledgeable people about how to help us get
14 | through this situation. So firing them would not have
15 | enhanced our ability to execute this for our customers
16 | as best we could. Their behaviors potentially could
17 | change, but, no, I don't -- that -- I was trying to look
18 | out for our customers and the business and, ultimately,
19 | that was the reason that they were employed.

20 | Q. Are you friends with Mr. Morgan and
21 | Mr. Longren?

22 | A. I -- you know, I'm a -- I don't consider
23 | myself -- They work for me, so they're -- It's a
24 | different relationship than being a friend.

25 | Q. Were you looking out for them, too, when you

1 | didn't ask them to resign or discipline them?

2 | A. I was looking out for the business and for our
3 | customers and our stakeholders.

4 | Q. How about in-house counsel? Were you critical
5 | of anyone in the legal department for what happened with
6 | the RZR fires and the recalls?

7 | MR. FIGLIULO: Objection; form, time.

8 | BY THE WITNESS:

9 | A. I don't recall.

10 | Q. How about Jeff Eyres? Do you know who he was?

11 | A. I do. Yes.

12 | Q. You were never critical of Jeff Eyres for --
13 | Well, strike that.

14 | Are you aware that he was involved in handling
15 | some of the reports of RZR fires?

16 | A. I do, yes.

17 | Q. And you never disciplined him?

18 | A. He did not work for me. He worked for
19 | Stacy Bogart.

20 | Q. Everybody works for you, right?

21 | MR. FIGLIULO: Objection; form.

22 | BY THE WITNESS:

23 | A. Well, working -- Working for me is a direct
24 | report. Working within my organization is everyone
25 | else.

1 Q. Are you aware of anyone asking Mr. Eyres to
2 resign or firing him?

3 A. I am aware of that, yes.

4 Q. Okay. Tell me about that.

5 MR. GODFREY: Objection.

6 BY THE WITNESS:

7 A. It's related to a personnel issue --

8 MR. GODFREY: Wait. Objection.

9 The question is whether or not this is a
10 privileged conversation between him and Ms. Bogart. I
11 have no idea. So you can answer the question, as long
12 as you're not revealing privileged conversations with
13 your general counsel.

14 BY MR. OLSON:

15 Q. Go ahead.

16 A. Mr. Eyres was fired for issues unrelated to
17 any vehicle issues or the Consumer Product Safety
18 Commission issue. It was a separate issue.

19 Q. That didn't have anything to do with handling
20 of RZR fires or the RZR recall?

21 A. It did not.

22 Q. How about Ms. Bogart? Was she on the PAP
23 committee?

24 A. I don't know. I'm not sure.

25 Q. You didn't ever discipline her, did you,

1 related to RZR recalls or the fires?

2 A. No.

3 Q. And so are you aware of anybody that got fired
4 at Polaris for what happened?

5 MR. GODFREY: Objection as to the form, that
6 (inaudible).

7

8 BY THE WITNESS:

9 A. I did not personally -- No, I'm not aware.

10 Q. All right. Let's go to Exhibit 32.

11 Mr. Wine, this is an e-mail you wrote on
12 August 4th of 2016; is that true?

13 (Wine Deposition Exhibit No. 32
14 marked as requested.)

15 BY THE WITNESS:

16 A. It is.

17 Q. And you wrote this right after you read the
18 Crowell & Moring audit, right?

19 A. I wrote it afterward. I can't say it was
20 written right afterwards, but I read it.

21 Q. Same day, right?

22 A. I don't know, but possibly.

23 Q. Well, the Crowell & Moring report is dated
24 August 4th of 2016, right?

25 A. What page is that?

1 Q. 22. Exhibit 22.

2 A. August 4th in my e-mail -- Yeah, so it's the
3 same day.

4 Q. Okay. And one of the things you state in your
5 e-mail is, "Stacy and I have agreed to keep the
6 dissemination of this report extremely tight."

7 Do you see that?

8 A. Yes.

9 Q. You didn't want the Crowell & Moring audit to
10 be circulated, did you?

11 A. My belief was this was an attorney-client
12 privileged document and, as such, we tried to limit the
13 dispersion of it.

14 Q. Regardless of your belief of whether it was
15 privileged or not, you did not want the Crowell & Moring
16 audit to be circulated?

17 A. The sole --

18 MR. FIGLIULO: Objection; form.

19 MR. GODFREY: Object.

20 BY THE WITNESS:

21 A. The sole reason I did not want it disseminated
22 was because I thought it was an attorney-client document
23 prepared for the board of directors in how we should
24 be -- how well we were doing in preparedness to engage
25 with the Consumer Product Safety Commission. That is

1 the belief I had and that is why I limited the --

2 Q. That's the sole reason?

3 A. That's the sole reason.

4 Q. It had nothing to do with maybe some bad

5 information about Polaris in the audit?

6 MR. FIGLIULO: Objection; form, argumentative.

7 MR. GODFREY: Join the objection.

8 BY THE WITNESS:

9 A. Most of the issues that were addressed in the

10 report had already been remediated or there was

11 nothing -- I was -- That was not part of the -- The

12 calculus on limiting the distribution was because it

13 was an -- I believed it to be an attorney-client

14 privileged document. Any other assertion is incorrect.

15 Q. All right. Then you go on to state, "I

16 believe it is important for all of you to be up to speed

17 and fully aware of the seriousness of our cultural

18 shortcomings."

19 Do you see that?

20 A. Yes.

21 Q. You believed when you wrote this that Polaris

22 had serious cultural shortcomings, true?

23 A. I write what I believe. I said, "But believe

24 it is important for all of you to be up to speed and

25 fully aware of the seriousness of our cultural

1 shortcomings." That's what I wrote. That's what I
2 meant.

3 Q. Regardless of what you wrote, did you agree at
4 the time you wrote this -- did you believe at the time
5 you wrote this that Polaris had serious cultural
6 shortcomings?

7 A. Yes.

8 Q. They hadn't been fixed, had they?

9 A. Culture is a continuously evolving -- culture
10 evolves regularly. It evolves -- It evolves based on
11 the inputs you provide. And part of what I was doing
12 was providing an input to our culture that could help it
13 evolve in a positive way. It's, like, continuous
14 improvement. It never stops.

15 MR. OLSON: Move to strike.

16 MR. FIGLIULO: Objection.

17 MR. GODFREY: Objection.

18 BY MR. OLSON:

19 Q. You agree at the time you wrote this e-mail
20 that Polaris still had serious cultural shortcomings; is
21 that true?

22 A. That is -- Again, I'm very careful with what I
23 write. I mean what I write. "Stacy and I have agreed
24 to keep the dissemination of this report extremely
25 tight, but believe it is important for all of you to be

1 up to speed and fully aware of the seriousness of the
2 our cultural shortcomings."

3 The document was what had happened in the
4 past. It wasn't necessarily saying going forward that
5 we have these issues.

6 Q. The next sentence you write states, "The
7 report is sobering and really drove home how much I have
8 failed the organization by allowing the described
9 behaviors and culture to exist in my business."

10 Do you see that?

11 A. Yes.

12 Q. And is that a true statement?

13 A. I will repeat again: If I write it, it
14 means -- means what it says. I told you at the
15 beginning, as the CEO, I was accountable. And what I'm
16 stating here is I was accountable for what was happening
17 in our organization.

18 Q. And so when you read the report, it was
19 sobering; is that right?

20 A. My statement was, "The report is sobering and
21 really drove home for how much I have failed the
22 organization by allowing the described behaviors and
23 culture to exist in my business. I am disappointed, but
24 also extremely motivated to make it better very
25 quickly."

1 Q. Did you believe when you read the
2 Crowell & Moring audit that you had failed the
3 organization by allowing the described behaviors in the
4 report and the culture to exist in Polaris?

5 A. I do not recall that that's what I felt when I
6 read that.

7 Q. Okay. So you said it but you didn't feel it;
8 is that what you're saying?

9 A. No. I -- This is what I wrote to my team. I
10 can't -- I don't recall, as I read the report, exactly
11 what my feelings were. After the fact, I wrote this and
12 said -- again, I could read it to you -- "The report is
13 sobering and really drove home for me how much I failed
14 the organization by allowing the described behaviors and
15 culture to exist in my business." That's what I'm
16 writing after the document release.

17 Q. Do you agree that you did fail the
18 organization?

19 A. I do believe that I -- I wrote it. Yes, I
20 believe that.

21 Q. Do you believe that you also failed those who
22 were burned or killed in RZR fires?

23 A. I do not.

24 Q. Either before or after this?

25 A. I do not.

1 Q. Go to Exhibit 25 if you would, please. If you
2 would, please familiarize yourself with this e-mail.

3 MR. DREYER: What's the number?

4 MR. OLSON: Exhibit 25. It's an e-mail dated
5 August 24th, 2016.

6 MR. DREYER: Thank you.

7 (Wine Deposition Exhibit No. 25
8 marked as requested.)

9 BY THE WITNESS:

10 A. Yes, I'm familiar with it.

11 Q. The bottom e-mail in this exhibit is an e-mail
12 that you wrote to all Polaris Corporate on August 24th
13 of 2016; is that correct?

14 A. Yes.

15 Q. And if you look at the second page, first line
16 of the first full paragraph you state, "It is an
17 undisputable fact that our customers do not expect their
18 Polaris vehicles to catch on fire."

19 Do you see that?

20 A. Yes, I do.

21 Q. Okay. And do you believe that to be a true
22 statement?

23 A. What I write is what I believe. I wrote, "It
24 is an indisputable fact that our customers do not expect
25 their Polaris vehicles to catch on fire and it is also

1 true that we're inconveniencing our customers and
2 dealers by forcing them to deal with a recall to ensure
3 the vehicles are safe."

4 Q. And then the next thing you say is, "Put
5 simply, safety issues, particularly thermal related" --
6 excuse me, "particularly related to thermal are not
7 acceptable to our customers and I know they are not
8 acceptable to any of us."

9 Do you see that?

10 A. Yes.

11 Q. You also believed that to be true, correct?

12 A. Yes.

13 Q. Then you state in the next sentence that you
14 will -- that, "We will spare no expense or effort to get
15 this right."

16 Do you see that?

17 A. I said -- No. Let me read what I said. I
18 said, "I want to assure you that we are taking
19 aggressive actions to fix our current issues and prevent
20 future ones and that we will spare no expense or effort
21 to get this right."

22 Q. Is it true when you wrote that that Polaris
23 and you were going to spare no expense or effort to get
24 this right?

25 A. What my intention of writing this was to say

1 | that -- It was very clear. "I want to assure that we're
2 | taking aggressive actions to fix our current issues and
3 | prevent future ones and that we will spare no expense or
4 | effort to get this right."

5 | Q. What you wanted to get right is RZR's no longer
6 | catching on fire, true?

7 | MR. FIGLIULO: Objection; form.

8 | MR. GODFREY: Objection; form.

9 | BY THE WITNESS:

10 | A. The sentence before that says, "Put simply,
11 | safety issues, particularly related to thermal," but I
12 | said -- The sentence relates to all safety issues, but I
13 | did say, "particularly related to thermal are not
14 | acceptable to our customers and I know that they are not
15 | acceptable to any of us."

16 | Q. Is that a yes to my question?

17 | MR. FIGLIULO: Objection; form.

18 | MR. GODFREY: Join the objection.

19 | BY THE WITNESS:

20 | A. I will read it again if you don't understand.
21 | I really do mean what I write. "Put simply, safety
22 | issues and, in particular related to thermal, are not
23 | acceptable to our customers and I know that they're not
24 | acceptable to any of us."

25 | Q. Did you spare expense to stop RZR fires after

1 | you wrote this?

2 | A. I do not recall ever making a decision to
3 | spare an expense.

4 | Q. One thing you definitely did do after
5 | August 24th, 2016 is allow the release of the 2017 RZR
6 | models, right?

7 | A. I think you could look at a calendar and say
8 | that after this e-mail those model year '17 were
9 | launched, so that's a factual statement.

10 | Q. And you wouldn't spare the expense of not
11 | selling those 2017 RZRs; is that true?

12 | MR. FIGLIULO: Objection; form, foundation.

13 | MR. GODFREY: Join the objection.

14 | BY THE WITNESS:

15 | A. It's not an expense not to launch the
16 | vehicles, that's not true.

17 | Q. Despite everything we talked to -- we've
18 | talked about so far today, you still were okay with
19 | Polaris going ahead and selling 2017 RZRs; is that
20 | right?

21 | A. We took all of the learnings that we had done,
22 | all of the thermal efficacy issues, everything we had
23 | learned and put it into the model year '17. We delayed
24 | the model year '17 product launch so we could have
25 | additional reviews done and that vehicle was not

1 launched until we believed that it was the vehicle that
2 our customers expected.

3 Q. Are you saying there was some additional
4 review done to the 2017s before they were released?

5 A. There was.

6 Q. But you knew that wasn't sufficient, right?

7 A. I did not know that.

8 Q. Let's take a look at Exhibit 39.

9 A. 30 what?

10 Q. 39.

11 (Wine Deposition Exhibit No. 39

12 marked as requested.)

13 BY MR. OLSON:

14 Q. Would you please familiarize yourself with
15 this e-mail.

16 A. Yes, I'm familiar.

17 Q. And the bottom e-mail in this exhibit is an
18 e-mail from you to various executives on August 13th of
19 2016; is that correct?

20 A. Yes, it was. It was to Bob Mack,
21 Jim Williams, Ken Pucel, Mike Speetzen, Joel Houlton,
22 Matt Homan, Tim Larson, John Kastanek, Steve Kemp, Craig
23 Scanlon, Paul Vitrano, and Stacy Bogart.

24 Q. And one of the things you said in the e-mail
25 is as follows: "The thermal GDP effort and ongoing MY16

1 and MY17 reviews are the right thing to do and I'm fully
2 supportive, but they are insufficient to extremely
3 rapidly improve the quality, speed, and effectiveness of
4 our field recall repairs."

5 Do you see that?

6 A. I do.

7 Q. So you knew before the model year '17s were
8 released for sale, that reviewing them was insufficient;
9 is that true?

10 A. Can I -- can I --

11 MR. GODFREY: Objection; as to form --

12 THE WITNESS: No, I will -- I will --

13 MR. GODFREY: -- and objection as to the
14 mischaracterization of the document. The document
15 doesn't say that there.

16 BY THE WITNESS:

17 A. I will -- I will read this so we understand
18 collectively what was intended. I'll state again, I
19 write what I mean.

20 "The thermal GDP effort and ongoing model year
21 '16 and '17 reviews are the right thing to do and I am
22 fully supportive, but they are insufficient to extremely
23 rapidly improve the quality, speed, and effectiveness of
24 our field repairs."

25 If you go back to the subject line, it says,

1 "Recall execution," "backlog elimination," "customer
2 service improvement." It was related to our execution
3 of the recall, not the thermal efficacy of the vehicles.

4 Q. Mr. Wine, you understood that reviewing the
5 model year '17s before selling them was insufficient to
6 stop RZR's from starting on fire; is that true?

7 A. Incorrect. It is not -- Incorrect.

8 MR. FIGLIULO: Objection.

9 MR. GODFREY: Objection; misstates the document.

10 BY THE WITNESS:

11 A. That is a factually incorrect statement.

12 Q. All right. Let's go back to Exhibit 25. On
13 the second page of this e-mail your first bullet states
14 that one of the things that Polaris had done in the last
15 several months is to introduce Polaris --

16 A. I'm sorry. Where are you?

17 Q. First bullet, top of the second page of
18 Exhibit 25.

19 A. You didn't say second page. I'll get there
20 now. Okay.

21 Q. And can you see that the first bullet says,
22 Introduced our first ever midyear GEDP objective led by
23 our CTO, Steve Kemp, to change the way we operate, dash,
24 putting safety and quality first in establishing a zero
25 tolerance approach to thermal issues.

1 Do you see that?

2 A. I do.

3 Q. Were you communicating that putting safety and
4 quality first was a change in the way Polaris operated?

5 A. No, it's not. Again, I -- for my entirety of
6 my career at Polaris, safety and ethics always was one
7 of our three guiding principles so it would be incorrect
8 to assume that by 2016 that was something new, the way
9 we operated.

10 Q. Take a look at Exhibit 26. This is an e-mail
11 that you have already looked at from yourself to the
12 board on August 30th of 2016; is that correct?

13 A. Yes.

14 Q. At this point in time, is it true that the
15 CPSC was wanting Polaris to offer to buyback the RZR
16 900s and 1000s that had been recalled because fires
17 continued to happen?

18 A. That is not correct.

19 Q. Let's read down at the bottom. Do you see
20 that there's a sentence that you wrote that says,
21 "Before they could even begin their presentation, the
22 CPSC staff, not the commissioners who actually made the
23 final decisions, stated that they want us to seriously
24 consider a buyback on the RZR 900 and 1000s."

25 A. So that is a --

1 Q. Hold on. Hold on. Is that what you wrote?

2 A. That is what I wrote. And let's make sure we
3 understand how the Consumer Product Safety Commission
4 operates. They have a staff that engages with the
5 business and with Polaris in this case. The staff makes
6 a recommendation to the commissioners. The
7 commissioners make the decision. So your assertion that
8 the CPSC believed is not true. The CPS staff that we
9 were engaged with believed this, but the CPSC, as a
10 general entity, did not.

11 Q. The CPSC staff that you were dealing with
12 clearly, at this point in time, wanted Polaris to offer
13 to buyback the RZR 900 and 1000s vehicles that had been
14 recalled; is that true?

15 A. I hate to be repetitive, but I just want to be
16 clear, I write what I mean. Before they could even
17 begin their presentation, the CPSC staff, not the
18 commissioners who actually make the final decision,
19 stated that they wanted us to seriously consider a
20 buyback. That is differently than saying they want us
21 to do a buyback. They want us to seriously consider it.

22 Q. The last clause of that paragraph says, "The
23 staff clearly want us to provide a buyback option,"
24 right?

25 A. Provide an option for it. So one of the --

1 One of the things for -- that they would present to the
2 commissioners would be an option to do that. That's
3 what I wrote.

4 Q. But even though the staff clearly wanted
5 Polaris to provide an option to buyback RZR 900 and
6 1000s as of August 30th, 2016, Polaris went ahead and
7 started selling 2017 RZRs; is that correct?

8 A. We did a thorough review to ensure the thermal
9 efficacy of the model year '17 product launches that was
10 irrespective of this conversation with the Consumer
11 Product Safety Commission.

12 Q. Would you agree that if the CPS staff is
13 wanting you to offer to buyback these vehicles, that
14 maybe there is a reason you shouldn't just go ahead and
15 keep selling them?

16 A. Absolutely not.

17 MR. GODFREY: Objection as to form.

18 BY MR. OLSON:

19 Q. All right. After starting to sell the 2017s,
20 you received confirmation, Mr. Wine, that some RZRs
21 still started on fire; is that true?

22 A. I do not know that that's true.

23 THE WITNESS: Can I take a two-minute break?

24 MR. FIGLIULO: Yeah. In fact, let's talk about
25 this right now because it's after 12:30. What's your

1 plan here?

2 MR. OLSON: Let's go off the record.

3 MR. FIGLIULO: We can go off the record because
4 it's lunchtime, too.

5 THE VIDEOGRAPHER: We are off the record at
6 12:31 p.m.

7 (A short break was had.)

8 THE VIDEOGRAPHER: We're back on the record at
9 12:57 p.m.

10 BY MR. OLSON:

11 Q. Mr. Wine, could you please turn to Exhibit 27
12 and familiarize yourself with that e-mail. Exhibit 27,
13 Mr. Wine.

14

15 (Wine Deposition Exhibit No. 27
16 marked as requested.)

17 BY THE WITNESS:

18 A. Okay.

19 Q. Exhibit 27 is an e-mail that you wrote to
20 various Polaris employees on September 1st of 2016; is
21 that correct?

22 A. That's correct.

23 Q. And one of the things you state at the top is,
24 "I am pleased to report that earlier today we announced
25 a comprehensive solution for the Turbo recall that we

1 are confident will succeed." Is that correct?

2 A. That is exactly what I said.

3 Q. And if you can go to Exhibit 29 and
4 familiarize yourself with that e-mail, please.

5 (Wine Deposition Exhibit No. 29
6 marked as requested.)

7 BY THE WITNESS:

8 A. Yes.

9 Q. This exhibit contains an e-mail string that
10 includes you, correct?

11 A. There is an e-mail that I wrote included in
12 this.

13 Q. And the bottom e-mail is an e-mail from
14 Roger Riley to yourself on -- and others on
15 December 28th of 2016; is that correct?

16 A. That is correct.

17 Q. Roger Riley was an individual at Polaris, who
18 was involved in responding to Polaris RZR fire reports;
19 is that correct?

20 A. You know, by this point in time we had created
21 a post-sales surveillance organization that gave us the
22 ability to which we did go out on every single thermal
23 incident that was made aware to us, we would send a team
24 out. Roger oversaw that team and that, really, was a --
25 that post-sales surveillance organization that we

1 created allowed us to get to the root cause of all of
2 these issues and do a thorough investigation in a very,
3 very quick, timely manner.

4 So Roger -- These types of e-mails would come
5 out when there was an event because Roger and his
6 post-sales surveillance team were rapidly going after
7 them. That's part of the corrective actions that we put
8 in place.

9 MR. OLSON: Move to strike as nonresponsive.

10 THE WITNESS: No. No. I think that's very
11 responsive. You asked me who Roger Riley was and I was
12 telling you his role in the organization.

13 MR. OLSON: Yeah, move to strike that as well.

14 MR. GODFREY: Object to the motion.

15 MR. FIGLIULO: Objection.

16 BY MR. OLSON:

17 Q. Mr. Wine, is it correct that Roger Riley was
18 one of the individuals who was involved in responding to
19 reports of Polaris RZR fires at this point in time?

20 MR. FIGLIULO: Objection; asked and answered.

21 BY THE WITNESS:

22 A. I'm going to repeat myself because I want to
23 be clear. Roger Riley ran the post-sales surveillance
24 organization that sent people into the field to evaluate
25 all of the -- any thermal events that there were and

1 | report back to us, that's -- The nature of this e-mail
2 | was related to his role as the leader of post-sales
3 | surveillance.

4 | Q. Okay. And one of the things that he did in
5 | this December 28th of 2016 e-mail is report to you of a
6 | RZR Turbo fire; is that correct?

7 | A. Yes.

8 | Q. And that fire occurred, even though any of the
9 | recalls or safety bulletins had already been completed;
10 | is that correct?

11 | MR. GODFREY: Objection; foundation.

12 | BY MR. OLSON:

13 | Q. Based on what you read in the e-mail?

14 | A. I do not -- I do not know.

15 | Q. Okay. Take a look at his e-mail. And do you
16 | see where it says "Bulletin status"?

17 | A. Yes.

18 | Q. An example of a bulletin would be a recall
19 | service on a vehicle; is that correct?

20 | A. Or a service bulletin.

21 | Q. Okay. It would be some work to be done on a
22 | vehicle to improve it; would that be a fair description?

23 | A. Normally that's -- any bulletin would be
24 | related to ensuring that the vehicle worked as designed.

25 | Q. Okay. And what he states next to bulletin

1 status is, "No bulletins have been completed nor are any
2 open. This indicates that it was factory repaired."

3 A. Yes.

4 Q. Do you see that?

5 And so does that indicate to you that there
6 wasn't any recall that needed to be done yet on that
7 vehicle that started on fire?

8 A. No, that's not what that states at all.

9 Q. Well, no bulletins would include no recalls;
10 is that true?

11 A. No. His statement relates to a specific VIN
12 number. It doesn't relate -- You are asserting that it
13 states -- relates to the overall model year. He's
14 actually referring to a very specific VIN number.

15 Q. As am I. On that vehicle there were not any
16 pending recalls that needed to be done; is that right?

17 A. I don't know that that's correct. He states,
18 "No bulletins have been created, nor are any open." So,
19 I guess, yeah, there's none open, which means it was a
20 factory repaired unit. So there was a -- Once the unit
21 had been produced, they recognized that something needed
22 to be done. We corrected it before it was sent to a
23 dealer, so it was corrected in the factory.

24 Q. And it still started on fire?

25 A. Yes.

1 Q. And that was despite the comprehensive
2 solution recall that you announced in Exhibit 27, back
3 in September of 2016, a few months before this fire,
4 right?

5 A. From a chronological point, yes.

6 Q. Then in response to Mr. Riley's e-mail you
7 state, "I know I am stating the obvious, but this
8 continuation of total loss fires in MY17 is extremely
9 concerning." Is that correct?

10 A. That's correct.

11 Q. All right. Go to Exhibit 28. Actually, go to
12 Exhibit 30 -- I'm sorry. Back to 28.

13 Go to Exhibit 28, Mr. Wine, and familiarize
14 yourself with this, if you would, please.

15 (Wine Deposition Exhibit No. 28
16 marked as requested.)

17 BY THE WITNESS:

18 A. Okay.

19 Q. Does it appear to you, at least on the first
20 page, that this is a string of e-mails that includes you
21 on the e-mail?

22 A. I believe this is something that I sent.

23 Q. We're just talking about the first page first
24 of all, the e-mails.

25 A. I know. But I'm talking about when it first

1 happened, so I'm looking back at the history. It looks
2 like I sent it to Jim Williams to review, who was the
3 CHRO, to get his input just because when I send
4 something to the board I want it to be as accurate and
5 as helpful as it possibly could be. So I often had
6 people review things to make sure that that was done
7 correctly.

8 Q. Mr. Wine, is it correct that the first page of
9 Exhibit 28 is an e-mail string?

10 A. Yes, it is.

11 Q. And the e-mail string involves you on some of
12 them, correct?

13 A. That is correct.

14 Q. And also Jim Williams, who was a member -- who
15 was a Polaris executive; is that correct?

16 A. CHRO, yes.

17 Q. And also Jim Williams who was also another
18 Polaris executive; is that right?

19 A. You said Jim Williams twice.

20 Q. And Jim -- The e-mail string also includes
21 Jim Williams, who was another Polaris executive; is that
22 correct?

23 A. Jim Williams was the CHRO, we just agreed to
24 that.

25 Q. Excuse me. Dwight Lowie was also a Polaris

1 executive; is that right?

2 A. He was not a Polaris executive. He was a
3 Polaris employee that reported directly to me.

4 Q. Okay. Thank you. And all of the e-mails on
5 this string on the first page took place on October 19th
6 of 2016; is that right?

7 A. That's correct.

8 Q. And then attached to that e-mail is a draft of
9 a letter from yourself to the board; is that correct?

10 A. Correct. Yes.

11 Q. And does it appear to you, based on the e-mail
12 string, that you were circulating the draft and getting
13 some input from Mr. Williams and Mr. Lowie?

14 A. That is correct.

15 Q. And then on the first page of your draft
16 letter there is a comment box.

17 Do you see that?

18 A. Yes.

19 Q. And do you see where it says "DL1"?

20 A. Yes.

21 Q. Is it your understanding that that was
22 Mr. Lowie's comment?

23 A. Yes.

24 Q. And then where he refers to Jim's point, do
25 you understand that he was referring to Jim Williams'

1 point?

2 A. Yes.

3 Q. And so did you understand at this point in
4 time, in October of 2016, that Polaris' efforts to
5 respond to RZR fires had ramped up too slowly or gotten
6 underway later than they should have?

7 A. What I wrote was, "While our efforts got
8 underway later than they should have" -- or, actually,
9 Dwight edited to say that, yes.

10 Q. Okay. And then, if you would, please, go to
11 Exhibit 30 and familiarize yourself with that e-mail,
12 please.

13 (Wine Deposition Exhibit No. 30
14 marked as requested.)

15 BY THE WITNESS:

16 A. Yes.

17 Q. Does this -- Exhibit 30 is an e-mail string,
18 correct?

19 A. Yes.

20 Q. And it includes an e-mail from you to
21 Mike Speetzen and other Polaris employees on March 2nd
22 of 2017; is that correct?

23 A. Yes.

24 Q. And the subject line is, RZR, slash, GEN
25 recall is live, right?

1 A. Yes.

2 Q. And did you understand GEN to refer to the
3 Polaris General?

4 A. Yes.

5 Q. Then R Z R referred to the RZR, correct?

6 A. Correct.

7 Q. And then, down at the bottom, there's an
8 e-mail from Ms. Basgen that says, "The RZR General
9 recall is live on the CSPC side." Is that correct?

10 A. Yes.

11 Q. So is it true that in March of 2017 Polaris
12 also did a recall of RZRs related to thermal issues?

13 A. By March of 2017, we had a very robust
14 process, again, with our post-sales surveillance. When
15 we identified a systemic issue, we would always recall
16 it, thermal related or not. It was -- It was part of
17 our process. So if there was a systemic issue
18 identified, we would recall it.

19 Q. In March of 2017, Polaris did another recall
20 of RZRs related to thermal issues; is that correct?

21 A. I don't know this -- I don't know the nature
22 of the recall.

23 Q. All right. If you would, please go to
24 Exhibit 31 and familiarize yourself with that e-mail.

25

1 (Wine Deposition Exhibit No. 31
2 marked as requested.)

3 BY THE WITNESS:

4 A. Okay.

5 Q. Mr. Wine, Exhibit 31 is an e-mail that was
6 forwarded to you by Stacy Bogart; is that correct?

7 A. That's correct.

8 Q. And the date of that was June 16th of 2017?

9 A. That's correct.

10 Q. And the forward -- The e-mail that was
11 forwarded to you was an e-mail written by Ryan Bigot of
12 Polaris; is that correct?

13 A. That's correct.

14 Q. And one of the things he says is, Exponent is
15 following to determine if there are any additional
16 systemic root causes within the 31 undetermined
17 post-repair fires.

18 Do you see that?

19 A. Yes.

20 MR. FIGLIULO: Objection -- Well, you misstated.

21 MR. OLSON: Excuse me.

22 BY MR. OLSON:

23 Q. One of the things Mr. Bigot said in his e-mail
24 was, "Exponent is following to determine if there are
25 any additional systemic root causes within the 31

1 | undetermined post-repair incidents."

2 | A. That's correct.

3 | Q. And so in this point in time, in June of 2017,
4 | Polaris was still trying to figure out some of the
5 | causes of some of the RZR fires that had happened after
6 | getting the recall; is that your understanding?

7 | A. That is correct.

8 | Q. All right. And the other thing that's true
9 | around this June of 2017 time frame is that the CPSC was
10 | threatening Polaris to force Polaris to buy back RZR
11 | 900s and 1000s that had been recalled; is that true?

12 | A. We talked about that earlier. I'm not sure if
13 | it's -- if the time frame is similar. There was --
14 | There was a time. I just don't know if it's related to
15 | this time.

16 | Q. Okay. Go to Exhibit 33, if you would, please
17 | and familiarize yourself with that e-mail.

18 | (Wine Deposition Exhibit No. 33
19 | marked as requested.)

20 | BY THE WITNESS:

21 | A. Okay. Yeah. So it's within a couple of days.

22 | Q. And Exhibit 33 is an e-mail that you were cc'd
23 | on from Jim Williams to Stacy Bogart, correct?

24 | MR. GODFREY: Can you repeat the question, please.

25 | (Record read as requested.)

1 BY MR. OLSON:

2 Q. June 19 of 2017.

3 A. Yes.

4 Q. Okay. And the date of the e-mail from
5 Mr. Williams to Ms. Bogart that copies you was June 19th
6 of 2017; is that correct?

7 A. Jim Williams wrote the e-mail to Stacy on the
8 19th.

9 Q. And copied you, right?

10 A. Yes.

11 Q. Okay. And below that e-mail was an e-mail
12 from Ms. Bogart on June 18th of 2017; is that right?

13 A. Yes.

14 Q. In that e-mail she states, "We learned on
15 Friday that CPSC is threatening a forced RZR buyback or
16 unilateral negative press release about our thermal
17 issues," right?

18 A. Yes.

19 Q. Mr. Wine, would you agree that you failed to
20 warn customers about RZR fires?

21 MR. GODFREY: Objection as to form and foundation.

22 MR. FIGLIULO: Form.

23 BY THE WITNESS:

24 A. No.

25 Q. If you would, please go to Exhibit 4. We

1 | talked about this e-mail earlier. This was an e-mail to
2 | you from a customer who had a RZR 1000 start on fire,
3 | correct?

4 | A. Yes, it is.

5 | Q. And this is the customer who told you he
6 | couldn't fathom a brand new unit just going up in blaze?

7 | MR. FIGLIULO: Objection; form.

8 | BY THE WITNESS:

9 | A. I don't know that those were his exact words.
10 | I mean, you can read it to me if you want me to see
11 | that. I don't see it.

12 | Q. And you responded to his e-mail, correct?

13 | A. Uh-huh.

14 | Q. Is that a yes?

15 | A. My response was, "Thank you for taking time to
16 | explain your situation. You made a good decision to buy
17 | the XP 1000 and we would like to get you back riding as
18 | quickly as possible. I will speak with my service
19 | leaders tomorrow and be sure that someone follows up
20 | with you early next week."

21 | Q. You didn't tell Mr. Braddock or the customer
22 | in this e-mail about other RZR's having started on fire,
23 | did you?

24 | A. I said in my e-mail, "Thank you for taking
25 | time to explain your situation. You made a good

1 decision to buy the XP 1000 and we would like to get you
2 back riding as quickly as possible. I will speak with
3 my service leaders tomorrow and be sure that someone
4 will follow up with you early next week." That is what
5 I said.

6 Q. Mr. Wine, did you warn this customer about
7 RZR's starting on fire --

8 MR. FIGLIULO: Objection; form, foundation.

9 MR. GODFREY: Join the objection.

10 BY MR. OLSON:

11 Q. -- in this e-mail?

12 A. I'd be happy to read it to you again.

13 Q. Did you tell them there had been any RZR
14 fires?

15 MR. FIGLIULO: Objection; form, foundation.

16 MR. GODFREY: Join the objection.

17 BY THE WITNESS:

18 A. I will read what I wrote. "Thank you for
19 taking time to explain your situation. You made a good
20 decision to buy the XP 1000 and we would like you to get
21 back riding as quickly as possible. I will speak with
22 my service leaders tomorrow and be sure that someone
23 follows up." I did not say anything else in addition to
24 that.

25 Q. You did not tell him there had been any other

1 RZR fires, did you?

2 MR. FIGLIULO: Objection; form, foundation.

3 MR. GODFREY: Join the objection.

4 BY THE WITNESS:

5 A. I'd be happy to read it to you again. What I

6 said is right here.

7 Q. And rather than --

8 A. There's a whole lot of things I didn't say and

9 I'm not going to talk about what I didn't. I'm going to

10 read -- What I said in this document is what I said.

11 Q. And not only did you not warn him, you told

12 him he made a good decision to buy the XP 1000 that

13 burst into flames, right?

14 MR. FIGLIULO: Objection; form, foundation,

15 mischaracterizes the e-mail.

16 MR. GODFREY: Adopt the objection.

17 BY THE WITNESS:

18 A. I said, "You made a good decision to buy the

19 XP 1000 and we would like to get you back to riding as

20 quickly as possible."

21 Q. Look down further in his e-mail. Do you see

22 where he says, "I put a custom seat in the back for my

23 younger children and thank God they were not in the

24 backseat."

25 A. I see that.

1 Q. When you told him he made a good decision and
2 you wanted him to get back to riding, were you worried
3 about his kids?

4 A. No.

5 MR. FIGLIULO: Objection.

6 BY MR. OLSON:

7 Q. Now, about a month after this, you went on TV
8 to promote Polaris products, including RZR's; is that
9 correct?

10 A. I -- I may have. I don't know. I did a lot
11 of interviews, but I don't know what time frame that
12 would have been.

13 Q. Take a look at Exhibit 5. And does that
14 appear to be you shown in Exhibit 5 on the first page?

15 MR. FIGLIULO: Excuse me.

16 MR. GODFREY: We don't have Exhibit 5.

17 (Wine Deposition Exhibit No. 5 marked
18 as requested.)

19 BY THE WITNESS:

20 A. Yes. It looks like we were at the New York
21 Stock Exchange for the 60th anniversary of the company.

22 Q. And you were there with Mr. Jim Cramer; is
23 that correct?

24 A. I was.

25 Q. And he puts on the Mad Money television

1 program; is that right?

2 A. He does.

3 Q. And you showed him various of Polaris

4 products, correct?

5 A. I did.

6 Q. And that occurred in, roughly, October

7 of 2014, correct?

8 A. I think it was November.

9 Q. Of 2014?

10 A. Yes.

11 Q. So just a couple of weeks after Mr. Braddock

12 had told you about his fire, right?

13 A. By dates, yes.

14 Q. And after this time, when you went on

15 Mr. Cramer's television program, Mad Money, you

16 continued to do that a couple of additional times,

17 correct?

18 A. It was part of my role as CEO to talk about

19 the company with -- it was -- It was part of my role,

20 yes.

21 Q. And the goal of you doing that each time was

22 to promote Polaris; is that fair?

23 A. Yes.

24 Q. But never once did you go on a television

25 program to warn customers relative to RZR fires, did

1 you?

2 MR. FIGLIULO: Objection; form, foundation.

3 MR. GODFREY: Adopt the objection.

4 BY THE WITNESS:

5 A. I did not.

6 Q. And when Polaris did the April 2016 recall,
7 you hoped to limit the amount of news attention it got,
8 didn't you?

9 A. I don't hope.

10 Q. Go to Exhibit 12, if you would, please, and
11 familiarize yourself with that e-mail, which is dated
12 April 18th of 2016.

13 In this e-mail, the April 19th, 2016 RZR
14 recall was coming out the next day; is that right?

15 A. It appears so, yes.

16 Q. And one of the things you expressed in this
17 e-mail is you did not want a joint announcement with the
18 CPSC referencing Baylee Hoaldrige's death; is that
19 correct?

20 A. Actually, I did want a joint release with the
21 announcement, but they wanted to bring in an incident
22 that we did not feel was related to the recall. The
23 recall that was being done, there's no indication
24 whatsoever that that was related to the fatality, so we
25 did not agree to have that in the announcement.

1 Q. You didn't want the announcement to reference
2 a fatality; is that true?

3 MR. FIGLIULO: Objection; asked and answered.

4 BY THE WITNESS:

5 A. No. Very specifically, there's no -- nothing
6 to suggest that the recall that this was addressing had
7 anything to do with that fatality, so it made no sense
8 to say that to customers when they aren't related.

9 Q. And then you also state in your e-mail to the
10 board on that day, "While we have worked with our very
11 strong legal and communication specialists to tailor
12 communication plans for each of our stakeholder groups,
13 we will expect that tomorrow could be a tough day in the
14 media for Polaris."

15 Do you see that?

16 A. Yes.

17 Q. And then you say, "While I am not a Trump
18 supporter, he may do us a favor tomorrow in the New York
19 Primary by having that dominate the news and limit the
20 attraction of our story."

21 Do you see that?

22 A. Yes.

23 Q. Is it correct that you wanted to limit the
24 amount of press that the April 19th, 2016 RZR recall
25 received?

1 A. We had various stakeholders. We had a very
2 aggressive effort to communicate to our consumers that
3 they needed to get recalls done. For other stakeholders
4 we didn't think that the reporting was helpful to us.

5 Q. And then take a look at Exhibit 13. And this
6 is the news release that Polaris issued on April 19th of
7 2016 regarding the RZR recall; is that correct?

8 (Wine Deposition Exhibit No. 13
9 marked as requested.)

10 BY THE WITNESS:

11 A. I'm reading. Hold on.

12 Q. Yeah. I apologize. Please familiarize
13 yourself and then I'll restate the question.

14 Is Exhibit 13 the news release that Polaris
15 issued regarding the April 19th, 2016 recall on that
16 date?

17 A. This is -- It's not the actual release, but it
18 was embargoed -- This is the embargoed release before it
19 went out, so I assume there were no other changes.

20 Q. Okay. Thank you.

21 And this release did not mention any
22 fatalities, did it?

23 A. It did not.

24 Q. It didn't even mention any RZR burn injuries,
25 did it?

1 MR. FIGLIULO: Objection; form.

2 BY THE WITNESS:

3 A. It did not.

4 Q. In it you're quoted as saying, "We are working
5 day and night to inform our customers."

6 Do you see that?

7 A. What's important is the statement carries more
8 than just that. "We're working day and night to inform
9 our customers and dealers and to obtain the parts needed
10 for the repairs to be identified in the comprehensive
11 analysis." So it wasn't just notifying. It was also to
12 work to get them the parts for the repairs.

13 Q. Did you, in fact, say what that sentence says
14 you said?

15 A. It was a press release with a quote from me
16 that said, "We are working day and night to inform our
17 customers and dealers and to obtain the parts needed for
18 the repairs we identified in our comprehensive
19 analysis."

20 Q. And did you believe that Polaris was working
21 day and night to inform customers?

22 MR. FIGLIULO: Objection; incomplete statement.

23 BY THE WITNESS:

24 A. I did not -- The statement is very, very
25 clear. "We are working day and night to inform our

1 customers and dealers and to obtain the parts needed for
2 the repairs we identified in our comprehensive
3 analysis." I didn't differentiate on which day and
4 night. It was just the team was working to ensure that
5 these repairs can get done.

6 Q. Go to Exhibit 14, please. And familiarize
7 yourself with that e-mail, please.

8 A. Okay.

9 (Wine Deposition Exhibit No. 14
10 marked as requested.)

11 BY MR. OLSON:

12 Q. In the top e-mail -- Sorry. This exhibit
13 includes an e-mail string, correct?

14 A. Uh-huh.

15 Q. And the top e-mail was an e-mail from
16 yourself, dated April 20th of 2016, correct?

17 A. Yes.

18 Q. This is the day after the RZR recall, correct?

19 A. I believe so, yes.

20 Q. In your e-mail you were responding to an
21 e-mail that you received from Ms. Basgen, correct?

22 A. Yes.

23 Q. And Ms. Basgen was the communications
24 specialist, who summarized what some news stories were
25 saying about the recall; is that fair?

1 A. That's correct.

2 Q. And part of your response to Ms. Basgen is,
3 "This does reinforce my position that we do not want to
4 give them any access," right?

5 A. The "them" refers to the Star Tribune, the
6 local Minneapolis Newspaper. So that was -- That was
7 directly in response to this article.

8 Q. Then, further down, at the bottom of the first
9 page, do you see where it says, "Please note that the
10 Hoaldrige family did an interview with KSTU-TV, the Fox
11 affiliate in Salt Lake City, which we had hoped to
12 avoid."

13 Do you see that?

14 A. I do.

15 Q. And then do you see further down where it
16 says, "The Hoaldrige family, who said they were so
17 happy that the company cared enough about our situation
18 to make sure this doesn't happen to anyone else"?

19 Do you see that?

20 A. I do.

21 Q. Did that give you the impression that the
22 Hoaldrige family thought that the recall was going to
23 prevent somebody else from being burned or killed in a
24 RZR fire?

25 MR. FIGLIULO: Objection; foundation.

1 MR. GODFREY: And to form.

2 BY MR. OLSON:

3 Q. Go ahead.

4 A. I did not make that assertion, no.

5 Q. You also resisted making safety announcements
6 from the CPSC; is that correct?

7 MR. FIGLIULO: Objection; foundation, time.

8 BY THE WITNESS:

9 A. I do not recall such an event.

10 Q. Go to Exhibit 31, please. We previously
11 talked about this e-mail. This is an e-mail dated
12 June 16th of 2017, right?

13 (Wine Deposition Exhibit No. 31
14 marked as requested.)

15 BY THE WITNESS:

16 A. Yes.

17 Q. At the bottom Mr. Bigot said -- he said, "CPSC
18 is hoping to do a joint press release to which I
19 responded, 'This will not be something Polaris is
20 willing to do.'"

21 Do you see that?

22 A. Yes, I do.

23 Q. So On June 16th of 2017, is it correct that
24 you were not willing to agree to a joint press release
25 with the CPSC regarding the ongoing RZR fires?

1 MR. GODFREY: Objection as to form.

2 BY THE WITNESS:

3 A. I think the context is important here. "After
4 the call, the CPSC became more aggressive. The
5 technical staff acknowledged that the process Exponent,
6 who was our outside engineering firm that helped us
7 identify recalls, is utilizing a sound step in the right
8 direction. They were critical of us not starting on
9 this sooner as expected. Compliance leadership then led
10 in by saying it is likely too late. Howie, who was one
11 of the CPSC staff members, asked 'Has Polaris considered
12 releasing a stop ride notice to inform customers of the
13 continued hazard as evident by the number of incidents
14 that continue to occur while we figure this out?'"

15 We did not agree with that statement from the
16 CPSC.

17 Q. At this point in time, June 16th of 2017,
18 Polaris did not agree to do a joint press release
19 regarding RZR fires, did it?

20 MR. FIGLIULO: Objection; form.

21 MR. GODFREY: Agree with the objection.

22 BY THE WITNESS:

23 A. I don't recall.

24 Q. In November of 2017, the CPSC asked Polaris to
25 do a stop ride for 2013 through 2017 RZRs; is that

1 correct?

2 A. I'm unsure. Is there a reference here?

3 Q. I'm asking you based on your memory --

4 A. I don't --

5 Q. -- you don't remember that?

6 A. I don't recall.

7 Q. Polaris and the CPSC did do a joint
8 announcement regarding the fact that RZR's kept starting
9 on fire in December of 2017; is that correct?

10 MR. FIGLIULO: Objection; form.

11 BY THE WITNESS:

12 A. I -- I don't recall the exact date, but I know
13 we were working very closely with the Consumer Product
14 Safety Commission at that point.

15 Q. Go to Exhibit 36, and familiarize yourself
16 with that e-mail, if you would, please.

17 (Wine Deposition Exhibit No. 36
18 marked as requested.)

19 BY THE WITNESS:

20 A. I'm through with it.

21 Q. All right. Exhibit 36 is an e-mail from
22 yourself to various employees at Polaris; is that
23 correct?

24 A. Yes.

25 Q. And the date is December 19th of 2017; is that

1 right?

2 A. December 19th, 2017, yes.

3 Q. And in your e-mail you reference the fact that
4 Polaris and the CPSC were going to do a joint statement;
5 is that correct?

6 A. I think it's important that we understand.
7 "Neither Polaris, nor the Consumer Product Safety
8 Commission, has identified any new defects in the
9 vehicles that have already been or are now in the
10 process of being recalled. Polaris agreed with the CPSC
11 to issue this statement because we want to do everything
12 we can to keep our customers and riders safe. This
13 important public awareness message comes after more than
14 two years of extensive work with the CPSC and
15 significant Polaris efforts and investments to improve
16 quality and safety of Polaris vehicles."

17 MR. OLSON: Move to strike as nonresponsive.

18 MR. FIGLIULO: Objection to the motion.

19 MR. GODFREY: Object to the motion.

20 BY MR. OLSON:

21 Q. Mr. Wine, in the first sentence of the e-mail
22 you say, "Today we issued a joint statement with the
23 Consumer Product Safety Commission, CPSC, to make the
24 public aware of the fires involving the 2013 through
25 2017 Polaris RZR 900 and 1000 recreational off-way --

1 off-highway vehicles, ROVs." Correct?

2 A. That's what it says, yes.

3 Q. Further down you said, "Polaris agreed with
4 the CPSC to issue the statement because we want to do
5 everything we can to keep our customers and riders
6 safe."

7 Do you see that?

8 A. I do. But it should be noted that this was a
9 service announcement to make it awareness of -- It was
10 the Consumer Product Safety Commission's request that we
11 do an announcement, but "Neither Polaris nor the CPSC
12 has identified any new defects in the vehicles that have
13 already been or are now in the process of being
14 recalled."

15 So this was really about an awareness
16 statement. And I want to be clear, that's why this went
17 out, that's why we agreed to it, and that is what the
18 purpose of it was.

19 MR. OLSON: Move to strike the last part of that
20 question.

21 MR. FIGLIULO: Objection to the motion.

22 MR. GODFREY: Objection to the motion.

23 MR. DREYER: The last part of the answer?

24 MR. OLSON: Last part of the answer, yes.

25 MR. GODFREY: Object to that also.

1 MR. DREYER: Object all you want. It's not
2 responsive. That's why it's taking so long.

3 MR. FIGLIULO: Not true.

4 MR. GODFREY: Mr. Dreyer, please.

5 BY MR. OLSON:

6 Q. What you told them is that you agreed to the
7 joint statement because you wanted to keep customers
8 safe; is that right?

9 Will you agree with that?

10 A. We agreed with the statement because the CPSC
11 requested that we make it and it was part of our ongoing
12 relationship building with them that we needed to do
13 that. But it was in conjunction with the fact that we
14 had not identified any new defects with the vehicles.
15 That's why it was not a recall. It was a public service
16 announcement.

17 Q. And you stated, "Because we want to do
18 everything we can to keep our customers and riders
19 safe." Is that what you said?

20 A. That's a true statement always.

21 Q. All right. Go to Exhibit 35, if you would,
22 please, and familiarize yourself with that e-mail.

23 (Wine Deposition Exhibit No. 35
24 marked as requested.)
25

1 BY THE WITNESS:

2 A. Okay.

3 Q. Would you agree that Exhibit 35 is an e-mail
4 string?

5 A. Yes.

6 Q. Between yourself and other Polaris executives?

7 A. Well --

8 Q. At least on the first page.

9 A. Yes, it was.

10 Q. And the e-mails on the first page are dated
11 December 16th of 2017, right?

12 A. Yes.

13 Q. So if you refer back to Exhibit 36, this
14 e-mail string takes place three days before your e-mail
15 to employees about the joint statement; is that right?

16 A. Yes.

17 Q. Okay. And in the bottom e-mail on the first
18 page you state, Our goal should be to significantly
19 limit public communication beyond the joint statement.
20 There is nothing to be gained by keeping this in the
21 media. So unless this blows up unexpectedly, we should
22 go with less is more, slash, better strategy.

23 Is that what you said?

24 A. That is exactly what I wrote.

25 Q. Then Chris Musso responded, correct?

1 A. Yes.

2 Q. Who is he?

3 A. Chris ran the off-road vehicle business at
4 that time.

5 Q. And he told you, "We're most worried about our
6 customers wondering whether their machines will catch on
7 fire."

8 Do you see that?

9 A. Yes.

10 Q. And, Mr. Wine, it was true at this time
11 period, wasn't it, that RZR machines might catch on
12 fire?

13 A. I think if you'll allow me to read
14 Chris Musso's statement, it's very accurate --
15 consistent with what I said earlier around internal
16 combustions having inherent risk. "We are most worried
17 about our customers wondering whether their machines
18 will catch on fire. We think the statement on fire
19 performance of matching on-highway vehicles could go a
20 long way." So that is -- Chris was -- That was his
21 recommendation to me.

22 Q. Mr. Wine, don't you want customers to know
23 their RZR might start on fire if it might?

24 MR. FIGLIULO: Objection; form.

25 MR. GODFREY: Join the objection.

1 BY THE WITNESS:

2 A. Like I said, we took -- We certainly tried to
3 remediate any systemic issues. We want our end
4 customers to have an enjoyable experience on their
5 vehicles.

6 Q. Regardless of that, Mr. Musso said, "We're
7 most worried about our customers wondering whether their
8 machines will catch on fire."

9 Is that what he said?

10 MR. FIGLIULO: Objection; form.

11 BY THE WITNESS:

12 A. The reason he said that is because he
13 wanted -- he wanted our consumers to understand that the
14 risk at this time had been reduced so that it was
15 consistent with what automotive customers had. That's
16 what his statement was there.

17 MR. OLSON: Move to strike as nonresponsive.

18 MR. FIGLIULO: Object to the motion.

19 MR. GODFREY: Object to the motion.

20 BY MR. OLSON:

21 Q. What he said was, "We're most worried about
22 our customers wondering whether their machines will
23 catch on fire." Is that right?

24 MR. GODFREY: Objection; misstates the document.

25 BY THE WITNESS:

1 A. The document -- Chris -- The reason he wrote
2 the e-mails, he was -- he was asking me to put something
3 additional into the announcement that I, ultimately,
4 didn't agree to do. But he -- We're worried about them
5 wondering whether -- "We think the statement on our fire
6 performance matching on-highway vehicles could go a long
7 way." That was the reason he sent the e-mail.

8 MR. OLSON: Yeah, move to strike as nonresponsive.

9 MR. FIGLIULO: Objection.

10 MR. GODFREY: Objection --

11 THE WITNESS: How can an e-mail --

12 MR. GODFREY: You cannot make a motion to strike by
13 misreading a document.

14 MR. DREYER: He's not doing that.

15 MR. GODFREY: It's precisely what he's doing. The
16 record speaks for itself.

17 MR. DREYER: Let's take a break. Let's take a
18 break.

19 THE WITNESS: Are you involved in this deposition?

20 MR. DREYER: Yes, I am.

21 THE WITNESS: On the record?

22 MR. DREYER: My name is Roger Dreyer. I represent
23 the family of Paige Richmond, who died as a result of a
24 fire, and Josh Whitfield, Ryan Helling (phonetic), and
25 Heather Riedo, who all were in the vehicle in September

1 of 2017. So I am here as a noticed party to this
2 deposition on the Richmond case.

3 MR. FIGLIULO: Although you stated at the beginning
4 of the deposition that you were not going to say a word
5 during Mr. Olson's questioning.

6 MR. DREYER: But during the course of the time -- I
7 did, but, Jim, during the course of time we've also
8 changed how we're going to be doing this.

9 MR. FIGLIULO: We didn't. I mean, it was always
10 that way. But, anyway, you say -- It's a free country.
11 You can say what you want.

12 BY MR. OLSON:

13 Q. Mr. Wine, I'm not asking you why Chris Musso
14 said what he said. Do you understand that?

15 A. I understand you're trying to get me to say
16 that a part of an e-mail is more important than the
17 overall e-mail, and I will not do that.

18 Q. I didn't ask you about importance. What he
19 did say is, "We're most worried about our customers
20 wondering whether their machines will catch on fire."

21 That's what he said; is that true?

22 A. He said it in the same -- It was a paragraph.
23 He didn't write a sentence. If he had wanted to write a
24 sentence, he would have written a sentence. He wrote a
25 paragraph. He wrote that as a lead-in to the sentence

1 that says, "We think the statement on fire performance
2 matching on-highway vehicles could go a long way."
3 That's why he said that statement.

4 Q. Mr. Wine, you repeatedly reminded others at
5 Polaris to state attorney-client privilege on e-mail so
6 that you could refuse to disclose them; is that true?

7 MR. GODFREY: Objection.

8 MR. FIGLIULO: Objection; form.

9 MR. GODFREY: And lack of foundation.

10 BY THE WITNESS:

11 A. We believed that these were attorney-client
12 privileged conversations.

13 Q. Go to Exhibit 12, if you would, please. This
14 is an e-mail we already looked at from yourself,
15 correct?

16 A. Yes.

17 Q. On April 18th of 2016, correct?

18 A. Correct.

19 Q. And you state at the bottom, "As a reminder,
20 please use attorney-client privilege and copy Stacy to
21 ensure we maintain control of any communications related
22 to this topic."

23 A. That's correct.

24 Q. Go to Exhibit 20, if you would, please. We
25 also looked at this e-mail previously written by

1 yourself to the board on July 28th of 2016; is that
2 correct?

3 A. It doesn't say who it's to on here. I assume
4 that this went to the board.

5 Q. It does say "board members," right?

6 A. No, I know. But I don't -- Sometimes I would
7 write things and I'm not sure -- it doesn't -- Like, the
8 e-mail above, it says who it was to in the actual
9 e-mail. I don't know that this is the actual document
10 that went to the board. It -- It was at least a draft
11 of it.

12 Q. Down at the very bottom you say, "We are
13 making a concerted effort to maintain attorney-client
14 privilege on all thermal communications so phone calls
15 are generally preferred to e-mails."

16 Is that what you said?

17 A. That's exactly what I said.

18 Q. Go to Exhibit 35, please. This is the e-mail
19 we just looked at from yourself to Chris Musso dated
20 December 16th of 2017; is that correct?

21 A. Yes.

22 Q. And you stated, "Please make sure you copy a
23 lawyer on all ACP e-mails, that way we can ensure they
24 are not disclosable."

25 Is that what you said?

1 A. It is.

2 Q. Mr. Wine, in the e-mails where you told people
3 to claim attorney-client privileged so they couldn't be
4 disclosed, you meant what you said, right?

5 MR. FIGLIULO: I'm going to object to the first
6 part of the question, it mischaracterizes what he said.
7 Form.

8 BY THE WITNESS:

9 A. I said, "Please make sure you copy Laura on
10 the ACP e-mails. That way we can ensure they are not
11 disclosable." That is what I intended to do, yes.

12 Q. Okay. Go back to the one on Exhibit 12. This
13 is April 2016.

14 MR. FIGLIULO: What exhibit? I'm sorry.

15 MR. OLSON: Exhibit 12.

16 BY MR. OLSON:

17 Q. At the bottom when you say, "As a reminder,
18 please use attorney-client privilege and copy Stacy to
19 ensure we maintain control of any communications related
20 to this topic." You meant what you said, correct?

21 A. Yes.

22 Q. Other than something you were told by an
23 attorney, are there things you have hidden about what
24 happened at Polaris related to RZR fires today?

25 MR. GODFREY: Objection.

1 MR. FIGLIULO: Objection; form. That is a very
2 improper question when you start with saying other than
3 and you put a fact that's not in evidence contrary to
4 the evidence, that's in improper.

5 MR. OLSON: I'm happy to restate it.

6 BY MR. OLSON:

7 Q. Are there things you have hidden today about
8 what happened at Polaris relative to RZR fires?

9 A. No.

10 Q. Is there anything you know about RZR fires
11 that you have not told us today that would make Polaris
12 look bad in this case --

13 MR. FIGLIULO: Objection --

14 BY MR. OLSON:

15 Q. -- as you see it?

16 MR. GODFREY: Objection; form. It's impossible to
17 answer.

18 BY THE WITNESS:

19 A. I would agree. That's impossible to answer.

20 MR. OLSON: All right. Let's take a break.

21 THE VIDEOGRAPHER: We are off the record at
22 1:48 p.m.

23 (A short break was had.)

24 THE VIDEOGRAPHER: We're back on the record at
25 1:56 p.m.

1 MR. OLSON: No further questions at this time.

2 DIRECT EXAMINATION

3 BY MR. DREYER:

4 Q. So, Mr. Wine, I introduced myself on the
5 record. I represent individuals who were involved in an
6 incident and parents of a young lady, who was killed --
7 ultimately, died from the fire back in September 2017.
8 This involves a case that was filed in Riverside County.

9 Are you familiar with the Richmond matter?

10 A. I'm -- Not with the details of it, but
11 familiar that there's a lawsuit, yes.

12 Q. Okay. So we're doing a very unique sort of
13 thing. We're combining two cases. Mr. Olson has been
14 asking you questions in his capacity as counsel on
15 Thompson and related matters that's venued up in
16 Minnesota. And I'm going to be asking you questions
17 relative to this other action, this other incident.

18 The Thompson matter happened September --
19 excuse me -- July 2017. Do you remember Colby
20 Thompson's event or heard about it?

21 A. I do remember hearing about it, yes.

22 Q. Okay. So that's why we're doing it this way,
23 two different cases. So, for the record, I will be
24 referencing exhibits that are different maybe than the
25 numbers you've got because we have two different cases

1 but I have exhibits --

2 A. Can I put this away?

3 Q. I think so. And I have exhibits that I'll
4 give you to look at, to the extent I need you to do
5 that.

6 MR. DREYER: And, also, I would tell counsel, in
7 order to move things along, I'm willing to give you a
8 running objection as to form, if you want it, so that
9 you don't have to do that and so that Mr. Wine can keep
10 talking and respond to the question; but that's entirely
11 up to you, if you want to do that stipulation. That way
12 we can move it.

13 BY MR. DREYER:

14 Q. So, Mr. Wine --

15 MR. FIGLIULO: I'm going to accept that. But I
16 also reserve the right to make a particular objection if
17 it's, like, a hypothetical question or something.

18 MR. DREYER: Yeah. No problem.

19 BY MR. DREYER:

20 Q. So, Mr. Wine, let's take a few minutes and
21 let's talk about your background. And I apologize if I
22 ask something that overlays a little bit with what
23 Mr. Olson has asked you. We don't sit here and prepare
24 it, but I'm going to do my very best to cover new ground
25 with you.

1 So you started at Polaris in 2007, correct?

2 A. No.

3 Q. What year?

4 A. 2008.

5 Q. 2008.

6 And you came from where?

7 A. I had previously worked at United Technologies
8 running their fire and security business for the
9 Americas.

10 Q. And that business, were you the president of
11 Fire Safety of America?

12 A. Yes. Yes.

13 Q. What was that?

14 A. It was a unit of United Technologies that we
15 made -- had numerous business units. We had fire
16 detection devices, we had smoke alarms, we had CO2
17 alarms, we had fire extinguishers. It was generally
18 anything related -- Alarm systems.

19 Q. Primarily to identify if there's a fire, is
20 that the focus of what --

21 A. It was -- Like I said, there was also CO2
22 detection that didn't relate to fire.

23 Q. Okay. Now, in that regard, were you
24 manufacturing products or were you using products from
25 someone else and utilizing them with your business?

1 A. We manufactured products.

2 Q. One of the other things, lawyers sometimes are
3 formulating their questions. If you wait until I get
4 you the question mark, that way, for the court reporter,
5 she doesn't have to type us both. If someone objects,
6 just give it a pause just for that moment. That's not
7 me telling you what to do. I'm just trying to help the
8 court reporter.

9 In that time -- How long were you with United
10 Technology Services?

11 A. About a year and a half.

12 Q. At any point in time, did you have an incident
13 where individuals got burned and blamed you folks for a
14 failure of a device?

15 A. I don't specifically recall, but I would
16 imagine we probably had an incident like that.

17 Q. Okay. I don't want you to guess and I'm sure
18 your counsel has told you, it's real important -- This
19 deposition is going to be played to the jury because --
20 Let me finish, just so you know the context. It's going
21 to be played to the jury because we don't have the
22 ability to have you come down to California and testify
23 live. You certainly can do that if you want to but we
24 don't have the ability to make you come there. So I
25 don't want you to guess about something. Anything you

1 say -- You understand you're under oath, right?

2 A. Yes. We're talking about something that --
3 15 years ago now. I don't remember 15 years ago what
4 was shared with me. I, truly, don't recall.

5 Q. Well, I'm going to believe everything you say
6 as truly. Okay. Because you -- As a former member of
7 the military and -- you have taken oaths before. You
8 certainly understand the oath you're taking here today,
9 true?

10 A. True.

11 Q. Okay. So when you say you're going to tell us
12 the truth, I'm going to accept your word at that, okay,
13 as would the jury. The admonition I'm giving to you is
14 I don't want you to guess about something. If you don't
15 know, that's a perfectly acceptable answer. I might try
16 to refresh your recollection. If it, does it. If it
17 doesn't, it doesn't. Okay.

18 Do you remember your company back then, what
19 was your title?

20 Were you the CEO? What was your position?

21 A. I think you told me earlier I was the
22 president of Fire Safety Americas.

23 Q. Is that an accurate statement?

24 A. That's an accurate statement.

25 Q. Okay. Do you remember that your company ever

1 got sued for any claim of some kind of product defect
2 and someone got burned?

3 A. I do not recall any specific incidents of
4 lawsuits.

5 Q. Okay. Now, when you joined Polaris, you were
6 the -- you have been -- you were the CEO the entire
7 time, correct?

8 A. Correct.

9 Q. At some point in time, you were elevated to
10 the chairman of the board, true?

11 A. That's correct.

12 Q. And that happened in 2013?

13 A. I believe so, yes.

14 Q. All right. As the CEO, you answer to the
15 board, true?

16 A. Yes.

17 Q. As the chairman of the board, you were
18 supervising yourself in that context?

19 A. No. There was a lead director that was an
20 independent member of the board that coordinated board
21 activities that I -- I thought -- Yes. So I didn't -- I
22 wasn't -- I did not control myself. The board -- I
23 reported to the board. Even as the chairman I reported
24 to the board.

25 Q. You would agree that you were in a position of

1 authority at the company, correct?

2 A. Correct.

3 Q. You were the highest position that someone
4 could be?

5 A. I was. Correct. Yes.

6 Q. As a result, you had the authority to direct?

7 A. Correct.

8 Q. And if you thought something needed to be
9 done, you had the authority to do that, true?

10 A. Authority, yes.

11 Q. Okay. And, ultimately, you would make a
12 submittal to the board and if the board approved your
13 recommendation, it would then be acted on, true?

14 A. For -- Not everything. Many things I could
15 act without the board's recommendation. They delegated
16 to me that authority but there were certain things that
17 required board attention.

18 Q. When you -- When you joined Polaris, you
19 understood it was a manufacturer, correct?

20 A. Yes.

21 Q. When you became the chairman of the board, you
22 understood that you manufactured a product that people
23 were utilizing, in terms of recreation, right?

24 A. Yes.

25 Q. I take it, at that point in time, you were a

1 snowmobiler by 2013, true?

2 A. True.

3 Q. You had been on the Polaris off-road vehicles
4 before by 2013, true?

5 A. Yes.

6 Q. All right. So you understood the nature of
7 what the product is that you folks were producing, true?

8 A. True.

9 Q. And you were also a user of the product,
10 right?

11 A. Yes.

12 Q. Your customer base would certainly include the
13 people that purchased the product, true?

14 A. By definition.

15 Q. But that would also include, from your
16 perspective, anybody who used the product, correct?

17 A. I don't know that I would consider someone
18 that uses it that didn't -- as a customer. They would
19 be a participant in the powersports but a customer is
20 somebody who engages with us in a transaction, not --
21 Everyone that uses the product is not a customer.

22 Q. Okay. Let's -- For example, if you and your
23 wife and your kids -- Did you ever go out in one of
24 these RZR's, for example?

25 A. I don't believe my wife has ever ridden one.

1 Q. How about your boys, have they ever been in
2 one?

3 A. Yes.

4 Q. Have they been in one after 2015?

5 A. I believe so, yes.

6 Q. Was that with you?

7 A. Yes.

8 Q. All right. Do you view them -- Were you
9 operating a RZR that belonged to Polaris or was it your
10 own personal raise?

11 A. Yes.

12 Q. Which one? Both?

13 A. Yes.

14 Q. That's just one of the benefits, you would get
15 your own personal RZRs?

16 A. It was part of our compensation that we were
17 allowed to use the product to understand how the product
18 works, provide feedback, so yes.

19 Q. When your boys were in the vehicle, would you
20 agree that they were consumers by being in the vehicle?

21 A. No. I didn't consider them consumers, but
22 I --

23 Q. You have answered.

24 Would you consider them customers if they were
25 sitting in the vehicle?

1 A. I don't know that I would. I consider them
2 users.

3 Q. Okay. From your standpoint, again, as the
4 chair of the board, did you consider users to be
5 customers of Polaris?

6 A. I don't know that I have regularly thought
7 about that. But customers are generally somebody that
8 engages in a transaction with us. That's the definition
9 of a customer. Somebody that uses the vehicle is a
10 rider, so we generally -- I would generally refer to
11 someone that doesn't own as a rider. They rode our
12 product but not -- that's different from a customer.

13 Q. Okay. All these questions I'm asking you,
14 Mr. Wine, are your state of mind as the chairman of the
15 board because we're going to go 2013 to 2020. That's
16 when you left, right?

17 A. December 31st, 2020.

18 Q. I'm just looking for your state of mind.
19 You're not a lawyer, right?

20 A. No.

21 Q. You're also not a mechanical engineer,
22 correct?

23 A. No.

24 Q. Is that true, you're not a mechanical
25 engineer?

1 A. I have a bachelor of science and a minor in
2 engineering, but ...

3 Q. Your bachelor of science is in economics,
4 right?

5 A. It is.

6 Q. And your minor, did you get a degree in
7 engineering?

8 A. I did not.

9 Q. Are you a licensed engineer?

10 A. No, I'm not.

11 Q. Have you ever sat for any course or test to
12 get your engineering license?

13 A. No.

14 Q. All right. So it would be fair to say you're
15 not a mechanical engineer, true?

16 A. I'm not a mechanical engineer.

17 Q. Nor are you an electrical engineer, right?

18 A. No.

19 Q. Now, you certainly don't hold yourself out as
20 an expert in thermal dynamics, right?

21 A. No.

22 Q. Is that a true statement?

23 A. I'm not an expert in thermal dynamics.

24 Q. You certainly don't -- You're not a design
25 engineer, correct?

1 A. No.

2 Q. Is that a true statement?

3 A. I'm not a design engineer.

4 Q. In terms of your work at Polaris, was that the
5 first time you were in a leadership position for a
6 company that was manufacturing a product that was being
7 used by human beings?

8 A. No.

9 Q. What was the earlier product?

10 A. When I was at Honeywell Aerospace, we repaired
11 aircraft engines that were used by aircraft that
12 generally had passengers in them. Actually, always had
13 a pilot and/or passengers. When I went to work for Jake
14 Brake, we made engine brakes for heavy-duty trucks that
15 were usually driven by a driver of a heavy-duty truck.
16 Most of the things that I've manufactured were used by
17 people.

18 Q. And when you were with Honeywell and with the
19 company manufacturing Jake Brakes, you knew the
20 consumers, the people that were in the products, were
21 relying upon them to be safe, true?

22 A. Correct.

23 Q. You didn't expect them to do any kind of
24 inspection to determine whether they were safe?

25 A. Correct.

1 Q. The same applies to Polaris, true?

2 A. It's not true for aircraft. When we made
3 aircraft, there was always an expectation that the
4 pilots would verify before they were used that they were
5 safe.

6 Q. They are required to do that, right?

7 A. That's why I'm saying.

8 Q. In Polaris, you know the consumers, that is
9 anybody that's utilizing your product, is -- has an
10 expectation that the product is free of defect and safe,
11 true?

12 A. True.

13 Q. If you become aware -- If Polaris becomes
14 aware of a defect or a problem, they have an obligation
15 to let the consumers, the users of the product, know
16 that, true?

17 A. If we identify a systemic issue, we absolutely
18 have a requirement to notify them.

19 Q. You certainly understood that as the chair of
20 the board, right?

21 A. As the CEO, yes.

22 Q. Okay. And you had a responsibility to make
23 certain that the product was, in fact, safely
24 manufactured, true?

25 A. That was part of my responsibility, yes.

1 Q. And free of defect, correct?

2 A. We were not a Six Sigma company. So free of
3 defect is Six Sigma. We were not a Six Sigma company,
4 so we strove highest quality we possibly could.

5 Q. That was your responsibility, as you saw it,
6 true?

7 A. Yes.

8 Q. Now, because you're not an engineer and you're
9 not a thermal engineer, you were relying upon engineers
10 who were employed by Polaris to do their job, true?

11 A. True.

12 Q. Now, it was also -- I say "it was" -- I mean,
13 you're no longer there, right?

14 A. Correct.

15 Q. The entire time you were there, it was a
16 publicly traded company, true?

17 A. True.

18 Q. And part of your responsibility as the CEO and
19 chairman of the board was to your shareholders, fair?

20 A. There were various stakeholders, of which they
21 were an important one, yes.

22 Q. Is that correct, you had a responsibility to
23 the shareholders as well?

24 A. Yes.

25 Q. In terms of competing interests between the

1 safety of customers versus the shareholders, you would
2 always lean towards safety of the consumer, true?

3 A. I think they were perfectly congruent because
4 if we weren't delivering high-quality products to our
5 consumers, we wouldn't be taking care of our
6 shareholders, so ...

7 Q. They were interconnected in that regard,
8 congruent, as you described, right?

9 A. Yes.

10 Q. You would never sacrifice safety so that the
11 shareholders made more money, fair?

12 A. I don't think that that's possible, actually.

13 Q. So I guess, then, you never would have done
14 that, true?

15 A. I would certainly never have condoned that.

16 Q. All right. Over the course of time at
17 Polaris, from 2015 to when you left, in 2020, every year
18 the gross sales for Polaris went up, correct?

19 A. I believe that to be true.

20 Q. You -- As the CEO, you understood that that
21 was a positive for the shareholders, true?

22 A. I think that was generally positive for most
23 of our stakeholders, good for our employees, good for
24 our -- Yes.

25 Q. Okay. In terms of your work -- In fact, I'm

1 going to expand it a little bit. Have you ever had
2 yourself or anyone close to you ever suffer third-degree
3 burns?

4 A. Not that I'm aware of.

5 Q. Now -- So in terms of actually seeing the
6 effect physically on somebody being present watching
7 that and watching the healing process or the dying
8 process, whatever it is, you have never had that
9 experience, correct?

10 A. I have not, no.

11 Q. So with the Navy, for example, they are,
12 obviously, very safety oriented, true?

13 A. True.

14 Q. Following standard operating procedures so the
15 people are protected; even if you change out a crew
16 after three years, everything is going to operate
17 exactly the same, fair?

18 A. The standard operating procedures are designed
19 for that. It doesn't always happen, but that's the
20 design.

21 Q. Certainly. That's the goal. In your time
22 with the Navy, ever observe any kind of an event where
23 someone was exposed to fire and burned?

24 A. I don't recall.

25 Q. Do you think sitting here, that if you

1 actually, physically, someone get burned to a
2 third-degree level, you would probably remember it?

3 A. I do.

4 Q. Okay. Now, after you became aware of the
5 issue that was happening with the RZR product where
6 vehicles were catching on fire, did you ever take your
7 children, your boys, out in a RZR?

8 A. Yes.

9 Q. All right. You were mindful of what you had
10 heard in terms of the information about the fires with
11 the product, correct?

12 A. I was aware that there had been issues, but I
13 don't know that I was mindful at the time.

14 Q. All right. We'll talk about that. So in
15 preparation for today, you understood that you were
16 going to be deposed about your time as the CEO at
17 Polaris, correct?

18 A. Correct.

19 Q. You understood the focus was on these cases
20 that are pending relative to individuals who have sued
21 Polaris for injuries and deaths arising out of events
22 with RZR fires, correct?

23 A. Correct.

24 Q. And you certainly -- Even though you're now
25 with a different corporation and not affiliated with

1 Polaris, you certainly took it seriously, what was going
2 to happen today, fair?

3 A. Of course.

4 Q. I don't know you. That's why I'm asking you
5 those questions. I'm not trying to be smart with you at
6 all, Mr. Wine. I'm just asking.

7 In terms of that seriousness, were you aware
8 of the incident that happened back in September of 2017,
9 where an XP 1000 -- a 2017 XP 1000 burst into flames and
10 Mr. Whitfield suffered very serious third-degree burns,
11 Paige Richmond suffered horrific third-degree burns over
12 65 percent of her body, and Mr. Helling, the owner of
13 the vehicle, went into the fire to extricate her because
14 she couldn't get out from the seat belt.

15 Were you aware of that detail that I have just
16 indicated?

17 A. I was not.

18 Q. You certainly became aware of when Polaris was
19 sued by the Richmond family and the others, correct?

20 A. Yes.

21 Q. Did you do anything to investigate that
22 particular event that happened in September of 2017?

23 A. If I may, through the process, we took many
24 actions to get better from a safety perspective and a
25 fire perspective. The most important was the building

1 and execution of post-sales surveillance. So our
2 post-sales surveillance team by that time was going
3 very -- usually within 24 hours -- I think the goal was
4 within 48, but usually 24 hours -- to go on-site,
5 understand what happened with the deal, and then follow
6 it through until we determined a root cause.

7 Q. Did you ever determine a root cause to that
8 event?

9 A. I don't recall whether -- I don't recall the
10 specifics of what they found, but ...

11 Q. So when you say they were there within
12 24 hours, is that something you know happened on
13 Richmond or you just believe it happened?

14 A. I believe it happened. And I do know there
15 were some -- and I'm not certain if this was one --
16 where we were not given complete access on times. It
17 could have been.

18 Q. Well, you got complete access because I was
19 there with the Exponent engineer. So I'll represent to
20 you you had complete access.

21 My question to you originally was: Did Scott
22 Wine do anything specifically to investigate or get
23 information about the Richmond fire on September 3rd,
24 2017?

25 A. I do not recall. I do know that, again, we

1 had a post-sales surveillance team that would have
2 provided that information to me and, likely, that's how
3 I learned of it, and that's -- likely, my knowledge of
4 it came from that.

5 Q. As you sit here today, do you remember
6 anything about what they told you?

7 A. I do not remember much.

8 Q. Do you remember anything about that event?

9 A. I do remember a little bit.

10 Q. Now, is that -- I'm looking for what you found
11 out back in September of 2017, not what someone has told
12 you since, like, in the last year or so.

13 Do you remember what you were told back in
14 September of 2017?

15 MR. FIGLIULO: Just to interject, to the extent
16 that it's information he learned from counsel, if you
17 can exclude that.

18 MR. DREYER: Yes.

19 BY MR. DREYER:

20 Q. Every question I ask you, I don't want to know
21 anything you talked about with attorneys. You certainly
22 understand the attorney-client privilege, right?

23 A. Yes.

24 Q. My question to you is: What do you remember
25 being told back in September of 2017 about this

1 incident?

2 A. I believe that I recall being told that it was
3 a heavily modified vehicle with aftermarket parts on it.

4 Q. Do you remember who told you that?

5 A. I do not -- I believe it would have been Roger
6 Riley and the post-sales surveillance team that reported
7 that back.

8 Q. All right. And by "heavy modifications," what
9 do you mean?

10 A. I don't -- Normally when someone refers to
11 heavy modifications, it's something other than the
12 exterior of the vehicle. I don't know what they
13 referred to in this case.

14 Q. Okay. That's what I'm trying to find out.
15 Again, I don't want you to guess.

16 Do you remember actually talking to Roger
17 about it?

18 A. I do not.

19 Q. Do you believe that Roger went to the scene
20 and saw the --

21 A. I --

22 Q. Hold on. Do you believe that Roger went to
23 the scene and saw the Helling vehicle, the Polaris RZR?

24 A. His team did. I don't know that Roger
25 specifically did.

1 Q. By then, you were employing Exponent, right?

2 A. We had been -- We had been employing Exponent
3 for quite sometime. Sometimes they were used for
4 vehicle investigations in the field, but not every time.

5 Q. By 2017, you were employing Exponent to do
6 post-incident surveillance in some capacity?

7 A. They were augmenting our staff.

8 Q. Okay. When did they start augmenting your
9 staff?

10 A. I do not know.

11 Q. Was it a particular event that caused you to
12 get Exponent involved?

13 A. No.

14 Q. Did you make the decision or did someone else?

15 A. Someone else did.

16 Q. Was that Mr. Jeff Sayers?

17 A. Sayers?

18 Q. Who is the lawyer that was involved?

19 A. Ryan Bigot or it would have been Paul Vitrano,
20 perhaps, Jeff Eyres.

21 Q. Jeff Eyres.

22 A. I don't remember when he departed, but it
23 was --

24 Q. So as you sit here today, you don't remember
25 when Exponent got involved, fair?

1 A. Exponent got involved in helping us identify
2 the root cause of the original thermal events.

3 Q. All right.

4 A. We later engaged them in root cause analysis
5 of post sales -- to augment our post-sales surveillance.

6 Q. And you relied upon them in terms of their
7 work, correct?

8 A. I wouldn't say relied upon them. We used them
9 as a resource, but they were not the final -- the
10 combination of our engineers at Exponent we thought gave
11 us a good idea what was going on. We didn't outsource
12 the knowledge of it.

13 Q. Do you know what a thermal engineer is,
14 Mr. Wine?

15 A. Yes.

16 Q. What is a thermal engineer?

17 A. Well, there's many different ways that thermal
18 engineers can be -- but for the nature -- As it relates
19 to Polaris, thermal engineers were engaged in promoting,
20 designing in the thermal efficacy of our vehicles.

21 Q. So it's someone with an expertise in
22 engineering and designing as it relates to thermal
23 issues, fair?

24 A. Yes.

25 Q. When did Polaris first hire a thermal

1 engineer?

2 A. I do not know.

3 Q. Do you know who hired the first thermal

4 engineer?

5 A. I do not know.

6 Q. Do you know the name of the thermal engineer?

7 A. No.

8 Q. Does the name Goyal ring a bell at all?

9 A. Yes.

10 Q. G O Y A L?

11 A. I don't know.

12 Q. Who is he? What do you think he is?

13 A. I do know we hired someone from the automotive
14 industry that had thermal engineering knowledge to come
15 in and help us with our remediation efforts, and I --

16 Q. Would you agree with me he was the first time
17 you actually hired a designated thermal engineer?

18 A. I don't know that to be true.

19 Q. Who would know that?

20 A. Dave Longren would probably know that.

21 Q. If Dave --

22 A. Steve Kemp would probably know that.

23 Q. If those individuals said Mr. Goyal was the
24 first time that Polaris ever hired a thermal engineer,
25 would you defer to them?

1 A. Yes.

2 Q. That decision to hire a thermal engineer for
3 the very first time -- and I'll represent to you he was
4 hired in 2016 -- is that a decision you think is under
5 your purview of responsibility as the CEO and chairman
6 of the board as of 2016, or was that something you
7 deferred to someone else to decide?

8 A. It was not my decision on whether to hire -- I
9 mean, I relied on Dave Longren and others to make sure
10 we can design products with the right -- that would do
11 what we designed them to do.

12 Q. Do you know what Dave Longren's background is?

13 A. I know he's an engineer.

14 Q. Do you know what his expertise is, if any,
15 besides being an engineer?

16 A. I know he had many years of experience at
17 Polaris with our vehicles, but I don't.

18 Q. Do you know if he had any thermal dynamics or
19 thermal engineering training?

20 A. I do not know that.

21 Q. Do you know if he had any licenses in any
22 particular engineering discipline?

23 A. I do not know.

24 Q. Before you hired -- By "you," I mean Polaris.

25 Did the conversation ever come up to you as the CEO of

1 | this company and the chairman of the board -- Did anyone
2 | ever bring to your attention, Hey, we have never
3 | employed a thermal engineer?

4 | A. I believe -- I don't recall the conversation,
5 | but I believe that it was likely one of our -- Stacy
6 | Bogart likely brought it to my attention that that was
7 | something we needed to do and that's, ultimately, what
8 | allowed -- what brought us to Goyal.

9 | Q. Stacy Bogart, she's a lawyer, right?

10 | A. Uh-huh.

11 | Q. Is that a yes?

12 | A. Yes.

13 | Q. Does she have any engineering background?

14 | A. No, she does not.

15 | Q. Did this lawyer explain to you why you needed
16 | to hire a thermal engineer?

17 | MR. COLLIER: Let me just lodge an objection,
18 | Mr. Wine, to the extent Stacy Bogart has provided
19 | business advice, you may answer that question. To the
20 | extent it's legal advice --

21 | BY THE WITNESS:

22 | A. It probably would be legal advice, yes.

23 | Q. Let's get rid of legal advice. Business
24 | advice -- She also advised you on business decisions,
25 | right?

1 A. Sometimes, yes.

2 Q. Did she say anything relative to business, it
3 would be good business for Polaris to employ a thermal
4 engineer and -- hold on. Let me finish -- in light of
5 the fact that by the time you hired Goyal, you were
6 having fires with your RZR's?

7 A. I don't recall.

8 Q. Is there anything you could review that would
9 refresh your recollection about this conversation about
10 the need for a thermal engineer?

11 A. Not that I have, no.

12 Q. Okay. Now, in preparation for today,
13 understanding you're dealing with multiple cases that
14 are suing your former company, do you know that they are
15 also -- these lawsuits are pleading punitive damages;
16 were you aware of that?

17 A. I was made aware of that.

18 Q. You understand what punitive damages are?

19 A. I do.

20 Q. I don't want a legal opinion. I just want
21 your best understanding as a CEO and captain of
22 industry, what do you understand to be punitive damages?

23 MR. FIGLIULO: Objection; foundation.

24 BY MR. OLSON:

25 Q. Go ahead.

1 A. My belief is --

2 MR. FIGLIULO: Let me just interject. If your
3 understanding is based on anything you learned from a
4 lawyer representing you, either me or anybody else while
5 you were at --

6 A. I must admit, I don't --

7 MR. FIGLIULO: I would instruct you not to answer.

8 BY THE WITNESS:

9 A. I would know nothing about punitive damages if
10 it wasn't for an attorney telling me what they were.

11 Q. I understand you're not a lawyer, and I don't
12 want you to tell me anything that a lawyer has told you.

13 You have heard the word "despicable conduct" -- that
14 phrase before, correct?

15 A. Yes.

16 Q. What does "despicable conduct" mean to Scott
17 Wine?

18 MR. FIGLIULO: Objection; foundation.

19 MR. COLLIER: Join.

20 BY MR. DREYER:

21 Q. Just in your common knowledge, what is it?

22 A. Unbecoming, untruthful. Those things would
23 fall into that category for me.

24 Q. So it would be -- Obviously, you understand
25 the word "reprehensible," right?

1 A. Certainly.

2 Q. So despicable conduct, would you agree with
3 me, would be reprehensible to Scott Wine?

4 A. Could be.

5 Q. You need to hear it to make that decision
6 factually, right?

7 A. Yes.

8 Q. Exposing people to dangers -- I'm asking these
9 now not in a hypothetical way. I'm asking them --
10 state-of-mind questions of a CEO.

11 If a CEO of a product manufacturing company
12 was aware that a product was putting customers at risk
13 of being severely burned and killed and didn't
14 communicate that knowledge that he was aware of to have
15 his customers, would that be despicable conduct, in your
16 opinion?

17 MR. COLLIER: Objection; form.

18 MR. FIGLIULO: Form, hypothetical. Regardless of
19 what you said, it's a hypothetical question.

20 BY MR. DREYER:

21 Q. Go ahead. And I'm asking your state of mind.

22 MR. FIGLIULO: Same objection.

23 MR. COLLIER: Join.

24 BY THE WITNESS:

25 A. I'm quite confident that when we became aware,

1 we took aggressive action to remediate and inform
2 customers. So I don't know that that hypothetical is
3 relevant.

4 Q. I'm not asking about this case yet. What I'm
5 asking you, Mr. Wine, is just -- you're charged with the
6 responsibility for a company that -- at Polaris, when
7 you were the CEO and chairman of the board, that had
8 product being used by 1000s and 1000s of individuals,
9 correct?

10 A. Hundreds of 1000s.

11 Q. Hundreds of 1000s?

12 A. Actually, millions.

13 Q. Millions across the world, right?

14 A. Right.

15 Q. And military personnel was using it, true?

16 A. Correct.

17 Q. And you knew children would be in it, correct?

18 A. We, actually, advised for certain children not
19 to be in it. It's specifically in the user guides and
20 on the machines of what ages -- It's very unsafe for
21 children that are below age to be in vehicles. We
22 regularly warn customers about that.

23 Q. That wasn't my question. You know someone
24 17 years old is defined by law as being a child, right?

25 A. Could be, yes.

1 Q. You know you're going to have people who are
2 considered children in these vehicles, true?

3 MR. FIGLIULO: Same objection.

4 BY THE WITNESS:

5 A. 17-year-olds, yes. Children below age was
6 warned -- I mean, it's behavior -- Too young, they don't
7 have the ability to handle the equipment.

8 Q. What did Polaris tell people don't people put
9 people under a certain age? What was the age line?

10 A. I believe it was 12.

11 Q. Okay. So 13 to 17, totally expected, right?

12 A. I believe so, yes.

13 Q. Now, my original question is, I'm not -- I'm
14 asking for your state of mind, as a CEO, chairman of the
15 board, if a CEO was aware of a danger to consumers of
16 their product that could expose them to serious harm but
17 didn't reveal the information so the company could make
18 money, you would agree with me that would be despicable
19 conduct?

20 MR. FIGLIULO: Objection; form, hypothetical. Does
21 not include sufficient facts to allow a meaningful
22 answer.

23 MR. COLLIER: Join.

24 BY MR. DREYER:

25 Q. Go ahead.

1 A. You're asking a hypothetical about me as a
2 CEO. Those two can't happen because I was actually
3 there.

4 Q. No, that's not what I'm asking.
5 You talk to other CEOs, correct?

6 A. Uh-huh.

7 Q. Is that a yes?

8 A. Yes.

9 Q. You have a business forum that you communicate
10 with other CEOs across the country, true?

11 A. Not really. I have several venues that I meet
12 with other people. It's mostly people -- When I was at
13 Polaris, it was mostly in Minnesota.

14 Q. You're a CEO today at your present company,
15 right?

16 A. Yes.

17 Q. So you, as a CEO -- Mr. Olson asked you
18 questions about safety and responsibility of a CEO is to
19 guide their company in a healthy safe fashion, true?

20 A. True. And again --

21 Q. It's just yes or no. In terms of the
22 financial success, certainly part of your charge is to
23 do what you can to have the company be financially
24 successful, true?

25 A. True.

1 Q. But putting you aside, just for a minute,
2 would you agree with me that a CEO who has information
3 that he knows that consumers can be exposed to
4 catastrophic injury or death and does not reveal the
5 information in an effort for his company to be
6 financially successful, would you agree that that's
7 despicable conduct?

8 MR. FIGLIULO: Objection; hypothetical, fails to
9 specify sufficient facts --

10 MR. COLLIER: Join.

11 BY THE WITNESS:

12 A. That never happened under my watch. I would
13 not believe it was advisable, no.

14 Q. All right. Were you personally involved in
15 any of the investigations of the fires involving the
16 RZR?

17 A. I was not -- Not personally involved. The
18 evaluations were done to identify systemic issues and
19 get to a root cause. I regularly was crawling around
20 vehicles understanding what was going on and what we
21 were trying to achieve, but it was never my -- I wasn't,
22 as you reminded me earlier, the one knowledgeable enough
23 to make specific recommendations; but I regularly
24 understood what we were doing to remediate efforts.

25 Q. You were relying upon others to remediate

1 efforts, right?

2 A. To get to root cause and identify systemic
3 issues and remediate them.

4 Q. That was your direction?

5 A. Yes.

6 Q. And, in terms of your expectation, that they
7 would do so, true?

8 A. Correct.

9 Q. All right. Now, in terms of the -- You have
10 had products where you have to deal with the National
11 Highway Traffic and Safety Board, correct?

12 A. The on-road vehicles for Polaris, motorcycles,
13 were controlled by NHTSA, yes.

14 Q. You know, NHTSA has specific regulations to be
15 followed, the FMVSS, right?

16 A. Yes.

17 Q. As far as off-road vehicles like yours, the
18 Polaris vehicles, there is no federal regulations
19 relative to specific standards that are to be followed,
20 true?

21 A. We were regulated by the Consumer Product
22 Safety Commission.

23 Q. That's the Federal agency that you had to be
24 respectful and responsible to, correct?

25 A. Correct.

1 Q. And over the course of your time, you
2 certainly had some dealings with -- in connection with
3 your Polaris product, right?

4 A. For most -- Actually, I think for the entire
5 time I was there.

6 Q. You had a number of recalls, correct?

7 A. There were recalls, there were product --
8 There was a lot of engaging with the Consumer Products
9 Safety Commission.

10 Q. Now, as far as your company, you had a product
11 safety department, correct?

12 A. Yes.

13 Q. The entire time you were there, true?

14 A. Yes.

15 Q. Can you tell us who was in charge of the
16 product safety department in 2013?

17 A. I do not know.

18 Q. Can you tell us who was the head of your
19 product safety department in 2014?

20 A. I don't know.

21 Q. How about 2015?

22 A. I don't recall.

23 Q. How about 2016, do you remember the name of
24 that person?

25 A. I don't.

1 Q. Can you tell me the name of anyone who you, as
2 the CEO and chairman of the board, looked to to be the
3 product safety manager, the person in charge of that
4 department?

5 A. I relied on Stacy Bogart, my general counsel,
6 and Dave Longren, who ran the off-road vehicle business,
7 to keep me apprised what was happening from a product
8 safety perspective.

9 Q. I appreciate the answer. But my question
10 specifically is: You had a product safety department,
11 right?

12 A. Uh-huh.

13 Q. Is that a yes?

14 A. Yes.

15 Q. So there would be a manager of that
16 department, correct?

17 A. Yes.

18 Q. As you sit here today, you can't tell us the
19 name of a single product safety department manager,
20 true?

21 A. I do not recall the names of who had those
22 roles.

23 Q. Now, you -- I have seen many times in your
24 correspondence, and you have indicated that you mean
25 what you say when you write something down, true?

1 A. Yes.

2 Q. So all of these e-mails, press releases,
3 communications, all that they have meant, all that they
4 have recount, you meant them, true?

5 A. Generally, yes.

6 Q. You wouldn't send out a press release, unless
7 you meant what you said, true?

8 A. Correct.

9 Q. You wouldn't send an e-mail to somebody,
10 unless you meant what you said?

11 A. Correct.

12 Q. You certainly wouldn't work to put together a
13 PowerPoint where you make representations, unless you
14 mean what you say, fair?

15 True?

16 A. True.

17 Q. Okay. Now, you have told us there was a
18 culture of safety, is that true, at Polaris?

19 A. Yes.

20 Q. Who would be in charge of this culture of
21 safety?

22 A. Culture is actually every- -- I mean,
23 everybody contributes to culture and culture is evolved
24 based on input. So every single employee contributes to
25 our culture. Leadership has a bigger voice,

1 therefore -- I had the biggest voice, so I had -- That's
2 why safety and ethics always was regularly talked about
3 as a guiding principle because I had the big voice to
4 influence culture, and I tried to do that.

5 Q. Ultimately, you're the -- In your capacity,
6 you're the person ultimately responsible for that
7 culture of safety, true?

8 A. I had the biggest voice to contribute to that,
9 yes.

10 Q. Did you ever go to a Polaris safety committee
11 meeting?

12 A. I did not.

13 Q. Did you know that there was safety committee
14 meetings?

15 A. I did.

16 Q. Have you ever seen any of the publications
17 associated with the Polaris safety culture safety
18 committee meetings?

19 A. I have not.

20 Q. I've got marked as Exhibit 2-001 that I have
21 given to your counsel that just is the minutes of a
22 safety meeting -- rather, this safety committee meeting.
23 You wouldn't recognize this because you never saw one,
24 true?

25 A. That's correct.

1 (Wine Deposition Exhibit No. 2-001
2 marked as requested.)

3 BY MR. DREYER:

4 Q. All right. Let's turn that over. Now I'm
5 going to show you another exhibit. That exhibit, I just
6 mentioned, if I didn't say, is 2-001.

7 This is 2-003. Do you remember Polaris having
8 product safety fire analysis dealing with product
9 safety, having meetings of that nature?

10 A. I do not.

11 Q. So Exhibit 2-003, you see the title there, it
12 says, "2/24/2013 Product Safety Fire Analysis." You
13 would never have seen this document, true?

14 (Wine Deposition Exhibit No. 2-003
15 marked as requested.)

16 BY THE WITNESS:

17 A. That's correct.

18 Q. You see underneath, it says, "Product Safety
19 Don Good"?

20 A. Yes.

21 Q. Do you know who Don Good is?

22 A. I said earlier I know who he is, but I didn't
23 know him personally.

24 Q. I'm not asking if you know him personally.
25 I'm asking, do you know what he did for your company?

1 A. It says right here, "Product Safety."

2 Q. Do you know what his title was?

3 A. I do not.

4 Q. Do you know how long he was with the company
5 in 2013?

6 A. I do not.

7 Q. Do you know if he was still there when you
8 left in 2020?

9 A. I do not.

10 Q. It's fair to say you have never had a
11 conversation with Don Good, true?

12 A. I don't recall any conversation with Don Good.

13 Q. When all these recalls are happening, when
14 CPSC is talking to you and your company in 2014, 2015,
15 2016, before Paige Richmond is ever touched by a flame,
16 you never sat down with Don Good, the person involved
17 with product safety, true?

18 MR. FIGLIULO: Objection; form.

19 MR. COLLIER: Join.

20 BY MR. DREYER:

21 Q. Is that true?

22 A. I did not -- I don't recall sitting down with
23 Don Good.

24 Q. You made a comment to Mr. Olson about -- in
25 response to one of the e-mails dealing with analogizing

1 off-road vehicles fires and vehicles generally on the
2 highways and fires. Do you remember that conversation
3 you had this afternoon?

4 A. Uh-huh.

5 Q. Yes?

6 A. Yes.

7 Q. Did you personally ever have any research done
8 to check out what your employee was representing to you
9 about the relevance of vehicle fires with Polaris fires?

10 A. I did get -- There were reports that were
11 generated that were comparing ours to other industries,
12 including automotive, yes.

13 Q. Ultimately, you didn't feel comfortable making
14 that analogy, true?

15 A. I was not -- I didn't have access to the data,
16 so I couldn't make the analogy; but I did request it and
17 it was provided to me.

18 Q. Even after that, you didn't feel it was an
19 analogy you could represent to the public, true?

20 MR. COLLIER: Objection; form.

21 BY THE WITNESS:

22 A. I don't recall the dialogue we had. Why we
23 chose to either disclose or not disclose it, but I
24 believe it was legal advice not to.

25 Q. In terms of what Polaris does, it takes time

1 to develop a model, correct?

2 A. Yes.

3 Q. All right. Then, at some point in time, you
4 launch the model, correct?

5 A. Correct.

6 Q. Like, for example, the 2017 XP 1000, that
7 didn't just get launched immediately. It would have to
8 have gone through some development stage, true?

9 A. Correct.

10 Q. So understanding what you know, how long did
11 Polaris work with a new model before they launched it?

12 A. Generally, 18 to 36 months.

13 Q. You felt that was appropriate?

14 A. We had validation requirements that had to be
15 met before a product was launched, and it was more
16 related to meeting the validation requirements, not the
17 time. It wasn't a -- we weren't -- We didn't say it had
18 to take a certain amount of time. We said it has to be
19 past the validation.

20 Q. In terms of this validation, that was
21 something the engineers would do?

22 A. Test engineers did it. The quality engineers
23 did it. It was ...

24 Q. Would you agree with me, Mr. Wine, that if
25 Mr. Goyal was your first thermal engineer and he was

1 hired in 2016, that you were having these vehicles --
2 "you" meaning Polaris, was having its vehicles go
3 through this product development without the benefit of
4 the thermal engineer, true?

5 MR. COLLIER: Objection; form.

6 BY THE WITNESS:

7 A. I don't know exactly when he got there, and I
8 don't know what input he had in reviewing them. I do
9 know by 2017 we had learned a tremendous amount from our
10 efforts. So I believe all of that was built into the
11 model year 2017.

12 Q. So my question to you was: You would agree
13 with me that before Mr. Goyal came on board, you never
14 had a thermal engineer involved in the process of design
15 of your RZRs, correct?

16 A. We relied on SAE, Exponent, and others to
17 provide thermal -- the same -- We outsourced it. So we
18 had other people provide it for us. Mr. Goyal, we
19 in-sourced that work, but the work was done.

20 Q. I appreciate you making that comment,
21 Mr. Wine, but I'm just trying to find out if it was. In
22 terms of Exponent, you told me earlier you don't
23 remember when Exponent was hired, right?

24 A. I don't remember the date.

25 Q. When you say "SAE," is that some entity or

1 business?

2 A. It's an engineering house.

3 Q. Do you know that they were hired in this case
4 for Polaris?

5 A. I do know that we used them, yes.

6 Q. Did you hire them to help in design?

7 A. We hired them to ensure the efficacy of our
8 vehicles. My goal was the vehicles should leave us and
9 do exactly what we designed it to do. That's what --
10 Exponent, SAE, all were designed to do that.

11 Q. You can't tell me when those entities were
12 retained to be involved in the design process, if ever,
13 true?

14 A. I do not know exactly -- It wasn't just the
15 design work. If you think about it, part of what we
16 were doing, we were learning what was happening in the
17 field. Post-sales surveillance, all of that information
18 was fed back to us so we can incorporate that learning
19 into our vehicle design. Some of it came from Exponent,
20 some of it came from SAE, some of it came from our own
21 team.

22 Q. Mr. Wine, I'm not asking about outfield. I'm
23 talking about before they ever get out in the field. In
24 terms of -- Let me finish my question, please.

25 Did you ever involve Exponent in thermal

1 decisions -- engineering decisions on the design of the
2 vehicle -- of any vehicle before 2016?

3 A. No.

4 Q. Did you ever hire SAE or whatever engineers
5 you're talking about -- And you can't identify any of
6 the engineers, true?

7 A. No.

8 Q. Is that a correct statement?

9 A. I do not know, no.

10 Q. You can't tell us if they were ever hired to
11 assist in the design of the product, the 2017 RZR 1000,
12 before 2016, true?

13 A. I can't agree that that's true because when we
14 asked them to do work in the field, if they identified
15 things that we could improve, they were always
16 incorporated back into the design of the vehicle.

17 Q. Can you refer us to any document from SAE that
18 indicates they gave you any input on design as it
19 relates to thermal issues? Have you ever seen a single
20 document?

21 A. I don't know that I have seen a single
22 document.

23 Q. Okay. Now, you have seen this document,
24 though, the "Code of Business Conduct and Ethics,"
25 right?

1 A. I wrote it, yes.

2 Q. Then you should be familiar with it, true?

3 A. I signed it, I believe.

4 Q. When you wrote it -- I just did a couple of
5 pages of it -- you certainly meant what you wrote, true?

6 A. True.

7 Q. So, for example, on the second page of this
8 exhibit, which is 2-002, you talk about responsibilities
9 for supervisors and managers, right?

10 (Wine Deposition Exhibit No. 2-002
11 marked as requested.)

12 BY THE WITNESS:

13 A. Yep.

14 Q. You play a unique role in creating an open and
15 trusting environment with employees, are comfortable
16 asking questions, or talking about ethical issues,
17 right?

18 A. Yes.

19 Q. You meant that, true?

20 A. Yes.

21 Q. Do you know who Ruccup Paul (phonetic) is?

22 A. No.

23 Q. Ever heard the name before?

24 A. I don't recall.

25 Q. Would it surprise you if you were to be told

1 that he was one of your engineers at Polaris before
2 2016, 2017?

3 A. It wouldn't surprise me. It would educate me.

4 Q. I take it, then, you never talked with
5 Mr. Paul, true?

6 A. Not that I'm aware of.

7 Q. It looks like -- As far as the Crowell &
8 Moring audit, do you know whether they ever talked with
9 Mr. Paul?

10 A. I don't recall.

11 Q. The answer to interrogatory that your
12 attorneys put together doesn't have Mr. Paul's name on
13 there. Do you know if he was in the engineering
14 department, why they didn't talk to him?

15 MR. FIGLIULO: Objection; form.

16 BY MR. DREYER:

17 Q. If you know.

18 A. Again, I do not know Mr. Paul. I do not know
19 why or why not he spoke to people.

20 Q. In preparation for today, understanding the
21 seriousness of what we're doing -- I mean, you certainly
22 take the allegation seriously, right?

23 A. Of course.

24 Q. And the punitive damage allegation is alleging
25 that Polaris engaged in conduct that was despicable and

1 malicious and put people at risk. You certainly take
2 exception to that, true?

3 A. I definitely take exception to that.

4 Q. Did you read a single deposition of any
5 Polaris employee in preparation for today?

6 A. No.

7 Q. Did you read a single deposition of any of the
8 victims of Polaris fires in preparation for today?

9 A. No.

10 MR. FIGLIULO: Objection; form.

11 MR. COLLIER: Join.

12 BY MR. DREYER:

13 Q. Did you review any documents, engineering
14 documents, anything at all, to prepare yourself for
15 today to answer questions in terms of opinions relative
16 to engineering that happen on these vehicles?

17 MR. FIGLIULO: Objection; form.

18 BY THE WITNESS:

19 A. I imagine Mr. Figliulo has provided any
20 documents I reviewed.

21 Q. I'm asking you: Did you review engineering
22 documents in preparation for today?

23 A. No.

24 Q. In preparation for today, before we started at
25 9:00 o'clock this morning -- and I don't want to know

1 anything your attorney said to you. But if he gave you
2 a document, I certainly want to know that.

3 Did you review a single document, Mr. Wine, in
4 preparation for this case? Understanding the serious
5 charges of it, the allegations, the nature of the
6 injuries, did you review any documents?

7 A. No.

8 Q. It says down here, the fourth bullet point,
9 "Support employees who, in good faith, ask questions and
10 raise concerns." Certainly, if Mr. Paul,
11 hypothetically, had concerns and made concerns known to
12 his supervisors, they should certainly have paid
13 attention to them, true?

14 A. That is what we say in here, yes.

15 Q. You would be critical of his supervisor if
16 they shouted him down or didn't listen to him or told
17 him, I'm not going to pay attention to what you're
18 saying, right?

19 MR. COLLIER: Objection; form.

20 BY THE WITNESS:

21 A. That should not happen.

22 Q. Do you remember Mr. -- and I'm going to
23 mispronounce his name. Mr. d'Entremont, do you remember
24 him?

25 A. Again, he worked in the organization. I

1 didn't know him personally.

2 Q. Do you know what department he was in?

3 A. Yes.

4 Q. What department?

5 A. He was in product compliance safety area.

6 Q. Ever talk to him at all about his view of the
7 product and what Polaris was doing in working up their
8 new models?

9 A. No.

10 Q. Did you ever become made aware that he was
11 bringing concerns he had to his managers about this and
12 he was basically ignored and, as from his perspective,
13 run out of the company --

14 MR. COLLIER: Let me just -- Sorry. Finish your
15 question.

16 BY MR. DREYER:

17 Q. Did anyone ever bring that up to you?

18 MR. FIGLIULO: Objection; assumes facts not in
19 evidence. Object to the form.

20 MR. COLLIER: Let me also add an objection. To the
21 extent that any of that information was conveyed by
22 legal counsel, Mr. Wine, that would be privileged
23 information. If you have any understanding outside of
24 your conversations with legal counsel.

25

1 BY THE WITNESS:

2 A. The only information I would have had would
3 have been from Stacy Bogart.

4 Q. Who is an attorney?

5 A. Who is an attorney.

6 Q. Corporate counsel?

7 A. General counsel.

8 Q. General counsel. So as far as being in
9 product compliance, he would have had a supervisor,
10 correct?

11 A. Yes.

12 Q. Did you ever talk to -- Do you know who his
13 supervisor was?

14 A. I do not. I believe -- I do not, no.

15 Q. The next page of this document says, "Our
16 commitment," if you turn to that. It says, "As an
17 employee, part of your job is upholding a reputation as
18 an ethical corporate citizen." You meant that, right?

19 A. I wrote it, yes.

20 Q. You believe that Polaris should be a good
21 corporate citizen, true?

22 A. Correct.

23 Q. And that means behaving and being responsible
24 to its customers and users of its product, true?

25 A. Yes.

1 Q. Now, do you remember ever seeing this
2 document? This is Exhibit 2-004. And I'm just going to
3 turn you to the last line on the second-to-the-last
4 page.

5 Before I ask you about it, Mr. Wine, dealers
6 are kind of important to you folks, correct? It's this
7 page. It says "Inquiry and response" at the top.

8 (Wine Deposition Exhibit No. 2-004
9 marked as requested.)

10 BY THE WITNESS:

11 A. I'm there.

12 MR. COLLIER: Sorry. What page are you on?

13 MR. DREYER: This is 2-004. It says, "Inquiries
14 and responses" at the top.

15 MR. COLLIER: Yes. Thank you.

16 MR. DREYER: The date is November 13, 2013.

17 BY MR. DREYER:

18 Q. Your relationship with dealers is crucial,
19 correct?

20 A. Yes.

21 Q. You depend upon them, right?

22 A. Yes.

23 Q. So you would pay attention to what they have
24 to say?

25 A. Yes.

1 Q. Over the course of time, both before
2 January 1st of 2017, and after January 1st of 2017, you
3 have gotten e-mails and communications, as we heard
4 earlier this morning, from dealers with complaints about
5 fires with vehicles, true?

6 A. Yes.

7 Q. This is an example of that, right? Have you
8 ever seen this document before?

9 A. I have not.

10 MR. DREYER: Okay. We're going to go off the
11 record just for a minute so that we don't have dead time
12 with the video. As soon as you're done -- Because it's
13 a long document, so let's just go off the record.

14 THE WITNESS: Whoa. Hold --

15 MR. FIGLIULO: That time that we're off the record
16 while he's reviewing the document counts against the
17 seven hours.

18 MR. DREYER: Sure. That's fine.

19 THE VIDEOGRAPHER: We are off the record at
20 2:51 p.m.

21 (Discussion off the record.)

22 THE VIDEOGRAPHER: We're back on the record at
23 2:53 p.m.

24 BY MR. DREYER:

25 Q. Mr. Wine, have you had an opportunity to read

1 this note from this dealer?

2 A. Yes.

3 Q. It's dated 5/28/2015, correct? At the top of
4 the page. Turn to this page, sir. It says, "Inquiry
5 and Response" (indicating). Yes, that's the page.

6 A. Yes.

7 Q. This is in reference -- He indicates, "I
8 haven't heard back from you on any resolution or
9 decision concerning my two RZR 1000s that burnt to the
10 ground."

11 Did you ever see this document?

12 A. I did not.

13 Q. Is this -- Now having had the opportunity to
14 read it, is this the type of document you would expect
15 to make it to you?

16 A. No.

17 Q. From a dealer?

18 A. No.

19 Q. Okay. So the fact where he talks about a
20 manufacturer defect, that he understands the difference
21 between a manufacturer's defect and customer misuse, you
22 wouldn't expect this kind of document to make it to you?

23 A. There was so much interaction with our dealers
24 on things. I think my -- Reading this makes me think
25 that we were -- Post-Sales surveillance enhanced our

1 ability to address these things. This dealer was upset
2 because we took a long -- Once it went into our safety
3 process, it took us a long time -- too long to engage
4 and understand, and that was frustrating to the dealer,
5 and that would frustrate me as well.

6 Q. You didn't have any field surveillance back in
7 2015, true?

8 A. We did not have a post-sales surveillance team
9 and process in place at that time, no.

10 Q. What is DFMEA?

11 A. Design FMEA is how you anticipate potential
12 defects and design the prevention of those into your
13 vehicles.

14 Q. Should Polaris have had that in effect the
15 entire time you were the CEO and chairman of the board?

16 A. Not all companies had -- I wouldn't -- I don't
17 know that that was part of the company that I joined and
18 I don't know that I implemented DFMEA process.

19 Q. You certainly understood what that was before
20 you joined in 2008, correct?

21 A. I had heard the term, yes. I mean, everything
22 I had been involved in ...

23 Q. Did you ever get informed whether Polaris had
24 a DFMEA process?

25 A. I was familiar with the Polaris development

1 process. Actually, I was quite impressed with the
2 Polaris development process. I don't recall whether it
3 specifically had a DFMEA element to it.

4 Q. So you can't testify under oath that before
5 Paige Richmond was subject to fire in September of 2017,
6 whether Polaris had a DFMEA analysis in place, true?

7 A. I would believe that by that point we had a
8 DFMEA process in place.

9 Q. When did it start?

10 A. I don't recall.

11 Q. Who would know?

12 A. Steve Kemp, Dave Longren -- I mean, Ken Pucel.
13 We can go back and look at the PDP process when we had
14 it. That's find-out-able information. I just don't
15 know.

16 Q. Do you know what a PAP is?

17 A. I do.

18 Q. What is that?

19 A. It's a product action plan.

20 Q. Okay. Do you know if Polaris had that in
21 place?

22 A. I believe we did, yes.

23 Q. Did you ever attend them?

24 A. I was not -- the C -- Sometimes it's better
25 that the team can do the work and it's reported to the

1 CEO because sometimes the CEO can be too involved, and I
2 tried to let the teams do --

3 Q. Was it ever reported to you how those PAPs
4 were going?

5 A. I believe at times I would hear from various
6 members of the PAP how they went, but --

7 Q. Did anyone ever tell you in those various
8 times that they weren't letting Don Good, the product
9 safety manager, attend those meetings?

10 A. I don't recall that.

11 Q. Would you be critical of that, keeping the
12 product safety manager out of the PAP meetings?

13 MR. COLLIER: Objection; form.

14 BY THE WITNESS:

15 A. I'm not aware that that happened.

16 Q. You certainly know what an FMEA is?

17 A. Failure modes and effects analysis.

18 Q. Did Polaris have that in effect in its
19 engineering department?

20 A. Yes.

21 Q. When did it start that?

22 A. I do not know.

23 Q. Was it present when you became the chairman of
24 the board?

25 A. I believe so.

1 Q. All right. If we had sworn testimony from one
2 of your engineers that Polaris did not have an FMEA in
3 place in 2015 and 2016, would you be critical of Polaris
4 and its engineering department?

5 MR. FIGLIULO: Objection; hypothetical, assumes
6 facts not in evidence, form, foundation.

7 MR. COLLIER: Objection.

8 BY THE WITNESS:

9 A. I wouldn't be crit- -- I believed it was in
10 place at that point.

11 Q. I appreciate you believe that. You can't tell
12 us when it was first started, if it was started.

13 My question to you is: If you had one of your
14 engineers testify that Polaris did not follow an FMEA
15 approach in design of its products back in 2015 and
16 2016, would you be critical of Polaris?

17 MR. FIGLIULO: Objection; form, foundation.

18 MR. COLLIER: Same objection.

19 BY THE WITNESS:

20 A. No.

21 Q. Now, in dealing with all of these recalls that
22 you folks went through, you had a recall communication
23 playbook, correct?

24 A. Yes.

25 Q. Did you see it?

1 A. I'm sure I did.

2 Q. Let's see if you remember. This is
3 Exhibit 2-007. I'm not going to ask you every page.
4 I'm just trying to find out whether you remember ever
5 seeing this communication playbook?

6 MR. FIGLIULO: What exhibit?

7 MR. DREYER: This is 2-007.

8 (Wine Deposition Exhibit No. 2-007
9 marked as requested.)

10 BY THE WITNESS:

11 A. I don't recall seeing this.

12 Q. Did anyone ever explain to you why Polaris
13 needed a recall communications playbook?

14 A. No. But I generally understand it.

15 Q. It's one way in which to get the news out to
16 people about what's happening in terms of a recall,
17 correct?

18 A. It was more to ensure that every step of the
19 process was followed.

20 Q. One of the purposes of it is to discuss how to
21 get the word out to others, like, customers, dealers?

22 A. That's part -- one of the steps in the process
23 is that.

24 Q. Do you know whether you also sent that
25 information, the recall, out to people -- third-party

1 vendors who worked on Polaris products?

2 A. I don't know who you're talking about.

3 Q. Well, you know there's a whole market out
4 there in terms of people doing modifications to Polaris,
5 right? You're aware of that?

6 A. Yes.

7 Q. Even companies that are not, like, certified
8 Polaris dealer, you know that they are out there working
9 on your product, true?

10 A. Yes.

11 Q. Do you have a way of tracking those and
12 letting them know if there's a recall?

13 A. I doubt that's part of our process. By your
14 definition, they are unauthorized service providers and,
15 therefore, not eligible to be part of our standard
16 communication.

17 Q. They certainly are working on Polaris
18 products, you know that, true?

19 A. Again, we don't know because they are not part
20 of our process. We certify dealers and we certify
21 people so we can ensure the work that is done. When
22 it's done outside of that, it's, by definition, not part
23 of our process.

24 Q. My question to you is: You know those
25 entities are out there, commercial businesses that do

1 post-manufacturing modifications on your vehicles,
2 right?

3 A. Yeah. And if -- if --

4 Q. First, that's all I'm asking is: Are you
5 aware that they exist?

6 A. I'm aware they exist.

7 Q. You know that they are dealing with your
8 Polaris customers, correct?

9 A. Perhaps by definition, yes.

10 Q. Okay. All right. In terms of recalls -- I
11 just got this off the web. You're -- 6-001. You know
12 you folks had a recall back in July of 2015 of the youth
13 RZR, right?

14 Do you remember that?

15 (Wine Deposition Exhibit No. 6-001
16 marked as requested.)

17 BY THE WITNESS:

18 A. I don't remember, but I'm sure we did.

19 Q. Do you recall Exhibit 6-002, where Polaris
20 Industries recalled the RZR recreational off-road
21 highway vehicles due to potential fire back in October
22 of 2015? Does that ring a bell?

23 (Wine Deposition Exhibit No. 6-002
24 marked as requested.)

25

1 BY THE WITNESS:

2 A. Again, I don't remember the specifics, but I'm
3 confident that it happened.

4 Q. Do you remember the recall, which is
5 Exhibit 6-003 --

6 MR. DREYER: These are new, Jim. I didn't give you
7 these. I just printed them off.

8 (Wine Deposition Exhibit No. 6-003
9 marked as requested.)

10 BY MR. DREYER:

11 Q. Polaris recalls the RZR XP Turbo recreational
12 off-road vehicle back in December of 2015. Do you
13 remember that?

14 A. I don't remember specifically, but I know we
15 redid -- Again, we would identify issues with systemic
16 issues and we would issue a recall. That was the
17 process we went through, and there was a lot of them
18 going.

19 MR. FIGLIULO: I object to the foundation for the
20 use of the exhibits.

21 BY MR. DREYER:

22 Q. In terms of when you say you did them, you did
23 them because the CPSC was talking to you about issues,
24 correct?

25 A. No. We did them because it was our desire to

1 ensure our products were safe for our community --
2 customers.

3 Q. Do you remember a recall back in April of 2016
4 of the RZR, Exhibit 6-004, the 900 and the 1000s?

5 (Wine Deposition Exhibit No. 6-004
6 marked as requested.)

7 BY THE WITNESS:

8 A. Again, I don't recall exactly the specifics.

9 MR. FIGLIULO: Same objection about the foundation.

10 BY MR. DREYER:

11 Q. Do you remember a recall back in August
12 of 2016 where there was a stop ride issued back in --
13 this is Exhibit 6-005 -- sales advisory about the 2016
14 RZR Turbo?

15 (Wine Deposition Exhibit No. 6-005
16 marked as requested.)

17 MR. FIGLIULO: Objection; foundation.

18 BY THE WITNESS:

19 A. Just so we're clear, it was six years ago. I
20 don't remember the specific dates or specific recalls.
21 I do know that they happened.

22 Q. Same for Exhibit 6-006, a recall back in
23 September of 2016; it sounds familiar, like you had
24 another recall that soon?

(Wine Deposition Exhibit No. 6-006

marked as requested.)

BY THE WITNESS:

A. We had a very disciplined process if we identified a systemic issue, we issued a recall. So that -- As we were putting so much energy and effort into it, we would identify them, we would work with the CSPC and get the recall done. So I'm not surprised if there were a lot of them because it was our effort to fix all systemic issues.

Q. In terms of fixing these systemic issues, that was with your engineering department, right, and with these third-party vendors?

A. Correct. And in conjunction with Consumer Product Safety Commission.

Q. Okay. Now, let's talk a little bit about Mr. Goyal. Did you ever see any of his work product?

A. I don't recall.

Q. Did anyone ever indicate to you that he ever prepared any particular studies relative to problems he was finding with the product -- your Polaris product?

A. You know, Ken Pucel and I spent a lot of time together on this particular issue, and I believe Ken would have brought it to my attention if Goyal had brought it -- Ken oversaw -- You know, bringing him in

1 was one of the best moves I ever did, and he was key to
2 us developing the processes to ensure these remediations
3 were happening. I'm confident that Ken would have
4 communicated if Goyal had found things.

5 Q. So as you sit here today, do you remember
6 actually seeing any such documents?

7 A. I do not.

8 Q. I'm going to try to find them and see if I can
9 refresh your recollection.

10 MR. DREYER: Let's take a quick break so I can find
11 these documents. Just five minutes.

12 THE VIDEOGRAPHER: We are off the record at
13 3:06 p.m.

14 (A short break was had.)

15 THE VIDEOGRAPHER: We are back on the record at
16 3:15 p.m.

17 BY MR. DREYER:

18 Q. Okay. Thank you for that break.

19 This is Exhibit 2-001 [sic]. This is a
20 Thermal Mitigation Board of Directors Tech Committee
21 Review by October 21st, 2015.

22 MR. FIGLIULO: What number is that?

23 MR. COLLIER: Yeah.

24 MR. DREYER: 2-011.

25

1 BY MR. DREYER:

2 Q. Have you ever seen this document before?

3 (Wine Deposition Exhibit No. 2-011

4 marked as requested.)

5 BY THE WITNESS:

6 A. I'm sure that I did see it, yes.

7 Q. When it says, "BOD Tech Committee Review," you
8 would have gotten this?

9 A. I went to the tech committee meetings, yes.

10 Q. Longren is the president of ORV, and this is
11 the portion you -- again, nothing -- Is there anything
12 you could review to refresh your recollection about what
13 his background is engineering-wise?

14 A. Again, Dave worked for the company. I didn't
15 hire him. I promoted him. So I didn't review his
16 resume to understand his background.

17 Q. If you promoted him, you were, obviously,
18 satisfied with his work, right?

19 A. I was very satisfied with his work.

20 Q. When you come into a new company and have
21 employees, you still have a responsibility not to just
22 let everybody stay, you expect them to perform, right?

23 A. That's correct.

24 Q. Okay. Paul Vitrano, V I T R A N O, vice
25 president global governmental relations. Is that an

1 engineer?

2 A. No.

3 Q. We know Mr. Eyres is not an engineer. What
4 this document -- Do you remember going through this, the
5 model year 2015 RZR vent line obstructions that was used
6 as a root cause for fires?

7 A. I do.

8 Q. Obviously, a serious issue, right?

9 A. Yes.

10 Q. If you go to the third page of the document,
11 it talks about "Safety-Related Defect," "Root Cause of
12 Manufacturing Defect." This is your engineering
13 department giving you information that was specific to
14 the recall, correct?

15 A. That's correct.

16 Q. In terms of fires in your vehicles from a
17 manufacturing defect, no percentage of fires from a
18 manufacturing defect is acceptable, true?

19 A. Defects, in general, are not acceptable.

20 Q. So when you find out about them, then it's
21 your responsibility to address them immediately, true?

22 A. That's correct.

23 Q. Especially, fires --

24 A. When you say "immediately," immediately in a
25 manufacturing environment doesn't mean the next minute.

1 It means taking the necessary steps to do it as quickly
2 as possible.

3 Q. Understood. And that's what you -- you would
4 be responsible to institute, correct?

5 A. Correct.

6 Q. There's no acceptable percentage of burns,
7 right?

8 A. There's none, yes.

9 Q. Now, in terms of this document, the next page
10 talks about "Historical Safety Claim Rate of Alleged
11 Thermal Events." Your company made the decision to call
12 the fires in the vehicles "thermal events," true?

13 A. Right.

14 Q. Did you remember that someone came up with the
15 concept that it doesn't sound as bad to have the thermal
16 event versus a fire in the vehicle?

17 MR. COLLIER: Object to form.

18 BY THE WITNESS:

19 A. No. Actually, it was because they were
20 melting, which is also referred to as a thermal event.
21 Melting is not a fire, so we would call them thermal
22 events to incorporate all of the events that can happen
23 with excess heat.

24 Q. Did anyone ever discuss with you the framing
25 of these fire events, how the company was going to frame

1 them as thermal events versus fires in the vehicles?

2 A. I don't recall that conversation.

3 Q. Melting of plastics in the vehicle is
4 different than a full-blown fire where people are
5 engulfed and burned, true?

6 A. They are different events, yes.

7 Q. One is a thermal event where it's melting
8 something because it's too hot, right?

9 A. Uh-huh.

10 Q. Is that a yes?

11 A. Yes.

12 Q. That's not acceptable, true?

13 A. We don't want -- not -- It's our goal to put
14 out safe, quality vehicles that perform as expected.

15 Q. So melting a product is not acceptable?

16 A. Correct.

17 Q. But a fire that engulfs occupants in the
18 backseat, that is not a thermal event like a melting of
19 plastics, true?

20 A. It's a different event, but it's still a
21 thermal event.

22 Q. There is a term, if we flip to the next page
23 where it talks about "Root Cause Underway, Multiple
24 Issues & Combinations"?

25 A. I'm sorry. Where is this?

1 Q. It says, "Model year 15 RZR incidents"?

2 A. Yes.

3 Q. Page 5 of the PowerPoint. It says, Engineers
4 review of all model year 15 RZR thermal complaint --
5 thermal claims. Over 80 percent infant mortality
6 failures.

7 Do you remember the term "infant mortality"?

8 A. Yes.

9 Q. What does that mean?

10 A. Typically that something happened soon after
11 it was produced out of the factory.

12 Q. Okay. That's an indication -- That's not a
13 good thing, to have something go wrong?

14 A. It's never a good thing, but that is one
15 that -- we just -- It's never a good thing.

16 Q. But also in a vehicle that's been out of the
17 factory for four years and has a problem as a result of
18 a defect with the product, that's also not a good thing,
19 right?

20 A. That's what I just said.

21 Q. Okay. Is one more disconcerting to you as the
22 CEO than the other?

23 A. No.

24 Q. Okay. Now, let's go to the next page. It
25 says, "Identify & Correct Root Causes Immediately,"

1 Page 6. It says. "Leadership Team of Polaris Experts
2 Meeting Daily." So the leadership team of Polaris
3 experts, who was that?

4 A. I don't know who Dave Longren brought into
5 that experts. He knew the engineering team incredibly
6 well, so I felt confident that he could make sure we had
7 all of the right people in that decision-making process.

8 Q. So you left it to him in his management
9 capacity to get the right people together?

10 A. It was his business, his engineers. He has
11 the most knowledge of the engineers and was the most
12 appropriate person to drive that.

13 Q. Well, it was your business, the Polaris -- as
14 the CEO and chairman of the board, it was your business,
15 true?

16 MR. FIGLIULO: Objection; form.

17 BY THE WITNESS:

18 A. I was the CEO. Dave Longren ran the off-road
19 vehicle business. He was also the engineering leader of
20 that business.

21 Q. All right. So he answered to you?

22 A. He, actually, reported to Bennett Morgan, who
23 was the chief operating officer, but they both reported
24 to me.

25 Q. Got it. Okay. Then the next -- This answers

1 the question you couldn't give us earlier. "Exponent
2 Hired to Lead Root Cause Analysis Effort"; is that a
3 fair statement?

4 A. Yes, it is.

5 Q. Okay. So as of October of 2015, it appears
6 that that would have been a decision Mr. Longren made?

7 A. I don't know who made the decision. He
8 supported it.

9 Q. You didn't make it, true?

10 A. Again, I didn't -- I'm sure they advised me
11 they were doing it, and I'm sure that I agreed to it.
12 This was the beginning of us learning and very quickly
13 remediating all of the issues we could find. Exponent
14 helped us do that. Ken Pucel came in and helped us
15 elevate that game. Roger Riley came in. It was
16 really -- This was the beginning of us understanding and
17 quickly remediating thermal events on our vehicles.

18 Q. What you have just indicated is your view of
19 what you had done to address this problem with fires in
20 your vehicles, true?

21 MR. FIGLIULO: Objection; form.

22 BY THE WITNESS:

23 A. I don't understand the question.

24 Q. Well, my question is: All of the things that
25 you just talked about, these are steps that Polaris put

1 into place to address the issue of fires in vehicles,
2 true?

3 A. That's correct.

4 Q. They were not in place before that, correct?

5 A. Many of them were not, no.

6 Q. Okay. Now, Exponent. It says, "World experts
7 in failure analysis." Before October of 2015, did you
8 even know what Exponent was?

9 A. Yes.

10 Q. You knew that they were a company that did
11 failure analysis, right?

12 A. Yes.

13 Q. For manufacturers?

14 A. For many different.

15 Q. Have you ever met an Exponent engineer?

16 A. No.

17 Q. In connection with this case, you certainly
18 didn't talk or meet with anyone of them, true?

19 A. I did have conversations with them over time.

20 Q. Do you remember the names of anybody that you
21 talked to with Exponent?

22 A. I do not.

23 Q. It says, "Warranty claim analysis." So they
24 were hired to come in and do a "warranty claim analysis"
25 to deal with this issue of fire, right?

1 MR. FIGLIULO: Objection; form.

2 BY THE WITNESS:

3 A. If I can read the document, it says, "They
4 were hired to do warranty claim analysis, tear down
5 analysis" --

6 Q. I'm going to go through them one at a time,
7 sir. That's why I'm just asking: Were they hired to do
8 warranty claim analysis?

9 A. They were hired to do warranty claim analysis.

10 Q. Do you know what that means, warranty claim
11 analysis?

12 A. Warranty claim analysis would go through
13 warranty claims and analyze if there were any trends
14 that were related to thermal events that we could
15 identify actions that we should take to remediate them.

16 Q. That had not been done before?

17 A. I wouldn't say that.

18 Q. Had it been done before?

19 A. I'm sure that there was work done to review
20 warranty claims analysis. We were having another third
21 party do it in addition to that.

22 Q. Can you tell me under oath who did warranty
23 claim analysis before Exponent for Polaris?

24 A. I do not know.

25 Q. Can you tell us when that actually was done

1 before?

2 A. I cannot.

3 Q. It certainly should have been done, true?

4 MR. FIGLIULO: Assume -- Objection; form, assumes
5 facts not in evidence.

6 MR. COLLIER: Join.

7 BY THE WITNESS:

8 A. It was done. I mean, Bill Fisher ran our
9 service department, Bill Fisher's team would have done
10 the regular reviews of our warranty claims, and I think
11 this was a more specific effort to use Exponent to look
12 at it from a thermal remediation standpoint.

13 Q. So Polaris had retained the services of
14 Exponent in its efforts to address this issue of fires
15 in vehicles, true?

16 A. True.

17 Q. And it expanded into doing the field
18 surveillance?

19 A. We got comfortable with their abilities and
20 used them to augment post-sales surveillance efforts at
21 a later date.

22 Q. By this time, October of 2015, model year 2017
23 had already been developed, correct, and designed?

24 A. No.

25 Q. Okay. So it's in the design stage?

1 A. Yes.

2 Q. Okay. Who would be in charge of the design of
3 the model year 2017 as of October of '15?

4 A. I don't recall who the engineer -- Steve Kemp
5 was probably responsible for that.

6 Q. Let's look at Exhibit 2-009. Have you ever
7 seen this document before? This is -- For the record,
8 it's from Ramesh Goyal on August 18, 2016, and it's
9 copied to Jeremy Smith and Tony Kinsman, "My
10 observations -- RZR 900s and 1000s."

11 Have you ever seen this document before?

12 (Wine Deposition Exhibit No. 2-009

13 marked as requested.)

14 BY THE WITNESS:

15 A. I'm not copied on the e-mail, and I don't
16 believe -- I think you would have probably presented it
17 to me if I had been.

18 Q. Well, I don't know. That's the purpose of me
19 asking you these questions, Mr. Wine.

20 Is it fair to say that you didn't see this
21 document before I just showed it to you?

22 A. I have never seen this document.

23 Q. Okay. Were you aware that -- First of all,
24 who is Jeremy Smith?

25 A. He was one of our engineers.

1 Q. Is he still with you -- Strike that.

2 Was he still with Polaris as of the time you
3 left in 2020?

4 A. I believe so.

5 Q. Tony Kinsman?

6 A. Yes.

7 Q. And what was his position?

8 A. He was the engineering leader over RZR
9 products.

10 Q. So he was a management level guy?

11 A. He was a management engineer, yes.

12 Q. Now, seeing this, you do believe that you
13 folks had hired Mr. Goyal, right?

14 A. I had already agreed to that.

15 Q. Did you know they tasked him as a thermal
16 engineer to look at these models and to let his
17 supervisors know what he viewed to be problems?

18 A. I believe that's why we hired him.

19 Q. This is August of 2016, some ten months after
20 the previous document that we just looked at, right?

21 A. Yes.

22 Q. Okay. Did anyone ever report to you
23 Mr. Goyal's findings that are contained in this
24 document?

25 A. I will repeat that I have never seen this

1 document.

2 Q. That wasn't my question. My question was:
3 Did anybody report to you, like Mr. Kinsman, Mr. Smith,
4 Mr. Longren, somebody in engineering ever report to you
5 his findings relative to his thermal analysis of your
6 product?

7 A. They told me that he was engaged in helping us
8 with our thermal efficacy. I don't recall specifically
9 any of the specific recommendations he made.

10 Q. On the second page where he talks about, "My
11 future recommendation (in case there is an architecture
12 refinement)," did he explain -- did anybody in your
13 engineering department mention to you that he was
14 talking about a change in the architecture of the
15 platform of your RZRs?

16 MR. COLLIER: Objection; foundation, form.

17 BY THE WITNESS:

18 A. No.

19 Q. Before the September 17 incident involving
20 Ms. Richmond, had anyone ever told you, in your
21 engineering department at Polaris, that there was a
22 problem with the architecture of how the engine was laid
23 out on the platform of the vehicle?

24 A. No.

25 Q. You would agree with me that if you had a

1 thermal engineer working for Polaris, who was of the
2 opinion that the architecture was flawed and that's why
3 you were having heat problems on these vehicles, you
4 would want to know about it, true?

5 MR. COLLIER: Objection; form.

6 BY THE WITNESS:

7 A. I wanted to know about any systemic issues
8 that could contribute to fires in our vehicles.

9 Q. Such as the one I just mentioned, if --

10 A. It didn't matter who it came from. If there
11 was a systemic issue that we could identify that we
12 could remediate, I wanted to know about it.

13 Q. You would have expected your subordinates in
14 the engineering department, if they were told by a
15 thermal engineer that there was a problem with the
16 architecture of your vehicle that was producing heat in
17 your vehicles, you would have expected your subordinates
18 to tell you that, true?

19 MR. FIGLIULO: Objection --

20 BY THE WITNESS:

21 A. I would not -- To be clear, I would not expect
22 that. I would expect my engineers to take the input,
23 see if they could validate that it was a contributing
24 factor, and I am certain that I had the leadership team
25 in place to review and understand if that was a

1 contributing issue. And if it was, we would have
2 addressed it.

3 Q. While I'm certain you're convinced of that, do
4 you know whether anyone ever acted on Mr. Goyal's
5 recommendations that he has in that document that I've
6 got right in front of you?

7 A. I cannot state whether every one of these were
8 followed through upon.

9 Q. How about any of them? Do you know if any of
10 those recommendations -- This brand-new thermal engineer
11 that you have, that you hired, do you know if any of his
12 recommendations were followed?

13 A. I'm certain that some of them, if not most of
14 them, were followed.

15 Q. I'm just asking if you know, as opposed to
16 your belief that your system would do that. Let me
17 rephrase the question.

18 You would expect your subordinates to pay
19 attention what Mr. Goyal is saying, true?

20 A. To pay attention, yes. To blindly follow, no.
21 We would validate the issues and remediate those that
22 were systemic. We wouldn't -- No matter who it was. If
23 it was me telling them to do something if it didn't --
24 wasn't supported by engineering reviews, we wouldn't do
25 it.

1 MR. DREYER: I'll make a motion to strike as being
2 nonresponsive, everything after he answered the
3 question.

4 MR. FIGLIULO: Objection.

5 MR. COLLIER: Objection.

6 BY MR. DREYER:

7 Q. Mr. Wine, we've already established, you're
8 not a thermal engineer. My question to you is not about
9 anybody.

10 My question is: You would expect your
11 engineering department to consider the recommendations
12 of the thermal engineer, including if it called for a
13 change in the architecture of how the engine was laid
14 out, you would expect them to consider it, true?

15 MR. COLLIER: Objection; form.

16 BY THE WITNESS:

17 A. I will repeat. I would expect them to
18 validate, look for information that would confirm his
19 hypotheses.

20 Q. If they didn't, you would be critical, true?

21 A. Yes.

22 Q. Okay. Let's look at Exhibit 2010 -- excuse
23 me. Not 2010. It's 2-010. This is another document.
24 It's the "Thermal Management Fire Overview" by your
25 chief engineer in thermal, Mr. Goyal.

1 Did you know he was the chief engineer in
2 thermal?

3 A. I did not.

4 (Wine Deposition Exhibit No. 2-010
5 marked as requested.)

6 BY MR. DREYER:

7 Q. If you see that Polaris heading and you see
8 his name and underneath it, "Chief Engineer Thermal," we
9 can count on that that's his position?

10 A. I would like to think he wouldn't lie about
11 his name -- title.

12 Q. You would like to think that if Polaris put
13 out a document and put it on a document that had him as
14 the chief engineer thermal, you think that's probably
15 accurate, true?

16 A. Correct.

17 Q. Did you ever -- This is a multipage document.
18 It's, obviously, dealing with thermal engineering
19 issues.

20 Did you ever see this document, sir?

21 A. I did not.

22 Q. I want you to turn to -- it's page -- Down at
23 the bottom there's a pagination number of Richmond, and
24 it says "18." Do you see that number down in the bottom
25 right-hand corner? See where I'm pointing, sir, right

1 there? Can you go to that page?

2 MR. FIGLIULO: What page --

3 BY MR. DREYER:

4 Q. 18. Yes, sir. At the top it says, "2.6
5 Fire - Causes and Impact on Polaris Business." This
6 page says what it says, and there's a note there that
7 says, "Vehicle fires have an adverse impact on Polaris'
8 business, as well as customer perception of the
9 company."

10 Would you agree to that comment?

11 A. Yes.

12 Q. In terms of the fire, there's a block up at
13 the top. It says, "Fire causes an impact on Polaris'
14 business." Did anyone ever provide that information to
15 you?

16 A. No.

17 Q. Would you expect to be provided this kind of
18 information from your chief thermal engineer as to what
19 his determination was of cause of fires?

20 MR. FIGLIULO: Objection; assumes facts not in
21 evidence, foundation.

22 MR. COLLIER: Join.

23 BY THE WITNESS:

24 A. Ken Pucel oversaw this stuff, and he would
25 make sure I saw what needed to be seen.

1 Q. So if he didn't show it to you, you didn't see
2 it, right?

3 A. That's not true. It could have been Stacy
4 Bogart that showed it to me. It could have been Dave
5 Longren that showed it to me. But it's unlikely that I
6 would see -- In fact, I didn't see this document. And I
7 think there's a reason for that.

8 This is a specific discipline that has to be
9 reviewed and considered, amongst all of the other facts.
10 And that's the work that was done -- I mean, I -- If it
11 was -- It was the expectation of my leadership team that
12 they would review these things and make sure that we
13 were addressing the ones that were pertinent.

14 Q. Are you done? Are you finished, sir? I don't
15 want to interrupt you. That's why I'm asking.

16 A. You can talk.

17 Q. Thank you. Would you expect your lead
18 engineering team to let you know if your chief thermal
19 engineer has written as of -- I believe this is in
20 August. This document that he has written that "Vehicle
21 fires have an adverse impact on Polaris' business,"
22 adverse, in fact, on Polaris' business is certainly
23 something you would be interested in, true?

24 A. I -- Actually, it's -- it's such a --
25 Everybody knew that. There was not -- It was not a

1 revelation that it was causing a negative impact on the
2 business. I knew that. Goyal knew that. Everybody on
3 my team knew that.

4 Q. You never talked to Goyal, though, right?

5 A. I did talk to him.

6 Q. Pardon me?

7 A. I did talk to him.

8 Q. Oh, you did? When did you talk to Mr. Goyal?

9 A. I don't recall the date. It was in Wyoming,
10 Minnesota, where we had our research and development.

11 Q. Is he still with the company?

12 A. I don't think so.

13 Q. Why did he leave?

14 A. I don't know.

15 Q. Now, Brian Gillingham, who is he?

16 A. He is one of our engineering -- RZR engineers,
17 very, very knowledgeable with the products.

18 Q. He has been -- was with Polaris for a long
19 time, true?

20 A. He was there when I started.

21 Q. I'm going to show you -- And I have
22 highlighted some of this, and we can certainly change it
23 to unhighlighted, but just to help out.

24 This is Exhibit 3-001. The bottom is
25 Gillingham's e-mail to you back in 2009?

1 A. Yep.

2 (Wine Deposition Exhibit No. 3-001
3 marked as requested.)

4 BY MR. DREYER:

5 Q. It indicates that he's -- This is an e-mail
6 communication with you. You wouldn't dispute that this
7 happened, true?

8 A. No. Actually, I remember reading this one.

9 Q. Good. When did you read this?

10 A. I think I read it in 2019, probably.

11 Q. Okay. Why would you have read it in 2019?

12 A. Because somebody showed it to me.

13 Q. Was it involving litigation?

14 A. Yes.

15 Q. How many times has -- to your knowledge, has
16 Polaris been sued for fires in their RZR's where people
17 have been injured?

18 A. I don't know.

19 Q. Do you have a --

20 A. I'm not going to guess.

21 Q. I don't want you to guess.

22 More than ten?

23 A. I'm not going to guess.

24 MR. FIGLIULO: You didn't want him to guess.

25

1 BY MR. DREYER:

2 Q. I want you to give me your best estimate as
3 the CEO. If it's a total guess, that's fine. My sense
4 would be you would know how many times you have been
5 sued. I could be wrong.

6 Do you have an estimate of the number of times
7 that Polaris, while on your watch, was sued by a
8 customer who suffered an injury, as a result of a fire
9 in a Polaris RZR?

10 A. I will not guess.

11 Q. So it could be as many as 20?

12 A. I don't know.

13 Q. Is that one thing that you -- from your
14 perspective, that you should keep track of, the number
15 of times your company has been sued for a product
16 defect?

17 A. No. I don't think I should keep track of it.
18 I think I should try to limit them, reduce the risk and
19 get them behind us. I wasn't -- Keeping a count would
20 not be helpful to anyone in the organization. I had a
21 team to do that. But it was my job to make sure that we
22 identified all of the issues and got through each of the
23 cases as quickly as we possibly could.

24 Q. When you got there, Polaris outsourced its
25 engine. In 2008, they bought an engine from a

1 | third-party, correct?

2 | A. Fuji Heavy Industries, yes.

3 | Q. At some point in time, they started to --

4 | you -- under your watch, you manufactured the ProStar,

5 | true?

6 | A. Correct.

7 | Q. That started when?

8 | A. I don't -- Probably 2010.

9 | Q. Now, this e-mail from Gillingham is talking

10 | about an engine, and the highlighted part that I have,

11 | "It's a new engine that's more powerful than anything

12 | we've put out to date. Said engine and power requires a

13 | chassis that can handle it with all the integration

14 | technology to support it (cooling, exhaust,

15 | transmission, suspension, shafts, frames, mounts,

16 | et cetera)."

17 | Do you remember this conversation with him by

18 | way of e-mail?

19 | A. Yes. There was follow-up in person. Brian is

20 | one of my favorite people, actually.

21 | Q. So you felt very comfortable talking to Brian

22 | any time, correct?

23 | A. I did. And he felt comfortable talking to me.

24 | Q. I was just going to ask you. He could

25 | certainly tell you things and you would listen to him,

1 true?

2 A. Yes.

3 Q. Your e-mail back, the second paragraph, says
4 "I do not want us to lose our focus on speed, but I do
5 believe we need bring back a stronger focus on quality
6 to ensure we have the proper balance in all that we do."

7 When you made the comment, "I do not want to
8 lose our focus on speed," what does that mean? Can you
9 put that in context for us?

10 A. Polaris had a competitive advantage in their
11 ability to take consumer feedback, build it into
12 vehicles, and design vehicles, that's how they became --
13 we became the leaders in the off-road industry. By that
14 time, I had regularly talked about safety and ethics
15 always as one of our guiding principles. So I felt very
16 comfortable saying I want us to continue to focus on
17 speed because it is part of our competitive advantage
18 but, as I said, we need to bring back a stronger focus
19 on quality to ensure proper balance in all that we do.

20 Q. In this time frame, Mr. Olson asked you about
21 a couple of e-mails. For the record, it's
22 Exhibit 3-002, which is the e-mail back in November
23 of 2012. And then Exhibit 3-004. I'm not going to go
24 back over them because you already talked about them.
25 The e-mail from the person who wrote to you who was with

1 his son when the vehicle caught on fire.

2 Certainly, by 2014, you had become
3 knowledgeable and aware through e-mails and through
4 information within your staff and CPSC that you were
5 having fires on your RZR's, correct?

6 (Wine Deposition Exhibit Nos. 3-002
7 and 3-004 marked as requested.)

8 BY THE WITNESS:

9 A. I don't recall in 2014. At that point, my
10 recollection is that they were special cause events. I
11 treated special cause events different from systemic
12 events. At that point, my recollection was these were
13 still special cause events.

14 Q. That was your sense of it, correct?

15 A. That was my sense of it, yes.

16 Q. Here is Exhibit 3-027. This is an e-mail
17 dated July 21st, 2015, from you to a couple of your
18 individuals, where you were kicking forward an e-mail
19 that you had gotten from someone else in July of 2015,
20 that he had a 2013 900 XP with only 100 hours on it and
21 it caught on fire.

22 Do you remember getting this e-mail?

23 A. Can I have a chance to read this, please?

24 Q. Of course. My question to you is: Do you
25 remember getting the e-mail?

1 MR. FIGLIULO: What is this, please?

2 MR. DREYER: 3-027.

3 (Wine Deposition Exhibit No. 3-027

4 marked as requested.)

5 BY THE WITNESS:

6 A. I do not recall this e-mail string.

7 Q. What was Northstar Funding?

8 A. Northstar was a program that we would use to
9 elevate our dealers for reaching certain levels of
10 excellence.

11 Q. Okay. Was someone trying to kill your
12 Northstar Funding, do you remember?

13 A. There was disagreement amongst various people
14 in the organization whether that was the right course of
15 action for us to take. It was debatable whether that
16 should have been done or not. Tim Larson was somebody
17 that was in favor of it and there were others that were
18 not.

19 Q. So this is an e-mail 3-005. You got an
20 e-mail -- a copy of an e-mail from Bennett Morgan. He's
21 your COO, correct?

22 (Wine Deposition Exhibit No. 3-005

23 marked as requested.)

24 BY THE WITNESS:

25 A. Correct.

1 Q. He would be most knowledgeable about the money
2 that the company was bringing in, both gross and profit?

3 A. Well, my CFO would also be very knowledgeable
4 of that. The corporate controller. Bennett would as
5 well.

6 Q. He would also know what you make, right?

7 A. Everybody knows what I make.

8 Q. It's public record, right?

9 A. Right.

10 Q. Each year you were there, your salary went up?

11 A. No.

12 Q. Your compensation went up?

13 A. No.

14 Q. In terms of this e-mail to you, it's talking
15 about the RZR CPSC recalls. He's talking about, "We
16 should consider negative adjustments to our AFF and
17 ORV." What does that mean?

18 A. April financial forecast.

19 Q. This e-mail is dealing with the profitability
20 of the company?

21 A. Actually, his e-mail was related to customer
22 satisfaction, market share, profitability. It was
23 related to the business. Not just one aspect of it.

24 (Wine Deposition Exhibit No. 3-028
25 marked as requested.)

1 BY MR. DREYER:

2 Q. Then Exhibit 3-028, I'm not going to show it
3 to you because Mr. Olson went through that with you.
4 That's the May 2016 e-mails relative to complaints.
5 Let's look at e-mail -- rather -- excuse me --
6 Exhibit 3-019.

7 (Wine Deposition Exhibit No. 3-019
8 marked as requested.)

9 MR. FIGLIULO: The preamble you just said is not
10 part of your question.

11 MR. DREYER: I'm just thinking out loud. I'm
12 trying to go quickly for you.

13 MR. FIGLIULO: I'm not complaining.

14 MR. DREYER: There wasn't a question pending, just
15 for the record.

16 BY MR. DREYER:

17 Q. So this is a June 13, 2016, e-mail from you to
18 Dwight Lowie?

19 A. Lowie.

20 Q. Lowie. Thank you. This is dealing with some
21 kind of a meeting you're going to have on that date?

22 A. Yep.

23 Q. Do you remember, was there -- It says, "For
24 our first executive staff meeting," right?

25 A. Yeah.

1 Q. "Thanks for carving out 90 minutes on Thursday
2 for our first executive staff meeting"?

3 A. Yeah.

4 Q. Why were you now going to have these executive
5 staff meeting?

6 A. We broadened the leadership team to include
7 additional members, and that was the first meeting of
8 that broader team.

9 Q. Okay. This is before you -- Strike that.

10 This is about the same time you reached out to
11 Crowell & Moring to do their workup, right?

12 A. I think that was April, but I don't ...

13 Q. Well, the report is August 2nd, but we know
14 now we have also received a July 2016 kind of preamble
15 to the report, and the materials would seem to indicate
16 that you got -- you retained that firm to do that work
17 in May of 2016; does that sound about right?

18 A. I said April. It could have been May. So,
19 yes, sounds about right.

20 Q. So this is in the same time frame. If it was,
21 in fact, May, Mr. Wine, would that mean you had already
22 made the decision you need to have this outside
23 independent group look at your business?

24 MR. FIGLIULO: Objection; form. That's not what he
25 said.

1 BY THE WITNESS:

2 A. I believe I was quite clear. General counsel,
3 Stacy Bogart, and myself felt it was important to have
4 the firm that employed the former general counsel of the
5 Consumer Product Safety Committee evaluate the work that
6 we were doing and make recommendations to ensure that we
7 were in proper compliance with our work in relation to
8 the CPSC.

9 MR. DREYER: So I just got this when I was
10 traveling. Maybe one of you gentlemen could give him
11 Exhibit 22. I have marked this as Exhibit 1-001 to the
12 Richmond matter, but this is the same as Exhibit 22 that
13 Mr. Olson marked.

14 (Wine Deposition Exhibit No. 1-001
15 marked as requested.)

16 MR. COLLIER: I see what you're saying.

17 BY THE WITNESS:

18 A. I've got it.

19 Q. The title -- You know that Crowell & Moring is
20 a law firm, right?

21 A. Yes.

22 Q. You indicated that one of the authors is a
23 former general counsel for the regulatory agency that
24 you have to answer to, correct?

25 A. Cheryl Falvey, yes.

1 Q. So the thought process you're telling us is:
2 Let's hire someone who has worked with CPSC, been their
3 general counsel, and deal with this issue of complying
4 with the regulations; is that basically what you were
5 thinking?

6 A. Yes.

7 Q. Okay.

8 A. But, remember, this was -- the report was
9 developed for the board of directors. It wasn't
10 developed for management. Because I wanted the board to
11 see an independent view that I didn't -- I didn't want
12 to opine on this. I wanted the board to see what we had
13 done, so it was a -- Yes.

14 Q. The title, "Embracing Safety As a Business
15 Priority," was that your title or was that their title?

16 A. I don't want to be a smart-ass but, by
17 definition, it's their document, it's their title.

18 Q. You gave them the assignment. I don't think
19 you're being a smart-ass at all. I'm just asking.

20 A. I didn't give them the assignment. I don't
21 think Stacy Bogart told them what to call this.

22 Q. Well, let's look at Page 4. Right in that
23 second paragraph, it says, "Polaris is currently in the
24 middle of the RZR recall, is managing an additional
25 investigation involving the RZR Turbo for thermal

1 issues, and is answering questions from CPSC regarding
2 its execution of the RZR recall given recent fires in
3 repaired vehicles." That's accurate, correct?

4 A. Yes. Well, hold on. It's accurate what the
5 document says. I'm not saying it's accurate what she
6 attests here.

7 Q. That's what I'm trying to find out. You were
8 there, Mr. Wine.

9 Is her summary that you're in the middle of
10 the RZR recall, that you're managing additional issues
11 regarding the RZR Turbo for thermal issues, and that
12 you're answering questions from CPS regarding the
13 execution of the recall given recent fires in repaired
14 vehicles, all I'm asking you is: Is that an accurate
15 statement of fact that that's what the situation was as
16 of August of 2016?

17 A. I believe that it is.

18 Q. Okay. Now, at the bottom of that paragraph,
19 it says, "We were hired" -- Let's read the whole thing,
20 so we're -- It says, "In the course of our
21 investigation, we learned of concerns about our vehicles
22 as well, including a similar misfire issue in certain
23 Indian brand motorcycles and other investigations into
24 the Sportsman 570 and Ranger 570." Those are different
25 products from the RZR, right?

1 A. Correct.

2 Q. "We do not represent the company regard to
3 these matters. We were hired for an entirely different
4 purpose. As Scott Wine, the Polaris chairman and CEO,
5 put it to us on our first day, we have been asked to
6 make the company better when it comes to dealing with
7 safety concerns"; is that accurate?

8 A. It is accurate that that's what -- In a
9 conversation with them, I conveyed my expectations that
10 they would be part of that, but --

11 Q. Okay. That's --

12 MR. FIGLIULO: Hold on. Let him finish.

13 MR. DREYER: I'm sorry. Thought he was done.

14 BY THE WITNESS:

15 A. -- but that was me saying a personal goal.
16 But the actual purpose of engaging them was provide
17 advice on how we could position ourselves with the
18 Consumer Product Safety Commission. That is -- I did
19 not sign the contract with them telling them exactly
20 what we wanted them to do. This was my verbal saying
21 help us get better, but that was different from what the
22 contractual terms of the agreement were.

23 Q. We were never given the contract, so I
24 couldn't address that for you, Mr. Wine. I'm just
25 trying to find out, did the authors of this document --

1 Just for the record, you said it's not an audit. I
2 don't mean to quibble with you.

3 On the second page, it says, "Introduction and
4 audit process." Do you see that on Page 2?

5 A. I see that.

6 Q. Would you agree it's an audit?

7 A. I would agree that, in order to develop
8 recommendations, they have to do some audit work.

9 Q. Okay.

10 A. But it is insufficient to say that the entire
11 document is an audit. They have to get a foundation of
12 knowledge to make recommendations to us, and I think
13 they did that.

14 Q. And you were looking for recommendations,
15 right?

16 A. Yes.

17 Q. Okay. This comment -- It sounds like you guys
18 sat down together and you kind of had an interchange and
19 you explained the purpose behind what you wanted to do,
20 true?

21 A. I did meet with them at the beginning of
22 the ...

23 Q. Her comment here, or whoever wrote it, the
24 author, that "We have been asked to make the company
25 better when it comes to dealing with safety concerns."

1 Understanding that might not have been the whole context
2 of what you said, but that comment is accurate, is it
3 not?

4 MR. FIGLIULO: Objection. Are you saying it's
5 written or something more than that?

6 BY MR. DREYER:

7 Q. No. I'm asking, does it capture what you told
8 these authors that were going to be charged and paying
9 you for -- excuse me -- you paying them to do this
10 independent study, audit of your company, were you
11 asking them to make the company better when you talked
12 to them in May of 2016, when it comes to dealing with
13 safety concerns?

14 MR. COLLIER: Objection.

15 BY THE WITNESS:

16 A. I believe what I meant was that part of
17 engaging them was to make us better. That would be
18 making recommendations on how we better engage with the
19 Consumer Product Safety Committee, who was our
20 regulator. Those recommendations would make us better.
21 That was the goal.

22 Q. Well, that -- CPSC is a regulatory agency and
23 they, ultimately, if -- they have the ability to issue a
24 civil fine, true?

25 A. Yes, they do.

1 Q. Which they, ultimately, did, correct?

2 MR. FIGLIULO: Objection.

3 BY THE WITNESS:

4 A. No, they did not. We reached a settlement
5 with the Consumer Product Safety Commission. They did
6 not issue a fine.

7 Q. In terms of your work with them, they,
8 ultimately, looked to Polaris to pay it, what,
9 \$21 million for failure to report timely?

10 A. I don't recall how much -- It was
11 \$27.2 million, I believe, in total.

12 Q. Was it because you had failed to report
13 accurately information or withheld information?

14 A. The allegation was that we had failed to
15 report.

16 Q. Okay. Did Polaris pay the -- Was it a fine?
17 What would you call it?

18 A. It was a settlement agreement.

19 Q. Did you pay the settlement? Did Polaris pay
20 the \$27 million?

21 A. I think -- Yes, we did.

22 Q. Now, on the bottom of Page 4 and the top of
23 Page 5, where it's written, "It's a story about a
24 failure to assume responsibility for the safety risks
25 presented by these vehicles and reluctance to engage in

1 field action to remedy these risks." You, obviously,
2 read that when you got this document, correct?

3 A. Yes.

4 Q. Did you ever fire out any kind of response to
5 them where you disagreed with their comments like that?

6 A. That was not the intent for me, to get into an
7 agreement or disagreement with them. They made
8 recommendations, and it was our job to take the ones
9 that mattered.

10 Many of them, as I said earlier, we had
11 already taken action upon. But it wasn't -- It wasn't
12 the way I wanted to engage with a third-party, to tell
13 them what they had gotten wrong in my opinion.

14 Q. When they said, "The story is about a failure
15 to assume responsibility for safety risks presented by
16 these vehicles and reluctance to engage in field action
17 to remedy those risks," did that upset you when they put
18 that in this document?

19 A. I don't know that I was upset.

20 Q. Did you think it was --

21 A. We had already identified a lot of these
22 issues and were in the process or had already remediated
23 most of them.

24 Q. Well -- And I appreciate the answer, Mr. Wine,
25 but when you say you remediated most of them, other than

1 you just saying you remediated most of them, who would
2 you tell us that would be able to testify in front of a
3 jury that you had remediated most of these problems by
4 August of 2016?

5 A. I can tell you that -- Ken Pucel, Stacy
6 Bogart, Paul Vitrano. I mean, we had really taken so
7 much to heart from 2015, through the learning process,
8 that that's -- Why do you think our vehicles are
9 performing the way that they are now? It was that
10 remediation effort that worked.

11 Q. I'm not here to argue with you, Mr. --

12 A. No. But you are arguing with me. We put the
13 people in place, we put the processes in place, we did
14 the recalls, we remediated these things.

15 Q. Who -- Who would you tell us that Polaris
16 could put in a witness stand in front of a jury to
17 explain what remediation was actually done? Not you
18 saying it was done, but it was actually done. Who would
19 we talk to?

20 A. I would look at the CPSC documents. I would
21 look at our engineering documents. I would look at the
22 recall rates of the vehicles. I would look at the
23 performance of the vehicles in the field.

24 Q. Who with Polaris -- You have told us that it
25 was remediated. I'm asking who actually has the

1 foundational basis to make that comment? Who reached
2 that opinion? Who would you turn to say, Hey, you need
3 to testify about our remediation efforts?

4 A. I believe you have already talked to Ken
5 Pucel, and I'm sure he's the most competent person to
6 talk about those remediation efforts.

7 Q. You would agree with the old adage "actions
8 speak louder than words," true?

9 A. I don't think we should talk about adages
10 here, but ...

11 Q. Is that a true statement? I mean, you have
12 given us a bunch of adages during the course of the day.

13 Is that an accurate adage?

14 MR. FIGLIULO: Objection; form.

15 BY MR. DREYER:

16 Q. Actions speak louder than words?

17 MR. FIGLIULO: Objection; form.

18 BY THE WITNESS:

19 A. I think that is usually true.

20 Q. At the bottom of Page 5, that last sentence
21 says, "While Polaris has made some changes to its safety
22 process, we do not believe they go far enough to address
23 the significant delay in acting to resolve the thermal
24 issues addressed by the RZR recall." You must have read
25 that when you got this report, right?

1 A. I did.

2 Q. You have been telling us you made all these
3 safety changes. Is that statement accurate?

4 A. Remember, this started -- we got -- We became
5 aware of -- that these were systemic issues in 2015.
6 This was eight or nine months later. We had engaged in
7 a lot of efforts. Really, it was the post-sales
8 surveillance group that we created about this time that
9 started to give us much more insight in the ability to
10 very quickly identify and rectify these situations.

11 Q. So, Mr. Wine, after this report, this audit
12 was given to you, there was a follow-up in April
13 of 2017, right, so five months before my client suffered
14 her injuries?

15 MR. FIGLIULO: Objection; form and foundation.

16 BY MR. DREYER:

17 Q. Do you remember?

18 A. I don't recall.

19 Q. Why don't you look at 5-003 in the binder
20 there?

21 (Wine Deposition Exhibit No. 5-003
22 marked as requested.)

23 BY THE WITNESS:

24 A. I don't know how to find 5-003. Again, I just
25 got --

1 MR. DREYER: I don't have it because I didn't have
2 time to copy anything because I got here --

3 MR. COLLIER: I can give it to him.

4 MR. DREYER: That would be great.

5 BY MR. DREYER:

6 Q. 5-003 that counsel is giving to you is dated
7 April 2nd, 2017, so that is eight months after the audit
8 that you got that we have been talking about, which is
9 Exhibit 1-001 or 22.

10 Did you get this document -- April 2nd, 2017
11 document?

12 A. I don't recall.

13 Q. As you sit here today -- I want you to turn
14 to -- I don't have a copy in front of me, but turn to
15 the page that has the title "Vulnerabilities" on it.
16 Keep going. It's -- it's -- Right at the top it will
17 say, "Vulnerabilities."

18 MR. DREYER: What page is that, Jim?

19 MR. FIGLIULO: This is 10.

20 BY MR. DREYER:

21 Q. Page 10. Do you see the word at the top,
22 "Vulnerabilities"?

23 A. Yes.

24 Q. Okay. Now, this is the document, Mr. Wine,
25 that counsel gave to us. The next eight to ten pages

1 are all deleted or redacted. We didn't get those.

2 When you got this report from this company,
3 would you have read the report?

4 MR. FIGLIULO: Objection; assumes he got the
5 report.

6 MR. COLLIER: Objection; form.

7 BY MR. DREYER:

8 Q. Did you get the report?

9 A. I don't recall.

10 Q. As you sit here today, understanding
11 everything that was going on, from lawsuits, to
12 incidents, to dealing with CPSC, you don't remember
13 getting this April 27th, 2017 follow-up report about how
14 good you were doing or your vulnerabilities; you don't
15 remember anything, true?

16 A. I don't recall.

17 Q. Okay. All right. Let's go back to the
18 document you do remember. This is the August 2nd CMA
19 report.

20 MR. FIGLIULO: That's the Crowell & Moring?

21 MR. DREYER: Yes. 1-001 or 22.

22 MR. OLSON: I think it's August 4.

23 MR. DREYER: Excuse me. I think I said the wrong
24 date. Let's go to Page 9 of that document, if you
25 would.

1 Do you need to take a break, Mr. Wine, are you
2 good?

3 THE WITNESS: I'm good.

4 BY MR. DREYER:

5 Q. Page 9, bottom of that page.

6 A. Yep.

7 Q. This report, this audit, indicates, "It's
8 clear, however, the possibility of thermal issues with
9 the RZR 1000 was identified relatively soon after the
10 product launch. A thermal mitigation committee began
11 meeting in early 2014 to assess the situation." Does
12 that sound accurate?

13 MR. COLLIER: Objection; form.

14 BY MR. DREYER:

15 Q. Based upon your recollection of what was going
16 on back then.

17 A. I don't know. I do not know.

18 Q. Let's --

19 MR. FIGLIULO: I'm not sure what page we're on now.

20 MR. DREYER: That was 9.

21 BY MR. DREYER:

22 Q. Let's go to Page 11. This page talks about
23 "Failure to Design For Safety."

24 Do you see that heading, sir?

25 A. Yes.

1 Q. When you got it, you would have read that,
2 right?

3 A. Yes.

4 Q. The sentence starts with, "It does" -- It
5 reads, It does not appear that a launching either --
6 Strike that.

7 Let me start over again.

8 Sentence in that paragraph says, "It does not
9 appear that in launching either the RZR 900 or RZR 1000
10 sufficient FMEA work was done to consider potential
11 thermal issues." You would have read that, right?

12 A. Yes.

13 Q. Did you, after reading that, go to Longren or
14 go to anybody that you thought might have knowledge
15 about what happened to ask about this specific topic of
16 FMEA before launching?

17 A. No. Actually, what I did is I required every
18 recommendation in here was put in, and we tracked the
19 process to ensure that it was followed up and
20 implemented. So every single recommendation that was
21 made, we had a process to ensure that there was an owner
22 and it was tracked and followed up with.

23 Q. Who was responsible to make sure that every
24 recommendation made in this report was tracked and
25 followed?

1 A. My general counsel was the one that kept track
2 of those.

3 Q. That would be --

4 A. Stacy Bogart.

5 Q. Did she ever prepare a report or anything like
6 that for you about what was going on?

7 A. I don't -- She kept me informed of when we
8 were -- how we were doing, but it was mostly verbally.

9 Q. I get that you guys would talk, and I know
10 she's a lawyer, so you can't really talk too much about
11 what she's telling you.

12 My question, Mr. Wine, is: Did she ever give
13 you a status report, understanding you charged her with
14 the responsibility of making sure the things that are
15 recommended in this report are followed?

16 MR. FIGLIULO: Objection.

17 BY MR. DREYER:

18 Q. Let me put it this way because I don't
19 remember.

20 Mr. Wine, whatever you just told us, that you
21 put Stacy Bogart in charge of to follow through, as you
22 described it, each and every recommendation that was
23 made, did you ever get anything in writing from her
24 following up on what happened?

25 A. I did not.

1 Q. Let's go to Page 14. Mr. Olson asked you some
2 questions about this. This is the no-engineering
3 ownership. The first sentence says, We found it
4 surprising that the product launch team engineers were
5 not given much more -- Strike that.

6 "We found it surprising that the product
7 launch team engineers were not much more engaged in
8 determining what was going on with fires in the RZR's.
9 Given how soon after the product launch these fires
10 started occurring, we would have expected more of a
11 reaction from the team that designed the product to find
12 the cause."

13 Now, understanding they had interviewed your
14 engineers and that was the thing -- the conclusion they
15 came to, if it's accurate, what is just written there,
16 you would be critical of your engineering department,
17 right?

18 MR. FIGLIULO: Objection; form, foundation, assumes
19 facts not in evidence.

20 MR. COLLIER: Join.

21 BY THE WITNESS:

22 A. We had a safety team in Roseau that would get
23 the issues and would look into the issues and report
24 them through to the off-road vehicle team. I'm not --
25 The way we ran the business at the time, it wasn't the

1 product launch team's responsibility to go back and look
2 at all those things. It was a learning that we got
3 through the process.

4 Q. So would you be critical of your engineering
5 team if this comment that was made, this conclusion they
6 reached, that it appears to us that even the safety
7 claims engineering team in Roseau lacked a sense of
8 urgency in determining the root cause of thermal issues?

9 If that's true, would you be critical of your
10 engineering team?

11 A. The lack of urgency was more related to the
12 complexity of what they were trying to deal with, and it
13 took them time. I don't know that it was lack of
14 desire. It was the difficulty in finding out the root
15 causes. We put more resources on it. We put the
16 processes in place that allowed us to do that much
17 faster. But they didn't -- I wouldn't criticize them
18 for doing the work with the tools they had at the time.

19 Q. Okay. Page 15. And the bullet point, "A
20 failure in the identification analysis and evaluation of
21 compliance risk, our inquiry has revealed a failure to
22 identify, analyze, evaluate regulatory obligations
23 compliant risks. Employees do not collectively have a
24 clear understanding of the definition of the type of
25 events warranting an investigation and reporting to

1 federal regulators. For that reason, among others, the
2 company did not act with the urgency necessary to
3 address the severity of the risk presented by the
4 thermal incidents in the RZR 900 and RZR 1000 and was
5 too quick to explain away the incidents and blame
6 consumer misuse as the cause."

7 So my question to you is: If that conclusion
8 is accurate, would you be critical of your company and
9 its handling of the situation?

10 A. This is the view of a regulator providing us a
11 recommendation on how we could be better. I think,
12 again, by the time this review was given to us, we had
13 already made significant improvements in how we do it.
14 But this is a regulator, again, that was at the firm
15 looking at the penultimate way that you could be in
16 communication, and we were certainly not the best -- By
17 the time that this was in place, we had already
18 remediated. But I think they are grading us in a way
19 that we weren't as -- we weren't world class in our
20 reporting at that time.

21 Q. Well --

22 A. That's why we created post-sales surveillance.
23 That's why we created the product teams to do that.

24 Q. Things that were not in place before, correct?

25 A. Correct.

1 Q. And my question to you is: This conclusion
2 that they reached, that the company did not act with the
3 urgency necessary to address the severity of the risk
4 presented by these thermal incidents, if that is, in
5 fact, true, you would be critical of your company for
6 failing to address them with a degree of urgency, true?

7 MR. FIGLIULO: Objection; form, foundation.

8 MR. COLLIER: Join.

9 BY THE WITNESS:

10 A. I think the record states previously how I
11 felt about, you know, what we didn't get right. I think
12 we could have been better in this particular area.

13 Q. Okay. How about Page 16, the bullet point
14 says, "An organizational culture prone to accept
15 unreasonable risk." If that's true, if Polaris as an
16 organization had a culture that was prone to accept
17 unreasonable risk to its consumers, you would be
18 critical of Polaris, right?

19 MR. FIGLIULO: Objection; form, foundation, assumes
20 facts not in evidence.

21 MR. COLLIER: Join.

22 BY THE WITNESS:

23 A. I don't agree with the assessment, so I'm not
24 going to comment on it.

25 Q. Understanding you don't agree, and you have

1 also told us many times that you had been addressing it
2 by the time this report came out, what your perspective
3 is, if, in fact, this statement is accurate, that your
4 organization, Polaris, has a culture prone to accepting
5 unreasonable risk -- if that was true, you would be
6 critical of your company, true, if it was accepting
7 unreasonable risk to consumers in operating these RZR's?

8 MR. FIGLIULO: Objection; form, it's a hypothetical
9 question.

10 MR. COLLIER: Join.

11 BY MR. DREYER:

12 Q. Can you answer that?

13 A. I'm not going to answer that.

14 Q. All right. Page 19, "Insufficient senior
15 management board oversight." It reads, the first
16 sentence, "The board was apprised of the thermal issues
17 on the RZR 900 and RZR 1000 much too late on the overall
18 timetable, given the fire claims that had amassed over
19 time on the product." If that statement is accurate,
20 would you be critical of your company?

21 MR. FIGLIULO: Same objections.

22 MR. COLLIER: Join.

23 BY THE WITNESS:

24 A. My belief is that as soon as we came aware of
25 systemic issues with RZR fires, we reported them to the

1 board of directors. So I don't believe that that
2 statement is true.

3 Q. Okay. Now, going back to Exhibit 3-019. This
4 is that e-mail I gave you. It should have a little
5 sticker right there. There it is. This is shortly
6 before you got the CMA report, and you're doing this
7 first executive staff meeting.

8 MR. COLLIER: I'm sorry. What number?

9 MR. DREYER: 3-019.

10 (Wine Deposition Exhibit No. 3-019
11 marked as requested.)

12 BY MR. DREYER:

13 Q. This is -- The second page of that document
14 has the reference to what we talked about earlier about
15 being in the ditch, it's clear how we got into the
16 ditch. This is your work product, right, you wrote this
17 and you meant what you said, right?

18 A. Yes.

19 Q. So in June of 2016, two months before this
20 report came out, the paragraph reads, "It's clear how we
21 got in the ditch, we let dealer inventory get out of
22 control, we lost market share in ATV and RZR, we
23 incurred tremendous costs related to Spirit Lake paint
24 debacle and the systemic execution failures underlying
25 these problems also led to the thermal issues behind the

1 RZR recall. In truth, we not only got into the ditch,
2 we dug the ditch ourselves." That accurately reflected
3 how you felt, true?

4 A. I will state for the record, I meant what I
5 wrote.

6 Q. Okay. So it's true. By that time -- Does the
7 name Robert Laurie ring a bell for you?

8 A. No, it does not.

9 Q. Mr. Laurie (phonetic) has been deposed. He
10 was an employee of Polaris. Did anyone -- Have you ever
11 read his deposition, what happened to him back in August
12 of 2014?

13 A. I have stated for the record, I have not read
14 any previous depositions.

15 Q. I just thought maybe you forgot about that
16 one.

17 A. So you would ask again.

18 Q. Yeah, might as well. I'll represent to you he
19 has testified in August of 2014, he was driving a 2014
20 RZR 1000, so it's a brand-new model year, and it caught
21 on fire. He reported it. He has testified under oath
22 he reported it. Basically no one took any action on it.

23 Did you -- Let me withdraw the "no one took
24 any action." The facts will speak for themselves when
25 he testifies.

1 Did anybody, any employees, subordinates, tell
2 you about this incident involving Mr. Laurie?

3 MR. FIGLIULO: Objection; form, foundation.

4 MR. COLLIER: Join.

5 BY THE WITNESS:

6 A. No.

7 Q. Does the name Tara Ivory ring a bell?

8 A. No.

9 Q. Ms. Ivory also testified under oath she was an
10 employee of Polaris. And in May of 2015, she was with
11 her 15-year-old daughter, which would be appropriate,
12 right, to have a 15-year-old in there, true?

13 A. True.

14 Q. I mean, your kids were under 18 when you took
15 them in the RZR?

16 A. Yes.

17 Q. That she had her 2015, so same model -- you
18 know, brand-new model year, because it happened in 2015,
19 her 900 -- RZR 900 burst into flames and she was told --
20 I'll represent to you she testified she was told to call
21 it a thermal event because it sounds better than a fire.
22 That's what she testified to. Did anyone ever report
23 that another employee had a RZR burst into flames?

24 MR. FIGLIULO: Object to the speech, and the
25 question assumes facts not in evidence, hypothetical.

1 MR. COLLIER: Join. Objection; form.

2 BY THE WITNESS:

3 A. No.

4 Q. No information relayed to you, correct?

5 A. No. Correct.

6 Q. Mr. Olson asked you about Baylee Hoalldridge.

7 That incident happened on July 4th, 2015, in a brand new
8 2015 RZR 900. I won't recount the nature of her
9 injuries, but you certainly were aware of that event,
10 true?

11 A. I was aware.

12 MR. FIGLIULO: Objection; form.

13 BY THE WITNESS:

14 A. For the record, the RZR was rolled on its
15 side, and we were unable to determine the root cause.

16 Q. Did you go out to the scene?

17 A. I did not.

18 Q. Did you see a picture of it rolled on its
19 side?

20 A. I did.

21 Q. Did you have some people out there shortly
22 after the event?

23 A. I don't recall, but I'm not sure.

24 Q. Did anyone ever indicate what the root cause
25 was of the fire?

1 A. We did not determine the root cause. We had
2 hypotheses that --

3 Q. That wasn't my question. Was a root cause
4 determined?

5 A. No.

6 Q. Did her family sue?

7 A. I don't recall.

8 Q. Did that -- Was a claim filed or --

9 A. A claim was filed. We settled that.

10 Q. Every time Polaris settles one of these cases,
11 they are under confidentiality, right?

12 MR. COLLIER: Objection; form.

13 MR. FIGLIULO: Join.

14 BY THE WITNESS:

15 A. That's normal practice, yes.

16 Q. The Klingaman case that Mr. Olson asked you
17 about, that was also a July 2015 -- at least, you were
18 sued in July of 2015. It happened in November of 2013.

19 Do you remember that lawsuit?

20 A. I remember looking at the document earlier. I
21 remember there was a suit. I don't remember the
22 specifics of it.

23 Q. Do you remember the extent of Mr. Klingaman's
24 injuries?

25 A. I do not.

1 Q. That case was resolved?

2 A. I do not know.

3 Q. Did it go to trial?

4 A. I don't -- I don't believe it went to trial.

5 I'm sure it did not go to trial. I don't know if we
6 settled or not.

7 Q. Michael Jensen, do you remember that event?

8 A. I do not.

9 Q. It happened in August of 2015 with a 2015 RZR
10 1000, it burned his face and arms; that doesn't ring any
11 bells?

12 A. It does not.

13 MR. FIGLIULO: Objection; form, assumes facts not
14 in evidence, foundation.

15 MR. COLLIER: Join.

16 BY MR. DREYER:

17 Q. Do you remember, back in August of 2016, a RZR
18 causing a fire where U.S. Forest Service sent you folks
19 a bill for \$11 million?

20 A. I don't remember the specifics, but I remember
21 generally that happened, yes.

22 Q. Did you guys pay that?

23 A. I do not believe so.

24 Q. Did you litigate that with the U.S. Forest
25 Service, or do you know?

1 A. I do not recall.

2 Q. Let me show you Exhibit 2000 -- excuse me --
3 2-005. This is a notice of indebtedness that was served
4 on you back in -- by "you," I mean on Polaris -- in May
5 of 2018 for an incident that happened on August 7, 2016,
6 where it cost -- they called it the pilot fire. It cost
7 \$11 million to put it out.

8 Does that -- Do you remember getting this?

9 (Wine Deposition Exhibit No. 2-005
10 marked as requested.)

11 BY THE WITNESS:

12 A. I don't remember getting this.

13 Q. Who would know whether it was paid?

14 A. I'm sure Lucy Clark Dougherty and Mike
15 Speetzen, the CFO at the time, would know.

16 Q. Did you ever see Exhibit 2-006?

17 A. No.

18 (Wine Deposition Exhibit No. 2-006
19 marked as requested.)

20 BY MR. DREYER:

21 Q. This is a document that indicates that our
22 investigator -- This is from Ryan Nilsen, who is an
23 attorney with Bowman and Brook, and an e-mail to Stacy
24 Bogart, Paul Cereghini, also with Bowman and Brook, and
25 Jeff Eyres, that their investigator had talked to

1 someone on August 8 at 5:00 p.m. "So a Polaris XP 1000
2 caught fire and started the pilot fire in Silverwood.
3 Damn. Not good for Polaris."

4 Bruce later added the photo of the burning
5 green vehicle and a comment that a firefighter friend
6 confirmed it was a RZR?

7 Does that ring any bells for you about that
8 event?

9 A. Again, by this point, we had a post-sales
10 surveillance team in place. I'm sure they would have
11 brought it to my attention. I don't recall the
12 specifics.

13 Q. This is just, like, a week after you got the
14 report from CMA, right, the Crowell & Moring audit?

15 MR. FIGLIULO: Objection; form.

16 BY MR. DREYER:

17 Q. If it was August 4, 2016.

18 A. Then it would have been six days later, yes.

19 Q. Now, Colby Thompson's fire on his 2017 RZR 900
20 happened on July 17, 2017. Do you remember being
21 informed of that?

22 A. Again, the post-sales surveillance process
23 ensured that I was informed when events happened. I
24 don't recall the specifics of it, no.

25 Q. Do you remember Michael Flam's fire on

1 August 14, 2017, in his 2014 RZR 1000?

2 A. I do not.

3 Q. If I were to represent to you that that RZR
4 had the recalls on it and it still caught on fire, does
5 that ring any bells for you?

6 A. No, it does not.

7 Q. I'm going to show you what has been marked as
8 exhibit -- will be marked Exhibit 3-006, Mr. Wine. This
9 is the same time as the previous e-mail I showed you.
10 This appears to be a more-detailed summary on the second
11 page but it's -- this is the -- "it's clear how we got
12 in a ditch" e-mail.

13 (Wine Deposition Exhibit No. 3-006
14 marked as requested.)

15 BY THE WITNESS:

16 A. Uh-huh.

17 Q. You talk here about, in the second page, "What
18 we need to discuss is how we climb out, and steer clear
19 of ditches going forward. I would like to frame this
20 discussion by thinking about the five Whys, in an effort
21 to discern the common failure modes we, as a leadership
22 team, need to own and address."

23 This is your work, right, this document?

24 A. By definition, it was sent from Dwight. It
25 was work that I started, he edited. I don't know, in

1 this draft form, which was Dwight's and which was mine.

2 Q. Mr. Wine, if something is sent out by e-mail,
3 even if you get assistance from one of your people --

4 A. But you're not showing me the e-mail that was
5 sent out. You're showing me the draft that Dwight sent
6 me, and I don't know if it's not the final document.
7 I'm not being cute. I'm just trying to tell you -- When
8 you said it was your work, I don't know it truly was
9 mine. The final document that went out from me, if you
10 ever find it, is what I meant.

11 Q. Okay. I hope we find it. And maybe we have
12 it. But there has been a few documents exchanged here.

13 From your standpoint, nothing is going to come
14 out in e-mail that's attributed to you that's not going
15 to reflect how you feel, true?

16 A. Correct.

17 Q. What are the five Whys?

18 A. Five Whys is a common term in lead
19 manufacturing to get to the root cause of an issue.

20 Q. Tell us what they are.

21 A. It means asking why five times. So you --
22 Somebody gives you the first answer why, then you ask
23 why that happened; the second question, you ask why that
24 happened; the third question, you ask why that happened;
25 the fourth question, you ask why that happened; and the

1 fifth time you ask why again, and hopefully you're at
2 the root cause. That's the five Whys.

3 Q. That concept you just described is to ensure
4 you have products that are defect free and safe for your
5 consumers, right?

6 A. It's one of the tools that's used, yes.

7 Q. Do you know whether anyone ever took you up on
8 your -- going through the five Whys?

9 MR. FIGLIULO: Objection; form, foundation.

10 BY THE WITNESS:

11 A. I don't recall what we did in that -- whether
12 we did that or not. I suspect the tool was regularly
13 used by --

14 Q. It sound like a guess. I'm asking if you know
15 whether it ever was done?

16 MR. FIGLIULO: Objection; form.

17 BY THE WITNESS:

18 A. I do know in our Kaizen activity, we used five
19 Whys to get to the root cause and corrective action.

20 Q. As to the RZR fires?

21 A. I don't recall whether they did it
22 specifically with RZR fires.

23 Q. Now, let's look at -- I'm not going to go
24 through 3-007. This is the document which Mr. Olson
25 went through. I have marked it as Exhibit 3-007.

1 Just a couple of background things. And I'll
2 give it to you just so you can look at it in response.

3 Is this something you did in conjunction with
4 other members of the team?

5 (Wine Deposition Exhibit No. 3-007
6 marked as requested.)

7 BY THE WITNESS:

8 A. This was my presentation at the meeting. So
9 I --

10 Q. Who put it together?

11 A. I put it together, but I got input from
12 others.

13 Q. You were presenting to whom?

14 A. Again, this was our partners -- PCI, which was
15 our -- the senior managers within the company.

16 Q. I'm focusing right now, candidly, Mr. Wine, on
17 events before September of 2017, the Richmond fire, just
18 to get information that you would have had before.

19 This is Exhibit 3-008, sir. This appears to
20 be something from Mr. Brewer at Brewer Cycles. I think
21 Mr. -- I believe Mr. Olson might have addressed this in
22 a different exhibit. It's our 3-008.

23 Do you remember getting this back in July
24 of 2016?

(Wine Deposition Exhibit No. 3-008

marked as requested.)

BY THE WITNESS:

A. I do not, but I -- I mean, I read it earlier,
so I recall now that I got it and responded to it.

Q. Okay. You mean what you say, so what you did
in responding to Mr. Brewer was truthful, right?

A. I did what we said we would do here, yes.

Q. You also say here -- I mean, you wouldn't have
told him you made mistakes along the way, unless you
believe you had, in fact -- meaning Polaris, had made
mistakes, right?

A. I have said that we clearly would not have had
these issues if we would have been Six Sigma, which is
defect free, so we were not defect free.

Q. When you said "here" in response when you
describe -- I mean, your words are "making mistakes
along the way." What mistakes were you thinking about
specifically, do you remember?

A. I believe I was referring to the interaction
with the dealers and executing repairs.

Q. How about not having a thermal engineer? Were
you thinking at all about that?

A. I was not.

Q. Thinking at all about the process that the

1 engineering department went through before they got
2 their new models out, you weren't thinking about that?

3 A. I believe, as it relates to this e-mail to
4 Mr. Brewer, it was specifically -- And that's why I
5 talked about -- Tim Larson and John Kastanic worked in
6 our dealer remediation efforts. They were responsible
7 for -- So my comments were related to the remediation
8 efforts with our dealers, not with the issues you're
9 referring to.

10 Q. I want to show you what I marked as 3-020.
11 Now, attached is document that we have already talked
12 about, that's the Thermal Mitigation Board of Directors
13 Tech Committee Review, dated October 21st, 2015, but
14 your e-mail is August 1st, 2016, correct?

15 (Wine Deposition Exhibit No. 3-020
16 marked as requested.)

17 BY THE WITNESS:

18 A. Yes.

19 Q. You write -- You send it to Stacy, general
20 counsel, and Ken Pucel. Mr. Pucel, what's his title?

21 A. He was the senior vice president of
22 operations, supply chain, lien. He picked up
23 engineering as well. By this -- About this time, he
24 picked up responsibility for off-road vehicle
25 engineering as well.

1 Q. Is he an engineer?

2 A. He is an engineer.

3 Q. What's his training engineering-wise?

4 A. I'm not sure. He was -- The University of
5 Minnesota is where he got his degree from. He spent
6 most of his career in medical device industry, which is
7 why he was so helpful to me, because he understood all
8 of these things, when you have an issue, dealing with
9 regulators, getting to root causes. Ken was a true pro,
10 real --

11 Q. Is he still with Polaris?

12 A. He is.

13 Q. I understand you've got an engineering degree.
14 Lawyers have engineering degrees and they don't practice
15 engineering.

16 My question to you is more specific. Does he
17 have a particular discipline in engineering where he's
18 got a license or a certification of some type?

19 MR. FIGLIULO: Objection; form, foundation.

20 BY MR. DREYER:

21 Q. If you know.

22 A. He is an engineering -- He has an engineering
23 degree. I don't know what additional licenses he has.
24 I do know that he is extremely competent when it comes
25 to all aspects of overseeing engineers. He's one of the

1 most competent people I have ever met, actually.

2 Q. Does he have any thermal engineering
3 background, do you know?

4 A. No. But he's got the knowledge to ask
5 questions to ensure our thermal engineering team was
6 doing the work they needed to do.

7 Q. You sent this -- This was an old e-mail that
8 you found from David Longren, and you were now pushing
9 it back to these folks, Bogart and Pucel, with -- I
10 would characterize it amusing, you know, to yourself and
11 to them. "I ran across this while I was looking for
12 another file tonight. Interesting and disappointing to
13 see how much we have learned in the past nine months. A
14 lot more I could say but I won't." And you attach that
15 nine-month review, right?

16 A. Yes.

17 Q. When you sent it to them, you were reflecting
18 your disappointment about where the company was?

19 A. I was expressing disappointment about where we
20 were when the document was created, in September of that
21 year, but commenting on how much we learned along the
22 way. Remember, I said that once we got this
23 information, it became an aggressive effort to identify
24 systemic and -- address systemic issues.

25 Q. You had the ability at any point in time, if

1 you wanted to, to issue a no ride on your vehicles if
2 you felt it was prudent to do so for the safety of
3 customers, right?

4 A. I could have recommended it, yes.

5 Q. Exhibit 3-021, this is a July 28th -- This is
6 about -- 2016, this is about a year before Colby
7 Thompson's fire. And this says -- Why don't you take a
8 look at it. Maybe give us some context. What we'll do
9 is I can take -- We can take a short break while you're
10 reading it so that we're not filming you while you're
11 reading a two-page document.

12 THE VIDEOGRAPHER: We're off the record at
13 4:33 p.m.

14 (A short break was had.)

15 THE VIDEOGRAPHER: We're back on the record at
16 4:41 p.m.

17 (Wine Deposition Exhibit No. 3-021
18 marked as requested.)

19 BY MR. DREYER:

20 Q. Mr. Wine, you have had a chance to read this
21 July 28th e-mail of 2016, right?

22 A. Yes.

23 Q. It indicates that "Last Saturday, July 24th, a
24 RZR Turbo caught on fire." And people were injured,
25 true?

1 A. Yes.

2 Q. It looks like your people flew out there to
3 look at it and did an inspection limited to the full
4 burn of the vehicle, right?

5 A. Yes.

6 Q. No aftermarket accessories?

7 A. That's correct. That's what the document
8 says.

9 Q. This is from you -- This is the information
10 you got. It didn't roll, right?

11 A. Yes.

12 Q. You know, with candor, Mr. Wine, you've
13 continued to have -- Even though you told us
14 remediations were made even before the August 2016
15 report, Polaris continued to have these vehicles catch
16 on fire and people get injured and -- badly injured and
17 killed, true?

18 A. The remediation work that we did was very --
19 Again, every systemic issue we could identify, we
20 corrected. I don't know what the root cause of this
21 particular issue was.

22 Q. And you don't know the root cause of the
23 Thompson incident, true?

24 A. I don't recall whether they know that or not.

25 Q. You don't know the root cause of the Richmond

1 incident, which resulted in her severe burns and

2 Mr. Whitfield's severe burns and her ultimate death; you

3 just don't know what the root cause was, right?

4 MR. FIGLIULO: Objection; foundation.

5 BY THE WITNESS:

6 A. I don't recall.

7 Q. I think you told Mr. Olson earlier you

8 remember all of the death cases at Polaris?

9 A. I don't think I said that. Can --

10 Q. Do you remember?

11 A. I remember most of -- Obviously we care deeply

12 about anyone getting injured, but I don't remember the

13 specifics of every case.

14 Q. Do you remember like -- You have had people

15 die in fires right up to the point in time when you

16 left, right? Like, in 2019, you had a fire where your

17 customer was killed. Do you remember that?

18 MR. FIGLIULO: Objection; form, foundation.

19 BY THE WITNESS:

20 A. I don't recall.

21 MR. COLLIER: Join.

22 BY MR. DREYER:

23 Q. You don't remember?

24 A. I don't recall.

25 Q. Steven Groves, G R O V E S, a young guy, was

1 killed in a May 2019 incident when his 2017 RZR Turbo
2 burst into flames and he died. Have you heard anything
3 about that while you were there?

4 A. I do not recall. I do know our post-sales
5 surveillance team would have reviewed that with me, and
6 I probably heard it at the time, but I don't recall the
7 specifics of it.

8 Q. How would you -- I mean, did you contact the
9 family to check out -- check them out in any way, the
10 Groves family?

11 A. I did not.

12 Q. I mean, did Polaris reach out to the Groves
13 family?

14 A. I do not know how particularly -- that
15 particular case was handled.

16 Q. Did Polaris reach out to the Richmond family?

17 A. I do not -- I know we were engaged with
18 counsel on that, but I don't know whether we directed
19 the family or not.

20 Q. Do you know how long she survived before she
21 died?

22 A. I do not.

23 Q. Do you know whether they had to cut off body
24 parts?

25 A. I do not.

1 Q. You would agree no parent should go through
2 that, right?

3 MR. COLLIER: Objection.

4 MR. FIGLIULO: Objection; form, foundation.

5 BY MR. DREYER:

6 Q. Lose a child to burns and have amputations
7 while they are watching their child in the hospital?

8 MR. FIGLIULO: Objection; form, foundation.

9 MR. COLLIER: Same.

10 BY THE WITNESS:

11 A. Tragic events.

12 Q. Did you ever do anything personally to check
13 out what happened to Paige Richmond in her course? Did
14 you ever reach out -- Even if they had a lawyer, did you
15 preach out to do anything to address the matter with the
16 family?

17 A. I did not.

18 Q. All the correspondence between Polaris and
19 CPSC -- I mean, I understand you had people that were
20 communicating with the regulatory agencies. Would they
21 send you copies of the correspondence going back and
22 forth?

23 A. Not specifically. But, at times, I'm sure I
24 was copied on some. I'm sure it's not records.

25 Q. Do you remember? Do you remember ever seeing,

1 like, your correspondence and the --

2 A. If it was my correspondence --

3 Q. No, not yours personally, but Polaris'
4 correspondence, like, the give and take back and forth?

5 A. My team was exceptionally capable of handling
6 those things. They would bring me into speed when I
7 needed to be aware -- bring me up to speed. I'm sorry.

8 Q. This is Exhibit 3-015. This is an e-mail
9 exchange from -- that you're involved in. It says, From
10 Scott Wine to Mr. Speetzen, who replaced you, he filled
11 your spot?

12 (Wine Deposition Exhibit No. 3-015
13 marked as requested.)

14 BY THE WITNESS:

15 A. He was my CFO and became CEO when I left.

16 Q. Is he the chair of the board as well?

17 A. He is not.

18 Q. You also sent it to others that are
19 identified. This is something from Mike where he wrote,
20 "Thanks. Stocks went from being up over a buck to now
21 being down. Market is still sensitive to this. Richard
22 is deploying your investor communication."

23 And your response, "A great example of the
24 cost of poor quality." The subject line is, "RZR
25 general recall is live."

1 What did you mean by, "A great example of the
2 cost of poor quality"?

3 A. The cost of poor quality is a manufacturing
4 term that is typically used to define when your quality,
5 or lack thereof, provides a cost to the company. It was
6 a play on words, if you will, from the stock price
7 costing money, but it was meant for a team that
8 understood the cost of poor quality from a manufacturing
9 perspective.

10 Q. Mr. Olson asked you about being on Mad Money.
11 You go on those programs to -- for the profile of the
12 company, right?

13 MR. FIGLIULO: Objection; form.

14 BY MR. DREYER:

15 Q. It's designed to encourage people to invest in
16 Polaris, right?

17 MR. FIGLIULO: Objection; form, foundation.

18 BY THE WITNESS:

19 A. It was generally just to make all of our
20 stakeholders aware of what the company was doing.

21 Q. Before September of 2017, the information you
22 had available to you as of that date, at any point in
23 time in 2017, before Colby Thompson's event in July,
24 Mr. Jensen's in August, or the Richmond tragedy, as you
25 describe it, in September 2017, at any point in time you

1 had the ability, in your capacity as the CEO and
2 chairman of the board, to issue a stop ride until it was
3 solved what was causing these vehicles -- these RZRs to
4 burst into flame, right?

5 A. We had a very --

6 MR. FIGLIULO: Objection; form, assumes facts not
7 in evidence.

8 MR. COLLIER: Join.

9
10 BY THE WITNESS:

11 A. We had a disciplined process, when we
12 identified systemic issues, we would issue a root cause.

13 Q. My question is --

14 A. We would issue a recall.

15 Q. My question is a little different. Just from
16 an authority standpoint, power position within the
17 company, you had the ability to issue a stop ride on a
18 vehicle model if you felt it prudent and appropriate to
19 do so, correct?

20 MR. FIGLIULO: Objection; asked and answered.

21 MR. COLLIER: Objection; form.

22 BY MR. DREYER:

23 Q. True?

24 A. I could have recommended a stop ride, and we
25 did do those at times. But we did them when we

1 understood how to correct an issue. We didn't do them
2 when we didn't believe there was a systemic issue.

3 Q. Well, you didn't do it -- you still don't know
4 what the systemic issue is that caused the fires on
5 Colby Thompson, Jensen, Richmond, Groves -- you don't
6 know the reason for any of those fires, do you?

7 MR. FIGLIULO: Objection; form, foundation, assumes
8 facts not in evidence.

9 MR. COLLIER: Join.

10 BY THE WITNESS:

11 A. I am not aware that we have declared a root
12 cause. We do -- When we don't -- we have undetermined
13 as a category, it doesn't mean we don't know. There was
14 a lot of information that may give us a belief of what
15 happened, and those types of things influence our
16 decision on how we handle a case.

17 Q. Mr. Wine, I asked you earlier about whether
18 you got the April 2nd, CMA report, the Crowell & Moring
19 audit, and you indicated you don't remember.

20 Exhibit 5-004 is -- in that booklet there, is
21 the presentation that was done by Crowell & Moring to
22 your company on April 26th, 2017.

23 Do you remember the presentation?

24 (Wine Deposition Exhibit No. 5-004

25 marked as requested.)

1 BY THE WITNESS:

2 A. I do not.

3 Q. A number of these documents are redacted --
4 And I would tell you and I would tell your counsel that
5 we don't think that the redactions are -- we don't know
6 because we haven't seen it, but ten pages under
7 "vulnerabilities" raises a serious question. I would
8 let you know we're going to fight that issue and, if we
9 have to, we're going to have to ask you questions about
10 it.

11 MR. OLSON: My clients join.

12 MR. GODFREY: We object to that. We made the
13 decisions based upon our understanding of what Judge
14 Blazer had done. We reserve our rights to appeal those
15 because we disagree. This deposition is over today.
16 That's our position. I don't know, but Mr. Figliulo can
17 speak for himself.

18 MR. FIGLIULO: Mr. Figliulo does think this
19 deposition is over today for Scott Wine and it will be
20 over. He will not be presented for further deposition,
21 unless the court orders it.

22 MR. DREYER: I was going to say.

23 MR. FIGLIULO: I respect the court order.

24 MR. DREYER: I'm certain you do, and I didn't see
25 Mr. Godfrey being appointed to the bench yet.

1 MR. GODFREY: No. A court order is different.

2 Then I'll comply with a court order.

3 MR. DREYER: I'm just making a record. That's all.

4 I have an e-mail that we got. And, for counsel, it is

5 Thompson -- the last three numbers are 259. It's an

6 e-mail exchange. If we have an e-mail that's dated

7 April 12, 2017, indicating that says -- it's from Stacy

8 to you, Mr. Wine. It says, "I have attached the draft

9 of the reaudit, which was" -- "went simultaneously" --

10 Then there's a bunch of stuff that's redacted. "If you

11 believe others should be given a report, please let me

12 know. We can discuss circulation."

13 If there's an e-mail that says you got it --

14 A. Then I got it.

15 MR. DREYER: All right. Thank you. With my

16 reservation, I'm stopping.

17 MR. COLLIER: Thank you, Counsel.

18 MR. GODFREY: Let's switch spots here.

19 MR. OLSON: For efficiency, I'm going to join in

20 any objections by Mr. Dreyer to these questions by

21 Polaris' counsel. Is that okay?

22 MR. COLLIER: Yes. No objection.

23 MR. GODFREY: That's up to you. If that's a

24 decision you want, I assume you're going to join.

25 MR. DREYER: He just not going to say it on the

1 record so we don't burn time and wear out the court
2 reporter any more than we already have.

3 MR. GODFREY: Mr. Videographer, before I start,
4 what is our time? How much time is left?

5 THE VIDEOGRAPHER: We're at 6 hours and 32 minutes.
6 And I need you to put your mike phone on, please.

7 MR. GODFREY: I will right now.

8 MR. DREYER: You asked for 30 minutes. And
9 hopefully my redirect will be short.

10 CROSS-EXAMINATION

11 BY MR. GODFREY:

12 Q. Good afternoon, Mr. Wine.

13 A. Sir.

14 Q. As you know, I'm Rick Godfrey. I represent
15 Polaris.

16 A. Yep.

17 Q. Start a little bit with your background.

18 Where did you grow up?

19 A. Shadow Valley, Virginia.

20 Q. Where did you go to college?

21 A. United States Naval Academy.

22 Q. After you graduated from college, you served
23 your country?

24 A. I did.

25 Q. For how long?

1 A. Seven years.

2 Q. In what capacity?

3 A. I was a supply officer on a guided-missile
4 frigate for three years. And at the Pentagon, running
5 the executive (inaudible) under General Powell for three
6 years. The other year was training.

7 Q. That's Secretary of State Powell?

8 A. Chairman of the Joint Chiefs of Staff when I
9 worked for him and then Secretary of State.

10 Q. After you left the United States Navy, did you
11 go on to get any other degrees?

12 A. While I was working for General Powell, I got
13 my masters's in business administration with a
14 concentration in finance from the University of
15 Maryland.

16 Q. After you left there, what was your first job?

17 A. I worked for AlliedSignal in a repair and
18 overhaul facility, which became Honeywell.

19 Q. Manufacturing facility?

20 A. Repairing aircraft engines.

21 Q. After Honeywell?

22 A. I went to work for Danaher building Jake
23 Brakes for heavy -- hydraulic engine brakes for
24 heavy-duty trucks. Then I ran vita route, which was gas
25 pump manufacturer. And then left to go work for Fire

1 | Securities of America -- Fire & Safety of America's
2 | United Technologies after that, before I came to
3 | Polaris.

4 | Q. Then Polaris was after United Technologies, as
5 | you already said?

6 | A. Yes.

7 | Q. Why did you leave Polaris?

8 | A. I had been there 12 years. I was proud of
9 | what I accomplished, I was ready for a challenge, and I
10 | got heavily recruited to come to CNH Industrial to help
11 | the company get to a higher level of performance, and I
12 | was intrigued by the challenge.

13 | Q. CNH Industrial, what does that make or what
14 | does the company do?

15 | A. Case New Holland is the CNH Industrial. It
16 | will probably be dropped from the name at some point.
17 | We are the world's second largest agriculture equipment
18 | manufacturer. We also manufacture the Case construction
19 | equipment. Very global business. Different than
20 | Polaris in that way, but similar in that we sell through
21 | dealer networks. I think it's that relevant experience
22 | is what, ultimately, helped me get the job.

23 | Q. You have been here at CNH, approximately,
24 | since December --

25 | A. About 15 months.

1 Q. 15 months.

2 A. A very, very busy 15 months.

3 Q. I thank you for the time to be with us today.

4 We have had a fair amount of discussion today about the

5 Crowell & Moring retention and the Crowell & Moring

6 reports?

7 A. Yep.

8 Q. Do you recall that?

9 A. I do.

10 Q. When you were involved in the retention of

11 Crowell & Moring, which is a law firm, were you hiring

12 them as engineers?

13 A. No.

14 Q. Were you hiring them as business consultants?

15 A. No.

16 Q. Were you hiring them as lawyers?

17 A. Yes.

18 Q. Were -- You hiring them as lawyers to give you

19 advice as to what topics?

20 A. Really, our legal representation with Consumer

21 Product Safety Commission and the processes in which we

22 did, how well we had done and how we could improve that.

23 Q. So when you were asked questions about the

24 Crowell & Moring report where you were quoted as saying

25 making the company better -- It quotes you as saying

1 "making the company better." What were you expressing
2 to Ms. Holly when you told her to do that, how to make
3 the company better?

4 A. We were taking so many actions to improve at
5 the time. This was just another tool for me as it
6 related to our ability to engage properly with the
7 Consumer Product Safety Commission. I felt like she was
8 in a unique position to help us improve that.

9 Q. Was this with the connection to CPC regulator?

10 A. Yes. That's why we hired the former general
11 counsel of the CPC to do the audit.

12 Q. Now, you referred and answered Mr. Olson's
13 questions and then in answer to Mr. Dreyer's
14 questions -- you said in answer to Mr. Olson that there
15 were many causes in fires that require root cause
16 analysis.

17 Do you recall that?

18 A. Yes, I do.

19 Q. You said, in answer to one of Mr. Dreyer's
20 questions a little while ago, that you viewed -- I think
21 your phrase was the fires prior to 2015, those fires are
22 special cases.

23 Do you recall that?

24 A. I think -- What I was referring to is prior to
25 2015, my knowledge of the thermal events was not as good

1 as I think it could or should have been. After that
2 fact, we got very knowledgeable -- me included, very
3 knowledgeable very fast. And I think the efforts we
4 undertook to remediate the issues with fires and build
5 an organization capable of building great vehicles, and
6 it was enhanced dramatically.

7 Q. In what time period between '14, '15, and '16
8 did you begin to suspect that there might be some
9 systemic issues where you needed to, as you say, get
10 more active and become proactive?

11 A. It was the late summer of 2015 when I became
12 aware that there were more -- there wasn't isolated
13 events from thermal issues. It wasn't -- There appeared
14 to be more -- more issues than I would have found
15 acceptable, and that's when we put, really, a full cord
16 press to learn as much as we could and remediate as
17 quickly as we could.

18 Q. What was it about, approximately, the summer
19 of 2015 that led you to the conclusion that there might
20 be some systemic issues here and these weren't just
21 unfortunate and tragic accidents?

22 A. I think it was -- The request from the
23 Consumer Product Safety Commission was part of it. And
24 then the Hoaldridge case was just another one that drove
25 home the urgency of what we were doing.

1 Q. Upon learning that there might be systemic
2 issue, as compared to unfortunate tragic accidents, what
3 was your reaction? How did you feel as the CEO?

4 A. You know, it was not -- Disappointed, but
5 really about a desire to fix the problem as quickly as
6 possible -- remediate the problem as fast as we could.
7 It was not dissimilar from how we -- you know, one of
8 the comments was talked about was the Spirit Lake paint
9 issue. When we identified something, it was how do we
10 put an organization and processes in place to make sure
11 that we build capability as fast as we can.

12 Q. Did you personally deal with the Consumer
13 Product Safety Commission, which we have been referring
14 to as the CPSC?

15 A. I did.

16 Q. Did you make any presentations or have any
17 in-depth discussions with them?

18 A. I don't know that I made presentations, but I
19 met with the chairperson of the CPSC several times.
20 There were two during my tenure, so ...

21 MR. GODFREY: Right. I'm going to hand the witness
22 what I'll asked the court reporter, please, to mark --
23 if it's acceptable to Mr. Olson -- Wine Deposition
24 Exhibit 42, because you ended with 41 in your notebook,
25 and then hand it also to counsel. Let me first tender

1 | it to the court reporter.

2 | (Wine Deposition Exhibit No. 42

3 | marked as requested.)

4 | BY MR. GODFREY:

5 | Q. For the record, this is a document dated --

6 | Please take your time to review it, Mr. Wine. This is a

7 | document dated January 17th, 2018. It has a

8 | Bates-stamped number Thompson-Colby, dash, Polaris

9 | 156406 through 15440.

10 | Have you seen this document before?

11 | A. I have seen this document. It captures what I

12 | was saying earlier about the fundamental changes we made

13 | to the company to make this better.

14 | Q. Do you know whether this document was

15 | presented to the CPSC at a meeting you were at?

16 | A. I believe it was, yes.

17 | Q. Do you recall when that meeting was? Was it

18 | on or about January 17, 2018?

19 | A. It probably was, yes.

20 | Q. Let's turn to -- You said at various points in

21 | time, in answer to questions Mr. Dreyer asked and

22 | Mr. Olson asked, you said at various points in time,

23 | some of the things that you and your team did to

24 | improve. Let's turn to Page 8 of the document, which is

25 | Bates stamp 156413.

1 A. Yep.

2 Q. Can you read what the title is on the top of
3 Page 8 for us into the record?

4 A. "Aggressive response once deficiency
5 revealed."

6 Q. Is this an aggressive response with respect to
7 thermal incidents?

8 A. It was -- I believe most of them were thermal
9 issues but I know it was all related to how we were
10 communicating with the CPSC and dealing with safety
11 issues.

12 Q. So you've listed ten items here, correct?

13 A. Yes.

14 Q. The very first one -- What is the very first
15 item you list on "Aggressive Response"?

16 A. "Changed leadership in ORV business unit and
17 ORV engineering."

18 Q. What did you mean by changing the leadership
19 in the ORV, that's off-road vehicle, business unit and
20 the off-road vehicle engineering?

21 A. Dave Longren retired and we brought in Chris
22 Musso. Actually, Matt Homan came back at that point to
23 lead the business. We brought back a proven operator.
24 And engineering rolled up into Ken Pucel, who, again, I
25 expressed how much confidence I had in him.

1 Q. Did Mr. Morgan retire sometime in this time
2 period, 2015, 2016?

3 A. Yes, he did.

4 Q. Okay. So Mr. Morgan and Mr. Longren both, in
5 the 2016 time period, or early 2017, they both left the
6 company?

7 A. That's correct.

8 Q. You brought in additional and new people to
9 replace them?

10 A. We did.

11 Q. You said as your second item, "Communicated
12 product safety and quality as top priorities to entire
13 company and dealers."

14 Do you see that?

15 A. Regularly.

16 Q. Right. What was the purpose of this?

17 A. Because we had not been as good as we could or
18 should have been, we made sure that everybody knew it
19 was our top priority and we really put a lot of energy
20 and effort to make sure that we took the action, but we
21 let people know that we were taking the action as well.

22 Q. The third item is, "Establish 100-plus person
23 global product safety and quality organization,
24 including new post-sales surveillance function."

25 Describe what that new organization was, the

1 product safety and quality organization of 100-plus
2 people.

3 A. We took to heart the fact that we needed to
4 have more resources to be better. That was part of the
5 organization that we built and I highlighted, as I did
6 several times, this post-sales surveillance, which
7 really gave us a best-in-class ability to see realtime
8 what was going on with the thermal efficacy of our
9 vehicles in the field.

10 Q. Now, prior to the post-sales surveillance
11 organization that you have testified about today, did
12 Polaris send out field investigators prior to the
13 adoption of this new organization?

14 A. We did, just not with the same level of
15 urgency, so ...

16 Q. So prior to 16, 2016, Polaris was sending
17 people out to the field to investigate fires, right?

18 A. Right.

19 MR. DREYER: I'll object that it's leading, it also
20 misstates the --

21 BY THE WITNESS:

22 A. No. There was a --

23 Q. I'll rephrase it. Prior to 2016, did Polaris
24 send investigators out into the field to investigate
25 fire incidents?

1 A. Yes.

2 Q. Thank you. The fourth item on the list here
3 in this document Wine Exhibit 42, "Conducted detailed
4 assessment of how/why RZR thermal situation occurred,"
5 what was that all about?

6 A. Well, that was the work that our own
7 engineering did that, you know, we used Exponent, other
8 third parties, to help us identify all that we could to
9 ensure that the thermal efficacy of the vehicles was as
10 good as it possibly could be.

11 Q. Had you worked with Exponent before?

12 A. I had.

13 Q. Did you give them access to whatever they
14 wanted to look at to try and help you find if there were
15 any root causes or systemic?

16 A. We did.

17 Q. The next item --

18 A. They weren't always right. I mean, they
19 were -- They would throw out hypotheses that we would
20 have to -- That's what we wanted them to do, was to
21 challenge everything. It doesn't mean everything they
22 recommended was right.

23 Q. That's what good engineers do, right? They
24 throw out hypotheses and test them, right?

25 A. Yes.

1 Q. You were asked by Mr. Dreyer about your
2 ability to issue a stop ride/stop sale order. Item
3 No. 5 on this Wine Exhibit 42, which was a presentation
4 to the Consumer Product Safety Commission -- can you
5 read Item No. 5 about what you did as a CEO of Polaris
6 when you told the CPSC about this?

7 A. We issued the stop ride/stop sale on model
8 year '16 Turbo while we were completing the -- We did
9 not know the root cause analysis, and we said we were
10 going to issue the stop ride until we get it done.

11 Q. You told consumers "stop riding the vehicle
12 until we figure out whether this is a systemic problem"?

13 A. Yes.

14 Q. The next item on Page 8 of Wine Exhibit 42
15 says, "Held model year off-road vehicle until safety
16 re-validation conducted."

17 What does that mean?

18 A. It means we were learning so much through that
19 summer about how we could be better with our products
20 from a thermal efficacy standpoint. And we wanted to
21 make sure all of those learnings were built into that
22 product. The product had been designed previously, so
23 we had a lot of work to do to go back and make sure we
24 put everything we had learned at that point into that
25 vehicle.

1 Q. The next item that you explain to the CPSC
2 about what Polaris did in this January of 2018 meeting
3 is entitled, "Initiated midyear global enterprise
4 priority around product safety."

5 Do you see that?

6 A. I do.

7 Q. What does that mean? As a functional matter,
8 what did Polaris do?

9 A. We used policy deployment or goal deployment
10 as our way of listing the priorities of the company
11 where we wanted to make the most significant
12 improvements. We normally do that once a year in
13 conjunction with our annual planning. Because this was
14 such an important issue, we did it in the middle of the
15 year, which was really unheard of at the time, just to
16 stress the importance of how much we wanted to get this
17 right.

18 Q. The next item of your -- what you had titled,
19 "Aggressive response" on Page 8 of Exhibit 42 says,
20 quote, Engaged outside experts to assist with
21 engineering assessments and investigations, end quote.

22 Do you see that?

23 A. I do.

24 Q. Can you explain what, in general terms,
25 Polaris did with respect to that item?

1 A. We didn't -- Because we were doing so much
2 work, we didn't have all of the engineer -- It was extra
3 work, as opposed to what we historically had done. We
4 needed outside third parties. We were willing to spend
5 whatever we needed to spend to do it. We found as many
6 experts as we can to help us identify any issues with
7 our vehicles.

8 Q. By the way, you just said you spent money on
9 this. Was this aggressive response and this systemic --
10 these changes that you made in '15, '16, '17, and '18 at
11 Polaris to identify and remediate systemic risks, were
12 they expensive for you to make?

13 A. Yes. But we didn't -- we didn't -- Cost was
14 not an issue. We were about making the products safe,
15 reliable, and high quality. And it really -- The cost
16 to do the work was not the primary goal. The actual
17 results of what we were trying to do was more important
18 than the cost -- the money we were spending.

19 MR. DREYER: Objection; nonresponsive. Motion to
20 strike.

21 BY MR. GODFREY:

22 Q. The ninth issue listed is, "Conducted
23 retrospective review of potential safety issues."
24 Again, Page 8 of Exhibit 42.

25 What precisely did Polaris do in that regard?

1 MR. DREYER: Lack of foundation. Object; lack of
2 foundation.

3 BY MR. GODFREY:

4 Q. Do you know what Polaris did with respect to
5 the ninth issue?

6 A. I do.

7 Q. Can you now answer the question?

8 MR. DREYER: Same objection.

9 MR. GODFREY: What's your lack of foundation,
10 Mr. Dreyer?

11 MR. DREYER: Counsel, my lack of foundation is he
12 doesn't have the foundation. For this particular
13 question, you haven't established the foundation. He's
14 going to be testifying at time of trial by way of this
15 videotape. The fact that Mr. Wine says so doesn't make
16 it so.

17 BY MR. GODFREY:

18 Q. Mr. Wine, can you explain how you know what
19 the line "Conducted retrospective review of potential
20 safety issues" means in this presentation you
21 participated in with the Consumer Product Safety
22 Commission?

23 MR. DREYER: Same objection; lack of foundation.

24 BY THE WITNESS:

25 A. We learned as we went through -- from model

1 | year -- From the middle of '15, as we went through all
2 | of this learning, the evaluations, the recalls, we
3 | learned a lot. We took that learning and put it not
4 | only in future vehicles but back over other vehicles in
5 | the field to see if there were things that we needed to
6 | go back and address to improve the safety of the
7 | vehicles being operated by people in the field.

8 | Q. On the last item, "Established regulatory
9 | affairs function," do you know if that means the
10 | document that you were involved in the presentation to
11 | the Consumer Product Safety Commission in the meeting of
12 | January 17th, 2018?

13 | MR. DREYER: Same objection; lack of foundation.

14 | BY THE WITNESS:

15 | A. We hired Paul Vitrano to lead that effort. We
16 | had not been as -- You know, I learned that you needed
17 | to be a -- put more energy and effort into the
18 | relationship with the CPSC, and Paul allowed us to do
19 | that.

20 | Q. Were you personally involved with hiring Paul
21 | and giving him that charge?

22 | A. I was.

23 | Q. Let's turn to Page 10 of Exhibit 42. It's
24 | entitled, "Global product safety and quality
25 | organization, summer of 2016."

1 Do you see that?

2 A. Yes.

3 Q. You have seen this page before at the time you
4 were involved in the presentations to the Consumer
5 Product Safety Commission in January of 2018, correct?

6 A. I have seen the page. I built the
7 organization.

8 Q. Is this the organization that has over
9 100-plus professionals in it?

10 A. It is.

11 Q. Were you involved in the hiring of the leaders
12 of this organization?

13 A. I was.

14 Q. Let's talk about Mr. Pucel. Were you involved
15 in his hiring?

16 A. I personally recruited Mr. Pucel to join the
17 organization.

18 Q. What about Mr. Gross?

19 A. I was very instrumental of bringing Todd into
20 the organization as well.

21 Q. Was he an engineer as well?

22 A. He was an engineer.

23 Q. Did you -- Mr. Riley, of course, you already
24 discussed.

25 Did you meet with the global product safety

1 | and quality organization after it was formed on a
2 | periodic basis?

3 | A. Yes, regularly.

4 | Q. Did you regularly discuss with any members --
5 | How would you characterize your discussions with them or
6 | meetings with them?

7 | A. Very open. It was -- The team was regularly
8 | sharing what they were learning and how they were
9 | addressing issues. And when they needed additional
10 | support, that's the avenue that they would request it.

11 | Q. Let's turn to Page 13, please, of Exhibit 42.
12 | The title on this page of 13, Exhibit 42, is, Hold on
13 | model year, MY, 2017 off-road vehicles, summer/fall
14 | 2016.

15 | Do you see that?

16 | A. Yes.

17 | Q. What were you communicating to the CPSC on
18 | this page, or what were you trying to communicate when
19 | you personally met with the CPSC on this page?

20 | MR. DREYER: Lack of foundation.

21 | MR. GODFREY: What, that he personally met with the
22 | CPSC?

23 | MR. DREYER: No. I'm just making my objection to
24 | the question, Counsel. You want to debate it. I want
25 | to get you done so I can finish and do my redirect.

1 MR. GODFREY: You don't have the time for redirect.

2 Can you please -- Can you reread the question,
3 Madam Court Reporter?

4 BY THE WITNESS:

5 A. The question was -- I mean -- This page in the
6 document was -- as I have said throughout the day today,
7 was to describe all of the efforts we had undertaken to
8 identify and correct any issues -- any systemic issues
9 with our vehicles. And then we listed some of the firms
10 that we worked with here. We listed the products we had
11 taken. Really, the extensive efforts that we went
12 through to ensure the safety of our products.

13 Q. It lists here that you engaged outside
14 engineering experts.

15 Do you see that?

16 A. I do. Yes.

17 Q. Who is Ricardo?

18 A. Ricardo is an engineering consultant, experts
19 in engines and other capabilities.

20 Q. Did Polaris retain Ricardo to help it?

21 A. We did.

22 Q. Who is Magna?

23 A. Magna is an engine -- a supplier to the
24 automotive industry. They also do some vehicle assembly
25 work. I knew the chief technology officer, and we asked

1 | them for support as well.

2 | Q. Who is Porsche Engineering?

3 | A. Porsche Engineering is a consulting arm of
4 | Porsche, the car company, that does quite a bit of
5 | engineering consulting and supply chain work as well.

6 | Q. AVL, is that another engineering firm that you
7 | retained?

8 | A. It is.

9 | Q. We already talked about Exponent?

10 | A. Yeah.

11 | Q. Now, the line above it on Page 13 says,
12 | "Devoted 10,000-plus hours to review 259 discrete
13 | models."

14 | Do you see that?

15 | A. Yes.

16 | Q. What does that line mean, if you know?

17 | A. That's, again, the work we did to go back in
18 | the organization and look at all of the models we had
19 | done. So it was various model years, various models,
20 | across all of our product categories, not just RZRs and
21 | Rangers.

22 | Q. Let's turn to Page 14 of Exhibit 42,
23 | Bates-stamped No. 156419. The title of this page is
24 | what, Mr. Wine?

25 | A. "Retrospective data review (summer

1 of 2016-spring of 2017))."

2 Q. What did you mean by that in this presentation
3 that you were involved in with the Consumer Product
4 Safety Commission in January of 2018?

5 A. We just wanted to convey that we had done an
6 extensive review of all of our warranty data to make
7 sure that if there were other issues that weren't found
8 in our engineering analysis, that we might have found
9 them in our safety claim analysis.

10 Q. So you met with the Consumer Product Safety
11 Commission on January 17th of 2018. You recall that,
12 right?

13 A. Yes.

14 Q. After the meeting, how would you describe, if
15 you know, the relationship between Polaris and the
16 Consumer Product Safety Commission?

17 MR. DREYER: I'd object to the form of the question
18 as calling for speculation, also lack of foundation as
19 to the other side of the equation.

20 BY THE WITNESS:

21 A. I believe --

22 MR. GODFREY: I asked him -- Excuse me. I'll
23 rephrase the question.

24 BY MR. GODFREY:

25 Q. How would you describe the Polaris

1 relationship with the Consumer Product Safety

2 Commission, from your perspective, after this

3 January 17, 2018 meeting?

4 A. The relationship had been improving, and this

5 was really a recognition of how much progress we had

6 made, and I think it let the foundation be, for the

7 ultimate release from the CPSC of their close oversight

8 that we received later that year.

9 MR. DREYER: Object; lack of -- it's nonresponsive
10 and it's stating what CPSC's position is.

11 THE WITNESS: I believe there's a document in
12 the -- that states that.

13 MR. GODFREY: He's going to make whatever
14 objections he makes, Mr. Wine.

15 MR. OLSON: Like I said for the record, I'm joining
16 in Mr. Dreyer's objections.

17 BY MR. GODFREY:

18 Q. Did the CPSC, during your last year with
19 Polaris, ever tell you that your vehicles were unsafe,
20 that is your RZR's were unsafe?

21 A. No.

22 Q. In 2019, did the CPSC ever tell you your
23 vehicles, that is the RZR's, were unsafe?

24 A. No.

25 Q. In 2018, did the CPSC ever tell you your RZR

1 | were unsafe and shouldn't be driven by the public?

2 | A. I don't recall.

3 | Q. And we have already discussed the

4 | conversations you had with them during 2017 when you

5 | were examined by Mr. Dreyer and Mr. Olson, right?

6 | A. Yes.

7 | Q. You were asked some questions about fuel cans

8 | carried in cargo beds or fuel being carried on the

9 | vehicles, right?

10 | A. Yes.

11 | Q. Does Polaris put warnings in its owner manual

12 | about carrying fuel?

13 | A. We do.

14 | Q. Are the owner's manual provided to customers

15 | who purchase the RZR's, as far as you know?

16 | A. Yes. By everyone. Every customer that buys a

17 | new vehicle gets the owner's manual.

18 | Q. Did the owner's manual include warnings?

19 | A. Yes.

20 | Q. Do they include warnings about protective

21 | gear?

22 | A. Yes, it does.

23 | Q. Do they include warnings about not carrying

24 | fuel?

25 | A. Yes, it does.

1 Q. Do they carry warnings about the age of
2 children?

3 A. Yes, it does.

4 Q. Do they carry warnings about other topics as
5 well?

6 A. Many warnings to try to -- Obviously, the goal
7 is to provide warnings, both in the manual and also
8 warnings on the vehicle in some cases about how they
9 should be operated or should not be operated.

10 Q. Is the purpose of the warnings to try -- to do
11 what, from the consumer -- for consumers?

12 A. Prevent doing something that could cause harm
13 to the rider or the passengers.

14 Q. You were asked -- I won't show you the
15 document again but about a document you describe
16 "driving into the ditch"?

17 A. Yes.

18 Q. When you said that -- I assume you also said
19 that at the time?

20 A. I'm sure I did. Yes.

21 Q. What were you trying to communicate to your
22 subordinates and the team that you led?

23 A. That we, as leaders -- that was to the
24 leadership team -- had allowed things to happen on our
25 watch, and using the direct language was to get

1 everyone's attention about how quickly we needed to get
2 out of it. And that was -- The metaphor was related to
3 the fact that it happened on our watch, but we were
4 going to correct it. And I think, you know, this -- We
5 took very aggressive corrective action. We hired the
6 people, we put the processes and tools in place, and we
7 really made aggressive remediation efforts.

8 Q. As of the time that you left Polaris, in
9 December of 2020, were you personally satisfied that you
10 had addressed the risk of thermal issues?

11 A. I would not have left if I thought there was
12 ongoing risk to the company.

13 Q. Would you have sold vehicles during the time
14 that you were tenured there that you thought were unsafe
15 to consumers?

16 A. Never.

17 MR. DREYER: It's leading.

18 BY MR. GODFREY:

19 Q. Did you ever believe that you were selling
20 unsafe vehicles to consumers during your tenure as the
21 CEO?

22 A. Never. Never.

23 MR. GODFREY: Let me have one minute.

24 I have nothing further at this time, Mr. Wine.

25 Thank you, as always, for your time. What's the time?

1 THE VIDEOGRAPHER: Seven hours and counting.

2 MR. DREYER: I'll be very quick.

3 MR. GODFREY: It's up to Mr. --

4 MR. FIGLIULO: Two minutes.

5 MR. DREYER: Less than ten. I'll go as fast as I
6 can.

7 THE WITNESS: It's literally -- I don't have ten.

8 MR. DREYER: I don't want to debate it with you,
9 Mr. Wine. I'm going to do it very efficiently.

10 THE WITNESS: I signed up for a seven-hour
11 deposition, and you're past my time.

12 MR. DREYER: I'm going to ask you a few questions,
13 and I hope you'll just -- you know, understanding the
14 severity of the situation and what we're dealing with,
15 that you'll do that. All I'm going to be doing is
16 asking questions that Mr. Godfrey addressed.

17 MR. FIGLIULO: We'll give five minutes.

18 REDIRECT EXAMINATION

19 BY MR. DREYER:

20 Q. Number 1, the individual Ken Pucel, when was
21 he hired?

22 A. I don't recall. I believe it was 2015.

23 Q. This report that you're talking about was
24 dated January 17, 2018. That's when you did the
25 presentation, correct?

1 A. Yes.

2 Q. That was four months after the incident
3 involving Paige Richmond, right?

4 A. I don't know.

5 Q. Well, you don't remember the event being in
6 September of 2017?

7 A. That would be four months, yes.

8 Q. Do you recognize this exhibit? This is 4-015,
9 the RZR briefing November 1st. Was this also a briefing
10 that you did to the CPSC?

11 A. I don't believe I was at this meeting.

12 Q. Is it a Polaris briefing? Do you remember
13 that they did a briefing to the CPSC?

14 MR. FIGLIULO: Objection; foundation.

15 BY THE WITNESS:

16 A. This?

17 Q. Yes.

18 A. This appears to be a briefing that the CPSC
19 did to Polaris.

20 Q. Do you remember attending that?

21 A. I do not.

22 Q. Is it true in the Crowell & Moring report on
23 Page 14, that it indicates that the position Polaris
24 took with the CPSC, even as late as April 5, 2016, was
25 not one that the engineers at Exponent considered

1 sufficient to address the various risks of fire and that
2 they refused to accompany Polaris to the meeting with
3 the CPSC; is that true?

4 A. I believe that to be true.

5 MR. FIGLIULO: Object to -- on foundation to the
6 first part of the question. The last part, I think it
7 was answered.

8 BY THE WITNESS:

9 A. Yes. I was answering the last part of the
10 question.

11 Q. You believe it's accurate that Exponent
12 refused to attend that CPSC meeting?

13 A. I believe I recall that, yes.

14 Q. In terms of you, your commitment to the Navy
15 that Mr. Godfrey brought up, how long did you serve?

16 A. Seven years as an active duty officer, four
17 years at the Naval Academy.

18 Q. Okay. The Naval Academy requires a period of
19 service, correct?

20 A. It requires five years, yes. Seven if you
21 fly.

22 Q. When you left Polaris in 2020 to take the
23 position you're at presently, you were given a bonus in
24 2021 of the amount of \$21 million by your present
25 employer?

1 MR. FIGLIULO: Objection.

2 BY THE WITNESS:

3 A. Incorrect.

4 Q. Your stockholdings with Polaris presently are
5 what?

6 MR. FIGLIULO: Okay. This stuff is not necessary.
7 Anything that's public record is --

8 THE WITNESS: That's not public record.

9 MR. FIGLIULO: That's why we're really -- This is
10 not redirect. I object, and I'm going to terminate the
11 deposition if you're on these types of questions. This
12 is not redirect. This is just argumentative stuff.

13 MR. DREYER: I would disagree with you because it
14 goes to bias.

15 BY MR. DREYER:

16 Q. Mr. Wine, before this deposition today, did
17 you meet with counsel from Polaris?

18 A. No.

19 Q. When is the last time you talked to counsel
20 from Polaris about this litigation?

21 A. When I was an employee.

22 Q. In terms of employees at Polaris, in an effort
23 to get yourself ready for today, did you talk to anybody
24 who was a present employee of Polaris?

25 A. No.

1 Q. Did you talk to anybody who is a former
2 employee of Polaris to get yourself ready for today?

3 A. No.

4 MR. DREYER: That's all I have.

5 MR. OLSON: One or two follow-up questions.

6 MR. FIGLIULO: No. No. I gave him five minutes.
7 Five minutes is up.

8 MR. OLSON: I know. I need to ask --

9 MR. FIGLIULO: I mean, you guys have been working
10 together. You have been passing notes.

11 MR. OLSON: I have to ask. I will be less than
12 five minutes.

13 THE WITNESS: I'm done. I signed up for a
14 seven-hour deposition. I literally have a presentation
15 to the board of directors of Exor, the holding company
16 that has the majority shares in CNH Industrial,
17 tomorrow. I cannot give you more than the seven hours
18 that I was required to give.

19 MR. OLSON: I need less than five minutes.
20 Mr. Dreyer was very short. I will be even shorter. I
21 assure you.

22 MR. FIGLIULO: I think the witness has got to go.
23 If you want to submit a written --

24 MR. OLSON: I've got seven plaintiffs here, and I
25 have other plaintiffs that aren't here that will bring

1 you back for seven hours if you walk out on me and don't
2 give me another two minutes.

3 MR. FIGLIULO: First, he's not walking out.

4 THE WITNESS: Is it two minutes or five minutes?
5 I'll give you two minutes. Go.

6 MR. GODFREY: Just for the record, it was seven
7 hours by agreement.

8 MR. FIGLIULO: Okay. Let's let it go.

9 MR. OLSON: Plaintiffs did not agree.

10 MR. FIGLIULO: You never told us that.

11 THE WITNESS: We're going.

12 REDIRECT EXAMINATION

13 BY MR. OLSON:

14 Q. Mr. Wine, this presentation that Mr. Godfrey
15 went through with you was dated January 17 of 2018,
16 correct?

17 A. Yes.

18 Q. That was about two months before Polaris paid
19 the CPSC \$27 million plus, correct?

20 A. We reached a settlement agreement with the
21 Consumer Product Safety Commission.

22 Q. So at the time of this January 17, 2018
23 presentation, Polaris was still in a fight with the
24 CPSC, correct?

25 MR. FIGLIULO: Objection to foundation, form.

1 BY THE WITNESS:

2 A. It was not a fight. It was a negotiation.

3 Q. That resulted in Polaris paying a gigantic
4 fine; you agree?

5 MR. FIGLIULO: Objection; form.

6 BY THE WITNESS:

7 A. \$27.2 million.

8 Q. So part of this presentation was Polaris
9 trying to convince the CPSC to take less or drop its
10 litigation or stop pressuring Polaris, true?

11 MR. FIGLIULO: Objection; form.

12 BY THE WITNESS:

13 A. Not true.

14 MR. COLLIER: Join.

15 MR. OLSON: Nothing else. Thanks.

16 THE VIDEOGRAPHER: Off the record at 5:28 p.m.

17 This concludes the video deposition of Scott Wine.

18 MR. DREYER: I'm ordering it. Send me the bill.

19 Okay. Don't send it to Mr. Olson.

20 MR. FIGLIULO: We are not waiving. We reserve on
21 signature.

22 THE COURT REPORTER: Mr. Godfrey, do you need a
23 copy?

24 MR. GODFREY: Yes.

25 (Witness excused.)

1 STATE OF MINNESOTA

SS.

2 COUNTY OF HENNEPIN

3 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
HENNEPIN COUNTY, MINNESOTA

4 COLBY THOMPSON,

5 Plaintiff,

6 vs.

No. 27-CV-17-12608

7 POLARIS INDUSTRIES, INC., a
8 Minnesota corporation; and
JOHN DOES I-X,

9 Defendants.

10 * * * * *

11
12 STATE OF CALIFORNIA

SS.

13 COUNTY OF RIVERSIDE

14 SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

15 MELINDA RICHMOND, Successor in
16 Interest to the ESTATE OF
PAIGE RICHMOND, and in her
17 Personal Capacity; ROBERT
RICHMOND; JOSHUA WHITFIELD,

18 Plaintiffs,

19 vs.

No. RIC 1804451

20 POLARIS INDUSTRIES, INC.,
21 POLARIS SALES, INC.; EPIC
MOTORSPORTS, INC., et al.,

22 Defendants.
23
24
25

1 STATE OF ILLINOIS

SS.

2 COUNTY OF COOK

3
4 I, SCOTT WINE, state that I have read the
5 foregoing transcript of the testimony given by me at my
6 videotaped deposition on the 22nd day of March, A.D.,
7 2022, and that said transcript constitutes a true and
8 correct record of the testimony given by me at said
9 deposition except as I have so indicated on the errata
10 sheets provided herein.

11
12
13 _____
SCOTT WINE

14
15 SUBSCRIBED AND SWORN to
16 before me this _____ day
17 of _____, 2022.

18 _____
NOTARY PUBLIC
19
20
21
22
23
24
25

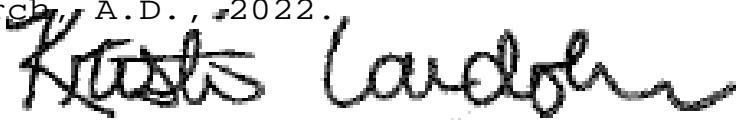
1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF COOK)

3 I, Kristi Landolina, Certified Shorthand
4 Reporter, Registered Professional Reporter, and Notary
5 Public, do hereby certify that SCOTT WINE was first duly
6 sworn by me to testify to the whole truth and that the
7 above videotaped deposition was reported
8 stenographically by me and reduced to typewriting under
9 my personal direction.

10 I further certify that the said deposition was
11 taken at the time and place specified and that the
12 taking of said deposition commenced on the 22nd day of
13 March, A.D., 2022, at 9:15 a.m.

14 I further certify that I am not a relative or
15 employee or attorney or counsel of any of the parties,
16 nor a relative or employee of such attorney or counsel,
17 nor financially interested directly or indirectly in
18 this action.

19 In witness whereof, I have hereunto set my
20 hand and affixed my seal of office at Chicago, Illinois,
21 this 28th day of March, A.D., 2022.

22 

23 KRISTI LANDOLINA, CSR, RPR
24 180 North LaSalle Street
Suite 2800
Chicago, Illinois 60601
25 Phone: (312) 236-6936

CSR No. 084-004611

EXHIBIT B

SCOTT WINE, TAKEN ON MARCH 22, 2022

POLARIS'S OBJECTIONS TO PLAINTIFFS' DESIGNATIONS

Plaintiffs' Designations (Orange)					Polaris's Objections to Plaintiffs' Designations (Blue)
FROM		TO			
Page	Line	Page	Line	Notes	Objection
14	19	16	12		14:19 – 15:6 Foundation/Calls for Speculation (602); Confusing/Misleading (403) 15:7 – 15:18 Foundation/Calls for Speculation (602); Confusing/Misleading (403) 15:24 – 16:12 Foundation/Calls for Speculation (602)
21	11	23	17		22:18 – 23:2 Relevance (401/402); Prejudice (403); Hearsay (801/802); Improper OSI
27	9	33	10		28:18 – 29:10 Relevance (401/402); Prejudice (403); Hearsay (801/802); Improper OSI 29:14 – 29:25 Relevance (401/402); Prejudice (403); Hearsay (801/802); Improper OSI 31:12 – 31:15 Relevance (401/402); Prejudice (403); Improper OSI 31:16 – 32:19 Relevance (401/402); Prejudice (403); Hearsay (801/802); Improper OSI 32:23 – 33:2 Relevance (401/402); Prejudice (403); Hearsay (801/802); Improper OSI

Plaintiffs' Designations (Orange)					Polaris's Objections to Plaintiffs' Designations (Blue)
FROM		TO			
Page	Line	Page	Line	Notes	Objection
					33:3 – 33:10 Mischaracterizes Prior Testimony; Improper OSI
33	24	34	8		33:24 – 34:5 Relevance (401/402); Prejudice (403); Hearsay (801/802); Improper OSI
34	18	35	12		34:18 – 35:3 Relevance (401/402); Prejudice (403); Improper OSI 35:4 – 35:12 Other Objection - MIL No. 4 (Litigation Evidence); Improper OSI
35	18	35	25		Other Objection - MIL No. 4 (Litigation Evidence); Improper OSI
36	18	36	24		Relevance (401/402); Prejudice (403); Hearsay (801/802); Improper OSI; Other Objection - MIL No. 4 (Litigation Evidence)
37	24	38	7		Other Objection - MIL No. 4 (Litigation Evidence)
38	16	42	1		38:16 – 39:12 Relevance (401/402); Prejudice (403); Improper OSI 40:17 – 41:1 Relevance (401/402); Prejudice (403); Inner Hearsay (805); Improper OSI 41:11 – 41:18 Foundation/Calls for Speculation (602); Relevance (401/402); Prejudice (403); Argumentative; Improper OSI

Plaintiffs' Designations (Orange)					Polaris's Objections to Plaintiffs' Designations (Blue)
FROM		TO			
Page	Line	Page	Line	Notes	Objection
					41:22 – 42:1 Foundation/Calls for Speculation (602); Relevance (401/402); Prejudice (403); Vague/Ambiguous; Argumentative; Improper OSI
43	4	45	4		43:24 – 44:19 Relevance (401/402); Prejudice (403); Hearsay (801/802); Improper OSI
45	7	48	19		45:10 – 47:24 Other Objection - Jul 8 OSI Order; Improper OSI 48:15 – 48:19 Relevance (401/402); Prejudice (403); Vague/Ambiguous; Argumentative
52	19	52	21		Vague/Ambiguous; Designation does not include answer
54	4	54	21		54:15 – 54:18 Relevance (401/402); Prejudice (403); Hearsay (801/802); Improper OSI
55	3	57	14		55:3 – 55:24 Hearsay (801/802); Improper OSI 56:7 – 56:15 Asked and Answered
78	22	85	5		83:2 – 84:1 Relevance (401/402); Prejudice (403); Improper OSI 84:12 – 85:5 Confusing/Misleading (403); Vague/Ambiguous; Argumentative
97	9	99	5		98:15 – 98:21 Argumentative; Mischaracterizes testimony/document
101	10	102	2		101:10 – 101:21 Foundation/Calls for Speculation (602)

Plaintiffs' Designations (Orange)				Polaris's Objections to Plaintiffs' Designations (Blue)
FROM		TO		
Page	Line	Page	Line	Notes
111	16	118	3	
				113:19 – 114:1 Foundation/Calls for Speculation (602)
125	14	126	14	
				126:4 – 14 Relevance (401/402); Prejudice (403); Improper OSI
127	6	135	5	
				134:21 – 135:2 Incomplete Designation (106)
145	19	153	6	
				151:10 – 151:16 Confusing/Misleading (403); Argumentative
158	19	159	2	
				Other Objection - MIL No. 7 (Unrelated Recalls)
170	25	176	25	
				171:5 – 171:11 Relevance (401/402); Prejudice (403); Hearsay (801/802); Improper OSI
				172:13 - 172:24 Asked and Answered; Argumentative
				172:25 - 173:6 Asked and Answered; Argumentative
				173:11 – 173:20 Mischaracterizes Prior Testimony; Argumentative
				173:21 – 173:25 Relevance (401/402); Prejudice (403); Hearsay (801/802); Improper OSI
				174:1 – 174:4 Vague/Ambiguous; Mischaracterizes Prior Testimony; Argumentative
				176:16 – 176:25 Relevance (401/402); Prejudice (403); Improper OSI

Plaintiffs' Designations (Orange)					Polaris's Objections to Plaintiffs' Designations (Blue)
FROM		TO			
Page	Line	Page	Line	Notes	Objection
229	1	229	13		Foundation/Calls for Speculation (602); Argumentative; Relevance (401/402); Prejudice (403)
310	13	313	5		310:13 – 310:24 Foundation/Calls for Speculation (602); Argumentative 310:25 – 311:13 Foundation/Calls for Speculation (602); Asked and Answered; Argumentative 311:14 – 312:2 Foundation/Calls for Speculation (602); Argumentative
328	20	332	11		328: 20 – 329: 24 July 8 OSI Order; Improper OSI 329:25 – 330:6 July 8 OSI Order; Improper OSI 330:7 – 330:13 Relevance (401/402); Prejudice (403); Confusing/Misleading (403); July 8 OSI Order 330:14 – 330:21 Foundation/Calls for Speculation (602); Relevance (401/402); Prejudice (403); July 8 OSI Order; Argumentative 331:16 – 331:19 July 8 OSI Order; Improper OSI 331:20 – 331:25 Foundation/Calls for Speculation (602); Relevance (401/402); Prejudice (403); Confusing/Misleading (403); July 8 OSI Order; Improper OSI

Plaintiffs' Designations (Orange)					Polaris's Objections to Plaintiffs' Designations (Blue)
FROM		TO			
Page	Line	Page	Line	Notes	Objection
					332:1 – 332:11 Relevance (401/402); Prejudice (403); Confusing/Misleading (403); Objection Designated; July 8 OSI Order; Improper OSI Argumentative
344	18	344	25		344:23 – 344:25 Relevance (401/402); Prejudice (403); Improper OSI
370	14	371	13		370:14 – 371:13 MIL No. 1 (CPSC Settlement)

**PLAINTIFFS' OBJECTIONS TO
POLARIS'S COUNTER-DESIGNATIONS**

Polaris's Counters (Purple)					Plaintiffs' Objections to Polaris's Counters (Yellow)
FROM		TO			
Page	Line	Page	Line	Notes	Objection
10	1	10	7		Rules 401-403 and Non-responsive
159	17	160	8		Non-responsive

PLAINTIFFS' OBJECTIONS TO POLARIS'S DESIGNATIONS

Polaris's Designations (Green)					Plaintiffs' Objections to Polaris's Designations (Yellow)
FROM		TO			
Page	Line	Page	Line	Notes	Objection
354	18	354	22		354:18-355:7 Lack of foundation
360	25	361	8		360:25- 361:16 Non-responsive and foundation