



U.S. Department of Transportation  
**National Highway Traffic Safety  
Administration**



1200 New Jersey Avenue SE.  
Washington, DC 20590

July 26, 2016

Paul V. Sheridan  
DDM Consulting  
22357 Columbia Street  
Dearborn, MI 48124

Dear Mr. Sheridan:

I write in reference to your letter dated July 7, 2016, directed to Administrator Rosekind. You indicate that you are an expert in private litigation related to FMVSS 207 and that you have recommended that Administrator Rosekind be subpoenaed to testify regarding that standard.

Please be aware that it would be inappropriate for Administrator Rosekind to participate in private litigation concerning the Agency's work. The Department of Transportation has regulations governing the testimony of its employees in legal proceedings between private litigants. These regulations are found at 49 C.F.R. Part 9 ("Part 9"). Part 9 regulations apply to "requests or demands for testimony or records concerning information acquired in the course of an employee performing official duties or because of the employee's official status." 49 C.F.R. § 9.2. These regulations apply to both "current or former officer[s] or employee[s] of the Department." 49 C.F.R. § 9.3 (defining "employee" for purposes of Part 9 regulations).

There is a general prohibition against employee testimony disclosing any information acquired as part of the performance of that employee's official duties or because of that employee's official status. 49 C.F.R. § 9.5. Additionally, an employee is prohibited from testifying either as "an expert or opinion witness with regard to any matter arising out of the employee's official duties or the functions of the Department." 49 C.F.R. § 9.9(c).

Sincerely,

Paul Hemmersbaugh  
Chief Counsel