



August 12,2016

Dear Customer:

The following is the proof-of-delivery for tracking number **800793416215**.

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**Delivery Information:**

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<b>Status:</b>	Delivered	<b>Delivered to:</b>	Receptionist/Front Desk
<b>Signed for by:</b>	C.BUTLER	<b>Delivery location:</b>	DC
<b>Service type:</b>	FedEx 2Day	<b>Delivery date:</b>	Aug 12, 2016 11:04
<b>Special Handling:</b>	Deliver Weekday		

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**Shipping Information:**

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<b>Tracking number:</b>	800793416215	<b>Ship date:</b>	Aug 10, 2016
		<b>Weight:</b>	1.0 lbs/0.5 kg

**Recipient:**

Dr. Mark R. Rosekind, Administrator  
NHTSA Headquarters  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
202-366-4000

**Shipper:**

DEARBORN, MI US

DDM Consulting  
22357 Columbia Street  
Dearborn, MI 48124-3431  
313-277-5095

**Reference**

Thank you for choosing FedEx.

DDM Consulting  
22357 Columbia Street  
Dearborn, MI 48124-3431  
313-277-5095  
[pvs6@Cornell.edu](mailto:pvs6@Cornell.edu)

10 August 2016

[VIA FEDEX AIRBILL 8007 - 9341 - 6215](#)

Dr. Mark R. Rosekind, Administrator  
NHTSA Headquarters  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
202-366-4000

Secretary Anthony R. Foxx  
US Department of Transportation  
1200 New Jersey Ave, SE  
Washington, DC 20590  
202-366-4000

**Subject 1: NHTSA / DOT Defense of FMVSS-207 at Upcoming Death/Injury Litigations**  
**Subject 2: NHTSA / DOT Defense of FMVSS-207 at Upcoming Senate Hearings (Proposed)**

Reference 1: Letter from NHTSA/DOT Chief Counsel Paul Hemmersbaugh of 26 July 2016  
Reference 2: My Letter to NHTSA of 7 July 2016  
Reference 3: My Letter to NHTSA of 30 March 2016

**Courtesy Copy List** \*

Mr. Clarence Ditlow, Director  
Center for Auto Safety - Suite 330  
1825 Connecticut Ave, NW  
Washington, DC 20009-5708  
202-328-7700

Mr. Courtney E. Morgan, Jr.  
Morgan & Meyers, PLLC / Suite 320  
3200 Greenfield Road  
Dearborn, MI 48120  
313-961-0130

Senator Edward J. Markey  
Senate Office Building  
255 Dirksen  
Washington, D.C. 20510  
202-224-2742

Senator Richard Blumenthal  
Senate Office Building  
706 Hart  
Washington, DC, 20510  
202-224-2823

Mr. Michael Brooks, Chief Counsel  
Center for Auto Safety - Suite 330  
1825 Connecticut Ave, NW  
Washington, DC 20009-5708  
202-328-7700

Mr. Christopher A. Hart, Chairman  
National Transportation Safety Board  
490 L'Enfant Plaza, SW  
Washington, DC 20594  
Telephone (202) 314-6000

Mr. Paul Hemmersbaugh, Chief Counsel  
US Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
202-366-4000

Ms. Loretta E. Lynch  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001  
202-514-2000

\* *By email and/or USPS*

\*\* Up-to-date PDF version available with active hyperlinks :

<http://pvsheridan.com/Sheridan2Rosekind-4-10August2016.pdf>

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10 August 2016

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NHTSA Headquarters  
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Secretary Anthony R. Foxx  
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**Subject 1: NHTSA / DOT Defense of FMVSS-207 at Upcoming Death/Injury Litigations**  
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Reference 1: Letter from NHTSA/DOT Chief Counsel Paul Hemmersbaugh of 26 July 2016 <sup>a</sup>

Reference 2: My Letter to NHTSA of 7 July 2016 <sup>b</sup>

Reference 3: My Letter to NHTSA of 30 March 2016

Dear Mr. Foxx / Dr. Rosekind:

I am in receipt of Reference 1 from Chief Counsel Paul Hemmersbaugh, which feigns responsiveness to Reference 2. Forwarded after your approval, Reference 1 intends to regale the casual reader of Code of Federal Regulations (CFR) restrictions; providing details of prior successful NHTSA/DOT efforts to remain legally disconnected from the results of their work product. As I am confident you and Mr. Hemmersbaugh are aware, only the casual uninformed, and perhaps irresolute, reader would concede to your proclamations of legal, moral, and ethical immunity. The consequences of this Washington Political Establishment immunity have been devastating to the US taxpayer in general, the highway user in-particular.

It also does not surprise anyone that you would attempt to gloss-over the central portent of Reference 2: The criminal cover-up of direct NHTSA/DOT knowledge of the inadequacy of FMVSS-207. Your attempt to ignore Attachment 1 to Reference 2 must be exposed. The following is a screenshot of such: <sup>c</sup>

1. **Crash Test Video and the Public Record:**

- NHTSA has agreed that they will deny all FOIA requests to place their investigative files, including the crash test video, on the public record and that the Department of Justice will defend any lawsuits seeking to compel production under FOIA.

We would agree with NHTSA that their engineering analysis will remain open while we conduct the service campaign to provide them additional bases to argue that release of the materials would interfere with their investigation.

- The Department of Justice says there is less than a 50/50 chance of keeping the video off the record for the full duration of the investigation, i.e. the campaign, if there is a court ruling. Given the possibility that a lawsuit could be filed at any time, they anticipate that the legal process would take at least four months, regardless of the outcome.

With the diversions of Reference 1 in mind, we focus on the second paragraph, first sentence :

Please be aware that it would be inappropriate for Administrator Rosekind to participate in private litigation concerning the Agency's work.

So, the devastation rendered against the highway user, as a **direct result** of *'the criminal cover-up of direct NHTSA/DOJ knowledge of the inadequacy of FMVSS-207'* which is characterized by the Chrysler/DOJ/NHTSA EA94-005 conspiracy, was merely "inappropriate"?

It is apparently appropriate for NHTSA to participate in *'private litigation'* **in behalf of the defendants**; when it accommodates its suitors in the automobile industry, the allegedly regulated.

Paraphrasing Mr. Hemmersbaugh, what we are *'aware'* of is that the CFR protects DOT secretaries and NHTSA administrators, **not** the US taxpayers (that rely-upon the former for their safety & well-being).

Regarding FMVSS-207, the NHTSA/DOJ duplicity and diversionary behavior is ongoing. Not once but twice in recent months, NHTSA Administrator Rosekind has been completely unrestricted by the CFR, and found it all-too appropriate to distribute detailed PR rhetoric regarding the "Agency's work" on FMVSS-207.

It does not surprise anyone that you would gloss-over my quotations of those Dr. Rosekind media emails in Reference 3. Paraphrasing Mr. Hemmersbaugh, *"please be aware that"* that the defendants in upcoming seat back failure severe-injury and death *"private litigations"* intend to deploy compliance with FMVSS-207 as their primary defense theme.

But also . . . the defense lawyers will deploy the (lack of) *"Agency's work"* during the last five decades on FMVSS-207, **and use profusely the details in the recent Rosekind emails**, which allege:

*"The absence of data demonstrating real-world benefits meant the agency could not pursue a rulemaking."*

Paraphrasing the Rosekind emails, was the cover-up of the seat back failures, which occurred repeatedly during EA94-005 crash testing, merely *"anecdotal"*?

### **Conclusion to this Reference 1 Discussion:**

The CFR is only enforced when it suits NHTSA/DOJ and their suitors in the automobile industry. I deploy no such duplicity and, as an expert in upcoming litigation, I will be asserting to the jurors and judges that they should interpret the crux of Mr. Hemmersbaugh's letter as demonstrative of an Agency *leit motif*, that is characterized by the Page 1 screenshot above.

In my CBS News Los Angeles interview of 16 May 2016, I stated :

***"Their world is very complicated. It is statistical, regulatory and legalistic.  
My approach to safety is very simple, it involves the real world."***

In that context, atop Page 3 below you will find a screenshot of the letter I sent to Director Clarence Ditlow at the Center for Auto Safety (CAS). Sent on 31 May 2014, it is entitled, *"Sunshine Litigation Act : Protective Orders and the Ruse of 'Trade Secrets.' "*

As you are aware I am thoroughly experienced with the consequences of the defense bar tactic, promoted to the courts as “*an ordinary, customary and routine protective order.*” I have not and will never submit to a product liability protective order on the basis that, as currently practiced, it is a ruse. The latter is further compelled by experiences with the injury or death of a public that has been routinely but unknowingly victimized by “protective orders.” My experience includes but is not limited to the following automotive safety defects:

- A. Rear liftgate latch failure (on minivans)
- B. Inadequate seat back strength
- C. Inadequate Park engagement
- D. Lack of Brake-Transmission Shift Interlock
- E. Lack of Anti-Lock Braking Systems (as standard)
- F. Lack of competent air bag deployment systems/componentry
- G. Lack of adequate roof crush strength and roof support crashworthiness
- H. Lack of adequate side impact crashworthiness
- I. Lack of adequate front impact crashworthiness
- J. Lack of adequate offset front impact crashworthiness
- K. General lack of adequacy of existing FMVSS requirements (206, 207, 208, 216, 301, etc.)
- L. Lack of crashworthiness of fuel tank and fuel systems componentry

In my 27 September 2011 letter to NHTSA Administrator David Strickland, I summarized the ongoing effects of these safety defects in the context of a root cause: Product liability protective orders. The promoted diversion and justification of the protective order is **the charlatanism of “trade secrets.”**

That is, you and I are on opposite ends of the automotive safety effort. While your world is made brittle by the self-imposed constraints that are ‘statistical, regulatory and legalistic,’ mine is made responsive and flexible by prioritizing the real world. While your suitors (in the automotive industry) hide behind the ruse of “trade secrets,” you hide behind the self-serving ad hoc deployments of the CFR. <sup>d</sup>

### **NHTSA / DOT Defense of FMVSS-207 at Upcoming Senate Hearings (Proposed)**

In these contexts I have been in-contact with Senator Markey and Senator Blumenthal. I am forwarding this letter to them in the hope that they will ascend beyond their recent (excellent) letter to the primary US market automotive manufacturers/sellers, regarding the inadequacy of FMVSS-207, and call formal hearings of such, obviating the privileged second paragraph portent of Reference 1. <sup>e</sup>

This is not to say that I relinquish the possibility that a subpoena issued by a judge presiding over upcoming FMVSS-207 related injury and death ‘private litigation’ will be forthcoming. One need only look to the recent negligence lawsuit filing of Patricia Smith and Charles Woods versus Democratic Presidential candidate Hilary Clinton to assert that Washington Political Establishment immunity will no longer be tolerated. <sup>f</sup>

So that there is no mistake regarding the severity of the gloss-over, the ENDNOTES provide a thrifted listing of those earlier correspondence and legal forums wherein the screenshot from Page 1 above has been discussed (Attachment 1). <sup>g</sup>

### **Formal Request**

I have been in contact with various media and other recipients of the Dr. Rosekind emails discussed above. Their lawyers, citing protocol and legal restrictions, have politely denied my request for the complete and non-redacted entire copy of such. As mentioned above, I already quoted a portion of the Rosekind releases in Attachment 12 of Reference 3. That portion is available at various news media websites. <sup>h</sup>

In the context of Reference 1, and although that Hemmersbaugh letter failed to mention such, I hereby request a complete representative copy of the Dr. Rosekind emails, letters, or textings (whichever format was utilized) that was forwarded to the various news media and others. I am told that these occurred twice during the last six months. I also hereby request a complete listing of all recipients.

### **Conclusion**

As I have stated to you prior, the seat back safety standard, FMVSS-207, is not merely incompetent. Given its torrid 50-year history, it is a fraud, and those that promote and propound it are guilty of criminal fraud and gross criminal negligence (at the very least).

Approximately one week after Reference 1, on August 4, 2016, Mr. Hemmersbaugh received a CAS petition Supplement, from CAS chief counsel Mr. Michael Brooks. A screenshot is here : <sup>i</sup>

From the third reporting quarter of 2003 through the first quarter of 2016, these ten manufacturers reported 327 deaths and 3278 injuries in crashes where seats were a contributing component.

Again, this history of severe injury and death, that is directly attributable to the notorious inadequacy of FMVSS-207, is no longer merely a civil matter; this issue is well-into criminal offenses.

But FMVSS-207 is not an industry standard. It is not a plaintiffs' standard. It is a NHTSA/DOT standard. And if you are unwilling to support, while under oath, **your** standard, who will? Who can?

Please do not hesitate to contact me at any time.

Cordially,

Paul V. Sheridan

**ENDNOTES**

<sup>a</sup> Instant Attachment 2.

<sup>b</sup> Complete copies of References 1 and 2, including delivery SPODs, available here respectively:

<http://pvsheridan.com/Sheridan2Rosekind-2-30March2016.pdf>

<http://pvsheridan.com/Sheridan2Rosekind-3-7July2016.pdf>

<sup>c</sup> As stated in earlier letters/legal forums, the NHTSA/DOT promotion that EA94-005, which secretly demonstrated the inadequacy of FMVSS-207, was “ongoing” during the 10-month period when the Chrysler/NHTSA/DOJ criminal conspiracy was in force, was not merely a ruse, **it was a lie**. The Conclusion of EA94-005 was covertly presented **only to Chrysler** on November 17 1994. The fact that it was a criminal conspiracy, supported by “ongoing” proclamations made in court (Los Angeles) by Agency lawyers, seems to have escaped the second paragraph CFR tutorial by Mr. Hemmersbaugh (Attachment 2):

<http://pvsheridan.com/DOJ-Hoar-NHTSA-Chrysler-Hearing-29Aug1995.pdf>

<sup>d</sup> For a detailed discussion of the ruse of “trade secrets,” requests for “confidential treatment,” and NHTSA/DOT complicity with such, please read: <http://pvsheridan.com/Sheridan2Strickland-2-27Sep2011.pdf>

<sup>e</sup> Available here: <http://www.markey.senate.gov/letters-to-automakers-on-seatback-safety>

<sup>f</sup> For perspective, Attachment 1 to this letter (and the forums listed in the next Endnote) occurred during the Clinton Administration. Recent media report of the Smith/Woods versus Clinton here:

<http://www.cbsnews.com/news/parents-of-two-americans-killed-in-benghazi-file-suit-against-hillary-clinton/>

<sup>g</sup> A thrifed listing of forums wherein Attachment 1 and the screenshot from Page 1 have been discussed:

Displayed on CBS News Los Angeles report of 16 May 2016 :

<http://losangeles.cbslocal.com/2016/05/16/safety-advocates-say-fatal-car-seat-failures-are-public-health-crisis/>

Jimenez v Chrysler, jury verdict \$262,000,000.00 (1997).

Flax v DaimlerChrysler, jury verdict \$105,000,000.00, page 3 highlights (2004):

[http://pvsheridan.com/Law.com\\_Tenn-Jury>Returns\\_105M\\_Verdict\\_Against\\_DaimlerChryslerOverMinivSeats.pdf](http://pvsheridan.com/Law.com_Tenn-Jury>Returns_105M_Verdict_Against_DaimlerChryslerOverMinivSeats.pdf)

Sheridan to DOJ Attorney General Janet Reno (October 1999): <http://pvsheridan.com/DOJ-NHTSA-ChryslerConspiracy-1.pdf>

Paul V. Sheridan letter to DOT Secretary Rodney Slater (September 2000).

Paul V. Sheridan letter to DOT Inspector General Calvin Scovell (September 2014).

<http://pvsheridan.com/Sheridan2Scovell-1-COMLETE.pdf>

<http://pvsheridan.com/Sheridan2Strickland-1-9Feb2011.pdf>

<http://pvsheridan.com/Sheridan2Kelleher-1-11Apr2012.pdf>

<http://pvsheridan.com/Sheridan2Strickland-7-3Sep2012.pdf>

<http://pvsheridan.com/Sheridan2Strickland-8-24Sep2012.pdf>

<http://pvsheridan.com/Sheridan2Strickland-10-30Jan2013.pdf>

<http://pvsheridan.com/Sheridan2Strickland-11-12Feb2013.pdf>

<http://pvsheridan.com/Sheridan2Ditlow-2-31May2014.pdf>

<http://pvsheridan.com/Sheridan2Ditlow-3-20Aug2014.pdf>

Numerous expert reports filed in behalf of plaintiffs by Paul V. Sheridan (1998 thru present).

<sup>h</sup> <http://losangeles.cbslocal.com/2016/05/16/safety-advocates-say-fatal-car-seat-failures-are-public-health-crisis/>

<sup>i</sup> <http://www.autosafety.org/wp-content/uploads/2016/03/Supplemental-EWR-Letter.pdf>

# ATTACHMENT 1

Secretary Anthony R. Foxx  
US Department of Transportation  
1200 New Jersey Ave, SE  
Washington, DC 20590  
202-366-4000

Dr. Mark R. Rosekind, Administrator  
NHTSA Headquarters  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
202-366-4000

10 August 2016

**Subject 1: NHTSA / DOT Defense of FMVSS-207 at Upcoming Death/Injury Litigations**  
**Subject 2: NHTSA / DOT Defense of FMVSS-207 at Upcoming Senate Hearings (Proposed)**

Reference 1: Letter from NHTSA/DOT Chief Counsel Paul Hemmersbaugh of 26 July 2016

Reference 2: My Letter to NHTSA of 7 July 2016 \*

Reference 3: My Letter to NHTSA of 30 March 2016 \*\*

Two Pages:

The secret agreement between NHTSA, the Department of Justice and Chrysler is summarized by an internal Chrysler document entitled, "*Proposed Agreement with NHTSA.*" Its paragraph #1 confirms the conspiratorial triad which shielded from public scrutiny the joint NHTSA/Chrysler knowledge that FMVSS-207 compliant seat backs had failed, and had been videotaped, during unrelated crash tests:

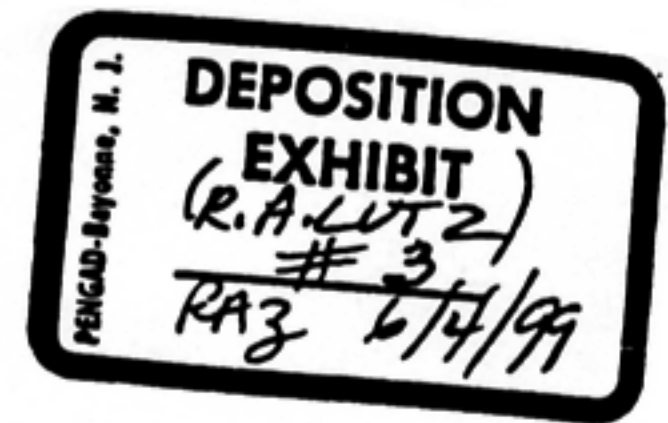
● NHTSA has agreed that they will deny all FOIA requests to place their investigative files, including the crash test video, on the public record and that the Department of Justice will defend any lawsuits seeking to compel production under FOIA.

● The Department of Justice says there is less than a 50/50 chance of keeping the video off the record for the full duration of the investigation, i.e. the campaign, if there is a court ruling. Given the possibility that a lawsuit could be filed at any time, they anticipate that the legal process would take at least four months, regardless of the outcome.

\* <http://pvsheridan.com/Sheridan2Rosekind-3-7July2016.pdf>

\*\* <http://pvsheridan.com/Sheridan2Rosekind-2-30March2016.pdf>





MINIVAN LATCH ISSUE

Proposed Agreement with NHTSA

1. Crash Test Video and the Public Record:

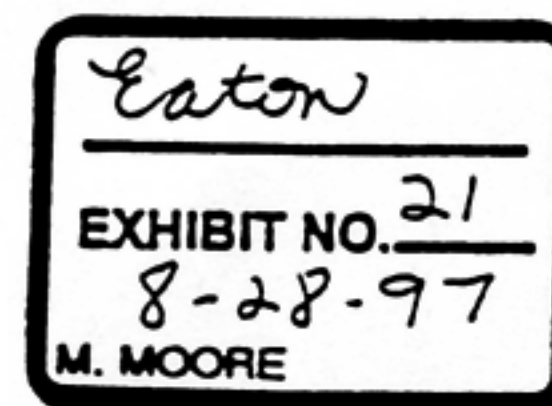
- NHTSA has agreed that they will deny all FOIA requests to place their investigative files, including the crash test video, on the public record and that the Department of Justice will defend any lawsuits seeking to compel production under FOIA.

We would agree with NHTSA that their engineering analysis will remain open while we conduct the service campaign to provide them additional bases to argue that release of the materials would interfere with their investigation.

- The Department of Justice says there is less than a 50/50 chance of keeping the video off the record for the full duration of the investigation, i.e. the campaign, if there is a court ruling. Given the possibility that a lawsuit could be filed at any time, they anticipate that the legal process would take at least four months, regardless of the outcome.

2. Service Action Only - No Recall: NHTSA has agreed that a Chrysler service campaign would fully satisfy all of their concerns and they would give full public support to such an effort. The critical elements that differentiate the service campaign from a recall (mostly reflected in the two attached letters) are as follows:

- no admission of defect or safety problem;
- stated purpose of the campaign - to ensure peace of mind in light of media coverage;
- campaign does not count as a NHTSA action - not included in NHTSA recall numbers, no Part 573 or Part 577 letters;
- statements to owners, the public and NHTSA assert that no defect has been found; and
- NHTSA acknowledges that replacement latch is not a 100% solution.



3. **Chrysler Announcement:** Chrysler controls publication of its action with the following provisions:

- Chrysler goes first with its own statement and reads approved NHTSA statement supporting Chrysler's action;
- Chrysler characterizes campaign as done solely to ensure the peace of mind of its owners, i.e. "your concern is our concern";
- Letter from Martinez to Chrysler and NHTSA press statement praise Chrysler action as fully satisfying all of NHTSA's concerns and state that Chrysler is a safety leader;
- NHTSA officials acknowledge publicly that there has been no finding of defect and that there will be none; and
- NHTSA officials acknowledge that owners should not be concerned over the delayed implementation of the action and that they can best protect themselves by keeping seat belts buckled at all times.

4. **Additional Provisions:** The following points have been requested by NHTSA and appear to be reasonable:

- The letter to owners makes reference to the NHTSA hot line phone number;
- Latch replacement will be offered as part of any routine minivan servicing (once replacement latches are available);
- Chrysler will submit six quarterly reports on the progress of the campaign (helps to support defense of FOIA requests); and
- NHTSA can make reference to the service campaign in response to owner inquiries.

## ATTACHMENT 2

Secretary Anthony R. Foxx  
US Department of Transportation  
1200 New Jersey Ave, SE  
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202-366-4000

Dr. Mark R. Rosekind, Administrator  
NHTSA Headquarters  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
202-366-4000

10 August 2016

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Reference 2: My Letter to NHTSA of 7 July 2016 \*  
Reference 3: My Letter to NHTSA of 30 March 2016 \*\*

Three Pages:

Reference 1:

Please be aware that it would be inappropriate for Administrator Rosekind to participate in private litigation concerning the Agency's work.

Excerpt from Attachment 12 of Reference 3.

*"NHTSA has considered changes to its seating standards for years. The agency recognizes that the current standard is decades old, and it has received requests and formal petitions over the years to amend or strengthen the standard. In 2004, after several years of research and analysis, the agency formally terminated a rulemaking proceeding aimed at changing the standard. The agency did so for several reasons, but fundamentally the decision rested on the difficulty of providing data, as opposed to anecdotal evidence, for safety benefits of a change to the standard. This is an enormous challenge because the kind of high-impact rear-end crashes that are generally cited as justifying a change are relatively uncommon. For example, rear-impact crashes account for roughly 3 percent of all traffic fatalities; fatal crashes in which seat failure occurs and results in injury or death are even less common. And as you know, the agency is required to perform cost-benefit analysis to demonstrate net benefits for any regulatory change we would propose. Bottom line: The absence of data demonstrating real-world benefits meant the agency could not pursue a rulemaking."*

\* <http://pvsheridan.com/Sheridan2Rosekind-3-7July2016.pdf>

\*\* <http://pvsheridan.com/Sheridan2Rosekind-2-30March2016.pdf>



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

# ATTACHMENT 12

Dr. Mark R. Rosekind, Administrator  
NHTSA Headquarters  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
202-366-4000

30 March 2016

**Subject:** Criminal Conspiracy of NHTSA : Complicity with the Fraud of FMVSS- 207  
**Reference:** ARCCA Petition of 28 September 2015 to Amend 49 CFR 571.207, FMVSS 207

9 Pages:



During the time you were refusing to speak about FMVSS-207 and the September 2015 ARCCA petition, a trial was scheduled for February 2016. The severe-injury litigation of Rivera versus Audi ended with a Texas jury verdict of \$124.5 million:

- Given the documented historical criminality, one ponders why the ARCCA petition was not likewise terminated during this Audi trial to accommodate their defense case. One explanation is that, unlike the Chrysler situation in Flax (discussed on cover Pages 18 thru 21), there was no former internal Audi lawyer working for NHTSA at the time of the Rivera trial.
- Apparently the Texas jury decided they had sufficient data to adjudicate the matter regarding the well-known inadequacy of FMVSS-207.
- As discussed on cover Pages 2, 23 and 24, the Texas jury did not agree with NHTSA's operative position that Jesse Rivera, Jr was merely a "defect trend" (ATTACHMENT 11).

Let us now connect you to all of the above, and to the 'Ongoing Collusion' theme.

The jury verdict in Rivera versus Audi compelled you to respond to CBS News regarding FMVSS-207 and the ARCCA petition. That CBS report entitled, 'Can Your Seats be Deadly in a Crash,' aired on March 1, 2016. Still refusing to appear, you instead sent the following:

*"NHTSA has considered changes to its seating standards for years. The agency recognizes that the current standard is decades old, and it has received requests and formal petitions over the years to amend or strengthen the standard. In 2004, after several years of research and analysis, the agency formally terminated a rulemaking proceeding aimed at changing the standard. The agency did so for several reasons, but fundamentally the decision rested on the difficulty of providing data, as opposed to anecdotal evidence, for safety benefits of a change to the standard. This is an enormous challenge because the kind of high-impact rear-end crashes that are generally cited as justifying a change are relatively uncommon. For example, rear-impact crashes account for roughly 3 percent of all traffic fatalities; fatal crashes in which seat failure occurs and results in injury or death are even less common. And as you know, the agency is required to perform cost-benefit analysis to demonstrate net benefits for any regulatory change we would propose. Bottom line: The absence of data demonstrating real-world benefits meant the agency could not pursue a rulemaking.*

*Since that decision, the agency has engaged in a number of activities related to the seating standard. The agency issued an upgrade to its standard for head restraints that took full effect in model year 2011. We are also have engaged in research to develop injury criteria for a new rear-impact test dummy, known as BioRID. This dummy, significantly more capable than previous models used in rear-impact tests, could help the agency develop comprehensive proposals to improve rear-impact protection for the traveling public. More recently, in late 2015, we were petitioned by ARCCA, Inc. and Mr. Kenneth Saczalski to revisit rulemaking on improving the seat back strength standard. The agency has not made a determination on the disposition of those petitions. In a separate but related effort, they agency also announced plans to include automatic emergency braking (AEB) in our New Car Assessment Program 5-star safety ratings. AEB has the added potential of reducing the incidence and severity of rear impact crashes from occurring in the first place."*

**MEMO:** We start with the NHTSA promotions about AEB. The reader would be interested to know that the Chrysler Safety Leadership Team (SLT) that I had chaired analyzed numerous outside supplier proposals for the automatic braking system in 1993 and 1994. Those systems were recommended for further research & development during formal presentations to upper Chrysler management in February 1994. Connected to 'The Chrysler-NHTSA Conspiracy Against a "Whistleblower"' (Pages 10 thru 14), NHTSA was handed the February 1994 SLT presentation on April 11, 1995 . . . and then they promptly hid it as part of their conspiracy with Chrysler and the DOJ. It was not until Michael Brooks of the Center for Auto Safety filed a FOIA request that my SLT materials were released to the public file (in 1999).

Like requests to update FMVSS-207, the idea for AEB is decades old.

# END OF DOCUMENT

Secretary Anthony R. Foxx  
US Department of Transportation  
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**10 August 2016**

**Subject 1: NHTSA / DOT Defense of FMVSS-207 at Upcoming Death/Injury Litigations**  
**Subject 2: NHTSA / DOT Defense of FMVSS-207 at Upcoming Senate Hearings (Proposed)**

Reference 1: Letter from NHTSA/DOT Chief Counsel Paul Hemmersbaugh of 26 July 2016  
Reference 2: My Letter to NHTSA of 7 July 2016 \*  
Reference 3: My Letter to NHTSA of 30 March 2016 \*\*

\* <http://pvsheridan.com/Sheridan2Rosekind-3-7July2016.pdf>

\*\* <http://pvsheridan.com/Sheridan2Rosekind-2-30March2016.pdf>