

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EATON CORPORATION,

Plaintiff,

Case No. 03-74844

vs.

HON. GEORGE CARAM STEEH

ZF MERITOR LLC, ARVINMERITOR,
INC. and ZF FRIEDRICHSHAFEN AG,

Defendants.

**ORDER DENYING PLAINTIFF'S EMERGENCY MOTION *IN LIMINE*
TO EXCLUDE DEFENDANTS' LATE-FILED SUPPLEMENTAL EXPERT
REPORT, SECTION 282 NOTICE AND OTHER DOCUMENTS [DOC. # 384]**

This matter is presently before the Court on plaintiff's motion *in limine* to exclude defendants' supplemental expert report, Section 282 notice, and other documents related to the Sure Shift lever. The Court held a telephonic conference with the attorneys on September 17, 2008. With regard to the supplemental expert report and the Section 282 notice, plaintiff's motion is DENIED. The Court will permit the introduction of the subject evidence through Dr. Davis, so long as defendants make Dr. Davis available for deposition on reasonable terms, for up to one and a half hours, as discussed on the record. The four documents concerning the Sure Shift lever may also be introduced on condition that in the event defendant introduces evidence relating to functionality of the Sure Shift as represented by these documents, defendant shall make its engineer, or other witness who is knowledgeable concerning the development or software, available for deposition on reasonable terms, as discussed on the record. Now, therefore

Plaintiff's Emergency Motion *in Limine* is DENIED, as further explained in this order and on the record taken on September 17, 2008.

Dated: September 18, 2008

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on September 18, 2008, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk