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9 July 2012

BY FEDEX 1283181-00003674 AND EMAIL

Ms. Angel M. DeFilippo, Esq.
Grieco Oates & DeFilippo, LLC
414 Eagle Rock Avenue
West Orange, NJ 07052
973-243-2099

Subject: Matthew D. Stockwell Letter/Attachment of 18 June 2012
Reference: Estate of Susan Morris Kline

Dear Ms. DeFilippo:

Regarding subject ATTACHMENT 1, we should first scrutinize the wording used by General Motors, as documented on page 2 of the FaAA “Information Services” release, which claims:

“In a fatal side collision in which a fire occurred, however, the GM rate has been 0.019 per 10,000 registered vehicle years. The Ford rate has been 0.007 and the Dodge 0.005.”

NHTSA EA92-041 was not focused on fatalities caused by accident intrusion or G-force trauma. It was well-known to GM that EA92-041 focused on fatalities/injuries caused by the fires which ignited after a side collision to the exposed, unprotected “side saddle” fuel tank. It would be naïve to accept an ad hoc explanation that the wording/statistics deployed by GM on December 2, 1992, which failed to narrowly specify that NHTSA focus (MHE = fire), was merely inadvertent. The inclusive wording purposely misdirects (“*a fatal side collision in which a fire occurred*”).

From 1992 into 1994, NHTSA was focused on side collisions, with direct impact to an unprotected fuel tank on GM pickup trucks, wherein the occupants survived the collision event, but were subsequently killed or severely injured by the MHE: A fuel-fed fire.^I

CORRECTION OF FAAA STATISTICS

But even if one overlooks the GM wording, the associated statistics also require scrutiny. During the relevant period, the full-size pickup truck market was dominated by Ford and GM. In the table below the statistics quoted above and approximate historical market share data is combined to provide a normalized frequency; that is, the actual on-road danger to the general public.

Brand	Long-Term Historical Pickup Truck Market Share	Registered Vehicle Years: FaAA Stated / (Corrected)	“Fatal Side Collision in which a fire occurred” FaAA Stated / (Corrected)	GM Multiplier vs. Competition After “Normalization”
GM	40%	10,000	0.019	-
Ford	40%	10,000	0.007	2.714
Dodge ^{II}	20%	(5,000)	(0.0025)	7.600

The GM/Ford duel for full-size pick-up truck sales dominance has resulted in roughly equal long-term market share. In this scenario, only the Dodge data requires correction to provide a normalized comparison of on-road exposure via the “Registered Vehicle Years” dimension.^{III} Alternatively, as an example, if 25,000 full-size pick-up trucks are on-road; 10,000 would be GM, 10,000 would be Ford, but only 5000 would be Dodge. When “Registered Vehicle Years” is normalized by market share, a more representative “GM Multiplier vs. Competition” is obtained.

CONCLUSION

1. Page 2 of the GM announcement of December 2, 1992 fails to confirm that the focus of the data analysis, performed by FaAA, was limited to side collisions that were survivable ergonomically and anatomically but not survivable once a fuel-fed fire erupted. Their wording states that side collision fatalities with incident non-MHE fire data was combined with side collision MHE fire-death data. This combined approach is deployed to create a larger denominator to accommodate their claim of “*an acceptable post-collision fire rate*” versus competing brands.

2. Even if you flatter the FaAA analysis, indulging in fabrications such as “*Registered Vehicle Years*,” it must be normalized for factors such as the market share: GM vs Ford vs Dodge. ^{IV} Otherwise the GM promotion that “*the chances of being killed in a GM full-size pickup truck (is) less than either Ford or Dodge*,” appears truthful. This charade exemplifies the convoluted process of diversion. Specifically, the death rate for the exposed, unprotected fuel tank of GM was nearly 3 times the Ford (with or without correction), and nearly 8 times that of the Dodge. These comparisons are artfully skewed because the data set utilized was not narrowly focused on collisions that were survivable, anatomically and ergonomically, but not survivable after/because an unprotected fuel tank was breached and a fire had ignited. ^V

COMMENT

The last paragraph of Mr. Stockwell’s letter of 18 June 2012 deserves commenting (ATTACHMENT 1):

*“I certify that the foregoing was not reasonably available or discoverable
by the exercise of due diligence sooner.”*

Similar to many publicly available “Chrysler” documents that have not been properly received from the defendant during the three years of the Kline litigation, the GM release of December 2, 1992 is widely available, and has been for 20 years. As discovery counsel in Kline is probably aware, various relevant GM media releases were part of my FMVSS-301 file. The attachment to Mr. Stockwell’s letter is also widely available from the plaintiff or defense law firms. ^{VI}

Contrary to recent discovery and defense counsel ruses regarding document production/origin, and contrary to the quote above, it is also well-known that 1992 FaAA/GM releases, and voluminous documents of similar portent, are “*reasonably available*” from NHTSA file EA92-041. ^{VII}

Please do not hesitate to contact me at any time.

Respectfully,

Paul V. Sheridan

cc: Mr. Clarence Ditlow (CAS)
Mr. Lawrence Hershman (NHTSA-ODI)
Mr. Sergio Marchionne (Chrysler Group LLC)
Mr. Courtney E. Morgan, Esq.
Mr. Russell J. Sacco Jr., Esq.

ENDNOTES

^I Similar to EA92-041 of 1992, the current NHTSA investigation EA12-005 is narrowly focused on collision data involving the exposed, unprotected fuel tank of the Jeep Grand Cherokee; collisions that were survivable ergonomically and anatomically, but death is caused by a post-collision fuel-fed fire (MHE = fire death event).

^{II} Even prior to being normalized for market share, relying instead on the skewed interpretation originally stated by FaAA/GM, the columnar entries for Dodge would be 20%, 10,000, and 0.005. This incorrect FaAA analysis results in a “*GM Multiplier vs. Competition After Normalization*” value for the Dodge of 3.800. This misleads the public and NHTSA into believing that the on-road exposure for the Dodge was statistically double its true value; that is, as if the Dodge enjoyed a market share equal to GM and Ford. Many other factors that affect the comparative rates are also ignored by FaAA/Exponent. For example, their analysis declares that the durability/longevity/scrappage rates were equal; GM/Ford to Dodge. This is not accurate.

^{III} This “*Registered Vehicle Years*” dimension, when scrutinized in the context of engineering design-level safety defects (FMEA criteria) amounts to a statistical shell-game. We are not interested in analysis that ostensibly claims that luck is a viable intrinsic criterion for determining the existence of a real-world safety defect. We are interested in safety-related failure modes that exist in the engineered product, and the effect of those modes on humans when provoked in the real-world: The failure and its life-or-death consequences. Although practically institutionalized in the NHTSA/Car Company safety defect and recall procedure, and intrinsic to the FaAA/Exponent analysis, luck has no place in these discussions (ATTACHMENT 2).

^{IV} These statistical fabrications are similar-to and created-by the same defense experts (FaAA/Exponent) that attempted to subvert the NHTSA escalation of PE10-031 to EA12-005 for the Jeep Grand Cherokee. We have no interest in vehicles that have merely been registered, have been used for 10,000 years, or were just parked, or were driven but never tested via involvement in an accident that provoked the failure mode that was/is known to cause injury/death. We will not hide behind irrelevant and (what GM claimed were) “*identical FMVSS 301 safety standard requirements*” as a basis for dictating “*an acceptable post-collision fire rate*” (Please see Endnote III).

^V Esoterically related to NHTSA investigation EA12-005, it should be noted that the fuel tank system of the 1973 through 1987 full-size GM pickup trucks was not a viable design for compliance with FMVSS-214.

^{VI} EA92-041 was part of my FMVSS-301 file, as well as my ‘Side Crashworthiness Issues’ and FMVSS-214 files. Please see arrows on page 2 of the Courtney Morgan letter of July 14, 1995 (ATTACHMENT 3).

It should be emphasized that (in December 1994) EA92-041 was the diversionary focus of a conspiracy between Chrysler executive management and their defense counsel, their counterparts at GM, and the following two members of Congress: Representative Michael Oxley (R-OH) and Representative John Dingell (D-MI). The latter were members of the House Commerce Committee which had direct budget review and approval authority over NHTSA. This Chrysler/GM/congressional conspiracy attempted to defraud the public and NHTSA by feigning concern over “*the NHTSA defect investigation process.*” This criminal conspiracy was in-play at the time the portent of Attachment 3 was rendered. Documentation involving this “*NHTSA pound sand*” approach to safety has been part of my Kline expert report as Attachment F - Tab 16 (ATTACHMENT 4). Attachment F – Tab 14 which presents the triad conspiracy has also been part of my Kline expert report (ATTACHMENT 5).

^{VII} Although defense counsel has frequently proclaimed off-the-record the absurd notion that “NHTSA” will not be admitted into the case/trial record of Kline, they continually propose the exact opposite when on-the-record. (This is especially true of their strenuous arguments at the hearing of 21 March 2012, ATTACHMENT 6). However, regarding the “*not reasonably available*” ruse, defense counsel would benefit by reading the third paragraph of the attachment to his letter which states: “*The results were immediately communicated to NHTSA, and all the results are public in documents on file at NHTSA.*” Defense counsel would also benefit by reading Attachment Z to my Kline expert report which was submitted/received prior to the discovery deadline of 6 January 2012 (ATTACHMENT 7).

Attachment Z to my expert report includes the 24 Nov 1992 letter from Dr. Rose Ray, now a defense expert in the Kline vs. Loman’s Auto Group. Paragraph 4 states that the GM pickup trucks that had the fuel tanks relocated in 1988 were “excluded.” This “analysis” is consistent with the approach by FaAA/Exponent in their recent PE10-031 presentation to NHTSA-ODI. The fuel tank of the 1993-2004 Jeep Grand Cherokee is located behind the rear axle, below the rear bumper and unprotected; relocated/protected for the 2005 WK-Body. Analysis of the WK-Body and AN-Body Dodge Durango was “excluded” from the Chrysler/Exponent presentation of 16Apr2011 to NHTSA-ODI. 1988 C/K and 2005 WK-Body fuel tank relocating had similar positive effects on the MHE = fire death statistics.

ATTACHMENT 1

9 July 2012

Ms. Angel M. DeFilippo, Esq.
Grieco Oates & DeFilippo, LLC
414 Eagle Rock Avenue
West Orange, NJ 07052
973-243-2099

Subject: Matthew D. Stockwell Letter/Attachment of 18 June 2012
Reference: Estate of Susan Morris Kline



CALLAHAN & FUSCO LLC
Attorneys at Law

BETH A. CALLAHAN (NJ)
CHRISTOPHER G. FUSCO (NJ NY PA)
CHARLES J. REITER (NY)

72 EAGLE ROCK AVENUE, SUITE 320
EAST HANOVER, NJ 07936

NEW YORK OFFICE
40 EXCHANGE PLACE
18TH FLOOR
NEW YORK, NY 10005
TELEPHONE: (212) 448-9570
FACSIMILE: (212) 448-9772

CATHERINE MCGLONE (NJ)
OF COUNSEL

TELEPHONE: (973) 618-9770
FACSIMILE: (973) 618-9772

PENNSYLVANIA OFFICE
196 WEST ASHLAND STREET
DOYLESTOWN, PA 18901
TELEPHONE: (267) 895-1767
FACSIMILE: (267) 895-1701

WILLIAM A. SICHERI (NJ NY)
CHAD L. KLASNA (NJ NY PA IL)
MATTHEW D. STOCKWELL (NJ NY PA)
MITCHELL R. AYES (NJ NY)
BRIAN R. MASTERTON (NJ NY)
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DAWN A. PEPIN (NJ NY)

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PLEASE REPLY TO NEW JERSEY

June 18, 2012

VIA REGULAR MAIL

Angel DeFilippo, Esq.
Grieco, Oates & DeFilippo, LLC
414 Eagle Rock Avenue, Suite 200
West Orange, New Jersey 07052

Re: Thomas Kline, et al. v. Loman Auto Group, et al.
Docket No.: MRS-L-3575-08
Date of Loss: February 24, 2007

Dear Ms. DeFilippo:

As you are aware, we represent Loman Auto Group in the above-referenced matter.

In response to your questioning of Mr. Ditlow concerning Failure Analysis, and Mr. Ditlow's testimony concerning the 1973-1987 GM pickup settlement, we are hereby exchanging a December 3, 1992 press release from General Motors. Please also be advised that our expert Rose Ray may testify as to this investigation and any information that Failure Analysis submitted to NHTSA. Although we are not conceding that this information is in any way relevant to the instant litigation, we are reserving our right to do so.

I certify the foregoing was not reasonably available or discoverable by the exercise of due diligence sooner.

Very truly yours,

Matthew D. Stockwell
MATTHEW D. STOCKWELL

MDS/cr
Enclosure

cc: M. Sheila Jeffrey, Esq.
Robert M. Cook, Esq.
James T. Gill, Esq.
Patrick J. Hermesmann, Esq.

Received 6/20/12

FaAA Watch Information Services

DECEMBER 3, 1992

PR NEWSWIRE (PR)

12/02 GENERAL MOTORS STATEMENT ON DATA SUBMITTED TO NHTSA

WARREN, Mich., Dec. 2 /PRNewswire/ -- General Motors (NYSE: GM) today released the following:

Editors: During the past two weeks, General Motors has submitted additional data to the National Highway Traffic Safety Administration to assist in its deliberations regarding the 1973-1987 GM C/K light-duty pickup trucks. The following statement explains the events that resulted in submission of additional data to the NHTSA last week and reinforces GM's position that it has sound legal and factual arguments against the suggestion that these vehicles contain a safety-related defect.

At a November 20 meeting, NHTSA questioned a particular statistical technique used by Failure Analysis Associates (FaAA), a research firm contracted by GM to analyze the available data. FaAA decided that because occupants of all pickup trucks are entitled to the same level of overall safety -- since all light-duty trucks have to meet identical FMVSS 301 safety standard requirements, or, in other words, because an acceptable post-collision fire rate has to apply uniformly across all classes of vehicles that carry people -- that it would compare the field performance of GM C/K pickups with all other light-duty vehicles.

NHTSA would have preferred that instead of comparing the '73-'87 GM C/K pickups with all other pickups, that FaAA would have compared the '73-'87 GM C/K pickups only with directly comparable full-size pickups, that is, with Ford F-Series and Dodge D and W series pickups.

So, this is exactly what FaAA did over the ensuing weekend and on Monday, November 23, and Tuesday, November 24. The results were immediately communicated to NHTSA and all the results are public, in documents on file at NHTSA.

FaAA's initial report -- available to the public since mid-October -- compares GM full-size C/K pickups with all Ford pickups (small, medium, large) and all Dodge pickups. In state data that it analyzed, the FaAA report shows that the rate of post-collision fires has been essentially the same for 1973-1987 GM, Ford and Dodge pickups. In the NHTSA's FARS (Fatal Accident Reporting System) data, FaAA's report, comparing only full-size models, now shows that:

-- A person's chance of being killed in a side impact has been essentially the same in a GM, Ford or Dodge pickup (0.196 per 10,000 registered vehicle years for GM; 0.199 for Ford; and 0.191 for Dodge), but

For further information, contact Norene Williamson In Information Services at x7172

DECEMBER 3, 1992

-- In a fatal side collision in which a fire occurred, however, the GM rate has been 0.019 per 10,000 registered vehicle years. The Ford rate has been 0.007 and the Dodge 0.005.

Every statistic above remains true when the new comparisons are made. The only change in anything that GM has said publicly before is that the revised statistics show that in a side impact collision, the chances of being killed in a GM full-size pickup are essentially the same as in a Ford or Dodge. Our previous statistical analysis had shown the chances of being killed in a GM full-size pickup less than either Ford or Dodge when their full lines were counted. This really isn't a major change in GM's position that the trucks are safe and that the charges against them are grossly exaggerated.

Critics aren't saying that '73-'87 GM C/K pickups, with their fuel tanks outside the frame rails, are a smidgen, a little bit more prone to very rare post-collision fires than are the 1973-1987 Ford and Dodge full-size pickups, all of which had their fuel tanks inside the frame rails. The critics are saying that the difference is profound, and that the inside-the-frame-rail-trucks are safe, implying that they essentially never have post-crash fires, and certainly not in side impacts, but that by contrast the outside-the-frame-rail tanks are profoundly unsafe and that these things aren't rare at all and that the GM C/K pickups are having these post-collision fires "weekly, if not daily" (Clarence Ditlow on CBS Evening News). The facts show that post-collision fires do occur in all vehicles -- albeit with extreme rarity -- at nearly identical rates in side impacts and all impacts regardless of fuel tank location.

Nothing in the FaAA report -- no matter which statistical technique is used -- even comes close to supporting the critics' wild charges, but rather convincingly disproves them.

Here is some background information on FaAA and the data it has been analyzing:

Failure Analysis Associates (FaAA), of Menlow Park, California, is a nationally respected engineering and scientific firm, an organization that has been a NHTSA contractor itself and to which GM has turned on many occasions in the past. It has had a statistical report in the public docket on file at NHTSA since mid-October. GM asked FaAA to prepare this report. The report shows field accident statistics gathered from two sources:

-- A collection maintained by NHTSA itself called FARS (Fatal Accident Reporting System). As the first word indicates, this collection is limited only to collisions in which someone was killed. Therefore, as NHTSA itself has recognized repeatedly, FARS data generally comes from the most serious, the most violent accidents on the road.

-- Collections of accident data maintained in those states whose police and other accident reports contain notation that let researchers know if there was a post-collision fire. Only a few states have this

DECEMBER 3, 1992

notation on the report forms. When NHTSA wanted to examine the effectiveness of its fuel integrity standard, Federal Motor Vehicle Safety Standard 301, in 1990, it turned to the data in these few states.

/CONTACT: Ed Lechtzin of GM North American Operations, 313-986-5715/
17:56 EST

ATTACHMENT 2

9 July 2012

Ms. Angel M. DeFilippo, Esq.
Grieco Oates & DeFilippo, LLC
414 Eagle Rock Avenue
West Orange, NJ 07052
973-243-2099

Subject: Matthew D. Stockwell Letter/Attachment of 18 June 2012
Reference: Estate of Susan Morris Kline



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June 18, 2012

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EA-12-005

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To: Mr. David L. Strickland *
NHTSA Headquarters
West Building
1200 New Jersey Avenue, SE
Washington, DC 20590
202-366-4000

Date: 15 June 2012

VIA FEDEX 8007-9341-5837

From: Mr. Paul V. Sheridan
DDM Consultants
22357 Columbia Street
Dearborn, MI 48124-3431
313-277-5095
pvs6@Cornell.edu

Subject : Correct Statistical Approach to NHTSA Defect Investigation EA-12-005 – File Update

Courtesy Copy List **

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

Senator John Rockefeller IV
Commerce, Science and Transportation Committee
531 Hart Senate Office Building
Washington, DC 20510
(202) 224-6472

Mr. Sergio Marchionne, Chairman
Chrysler Group LLC
1000 Chrysler Drive
Auburn Hills MI 48321-8004
248-576-5741

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

Mr. Larry Hershman
Office of Defects Investigation, NVS-212
National Highway Traffic Safety Administration
Washington, DC 20590
202-366-4929

* Available with hyperlinks: <http://links.veronicachapman.com/Sheridan2Strickland-4-Links.pdf>

** By email or USPS

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

15 June 2012

VIA FEDEX AIRBILL # 8006-9341-5837

Mr. David L. Strickland, Administrator
NHTSA Headquarters
1200 New Jersey Avenue, SE
Washington, DC 20590
202-366-4000

Subject : Correct Statistical Approach to NHTSA Defect Investigation EA-12-005 – File Update

Dear Mr. Strickland:

Notoriously, Chrysler and its defense counsel have promoted various probabilities associated with the fire death or injury outcomes which result from rear-end collisions to the Jeep Grand Cherokee (ZJ-Body and WJ-Body). Unfortunately, NHTSA sometimes also promotes incorrectly formulated statistics as its criteria for analyzing automotive defects, frequently using the ludicrous phrase “defect trends.” The underlying incompetence in the approach of both organizations is use of the entire Jeep population as the denominator. This approach is not remotely competent or responsible.

The denominator that is relevant is derived from the real-world rear-end collision events involving the Jeep (and later use of the fire/injury outcome frequencies WITHIN that event population for various numerators). Using a denominator which includes the larger portion of “lucky” Jeep owners, the datum that have never experienced a rear-end collision, has no meaning; no statistically significant information. The fortunate portion of the Jeep population has never been tested in the real-world and offers no subject-relevant insight. By-definition, this portion contains no collision event outcome data. By-definition the lucky portion tells us nothing about the crashworthiness of the Jeep fuel tank system.

And yet this is the historical approach that insidiously underpins everything from defense lawyer/expert court room ruses, to the ongoing PR rhetoric from Chrysler.

The formulation of the correct denominator for NHTSA EA-12-005 involves the exercise of singling-out ONLY those Jeep vehicles that suffered a rear-end collision event, and then WITHIN THAT population determining the various event outcomes to arrive at meaningful probabilities. This approach by-definition contains statistically significant information which is focused on and provides insight regarding the true crashworthiness of the rear-mounted Jeep fuel tank system.

This correct statistical approach portends very bad news for the Jeep Grand Cherokee owners. When the correct denominator is used, when the tested, unlucky population is the focus of statistical analysis, the results are horrifically poor (i.e. too high). Alternatively, Chrysler makes the claim that the probability of a rear-end collision in the Jeep Grand Cherokee that results in a fire-caused death is very low. In the narrow, carefully coached legal and semantic sense, Chrysler is not guilty of lying. But in terms of ethics or competence, the Chrysler rhetoric is diversionary at-best, outright deception for-sure. Indeed the real-world reality is the opposite of the [Chrysler rhetoric](#):

If you are involved in a rear-end collision in a Jeep Grand Cherokee, the probability that you are horribly burned or die from fire is so high that only the unethical would feign no concern, and take no action. *

This latter point needs elaboration. In my letter to you of [9 February 2011](#), I stated:

“As chairman of the Chrysler Safety Leadership Team (SLT), my priority involved Failure Mode Effects Analysis (FMEA) as the basis of preliminary and ongoing examination of a safety concern. In my role it did not matter that only one person may be affected during vehicle service life. What mattered was that a failure mode existed, and when provoked would cause serious harm. Hypothetically, the fact that a vehicle service life was statistically “lucky,” and a failure mode was provoked “only once,” was not gala. Such an approach would merely confirm incompetence as a safety manager.

For perspective, I have testified in litigation wherein defense counsel has deployed two themes: 1) “compliance with all government safety standards” and 2) various NHTSA statistics. However, when the jury in [Jimenez v Chrysler](#) learned of the latter’s foreknowledge that FMVSS-206 failed to address the failure mode that was responsible for the death of an 8-year-old boy, that standard and related NHTSA statistics were rendered legally and morally worthless. Similarly, when the jury in [Flax v Chrysler](#) learned that FMVSS-207 did not address the failure mode that was responsible for the death of an infant, that standard and related statistics were deemed irrelevant.” †

In NHTSA EA-12-005 there are indications that #2 may be deployed as the underlying criteria by which dismissal could be executed. This is seen, by some, as insinuated by inclusion of the Jeep Liberty and the Jeep Cherokee. Therefore to avert such misinterpretation, I request that the same correct approach, as detailed above for the Jeep Grand Cherokee, be used for your additional investigation of the Jeep Liberty and the [Jeep Cherokee](#) vehicle lines.

Relating to probabilities, I conclude with [in-person insight](#): In all Center for Auto Safety (CAS) crash tests, conducted to simulate the real-world crashworthiness of the Jeep Grand Cherokee fuel tank system, the probability that the Jeep fuel tank system would fail was determined to be 100%. ‡ §

Please do not hesitate to contact me at any time.

Respectfully,

Paul V. Sheridan

Endnotes

* President Barack Obama and his family [are datum of the lucky Jeep Grand Cherokee population](#).

† To the best on my knowledge, as a former employee of the Chrysler Jeep and Dodge Truck Engineering (JTE) organization, no FMEAs were ever conducted on the rear-mounted fuel tank systems of ZJ-Body or WJ-Body vehicle lines, these were only subjected to the Ford Pinto based FMVSS-301 compliance regimen.

‡ As you are aware, a similar test conducted on the Ford Explorer, which has a similar chassis layout/fuel tank system to the WK-Body, had no breach of the fuel tank system. As you are also aware, the WK-Body, since introduction in September 2004 as a 2005 model year Jeep Grand Cherokee, [has no subject-relevant FARS data entries](#).

§ In the 15 June 2012 New York Times article, [Investigation of Jeep Grand Cherokee Portends a Recall, Safety Advocate Says](#), CAS Director Mr. Clarence Ditlow is quoted, “*We want NHTSA to move faster, but the only way it would move faster is if it had more resources and authority. NHTSA’s band of defect investigators is going up against trillion-dollar companies.*” After our introduction on 19 May 2010 in Room 253 of the Russell Senate Office Building, I had a meeting with Senator Jay Rockefeller (D-WV). During this latter conversation I alluded to the relationship between NHTSA’s very important role to that of the ongoing debate on national health care costs. Briefly, I essentially remarked to Senator Rockefeller that Congress and the Administration needed to review or reestablish the cost-benefit analysis between “*the nickels and dimes spent on NHTSA to the effect that increased funding will have on reducing the hospital bed population of highway accident victims*” (my words). In the context of the instant NHTSA investigation (EA-12-005), one can deduce with confidence that the cost avoidance related to a Jeep Grand Cherokee burn victim (that survives for three weeks on life-support, and then perishes) is comparatively miniscule. When one objectively relates these facts to the general issue of furthering a connected, interrelated and competent national policy on health care, the detractor and advocate alike are hard-pressed to establish a proverbial downside to “*more resources and authority*” to NHTSA.

The New York Times

Wheels

The Nuts and Bolts of Whatever Moves You

June 15, 2012, 11:17 am

Investigation of Jeep Grand Cherokee Portends a Recall, Safety Advocate Says

By [CHRISTOPHER JENSEN](#)

Chrysler Group 1998 Jeep Grand Cherokee, one of the models included an upgraded federal investigation relating to the S.U.V.'s safety performance in rear-impact collisions.

With the [National Highway Traffic Safety Administration](#) having decided to upgrade its investigation of rear-impact fires involving Jeep Grand Cherokees, a recall of millions of those vehicles is “certain,” said Clarence Ditlow, the executive director of the [Center for Auto Safety](#), the organization whose work prompted the federal inquiry.

Chrysler produced about three million Grand Cherokees belonging to the affected model years, 1993-2004, of which about 2.2 million were still registered in 2011, according to Experian Automotive.

Mr. Ditlow and his organization have insisted there was a heightened risk of fire in the vehicles since at least 2009.

Eric Mayne, a spokesman for Chrysler, said in an interview that there was no safety problem with the vehicles and that a recall was “absolutely not” certain.

In an e-mail, Karen Aldana, a spokeswoman for N.H.T.S.A., wrote that it was agency policy to refrain from commenting on possible outcomes of ongoing investigations.

In its filing on Thursday, the agency said “rear-impact-related tank failures and vehicle fires are more prevalent in the J.G.C. than in non-Jeep peer vehicles.” This marked the first time the agency made such a strong condemnation in the case, directly refuting thousands of pages of documentation provided by Chrysler to the agency.

The agency said it would expand the investigation beyond the Jeep Grand Cherokees to include the 1993-2001 Cherokee S.U.V. and 2002-7 Liberty compact crossover.

Combined with the three million Grand Cherokees, the investigation consists of 5.1 million vehicles — though the agency noted old age might have reduced the number of vehicles in use.

Mr. Ditlow **has argued** that the Grand Cherokees were far more likely to experience fast-spreading and deadly rear-impact fires for two reasons.

One is that the gas tank is positioned behind the rear axle, so it lacks the protection of that structure and is in a location engineers often refer to as a “crush zone.” The other reason relates to the fuel filler pipe, which can rip away in a rear impact, leaking gasoline.

In its redesign of the Grand Cherokee for the 2005 model year, Chrysler positioned the gas tank in front of the rear axle, but said the change was not undertaken for safety reasons.

Mr. Ditlow estimated the cost of repairing the Grand Cherokees would be \$100 per vehicle. The vehicles would need a steel shield under the fuel tank and a check valve to keep gasoline from leaking if the fuel-filler pipe were ripped off, he said.

Based on the estimate provided by Experian of 2.2 million affected Grand Cherokees on the road, such a recall would cost Chrysler about \$220 million, irrespective of any recall action for the Cherokee or Liberty.

Mr. Mayne, the Chrysler spokesman, declined to comment on the possible cost of any repair.

“The reality is there is no defect, so we are not contemplating costs,” he said.

Research and advocacy by Mr. Ditlow and the Center for Auto Safety prompted the federal investigation. Late in 2009, Mr. Ditlow filed a formal request, known as a defect petition ([PDF](#)), which argued that the agency failed to notice an important safety issue: that Grand Cherokees from the 1993 to 2004 model years were more likely to burst into flame when struck from behind than other S.U.V.’s in their peer group

Federal regulations dictate that the agency must at least consider whether a defect

petition merits an investigation. In August 2010, the agency **granted the request** and began what was called a Preliminary Evaluation.

During that evaluation, the agency determined there was enough cause for concern to merit an upgrade of the inquiry to an Engineering Analysis, which it announced Thursday.

Allan Kam, a Maryland **safety consultant** who spent much of his career at the safety agency and retired as its senior enforcement attorney, said in an interview there was “frequently” a recall after the agency upgraded an investigation to an Engineering Analysis. In a review by Wheels of 26 engineering analyses by the agency over roughly the last two years, 18 were found to have resulted in recalls. The other eight ended without action.

Mr. Ditlow lamented what he said was the slow pace of the investigation, but said the agency had its hands full. “We want N.H.T.S.A. to move faster, but the only way it would move faster is if it had more resources and authority,” he said. “N.H.T.S.A.’s band of defect investigators is going up against trillion-dollar companies.”

This post has been revised to reflect the following correction:

Correction: June 15, 2012

An earlier version of this post misidentified the author as Jonathan Schultz.

ATTACHMENT 3

9 July 2012

Ms. Angel M. DeFilippo, Esq.
Grieco Oates & DeFilippo, LLC
414 Eagle Rock Avenue
West Orange, NJ 07052
973-243-2099

Subject: Matthew D. Stockwell Letter/Attachment of 18 June 2012
Reference: Estate of Susan Morris Kline

LAW OFFICES
CHAMBERS STEINER

A Professional Corporation

1490 FIRST NATIONAL BUILDING
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Telephone (616) 375-4300
Fax (616) 375-4077

ROSEVILLE OFFICE
25235 GRATIOT AVE.
ROSEVILLE, MICHIGAN 48066
(810) 773-3455

July 14, 1995

Thomas G. Kienbaum, Esq.
500 Woodward Ave., Suite 4000
Detroit, Michigan 48226-3406

Re: Chrysler vs. Sheridan

Dear Mr. Kienbaum:

I am in receipt of your most recent correspondence regarding the magistrate's recommendation and our providing of information to you regarding office materials. I do not know how you could have reasonably concluded from the correspondence that was forwarded to you that we are of the opinion that there is no basis to conclude that evidence may have been tampered with in this case. Indeed, the anxiety exhibited by the fact that you immediately faxed your reply to me suggests that in reality you hold the opposite opinion. Due to the necessity of my attendance at federal court in Wichita, Kansas this week, I did not believe that I was going to be able to comply with the July 14, 1995 deadline. Now, it appears that we are in a position to comply.

The information provided hereunder is based upon our limited and restricted ability to review materials which were allegedly seized from Mr. Sheridan's work space. That review is neither complete, nor did it have as its purpose the ferreting out of all details of evidence tampering which may exist. Lack of inclusion of any specific item in this list shall not be taken as an admission of the authenticity of such a document or other tangible item.

The document submitted by the plaintiff entitled, "Confidential Inventory of Material from Paul V. Sheridan's Cubicle at the Chrysler Technology Center", dated March 16, 1995, has numerous general inconsistencies and inaccuracies based on defendant's knowledge and cursory examination of the actual inventory:

July 14, 1995

1. This "inventory" fails to list and does not contain the following files:

- Liftgate Latch - General
- Liftgate Latch - Competitive
- Safety Leadership Team - Meeting Minutes
- Safety Leadership Team - Preliminary
- Liftgate Latch - Safety Office
- H. G. Cook Study
- FMVSS 206 - General
- Seat Back Strength - General
- Seat Back Strength - FMVSS 207 Specifications
- Offset Impact - General
- Rear Crash Survivability - General
- FMVSS - 301
- Side Crashworthiness Issues
- FMVSS - 214
- Bumper Issues - General
- NS-Body Bumper
- Taillamp Studies - Zarowitz
- Amber Taillamp - NS-Body
- Rear Seat Headrest - General and Zarowitz
- Back-up Light - General

2. The "inventory" lists files but inaccurately portrays their original/current contents:

- Box #1 - File "NS Liftgate System". This file contained subfiles such as "Customer Injury", "Saginaw", et al. Also contains photographs that were originally in the "Liftgate Latch - General" file which is missing per #1 above. (see page 4 of inventory).

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Page 3

July 14, 1995

- Box #1 - File "NHTSA News" contains only half its original contents (see page 4 of inventory).
- Box #1 - File on "Muth Technologies" not listed; subfile "RSZ" not listed (see page 4).
- Entry on page 8 of inventory indicates that a file contained "correspondence for Dr. Detroit Motorsports". No correspondence was ever sent to Mr. Sheridan's Chrysler office for Dr. Detroit Motorsports, nor was any on file at that location.

3. The "inventory" identifies files and file locations by box number but the location identified was found to be inaccurate.

4. The "inventory" fails to explain/list file materials that were found in the actual inventory by defendant:

- Documents relating to FMVSS-208 dated December 21 were found in Box #1 in file "NS-Restraints". This file is not listed on inventory. (see page 4)

5. This "inventory" fails to accurately explain/list documents allegedly found in the cubicle, as described during the deposition of plaintiff's investigators.

6. The "inventory" fails to list files that were found in the actual inventory.

7. The "inventory" fails to list/identify location of specific video tapes:

- Environmentally Safe Oil Changes
- Formula SAE
- IIHS Bumper Tests
- Etc.

CHAMBERS STEINER

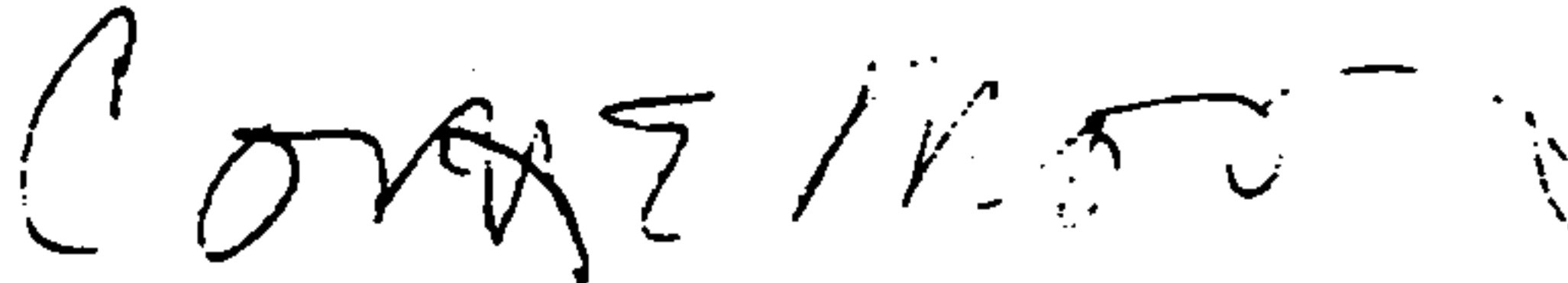
Page 4

July 14, 1995

8. The "inventory" fails to accurately list contents of computer disks and computer hard drive.

This response is not complete. Further examinations of inventory is still pending. Preliminary examinations cover documents listed through page 18, but not Box #7. Document listings from page 18 through 39 have not yet been examined.

Sincerely,



Courtney E. Morgan, Jr.

CEM/mn

cc: George Googasian, Esq.
(Via Facsimile)

ATTACHMENT 4

9 July 2012

Ms. Angel M. DeFilippo, Esq.
Grieco Oates & DeFilippo, LLC
414 Eagle Rock Avenue
West Orange, NJ 07052
973-243-2099

Subject: Matthew D. Stockwell Letter/Attachment of 18 June 2012
Reference: Estate of Susan Morris Kline

To: Ms. Angel M. DeFilippo, Esq.
Grieco Oates & DeFilippo, LLC
414 Eagle Rock Avenue
West Orange, NJ 07052
973-243-2099

Date: 7 June 2012 VIA FEDEX GROUND (1283181-00003629) AND EMAIL

From: Mr. Paul V. Sheridan
DDM Consultants
22357 Columbia Street
Dearborn, MI 48124-3431
313-277-5095
pvs6@Cornell.edu

Subject: Defense / Discovery Counsel Challenges to Document Origin and Availability

Reference 1: David Dillon Deposition of 7 June 2012: Kline v Lomans Auto Group, et al.

Reference 2: The “*tell NHTSA to pound sand*” memo authored/endorsed by Chrysler Executives

Courtesy Copy List

The Honorable David L. Strickland
Administrator
NHTSA Headquarters/West Building
1200 New Jersey Avenue, SE
Washington, DC 20590
888-327-4236

Mr. Sergio Marchionne
Chairman
Chrysler Group LLC
1000 Chrysler Drive
Auburn Hills MI 48321-8004
248-576-5741

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

Mr. Lawrence Hershman
NHTSA Headquarters
West Building
1200 New Jersey Avenue, SE
Washington, DC 20590
888-327-4236

Mr. Russell J. Sacco, Jr.
Suite E
6 Claremont Road
Bernardsville, NJ 07924
908-953-0300

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

22357 Columbia Street
Dearborn, MI 48124
313-277-5095
pvsheridan@wowway.com

7 June 2012

BY FEDEX GROUND (1283181-00003629) AND EMAIL

Ms. Angel M. DeFilippo, Esq.
Grieco Oates & DeFilippo, LLC
414 Eagle Rock Avenue
West Orange, NJ 07052
973-243-2099

Subject: Defense / Discovery Counsel Challenges to Document Origin and Availability
Reference 1: David Dillon Deposition of 7 June 2012: Kline v Lomans Auto Group, et al.
Reference 2: The ***“tell NHTSA to pound sand”*** memo authored/endorsed by Chrysler Executives

Dear Ms. DeFilippo:

You have indicated that defense and discovery counsel, who were present at Reference 1, challenged the origins and availability of an exhibit entered into the Kline case record during plaintiff's examination of Mr. David Dillon. Their challenge relates to the ***“NHTSA pound sand”*** letter written by Chrysler Vice Chairman Thomas Denomme to Chairman Robert Eaton and President Robert Lutz.

I am confused by this challenge since it is well-known to Chrysler counsel that this Dillon deposition exhibit was part of a series of documents (of similar content and tone) that were presented to the jury in the death case litigation of *Jimenez v. Chrysler Corporation*. It is well-known to Chrysler counsel that I testified over a period of three days in October 1997 as plaintiff's expert in *Jimenez*, and contributed to a record jury verdict of \$262,500,000.00. This verdict was featured in a [front-page article](#) of the Wall Street Journal on November 30 1997.

In other words, the subject documents, which depict what many consider criminal activity on the part of Chrysler executive management and their defense counsel, have been notoriously public for over 14 years.

By way of background, and exemplifying the true status of the exhibit, NHTSA had reported to Chrysler executives the following on November 17, 1994:

“The latch failure is a safety defect that involves children.”

It is well-known that the exhibit that Chrysler counsel is now feigning as “confidential” was featured on a prime-time *CBS Evening News* program. I am enclosing a DVD copy of that broadcast of January 7, 1998. [In that nationally televised program](#), *CBS News* anchor Anthony Mason quoted paragraph 9 of that exhibit; documenting the secret Chrysler plan regarding the NHTSA “safety defect” report quoted above:

“If we (Chrysler) want to use political pressure to try to squash a (NHTSA) recall letter, we need to go now.”

A superficial and/or trivial analysis of this historical information might render it off-point. But, as the real world has once-again demonstrated, this managerial historical behavior with-respect-to safety is directly relevant to the Kline litigation, the defective fuel system of the 1993 through 2004 Jeep Grand Cherokees, and the current NHTSA PE-100-31 investigation into the latter (Please see ‘Conclusion’ below).

You have indicated that defense and discovery counsel, who were present at Reference 1, also challenged the “sharing” of this Dillon deposition exhibit. That is absurd.

Attachment F - Tab 16 is attached. This is unchanged from my original expert report of 6 December 2009. Due to case record changes, case rulings, defense expert report inclusions, mid-stream replacement of defense counsel by defendant Loman, etc., I have reacted in-kind and on-point with updates to my report. However, at no time has Attachment F - Tab 16 been deleted or revised in any way.

During plaintiff’s examination of Mr. Clarence Ditlow on 31 May 2012, defense counsel openly boasted that he had Attachment F - Tab 16. Touting his iPad, Mr. Chris Fusco declared, “*I have the entire case right here!*” In other words, the very same defense counsel, that is challenging the origins and availability of an exhibit, had, one week earlier, openly confirmed his knowledge of the origins and availability of that exhibit . . . as well as its “sharing.”

Conclusion: Relevance of Dillon Deposition Exhibit to Kline and NHTSA Investigation PE-100-31



Given prior criminal behavior during NHTSA safety defect investigations, it is predictable that Chrysler would object to inclusion of the “***NHTSA pound sand***” exhibit into the Kline record. Again, this historical behavior *is* also relevant to the Kline litigation, as well as to the NHTSA fuel system defect investigation of the Jeep Grand Cherokee.

Pictured at right is 4-year-old Remington Cole Walden. The details of his fire-death in a Jeep Grand Cherokee on 6 March 2012 are too horrific to document here. But Remington’s death can be directly connected to the historical behavior documented in the “***NHTSA pound sand***” exhibit.

Specifically, paraphrasing the 1994 NHTSA quote above, *the Jeep Grand Cherokee fuel system failure is a safety defect that involves children . . .*

It should be noted that the executive vice president that has been deposed in Kline, and was responsible for the design and production of the Jeep Grand Cherokee, was also central to the internal Chrysler meetings and discussions as documented in the “***NHTSA pound sand***” exhibit.

Respectfully,

Paul V. Sheridan

Enclosures: DVD copy of *CBS Evening News* program of January 7, 1998.
Attachment F - Tab 16 from Paul V. Sheridan expert report of 6 December 2009

Attachment 1

Ms. Angel M. DeFilippo, Esq.
7 June 2010

Subject: Defense / Discovery Counsel Challenges to Document Origin and Availability
Reference 1: David Dillon Deposition of 7 June 2012: Kline v Lomans Auto Group, et al.
Reference 2: The “*tell NHTSA to pound sand*” memo authored/endorsed by Chrysler Executives

DVD copy of CBS News Program “Eye on America” of November 7, 1998 (included with hard copy)

Video link here: http://www.youtube.com/watch?v=Fp19qR_juOg

Attachment 2

Ms. Angel M. DeFilippo, Esq.
7 June 2010

Subject: Defense / Discovery Counsel Challenges to Document Origin and Availability
Reference 1: David Dillon Deposition of 7 June 2012: Kline v Lomans Auto Group, et al.
Reference 2: The “*tell NHTSA to pound sand*” memo authored/endorsed by Chrysler Executives

Attachment F - Tab 16 unchanged from Paul V. Sheridan original expert report of 6 December 2009, includes the “*tell NHTSA to pound sand*” memo authored/endorsed by Chrysler Executives.

ATTACHMENT F

EXPERT WITNESS REPORT

Kline v. Loman Auto Group, Victoria Morgan-Alcala, et al.

T

A

B

16

Jimenez, et al. vs. Chrysler

Robert J. Eaton

August 28, 1997

Freelance Court Reporters (810) 779-1800

1 the assumption that we will eventually be
2 requested to do a recall."
3 Q Thank you.
4 A That's a totally different statement than what
5 we were just talking about, our operating under
6 the assumption.
7 Q You were assuming -- I tried to use his words in
8 my prior questions but you were assuming back in
9 December of 19 -- strike that.
10 In December of '94, you were continuing
11 to operate under the assumption that you would
12 eventually be requested to do a recall, correct?
13 A That's what this says and there's no question
14 that's one of the situations that we were
15 dealing with, but there was also --
16 Q And did you think about -- strike that.
17 But if you thought you were going to have
18 to at some point do a recall, did it occur to
19 you that perhaps you should be letting consumers
20 know sooner rather than later that there may be
21 a problem with their car?
22 A There was no defect. You must understand that.
23 There wasn't any, there isn't any. There was
24 nothing to notify.
25 Q And, well, NHTSA was going to find a defect if

1 Q (BY MR. GERSTEIN): Well, if you look at the
2 attached document, it's dated March 3, 1995?
3 ~~MR. MILLER: Are you representing that~~
4 ~~these two documents were in fact attached to~~
5 ~~each other?~~
6 ~~MR. GERSTEIN: I am not able to do that~~
7 ~~of my own knowledge. They are attached in our~~
8 ~~files, but I'm not going to say they're dated~~
9 ~~stamped consecutively, but I'm not going to~~
10 ~~MR. MILLER: I appreciate your candor and~~
11 ~~as long as we're talking about the~~
12 ~~documents --~~
13 ~~MR. GERSTEIN: While I'm being candid,~~
14 ~~though, I will tell you, I don't have the~~
15 ~~slightest doubt that the first two pages were~~
16 ~~done in or about March of '95.~~
17 ~~MR. MILLER: That may be your conclusion,~~
18 ~~but there's obviously no date on the document,~~
19 ~~on the first page.~~
20 THE WITNESS: My recollection is that
21 this investigation wasn't concluded for a long
22 time after that. 3:48:34
23 Q (BY MR. GERSTEIN): Okay. Well, look at No. 2,
24 paragraph two. Do you see where it says, "NHTSA
25 has agreed that a Chrysler service campaign

1 you didn't strike a deal with them, right?
2 A Absolutely not. 3:44:40
3 Q Okay. Let me show you Exhibit 21. The title of
4 the document is Minivan Latch Issue Proposed
5 Agreement with NHTSA. Do you see that?
6 A Yes, sir, I do.
7 Q In paragraph one, you all got NHTSA to agree
8 that they would deny all Freedom of Information
9 Act requests to place their investigative files
10 including the crash test video in the public
11 record and that the Justice Department would
12 defend any lawsuits seeking to compel production
13 under the Freedom of Information Act; is that
14 correct?
15 ~~MR. MILLER: Objection, lack of~~
16 ~~foundation.~~
17 ~~THE WITNESS: If you are now reading?~~
18 ~~(BY MR. GERSTEIN): The first paragraph of this~~
19 ~~document.~~ 3:46:00
20 A FOIA.
21 Q Freedom of Information Act.
22 A Okay.
23 Q In other words, you all got NHTSA to agree that
24 they would keep or fight the public in finding
25 out what their crash test video showed, correct?

1 would fully satisfy all their concerns?"
2 A Yes.
3 Q ~~Had you then discussed what the service~~
4 ~~campaign would include?~~
5 ~~MR. MILLER: Objection, vague. Dyston,~~
6 ~~as of what date.~~
7 THE WITNESS: You know, I didn't discuss 49:11
8 ~~of this with anyone.~~
9 ~~VIDEO COMMENT: Mr. Miller, could you~~
10 ~~microphone up of witness?~~
11 ~~microphone up of witness?~~
12 ~~microphone up of witness?~~
13 ~~microphone up of witness?~~
14 Q (BY MR. GERSTEIN): Were you finished answering
15 because I'll go on. If you have more to say,
16 I'll not interrupt you. I believe that I'll
17 ~~ask the pending question.~~
18 Do you see where it says, "NHTSA has
19 agreed that a Chrysler service action would
20 fully satisfy all their concerns and they would
21 give full public support to such an effort?"
22 A Yes, sir, I do.
23 Q Do you see where it says, "The critical elements
24 that differentiate the service action from a
25 recall (mostly reflected in the" -- attached --

1 ~~MR. MILLER: Objection, lack of~~
2 ~~foundation as to this witness.~~
3 THE WITNESS: That was while the
4 investigation was going on, I assume. Obviously
5 they were ultimately released, so there wasn't
6 -- you know, I don't know.
7 Q They were released. I think there was a lawsuit
8 to get them, but in any event, are you aware of
9 any deals being struck with NHTSA?
10 A I do recall -- no, I'm not. I clearly remember
11 that we were continually -- this investigation
12 was hampered by leaks in various sensationalism
13 in the press -- sensationalist press and we
14 wanted all the facts to get out there and
15 obviously all the data so that a proper
16 conclusion could be made, and there isn't any
17 doubt that we would not want to see pieces of
18 the information get out until the investigation
19 was complete, but I'm not familiar with, you
20 know, exactly what happened.
21 Q Well, this is at the time the investigation was 3:47:33
22 effectively complete, wasn't it?
23 ~~MR. MILLER: Objection, lack of~~
24 ~~foundation.~~
25 A. THE WITNESS: What is the date?

1 "the two attached letters) are as follows." Do
2 you see that?
3 A Yes.
4 Q And then it says, "No admission of defect or
5 safety problem." Do you see that? Do you see
6 where it says, "Stated purpose of the campaign -
7 to ensure piece of mind in light of media
8 coverage?"
9 A I can assure you that was exactly what the
10 safety action was all about.
11 ~~And you wanted to get NHTSA to agree it would~~
12 ~~not conduct a NHTSA action, it would not be~~
13 ~~included in NHTSA recall numbers, correct?~~
14 ~~MR. MILLER: Objection, lack of~~
15 ~~foundation as to this witness. You can ask him~~
16 ~~what the document says, correct, but in all due~~
17 ~~respect, you haven't established that he ever~~
18 ~~saw it.~~
19 ~~MR. GERSTEIN: That's a fair point.~~
20 Q (BY MR. GERSTEIN): Did you ever see this
21 document?
22 A No, sir, I don't believe so.
23 Q ~~Were you consulted by your company concerning~~
24 ~~the document?~~
25 Were you consulted by executives in your

Robert J. Eaton
Chairman of the Board
and Executive Officer

March 30, 1995

The Honorable John D. Dingell
House Commerce Committee
2125 Rayburn House Office Building
U. S. House of Representatives
Washington, DC 20515

Dear Congressman Dingell:

I want to thank you for your personal involvement on behalf of Chrysler and other auto manufacturers regarding the NHTSA defect investigation process. I believe your oversight of NHTSA has played a significant role in causing NHTSA to alter its mindset as well as its processes in its handling of complex safety investigations. We at Chrysler intend to continue to speak out on this issue and hope you will continue your probing for an improved investigatory process.

I also want to provide you some insight on our recent decision on the minivan latch issue. As you are no doubt aware, with great reluctance we decided on March 27 to initiate a service campaign for our minivan owners, offering them a replacement rear door latch for model years 1984 through 1994. This decision was based solely on our determination that Chrysler minivan owners had become so misled by outrageous media sensationalism of this issue that further delay in adjudicating this investigation with NHTSA would be harmful to the company. It became necessary to put customer concerns first over our absolute insistence that no safety issue actually exists.

I have never doubted that NHTSA's evaluation of the facts in this matter would eventually conclude in their closing the case without an adverse finding. But to reach that conclusion would take many more months during which our exposure to continuing media barrages would not be abated.

It is regrettable that the NHTSA investigative process is wholly deficient in protecting the rights and reputations of manufacturers where there are: (1) large numbers of vehicles involved; (2) complicated technical issues; and (3) post facto and subjective determinations by NHTSA of on-road crashworthiness safety performance. I want to assure you that Chrysler will work diligently for changes to bring fairness to this system. I hope you will continue your invaluable oversight efforts to that end.

Thank you again for your support.

Sincerely,



Robert J. Eaton
Chairman of the Board
Chief Executive Officer

March 30, 1995

The Honorable Michael G. Oxley
Chairman-Subcommittee on Commerce,
Trade and Hazardous Materials
House Commerce Committee
2125 Rayburn House Office Building
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I want to thank you for your personal involvement on behalf of Chrysler and other auto manufacturers regarding the NHTSA defect investigation process. I believe your oversight of NHTSA has played a significant role in causing NHTSA to alter its mindset as well as its processes in its handling of complex safety investigations. We at Chrysler intend to continue to speak out on this issue and hope you will continue your probing for an improved investigatory process.

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Thank you again for your support.

Sincerely,



T. G. DENOMME

December 13, 1994

- R. J. Eaton
- R. A. Lutz
- R. R. Boltz
- F. J. Castaing
- T. R. Cunningham
- D. E. Dawkins
- L. H. Goldfarb
- S. J. Harris
- T. J. Kowaleski
- A. C. Liebler
- C. P. Theodore
- G. C. Valade

Attached is the agenda for the Minivan Latch meeting scheduled for 3 p.m. today in the Keller Building Conference Room A.

/bw

Eaton
 EXHIBIT NO. 15
 8-28-97
 M. MOORE

Post-It™ brand fax transmittal memo 7671		# of pages	2
To	<i>KOWALESKI</i>	From	<i>DENOMME</i>
Co.		Co.	
Dept.		Phone #	
Fax #	<i>8-776-7947</i>	Fax #	

REDACTED DOCUMENT

MINIVAN LATCH ISSUES
AGENDA

DECEMBER 13, 1994

<u>Topic</u>	<u>Discussion Leader</u>	<u>Time</u>
• Opening Comments	Denomme	5 minutes
• Update Since Last Meeting	Dawkins/Goldfarb	10 minutes
• Report on Latch Status for Field Campaign	Theodore	10 minutes
[REDACTED]	[REDACTED]	[REDACTED]
• Review of Communications Plans for a NHTSA Confrontation	Liebler	30 minutes
• Review of Focus Group Research	Liebler	10 minutes
• Discussion of Combined Offer to Replace/ Confrontation Strategy	Denomme	10 minutes
• Political Strategy	Liberatore	10 minutes
• Business Decision	Group	20 minutes

1 hour, 50 minutes

12/13/94

TH002785

DOCUMENT PURSUANT TO A PROTECTIVE ORDER IN SERGIO V. CHRISSLER v. JIMENEZ, et al.

Vice C

T. G. DENOMME

December 9, 1994

R. J. Eaton
R. A. Lutz

Re Point #1 ... we've been talking to The Detroit News today re holding their latch story. Bud has worked out an arrangement whereby they will not run the story this weekend and we will agree to give them a one-day lead if we decide to do a customer-friendly action only (a voluntary recall).

If we decide to take on NHTSA, they understand that we will need to involve all media in that decision.

It should be noted, however, that if there are more leaks, or someone else breaks this story, then the News will go with theirs.

TGD:bw

[Handwritten signature]

Eaton
EXHIBIT NO. 14
8-28-97
M. MOORE

TD000099

DOCUMENT PRODUCED
PROFITABLE TO A
CHRYSLER

T. G. DENOMME

REDACTED
DOCUMENT

December 9, 1994

R. J. Eaton
R. A. Lutz

MINIVAN LATCH MEETING

A preview of next Tuesday's meeting:

1. Bad News ... Yesterday we received a call from Bryan Gruley (Detroit News Washington Bureau) who told us he and Bill Vlasic are working on a story for this weekend on the "raging debate within Chrysler on whether to recall the vans or take on NHTSA". This story, which may go on the Gannett wire (USA Today) will generate customer and dealer concerns, and could force NHTSA to dig in. Don't know the source, but the fact that their Washington Bureau got on it suggests either a NHTSA or a Consumer Advocacy source.
2. NHTSA Situation ... There was little discussion on our technical presentation last Monday. The consensus is that the new data we presented has bought us a little time ... there will probably be another technical session to discuss NHTSA's reaction to our data ... but it's unlikely we have changed their minds. Accordingly, we will continue to operate under the assumption that we will eventually be requested to do a recall.
3. Latch Fix ... Chris Theodore will update us. Because we have chosen not to contact external suppliers, our cost/timing estimates are very rough. But Chris will likely report that we could have some quantity of latches available for '91 to '94 models by early spring, and the new latch for the pre-'91 models in about nine months. I do not know where we stand on costs.
4. Take On NHTSA Strategy ... Tom Kowaleski will take us through a "script" for a media conference laying out our case. Bud Liebler will review the ads developed in conjunction with a decision to fight a recall. We will also review dealer/customer communication materials.
5. Research ... We are doing some focus group testing of the take-on-NHTSA approach. No one has seen the results yet, but early indicators are that customers "tune out" statistical arguments about accidents, fatalities, latch pull tests, etc., and focus on "what's Chrysler going to do to address customer concerns". There is no doubt that Chrysler has a special image and relationship with minivan customers when it comes to safety.
6. A Third Approach ... In addition to the voluntary recall path and the take-on-NHTSA path, a third path melding elements of a voluntary recall and a take-on-NHTSA approach will be discussed. Essentially, we would seize the high ground by going out with an offer to replace the latch for any of our owners who request a replacement (note this wording ... it is much softer and less urgent than the language NHTSA insists on under their recall procedure) and, at the same time, tell NHTSA to "pound sand". The obvious benefit of this approach is that we address our customer concerns without admitting to a defect (because there is no defect) and simultaneously engage NHTSA in the fight over principle.

TD000100

REDACTED DOCUMENT

[REDACTED]

I should also point out that we have several other important cases under investigation by NHTSA, including minivan brakes, that we need to keep in mind before we engage them in a fight.

7. [REDACTED]

8. Recommendations ... There continues to be a divided house on what we should do once we know that NHTSA will send us a letter.

- Sales/Marketing ... Wants us to address customer/dealer concerns and prefers a voluntary field campaign to a public fight on principle.
- Public Relations ... Agrees with Sales.
- Engineering ... Prefers we take on NHTSA.
- Regulatory Affairs ... Prefers we take on NHTSA (but is supportive of the third alternative described in point #5).
- [REDACTED]
- Washington Office ... [REDACTED] but also sees some advantages to the third alternative.

9. Final Point ... Rob Liberatore makes the point that, regardless of what course of action we take, we should mount an aggressive effort in Washington to prevent the adverse use of bureaucratic power within NHTSA, specifically their funding from Congress, the process which allows NHTSA to design tests for the public record that play to the media and trial lawyers before ruling on a defect, the lack of objective criteria in determining whether a recall request is to be made, and the very fact that they can request a recall before establishing that a defect exists. I could not agree more.

If we want to use political pressure to try to squash a recall letter, we need to go now. We cannot expect to be successful if we don't activate until we are officially notified that a letter is coming. Of course, the risk of early action is that it may preclude NHTSA from exercising a close-the-case option.


T. G. Denomme

TGD:bw

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VOL. 13, NO. 9

OAKLAND COUNTY'S AUTO INDUSTRY AND BUSINESS NEWSPAPER

MARCH 6, 1995

CUSTOM FIT

The Detroit Transportation Club hosted a U.S. Customs Service Special Agent at their February luncheon — he spoke on customs fraud, its application to shippers and the responsibilities of all parties involved.

See CUSTOMS, page 2 >

DEALERSHIP LOYALTY

Along with improved customer satisfaction, that's what Chevrolet is trying to promote with its new Career Builders program that honors salespeople who stay at dealerships for more than three years.

See CHEVROLET, page 6 >

MOTOWN HOEDOWN

The Motown Museum hosted its annual fund-raising dinner and dance last week to help with renovation of the old Hitsville USA studio on West Grand Boulevard in Detroit's New Center Area.

See PARTY, page 6 >

CLEAN AND CLEAR

Orbital Engine Co. has long said it would provide automakers with an alternative to the four-stroke engine with its two-stroke, however, U.S. emissions standards have stood in the way of the in-

EATON ATTACKS FEDERAL REGULATIONS

By Scott Roush
Staff Writer

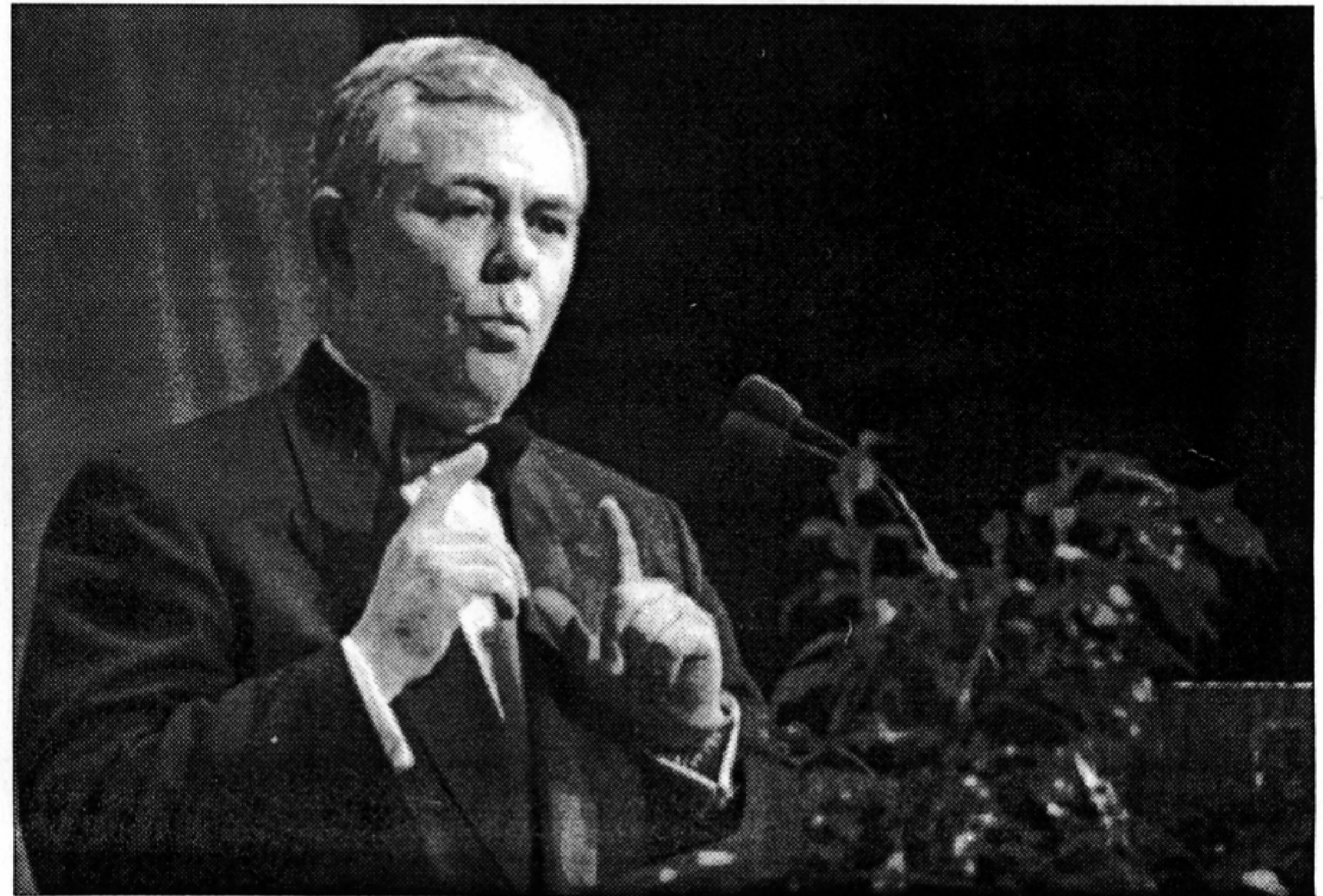
Chrysler Corp.'s Chairman Robert Eaton wrapped up the 1995 SAE International Congress and Expo with a speech that criticized the federal government for regulations stifling the growth of the auto industry.

From voluntary recalls and workplace streamlining to the average cost of today's vehicle, Eaton questioned the government's role in regulating business during his "Engineering for Value" presentation.

But Eaton did approve of what some of the government is doing. The Chrysler boss praised House Speaker Newt Gingrich and other Republicans' attempts to reduce some of the bureaucracy in Washington through the "Contract with America."

Eaton discussed how the automotive industry has reduced its workforce since 1950 and how the federal government has failed to reduce its workforce over the same time period. This, according

See EATON, page 4 >



CHRYSLER CHAIRMAN Robert Eaton's speech at the SAE Congress and Expo banquet at Cobo Center was critical of the number of industry regulations coming from Washington.

science and technology on March 6 from noon -1 p.m. Call (810) 370-3574.

QUALITY WORKSHOPS A nine-week workshop, *Improving Productivity Through Statistical Quality Control*, starts March 20, from 6 -9 p.m. at Oakland University. Another workshop at OU, *Improving Customer Satisfaction Through Process Control and Quality Planning*, starts March 21 from 6 -9 p.m. Call (810) 370-3120.

"LOVE LETTERS" St. Dunstan's Guild of Cranbrook presents "Love Letters" by A. R. Gurney March 10, 11, 17 and 18. This performance piece delivers letters exchanged over a lifetime between two people who grew up together, went their separate ways but continued to share confidences. The show starts at 8 p.m. in St. Dunstan's Playhouse in Bloomfield Hills. Call (810) 644-0527.

VOLUNTEERS NEEDED The Oakland County Retired and Senior Volunteer Program (RSVP) seeks volunteers 55 years and older to become involved with community agencies who need assistance. Varied opportunities are available at schools, hospitals, libraries, human service agencies, and cultural institutions throughout Oakland County. Contact Linda Kaniewski at (810) 333-3716 ext. 115.

CHILD SAFETY "Northwest Troy Partnership Talks Safety" will be presented March 8, 7 -9 p.m. at Hamilton Elementary School on Northfield Parkway in Troy. Presentations by members of the Troy Police Department will include: home security, bike safety, how to use your police department, K-9 officers, child safety and personal safety. Admission is free. Call (810) 740-0431.

MUSICAL CELEBRATION Inspired by stories from and about the AIDS Memorial Quilt, "Quilt, A Musical Celebration" fills the theater with images of laughing, living, leave-taking and love. The show takes the stage March 10 and runs for three consecutive weekends. Call (810) 370-3013.

CANCER PROGRAM Crittenton Hospital in Rochester and the American Cancer Society are sponsoring a four-week "I Can Cope" program that began Feb. 22 and continues for four consecutive weeks. "I Can Cope" will be

tax strategies. Featured speakers include Peter Bewrchy, Richard Falck and Davis Senatore, financial consultants. The seminars will take place at the Columbia Center in Troy across from the Troy Marriott. Call (810) 227-1931.

"ROYAL TOMBS OF SIPAN" This heralded exhibit will be on display at the Detroit Institute of Arts from now through April 30. Tomb robbers unearthed treasures from a pyramid near Sipan, Peru, and flooded the international art market with gold and silver artifacts. The exhibit features exquisite gold and silver jewelry, semi-precious stones and other artifacts excavated from the richest tombs ever explored in the Americas. Call (313) 833-2323.

BIRDS OF PREY Join an expert ornithologist for a talk featuring live Michigan wildlife March 14, 7 -8 p.m., at Edsel and Eleanor Ford House. Special guests could include a Barn Owl, Red-tailed Hawk and American Eagle, among others. Suitable for adults and children 6 and older. Admission is \$3. Call (313) 884-4222.

AUTOMOTIVE MAGNESIUM The International Magnesium Association is sponsoring an educational seminar on magnesium in automotive applications, Apr. 4, 8 a.m. -4 p.m., at Laurel Manor, 39000 Schoolcraft in Livonia. There is no charge for attending the seminar. Form reservations call (703) 442-8888.

RAPID PROTOTYPING Register now for the Rapid Prototyping & Manufacturing '95 Conference and Exhibition, May 2 -4, at the Hyatt Regency in Dearborn. The event, sponsored by the Society of Manufacturing Engineers, will feature 60 exhibitors and 40 conference presentations. Keynote speaker is Mary L. Good, undersecretary of technology at the U.S. Department of Commerce. For more information call 1-800-733-4763.

MANAGING DIVERSITY The University of Michigan-Dearborn's Center for Corporate and Professional Development helps you update your managing skills. The CCPD will be offering a course on "Diversity: Awareness & Understanding" March 20 and 21, 8 a.m. -5 p.m. The cost for this interesting program is \$536 per person. Call

Eaton Says Governmental Regulations Negatively Impact Industry's Progress

From page 1

to Eaton, just one way the auto industry has streamlined and the government hasn't.

In 1978, the auto industry was at its peak employment at 1 million workers. That same year the federal government employed 2.8 million civilians. "Today the automotive industry has reduced its workforce to 575,000," he said. "What happened to those 2.8 million federal employees in the meantime? They grew by 100,000 (almost the size of Chrysler Corp.)."

Eaton also talked about process. "We figured out a few years ago that managing the process makes a lot more sense than just trying to manage the outcome," he said. "That's how we cut our workforce so much and got so productive."

Eaton continued by saying that no industry is more heavily regulated than the auto industry. He added that because the industry is so visible, there is no better target when the government pursues a crusade like voluntary recall.

Voluntary recall is negative for the industry, Eaton said, because of the bad public relations that go with a product recall.

"If you do what the government asks you to do, in the eyes of the public you must have a faulty product," he said. He referred to the dispute General Motors had concerning its pickup trucks as a prime example of where the au-

tomaker faces a no-win situation in public opinion.

Chrysler might be in a similar situation with one of its vehicles. Reports have criticized the car company for flawed rear door latches on its best-selling minivans from 1985 -94.

"The cost and the risk of delaying them are too great for many companies to even contemplate," Eaton said of the agencies who regulate the industry.

Regardless, today's auto workers are more productive than in the past because of better management according to Eaton. In 1978, the industry produced 13 vehicles per employee. This year that figure is 21 vehicles per employee.

"We can continue this process," Eaton said of the improved production.

The federal government announced that the average price of a 1995 vehicle rose to approximately \$20,000. Eaton said the government failed to include incentives when it calculated those figures, but that number could soon be reached due to government regulations.

"The public mood is decidedly anti-Washington, and that means the appetite for more rules and regulations is just about gone," Eaton said.

The auto industry itself needs to improve the affordability of cars, but with governmental interference it will be difficult to

promote "Engineering for Value" according to Eaton.

"The future profits have to come from the product instead of the customer," he said. "Costs have to be engineered out, and they have to come out without compromising product integrity."



ATTACHMENT 5

9 July 2012

Ms. Angel M. DeFilippo, Esq.
Grieco Oates & DeFilippo, LLC
414 Eagle Rock Avenue
West Orange, NJ 07052
973-243-2099

Subject: Matthew D. Stockwell Letter/Attachment of 18 June 2012
Reference: Estate of Susan Morris Kline

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B

14

Article View

Article 8 of 14

BUSINESS

Chrysler joins forces with Dingell in attempt to avoid minivan recall Firm, congressman argue U.S. can't request a recall without first proving that vehicles pose unreasonable' safety risk.

Bryan Gruley

02/01/95

The Detroit News

2DOT

Page E1

(Copyright 1995)

Detroit News Washington Bureau

Chrysler Corp., with the help of two key congressmen, is trying to throw an unusual legal obstacle in front of federal safety regulators who would like the automaker to recall four million minivans.

In a Jan. 20 letter to the National Highway Traffic Safety Administration, **Chrysler** lawyer Lewis Goldfarb argued that the administration cannot request a recall without first proving that the minivans pose an "unreasonable" safety risk.

Reps. John Dingell, D-Dearborn, and Michael Oxley, R-Ohio, made similar arguments in a Jan. 17 letter to NHTSA chief Ricardo Martinez.

Oxley is chairman and Dingell is the ranking minority member of a House panel that soon will be reviewing the agency's budget.

The letters, obtained by The Detroit News, question NHTSA's long-used tactic of sending a written request to a manufacturer for a recall before reaching a final determination that a vehicle is unsafe.

The request is designed to give an automaker a chance to show why a recall is unwarranted.

The manufacturer can decline the request _ as General Motors Corp. did in 1993 when NHTSA asked for a recall of its 1973-87 pickup trucks _ or agree to a voluntary recall.

Dingell's letter said a recall request unfairly and publicly casts the manufacturer in a negative light before NHTSA has completed its work.

"Several auto companies raised this concern" in the wake of the controversial GM truck case which was settled last December, a congressional aide said.

The pleas by the congressmen and **Chrysler** suggest the automaker is leaning toward resisting a recall of its 1984-94 minivans, which are alleged to have defective rear-door latches that allow passengers to be ejected in crashes.

Last month the automaker sharply criticized NHTSA in two letters alleging that: NHTSA conducted crash tests that, in **Chrysler**'s view, were designed specifically to make the rear latches fail. "We know that any minivan can be opened with a similar test," said Steve Harris, a **Chrysler** spokesman. NHTSA's statistical analyses are flawed because they do not include all vehicles with rear hatches, such as station wagons and sport utility vehicles.

Sources close to the investigation say NHTSA officials don't consider the crash test to be their most important evidence and that a recall may be in order, although a final decision has not been made.

Some **Chrysler** officials have privately urged that the automaker take steps to remedy the latches.

[Return to Headlines](#)

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Date January 18, 1995

To - Name & Department

Rob Eaton, Tom Denomme, Ron Boltz, François Castaing, Rob Liberatore, Bud Liebler

Name & Department

Al Slechter *AS* 938-00-00

Subject MINIVAN LATCH CASE

Attached is the letter to Rick Martinez which we have been working on with Hill staff. The final is signed by Mike Oxley and John Dingell. Several things should be noted:

1-20-95
STEVE BASSIS
TOM KUWALSKI
F. - He's saying this
Want letter, but you
should be aware of
what it says
about it
Does.
Bund

Tom Bliley was briefed on this subject by staff and, for whatever reasons, he decided to defer the signature to Mike Oxley. This can be read as the first example of the "Bliley process" and signals less attention by Bliley to our industry problems. A second reading, however, is that the relationship between Bliley and Oxley has been somewhat strained and that Bliley is deferring to Oxley's subcommittee jurisdiction.

As you will see, the letter was substantially toughened by staff and we are aware that Dingell's staff was instrumental in further fleshing out the questions raised in the letter.

As you may be aware, GM delayed their approval of this letter in the final stages of drafting.

[REDACTED]

It would not be surprising if, when GM sees the final product, they are exercised that we did not give full weight to their input. We have only so much influence on the specific content of this type of letter once it is put in the hands of the staff for final work.

From my vantage point, it is a much improved and tougher product and will hopefully have a positive effect on our situation.

AJS/st

Eaton
EXHIBIT NO. 18
8-28-97
M. MOORE

RECEIVED
JAN 1 1995
A.

We are concerned with this voluntary recall process for several reasons. The request for voluntary recall, because it is made public, can have an adverse impact on the safety reputation of the product as well as the manufacturer. It can create anxiety among all vehicle owners regarding the safety of their vehicles. It forces the manufacturer to choose between conducting a costly recall prior to any finding of defect OR risking a public perception that the vehicles are unsafe, with the attendant bad press. The exploitation of this process by trial lawyers and others is also troublesome. Given the frequency of ODI's subsequent closing of the case after the manufacturer declines a recall request, the process can be seen in many cases as a coercive device used to impose requirements beyond the law.

General Motors' experience with the C/K truck suggests that there may be a category of investigations where the use of the voluntary recall letter is contrary to the statutory purposes of the Safety Act. In the GM case the IG found that the recall request was made prematurely because in February 1993 Department officials wanted to speed up an investigation began only two months earlier, thereby misleading the public regarding the safety of the GM truck and causing great hardship to GM. To placate those officials, NHTSA, not the ODI, recommended in April 1993 that the Secretary authorize ODI to send a voluntary recall letter to GM and to require GM to provide a detached justification if they refused to do so. ODI anticipated GM's response would be negative and that the explanation would provide additional information relevant to the investigation. That was a misuse of the process based on interference in the investigation by the Department. The harm was compounded when the Secretary announced an initial decision based, in part, on his apparent belief that the voluntary recall request by ODI was tantamount to a staff finding of defect.

While the GM case may be unique in certain respects, it clearly illustrates how a well-intentioned, informal procedure can be grossly misconstrued by the public and senior policy makers, with extremely harmful consequences to a manufacturer and its products. The misuse of such a procedure, it seems to us, does a disservice to the agency and its mission to ensure the safety of our highways.

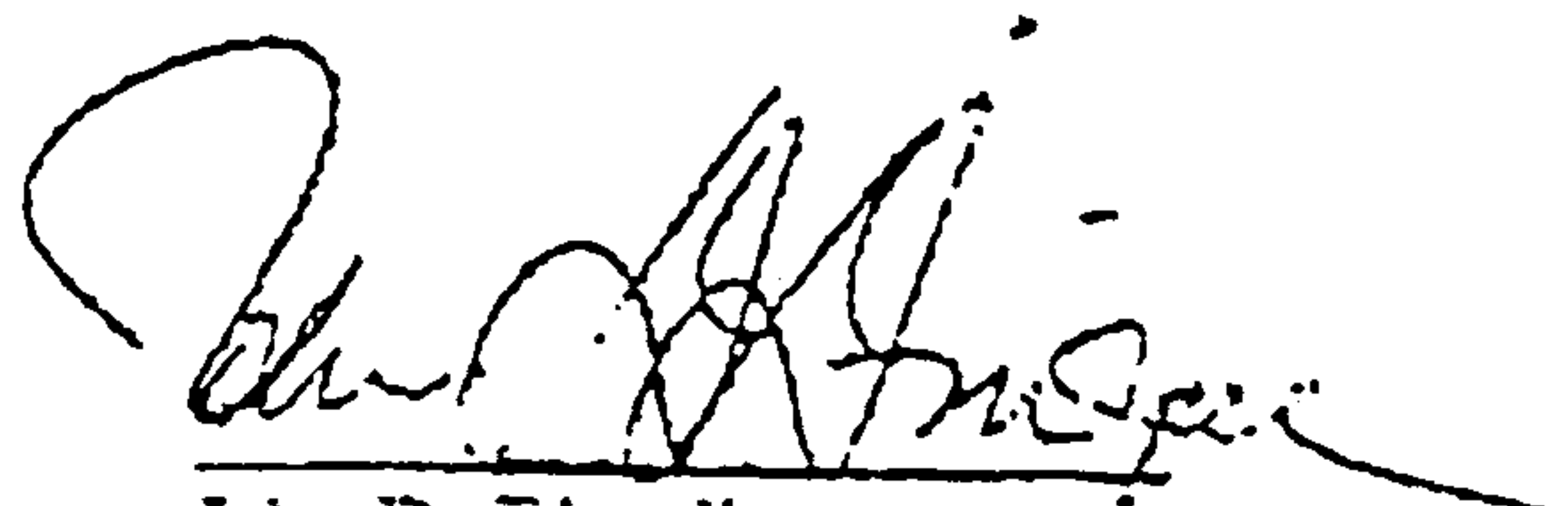
In addition to your general review of the voluntary recall request we ask that you respond to the following questions:

- (1) What is NHTSA's authority under the Motor Vehicle Safety Act for using this process?
- (2) What procedures are in place to ensure uniform application of this process?
 - (a) Is a threshold level of evidence required before a letter may be sent?
 - (b) Are staff decisions to request voluntary recall reviewed at a higher level?
- (3) In light of the GM case, is it reasonable for us to assume that these procedures are not binding on the ODI or NHTSA and that they can be ignored at the whim of Departmental officials? Clearly, the ODI Control Plan is only a guideline document.
- (4) What is the frequency of case closings after a voluntary recall request is sent?
- (5) At the time a request for voluntary recall is made, how close is the agency to an initial decision of defect or closure?

- (6) Has NHTSA considered any alternatives to this process that would accomplish the same purpose but avoid unfairly disparaging a product and alarming its owners?
- (7) Can this process be revised to avoid the kinds of problems documented in the GM case?
- (8) In light of the IG's finding in the GM case that NHTSA felt pressured to issue a recall request letter prematurely, what safeguards do you plan to put in place to assure that recall request letters are not issued until an appropriate investigation has preceded the decision to send such a letter?
- (9) The IG's report confirmed that the "recall request letter" is a misunderstood device, and that even the Secretary of Transportation misconstrued the importance of the letter, erroneously believing it to reflect a definitive agency position. Given this confusion about the meaning and import of a "recall request letter," is it now appropriate to revisit the process by which it is decided to send a letter? In particular, what are the advantages and disadvantages of delaying the issuance of any such recall request until after the evidence in the investigation has been thoroughly reviewed by the Associate Administrator for Enforcement and the Defect Review Panel?
- (10) It seems that a recall request letter resembles a settlement proposal, in which the agency staff suggests that its concerns about a matter could be resolved if the targeted company agrees to take a particular action, in this case a voluntary recall. Other law enforcement agencies under the jurisdiction of this Committee, such as the Consumer Product Safety Commission and the Federal Trade Commission, consider their comparable procedures to be confidential settlement discussions, and do not place records pertaining to such discussions on the public record. What is the rationale behind NHTSA's practice of preparing written "recall request letters" and placing them in the public record, rather than treating such staff requests as confidential settlement proposals? Why shouldn't NHTSA consider a "recall request" to be a confidential settlement proposal between the agency and the regulated party?
- (11) At what stages of an investigation is information made public by NHTSA or ODI prior to any determination of defect? What is the origin of this policy? Is this a sound practice when an investigation may not be sufficiently complete to determine a defect?
- (12) Does NHTSA have the legal authority to revise its defect investigation procedures in order to treat "recall requests" as confidential settlement proposals?
- (13) In light of the GM experience, what actions are you taking or planning to take to improve the integrity of the investigative process as contemplated by the regulations and the precedents so that ODI experts can conduct investigations in a timely and fair manner without unnecessary interference from Departmental officials?

We appreciate your attention to this matter, and respectfully request your response within 10 business days. We presume that now that the GM case is closed, your recusal will no longer preclude you from responding to these matters. If that is not the case, please explain why and have the Deputy Administrator respond.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Dingell". The signature is written in a cursive style with a large initial "J" and a long horizontal flourish at the end.

John D. Dingell
Ranking Democratic Member
Committee on Commerce

Michael G. Oxley
Chairman
Subcommittee on Commerce, Trade and
Hazardous Materials
Committee on Commerce

ATTACHMENT 6

9 July 2012

Ms. Angel M. DeFilippo, Esq.
Grieco Oates & DeFilippo, LLC
414 Eagle Rock Avenue
West Orange, NJ 07052
973-243-2099

Subject: Matthew D. Stockwell Letter/Attachment of 18 June 2012
Reference: Estate of Susan Morris Kline

GRIECO, OATES & DE FILIPPO, LLC
ATTORNEYS AT LAW
414 EAGLE ROCK AVENUE
SUITE 200
WEST ORANGE, NEW JERSEY 07052
Telephone No. (973) 243-2099
Attorneys for the Plaintiff(s)

FILED

MAR 21 2012

DAVID B. RAND, P.J.C.V.
JUDGE'S CHAMBERS
MORRIS COUNTY COURTHOUSE

THOMAS KLINE, AS ADMINISTRATOR :
AD PROSEQUENDUM OF THE HEIRS :
AT LAW OF SUSAN MORRIS KLINE, :
(DECEASED), AS ADMINISTRATOR :
OF THE ESTATE OF SUSAN MORRIS :
KLINE, and THOMAS KLINE, :
INDIVIDUALLY, :

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION

MORRIS COUNTY
DOCKET NO. MRS-L-3575-08

Plaintiff(s),

CIVIL ACTION

v.

ORDER

VICTORIA MORGAN-ALCALA, :
CARLOS ALCALA, NATALIE RAWLS, :
DAIMLER CHRYSLER CORPORATION, :
A/K/A/ CHRYSLER CORPORATION, :
LOMAN AUTO GROUP, CHRYSLER :
GROUP, LLC (For Discovery Purposes), :
JOHN DOES, A THROUGH Z, (Names :
Being Fictitious), ABC CORPORATIONS, :
1 THROUGH 100, (Names Being Fictitious):

Defendant(s)

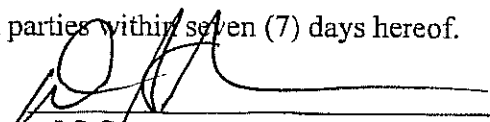
THIS MATTER having been opened to the Court by Motion of Callahan and Fusco, LLC, attorneys for Loman Auto Group, and opposition having been filed by Grieco, Oates & DeFilippo, LLC, attorneys for Plaintiff(s) for an Order to Dismiss plaintiff's punitive damages claim, and the Court having considered this application as well as oral argument on March 16, 2012, and for good cause shown;

IT IS on this 21ST day of March 2012;

ORDERED that, should Defendant Loman Auto Group's motion to dismiss plaintiff's claim for punitive damages is hereby DENIED WITHOUT PREJUDICE; and it is further

ORDERED that a copy of the within Order be served upon all parties within seven (7) days hereof.

Reasons for this order were orally
placed on the record on 3/16/2012


J.S.C. **DAVID B. RAND, P.J.C.V.**

ATTACHMENT 7

9 July 2012

Ms. Angel M. DeFilippo, Esq.
Grieco Oates & DeFilippo, LLC
414 Eagle Rock Avenue
West Orange, NJ 07052
973-243-2099

Subject: Matthew D. Stockwell Letter/Attachment of 18 June 2012
Reference: Estate of Susan Morris Kline

ATTACHMENT Z

EXPERT WITNESS REPORT - 2 January 2012 REVISION

Kline v. Loman Auto Group, Victoria Morgan-Alcala, et al.

Page Range 13

Pages 826 - 838

New study shows more deaths in GM pickups

By Bryan Gruley
NEWS WASHINGTON BUREAU

WASHINGTON — A new General Motors Corp. analysis shows that GM's 1973-87 fullsize pickup trucks have a higher death rate in crashes than Ford and Chrysler models.

The new analysis, produced at the request of federal regulators, appears to contradict one of GM's key de-

fenses of its pickups, which critics say have killed at least 115 people in crash-related fires.

Clarence Ditlow of the Center for Auto Safety, a Washington consumer group, accused GM of "rigging the data" to make its trucks look safer until regulators called a halt.

GM spokesman Ed Lechtzin said the company was merely cooperating with the the government's preliminary investigation of the trucks.

The National Highway Traffic

Safety Administration (NHTSA) is considering whether to recall the vehicles, an estimated 5 million of which remain on the road. At issue is whether their sidesaddle fuel tanks are vulnerable to puncture in a crash.

GM repeatedly has said the trucks have a lower overall death rate in crashes than comparable Ford and Chrysler models.

But a revised study by a GM consultant shows the GM fullsize models with a fatality rate higher

than that of both competitors.

Despite the new findings, GM spokesman Lechtzin said the fatality rates are "still comparable."

But, he said, "We can't make the specific statement we made earlier."

In a Nov. 24 letter, GM General Counsel Harry J. Pearce apologized to NHTSA Administrator Marion Blakey for providing data which "obfuscated" the automaker's belief that the trucks are safe.

"We are redoubling our vigilance

to prevent such an occurrence in the future," Pearce wrote, adding, "there was absolutely no intention to mislead anyone."

NHTSA must decide by Dec. 14 whether to launch a full-scale investigation of the trucks. The Center for Auto Safety has asked the agency to order a recall.

"It's obvious that GM is now rigging the data to justify having

Please see Pickups, 2E

Pickups: New numbers differ

From page 1E

killed so many Americans in fire crashes," center director Ditlow said.

GM's previous claim that its trucks had a lower fatality rate than Ford and Chrysler models was based on a comparison of GM's fullsize pickups to fullsize and smaller trucks made by its rivals.

At NHTSA's prompting, GM asked its consultant, Failure Analysis Associates Inc. of Menlo Park, Calif., to redo the study minus the smaller Ford and Chrysler models.

The result: GM trucks had 1.51 deaths per 10,000 crashes of all types, Ford 1.45 and Chrysler 1.16.

NHTSA investigators are struggling to determine whether the differences between those numbers matter.

GM trucks fared better in other

comparisons. For example, in side-impact crashes, Ford had a higher fatality rate than GM.

The rate of fatal fires in GM trucks was higher than either Ford or Chrysler.

Lechtzin said Pearce wrote NHTSA "so that the small discrepancy between those (new) numbers and our original numbers doesn't overshadow our good, sound case that the vehicles are safe."

A NHTSA official who spoke on the condition of anonymity said GM's revision appeared to be an honest effort to help the agency.

Agency officials Tuesday briefed Sen. Richard Bryan, D-Nev., on the truck matter. Bryan, who chairs a subcommittee with jurisdiction over the agency, is said to favor a full-scale investigation of the trucks.

GENERAL MOTORS CORPORATION

POST OFFICE BOX 33122
DETROIT, MICHIGAN 48232

HARRY J. PEARCE
EXECUTIVE VICE PRESIDENT
AND GENERAL COUNSEL

NEW CENTER ONE BUILDING
300 WEST GRAND BOULEVARD
TELEPHONE 313/974-1400
FACSIMILE 313/974-4009

November 24, 1992

The Honorable Marion C. Blakey
Administrator
National Highway Traffic Safety
Administration
400 Seventh Street, S.W.
Washington, DC 20590

Dear Administrator Blakey:

General Motors is committed to working with the agency in a forthright and constructive fashion to resolve the questions that have arisen about our 1973-1987 C/K pickup trucks. As you know, it is our strongly-held belief that we have sound legal and factual arguments against the suggestion that these vehicles contain a safety-related defect. Given that, I was quite dismayed to learn yesterday that some aspects of the statistical analysis prepared by Failure Analysis Associates at our request and presented to the agency last month -- an analysis obviously submitted to the agency in an attempt to clarify our position -- may unfortunately have obfuscated it.

We are redoubling our vigilance to prevent such an occurrence in the future. You have my assurance that there was absolutely no intention to mislead anyone, and we trust that the additional information we are submitting to the agency will put this matter behind us.

Very truly yours,



DP92-016-27

**Failure
Analysis
Associates**

Failure Analysis Associates, Inc.
Engineering and Scientific Services
149 Commonwealth Drive, P.O. Box 3015
Menlo Park, California 94025
(415) 688-7100 Telex 704216 Fax (415) 328-2996

Dr. Roger L. McCarthy, P.E.
Chairman and President

VIA FAX

24 November 1992

Mr. William Boehly, Associate Administrator for Enforcement
U.S. Department of Transportation
The National Highway Traffic Safety Administration
400 Seventh Street, SW, Room 5321
Washington, DC 20590

Re: Failure Analysis Associates, Inc. report concerning GM C/K series pickups.

Dear Bill:

This letter is a written summary of the information provided by Mr. Robert Lange of Failure Analysis Associates, Inc. (FaAA) concerning the various categories of accident data analyzed in connection with our report concerning GM C/K series trucks. I also wish to reiterate the offer made by Mr. Lange that we would be most interested and willing to replicate the various analyses that the agency has performed on available accident data, using the agency selected definitions and categories, to insure that there is agreement on what the available accident data indicates. I am certain that all involved would prefer to move beyond any questions related to data, and instead discuss relevance and interpretation.

It is my understanding that there may have existed some confusion as to whether the analysis we performed concerning other manufacturers included only "full size" pickups or "all" pickups. We regret any confusion that may have existed. As set forth in our two page discussion of "Comparison Vehicle Selection," our report compares GM C/K pickup post collision fire rate "performance to the performance of all [emphasis added] other light-duty vehicles on-the-road and subject to the same collision environment as are the GM C/K pickup trucks." [pg. 20] Further, on the same page, we explicitly define the comparison sets to accomplish this goal by stating:

"In summary, post collision fire rates of GM C/K pickups were compared to the following vehicle sets:

- o Chrysler Pickups;
- o Ford Pickups;
- o Nissan Pickups;

DP92-016-28

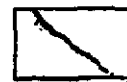
- o Toyota Pickups;
- o Average Passenger Car;
- o 95 percentile Passenger Car." [pg. 20]

I am informed by Mr. Lange that you inquired in the recent meeting if we had refined the analysis done in the report down to a comparison of "full size" GM pickups to "full size" Ford Pickups. We have developed data on selected "full size" pickup models subsequent to our initial report, and all this information will be provided this week. This analysis was not performed for the original report for reasons stated in Section 3.3 of our report:

"Fundamentally, occupants of pickup trucks are entitled to the same level of overall safety (that is, the same level of relative rarity of collision-fire events) as are occupants of other light-duty motor vehicles: passenger cars, vans, utility vehicles, and special purpose vehicles. That is, a determination of an acceptable collision-fire rate must apply uniformly across all classes of vehicles likely to be used as passenger conveyances. NHTSA implicitly adopted this philosophy in defining the appropriate motor vehicle fuel system integrity requirement for various classes of vehicles when it promulgated FMVSS 301 to apply equally to passenger cars, light trucks, and utility vehicles." [pg. 19]

Apart from the fundamental considerations set forth above, as you are aware, there simply is not a uniformly agreed upon definition of a "full size" pickup, just as there is no uniform definition of a "full size" car. The National Highway Traffic Safety Administration has obtained directly from Ford and Chrysler definitions and/or a list of "full size" models. FaAA does not have this information. Therefore, any set of "full size" vehicles FaAA selects runs the risk of being inconsistent with the manufacturer's definitions, and potentially opens FaAA to criticism if we were to inadvertently omit a group of "full size" trucks from analysis of another manufacturer's production that significantly affected the results one way or the other. Subsequent to our report we have performed the previously mentioned analysis of selected "full size" competitor models, which we hope will be helpful.

While a comparison of fire rates amongst "full size trucks" of various manufacturers might be an interesting academic exercise it is not clear how that would relate to the question of whether the subject GM vehicles presented an "unreasonable" fire risk to their occupants, and thus contained a defect. Whatever the relative ranking of fire risk amongst the various full size trucks is, their rates all fall within the range of those for other vehicles. If we chose another accident mode, such as rollover, the rankings would certainly change. The FMVSS quite correctly do not set one standard for "full size" pickups, and another for different vehicle classes.



- 28

I understand there was some discussion of the standard for "comparability" concerning accident rates at last Friday's meeting. FaAA is comfortable with the well reasoned standards of comparability that the NHTSA has established in past investigations, such as the petition relating to the CJ 5/7, and has used the term in that manner.

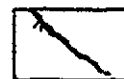
I am looking forward to our further interaction.

Sincerely,



Roger L. McCarthy, P.E.
Chief Executive Officer

cc: Robert C. Lange, Regional Vice President
Edward Conner, Manager of Product Investigations



Failure Analysis Associates®

Engineering and Scientific Services
149 Commonwealth Drive, P.O. Box 1015
Menlo Park, California 94025
(415) 326-8400 Telex 704216 Fax (415) 326-8072

VIA FAX

November 24, 1992

Mr. Terry M. Klein
DOT/NHTSA
400 7th St. NW
Washington D.C. 20590

RE: C/K Pickup Analysis - Differences between NHTSA and FaAA Analyses

Dear Mr. Klein:

I have reviewed the NHTSA programs which were given to me at the November 20, 1992 meeting. By comparing this code with the analysis performed by FaAA, I was able to identify the following differences between the NHTSA and FaAA analyses. I have not yet had opportunity to replicate the NHTSA type analysis using FaAA's databases. There may be additional differences which I was unable to discern from the programs which were provided to me.

1. Restriction to Fatal Vehicles

FaAA used only fatal vehicles, that is vehicles in which an occupant of the vehicle was killed in the accident. NHTSA used all vehicles involved in a fatal accident.

Restriction to Collision Vehicles

Only collision vehicles were included in the FaAA analysis. NHTSA apparently made no such restriction. The definition of a collision vehicle was included in the October 12, 1992 report. For your convenience, the definition of collision vehicle is as follows:

- FARS variable: Manner of Collision 1-6; or
- FARS variable: Rollover 1 or 2; or
- FARS variable: Initial Impact Point 1-15 (1975-81), 1-16 (1982- 1990);
or
- FARS variable: Main Impact Point 1-15 (1975-81), 1-16 (1982- 1990).

2. Method of Selection of Vehicles

DP92-016-30

NHTSA used the FARS make code and the FARS model year and the FARS VINA model to make vehicle selections. FaAA's selection is based upon the VINA/VINDICATOR decoded VIN Information.

- VINA/VINDICATOR to select Vehicle Type=L (Light Truck);and
- VINA/VINDICATOR to select Body Style = (CP, CU, PC, PK, PM, PS, SP, CB, CH, CL, CS ,FB, IC, ST, YY) - Pickup Truck;
- VINA/VINDICATOR identified Make
- VINA/VINDICATOR identified Model Year
- VINA/VINDICATOR identified VSER to identify GMC and Chevy C&K. VSER = (C10, C15, C20, CC2, C25, C30, C35, R10, R15, R20, R25, R30, R35, CR3, K10, K15, K20, K25, K30, K35, GM4, V10, V15, V20, V25, V30, V35, CV3, S1E); the 1988 and later model year with inside the frame rail tanks were eliminated by excluding GMC or CHEVY trucks with fifth position of the VIN either C or K.

3. Vehicles Used

NHTSA used only the F series Ford Pickups and the D&W series Dodge Pickups. FaAA used all Ford and All Chrysler pickups as identified by make and body type. Note that the VINA/VINDICATOR program did not identify Dodge 4 wheel drive vehicles prior to model year 1977. The corresponding POLK registration was eliminated from the analysis.

4. Model Year

NHTSA restricted analysis to model years 1973-1987. FaAA included model years 1973-1989 in the FARS analyses. Model years 1973-1991 were used in the state analysis. The C&K pickups with inside the frame rail gas tanks in model years 1988 and later were excluded. The GM R/V series which were produced 1988 and later were included.

5. Direction of Impact

NHTSA apparently used only the FARS IMPACT1 to define Impact. FaAA included information on rollover as well as direction of impact, and supplemented the Principal Impact code with the Initial Impact code when the Principal Impact code was missing. The Impact categories used by FaAA are:

Collision Subcategories:

*Principal Impact precedes Initial Impact

- 1). Rollover: Single Veh Acc and First Harmful Event=01;
or
Rollover = 1, 2 (78+); or Most Harmful Event =01.
- 2). Left : 08-10 clock points
- 3). Right : 02-04 clock points
- 4). Rear : 05-07 clock points

Terry M. Klein
Page 3
November 24, 1992

Side Includes Right and Left.

6. Definition of post collision fire.

NHTSA apparently used all fire_explosions. FaAA eliminated First Harmful Event fires.

Please feel free to call me to discuss. I will be out of the office on Wednesday, November 25, 1992. You may reach me at (510) 524-1820.

Sincerely,

Rose M. Ray, Ph.D.
Managing Scientist •

cc: Edward Conner, GM Manager of Product Investigation
cc: Robert Lange, FaAA Regional Vice President

RECEIVED



General Motors Corporation

92 NOV 27 AM 12:30

449106

OFFICE
DEFECTS INVESTIGATION

November 25, 1992

GM-425A

Mr. Charles L. Gauthier, Director
Office of Defects Investigation Enforcement
National Highway Traffic Safety Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

NEF-121jry
DP92-016

Dear Mr. Gauthier:

This completes our response to your letters of November 10, 1992 and November 23, 1992 requesting clarification of our October 9, 1992 response concerning the fuel storage system of certain General Motors C/K pickup trucks. General Motors requested Failure Analysis Associates to assist in responding to Questions 1 through 4 of your November 23, 1992 request. The responses to your numbered requests are detailed below.

1. *The following relate to the trucks used as "comparison" vehicles by FaAA for establishing the relative "crashworthiness" of the subject C/K pickups:*

a. *Was the Ford Ranger (a mid-size pickup) included in "Ford pickup"? If so, please fully explain why.*

Response: Ford Ranger pickup trucks were included in the designation "Ford pickup" as indicated in the FaAA report.

Non-GM, small and medium-duty pickup trucks were included in FaAA's analysis along with all other light-duty vehicles. Such vehicles were included in FaAA's study based upon the rationale in Section 3.3 "Comparison Vehicle Selection" of FaAA's report (p. 19). FaAA stated:

"Fundamentally, occupants of pickup trucks are entitled to the same level of overall safety (that is, the same level of relative rarity of collision-fire events) as are occupants of other light-duty motor vehicles: passenger cars, vans, utility vehicles, and special purpose vehicles. That is, a determination of an acceptable collision-fire rate must apply uniformly across all classes of vehicles likely to be used as passenger conveyances. NHTSA implicitly adopted this philosophy in defining the appropriate motor vehicle fuel system integrity requirement for various classes of vehicles when it promulgated FMVSS 301 to apply equally to passenger cars, light trucks, and utility vehicles.

In this study, the postcollision fire rates of the GM C/K type pickup trucks were compared to the postcollision fire rates of comparison vehicles. The comparison included pickup trucks produced by all major manufacturers (Chrysler, Ford, Nissan, and Toyota) and passenger cars..."

- b. *Was the Chevy S10 and/or GMC S15 pickup (a mid-size pickup) included in "C and K pickup"? If not, please fully explain why not.*

Response: No. Chevrolet S10 and GMC S15 pickup trucks were not included in the accident data tabulated for GM C and K pickup trucks, or calculations relating to GM C and K pickup trucks because the Center for Auto Safety's Petition and the National Highway Traffic Safety Administration's (NHTSA) investigation relate solely to the C/K pickup trucks with outside the frame rail fuel tanks. This tank location was not used on the Chevrolet S10 or GMC S15.

- c. *Was the Dodge D50 (a mini-pickup produced by Mitsubishi) included in "Chrysler pickup"? If so, please fully explain why.*

Response: Yes. Dodge D50 pickup trucks were included in the designation "Chrysler pickup" as reported in FaAA's report.

Non-GM, small and medium-duty pickup trucks were included in FaAA's analysis along with all other light-duty vehicles. Such vehicles were included in FaAA's study based upon the rationale in Section 3.3 "Comparison Vehicle Selection" of FaAA's report (p. 19); the relevant portion of which is quoted in the response to question 1.a above and is incorporated by reference herein.

- d. *Was the Chevy LUV pickup (a mini-pickup produced by Isuzu) included in "C/K pickup"? If not, please fully explain why not.*

Response: No. Chevrolet LUV pickup trucks were not included in the accident data tabulated for GM C and K pickup trucks since the LUV truck never utilized outside the frame rail fuel tanks.

2. *Was an analysis of the relative crashworthiness of the GM C/K series versus Ford F-100, F-150, F-250 and F-350 series conducted while preparing the FaAA report, "Analysis of Light-Duty Motor Vehicle Collision Fire Rates"? If not, why not and if so, please provide a copy as we discussed.*

Response: A complete set of corresponding data on Ford F-series pickup trucks was not developed while preparing the FaAA report for the reasons set forth in Section 3.3 "Comparison Vehicle Selection". However, after the report was filed, selected data from FARS has been separately broken out for Ford F-series pickup trucks. That data is tabulated in Table 1 attached hereto.

Subsequent to our meeting on Friday, November 20, 1992, GM has asked FaAA to complete a comparison of GM C and K series trucks, Ford F-series trucks, and Dodge D and W series trucks. This analysis was completed and the results of FaAA's analysis are attached in tabular form hereto as Table 2 - FARS All Collisions, Table 3 - FARS Side Collisions, Table 4 - All Collisions Six States Combined, and Side Collisions Only Six States Combined.

Small numerical differences might occur between rate data reported for C/K pickup trucks in Tables 2 through 4 attached hereto and the corresponding data included in Tables 4.2.1 through 4.4.2 from FaAA's report, because the model year restriction varies somewhat among the tables.

3. *State, by model and model year, those Nissan and Toyota trucks not used as "comparison vehicles" in the FaAA analysis provided with your response. For each vehicle identified, please fully explain why it was not included.*

Response: All Toyota and Nissan pickup trucks were included in the grouping of comparison vehicles in FaAA's report. Table 5 attached hereto lists all of the Nissan trucks utilized in FaAA's comparison, and Table 6 attached hereto is a listing of all of the Toyota trucks utilized in FaAA's comparison.

4. *Provide a listing (similar to the one enclosed with this letter), by make, model, and model year, of all trucks included in FaAA's analysis.*

Response: Tables 5 and 6 list the Nissan and Toyota trucks used in FaAA's report. Tables of the other manufacturer's make, model and model year trucks used in FaAA's report were to have been FAXed to the NHTSA from GM's Washington, D.C. office on Friday, November 20, 1992; a duplicate of this communication will be forwarded to Mr. Terry Kline by the end of the day Wednesday, November 25, 1992. Table 7 lists the requested information for Dodge pickup trucks used in FaAA's just completed restricted analysis (ref. Tables 2 through 4 attached hereto), and Table 8 lists corresponding information for the Ford trucks used in FaAA's restricted analysis.

Letter to Mr. C. L. Gauthier
November 25, 1992
Page 4

Please contact me if you require further information about this response
or any of the attached material.

Very truly yours,

A handwritten signature in cursive script, appearing to read "E. E. Conner".

E. E. Conner
Manager
Product Investigations

Attach.

RECEIVED



Current Product
Engineering

General Motors Corporation

92 DEC -7 PM 2:34

OFFICE
DEFECTS INVESTIGATION

December 1, 1992

GM-425A

Mr. Charles Gauthier, Director
Office of Defects Investigations
National Highway Traffic Safety Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

444357

Dear Mr. Gauthier:

NEF-121jry
DP92-016

This is in reference to our telephone conversation on November 30, 1992, regarding the letter to Administrator Blakey from Harry Pearce dated November 24, 1992.

This will verify that the "additional information" referred to in Mr. Pearce's letter consists of the material provided with my letters of November 24 and November 25, 1992, together with the material provided directly to the agency from Failure Analysis Associates, Inc., during the week of November 23, 1992.

If there are additional questions regarding the material provided, please contact me.

Very truly yours,

E. E. Conner
Manager
Product Investigations

DP92-016-34a

END OF DOCUMENT

9 July 2012

Ms. Angel M. DeFilippo, Esq.
Grieco Oates & DeFilippo, LLC
414 Eagle Rock Avenue
West Orange, NJ 07052
973-243-2099

Subject: Matthew D. Stockwell Letter/Attachment of 18 June 2012 (Attachment 1)
Reference: Estate of Susan Morris Kline