



July 26,2016

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Recipient:
DR MARK ROSEKIND
NHTSA HEADQUARTERS
1200 NEW JERSEY SE
DC 20590 US

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PAUL V. SHERIDAN
SHERIDAN, PAUL V
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Reference

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7 July 2016

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

Subject: Your Personal Defense of FMVSS-207 at Upcoming Death/Injury Litigations

Reference 1: House Testimony of FBI Director James B. Comey of Today
Reference 2: My Letter to You of 30 March 2016

Courtesy Copy List *

Director James B. Comey
FBI Headquarters
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001
202-324-3000

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

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

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

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

* *By email and/or USPS*

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

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

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Reference 1: House Testimony of FBI Director James B. Comey of Today *

Reference 2: My Letter to You of 30 March 2016 †

Dear Dr. Rosekind:

Attachment 1 has been previously shared, not only with you, but with U.S. Attorney General Loretta E. Lynch; received by her on 14 February 2014. Similar to your behavior, she never responded.

Background

At Reference 1, Director Comey testified, in part, as follows:

“There are two things that matter in a criminal investigation of the subject. What did the person do, and when they did that thing, what were they thinking . . .

And we don’t want to put people in jail unless we prove that they knew they were doin’ somethin’ that they shouldn’t do . . .

And so, when I look at the facts we gathered here; as I said, I see evidence of great carelessness. But I do not see evidence that is sufficient to establish . . . (they) knew when they did it, they were doing something that was against the law . . .

So, given that assessment of the facts, my understanding of the law, my conclusion was and remains . . . no reasonable prosecutor would bring this case . . . in a hundred years, focused on gross negligence.”



Discussion

So, now, for the first time in American jurisprudence we have a member of law enforcement declaring that ignorance of the law **IS** an excuse.

But, regarding Attachment 1, can any of the participants deploy this **new** excuse criteria?! They **cannot**.

Regarding Comey's machinations on 'gross negligence,' we review for him, and you, that portion of the law that connects to the subject: your defense of FMVSS-207 at upcoming death and severe injury litigations:

“ ‘Gross negligence’ is culpable or criminal when accompanied by acts of commission or omission of a wanton or willful nature, showing a reckless or indifferent disregard of the rights of others, under circumstances reasonably calculated to produce injury, or which make it not improbable that injury will be occasioned, and the offender knows or is charged with knowledge of the probable result of his acts; “culpable” meaning deserving of blame or censure.”

Current Relevant Events

Currently I am retained in two seat-back failure litigations. As a result of Reference 2 you are familiar with the horrific seat-back failure death case in Texas. I just completed my inspection of a seat-back failure severe injury case in California. Unlike you, thus far, I met face-to-face with the victim (of FMVSS-207).

As a result of Reference 2 you are also aware that I have recommended to the plaintiffs that your person be subpoenaed to testify, under oath, regarding, not only FMVSS-207, but your recent responses to the media in that regard. I intend to be present at your testimony, assuring that the correct questions are asked, not only regarding the details of FMVSS-207, but your professional opinion regarding whether or not the people involved with Attachment 1, paraphrasing Director Comey:

“ . . . knew when they did it, they were doing something that was against the law . . . ”

Attachment 1 involves not only Chrysler executive management and their defense lawyers, the Department of Justice that Attorney General Lynch now heads, and key members of NHTSA that you now head, but anyone that benefitted from the long term portent of such.

That is to say, any member of the broad automotive industry, the OEMs and their seat suppliers, that benefitted in any way from the process by which NHTSA hid from public view the fact that it too was internally aware that FMVSS-207 was not merely incompetent, but out-rightly fraudulent.

These are the kinds of issues I have recommended that the plaintiffs pursue during your testimony, including the recommendation that your deposition or trial testimony be video-taped.

My advice to you, in either scenario, is that you have US Attorney General Lynch present.

Conclusion

It is important that the public have complete confidence in the federal government agencies they fund, especially those that are focused on their immediate safety and well-being, such as the National Highway Traffic Safety Administration (NHTSA).

Such confidence can be bolstered by your enthusiasm, as NHTSA Administrator, to stand up and testify regarding not only your allegation that FMVSS-207 always was and remains viable (therefore conclusively rebutting my well-known 28-year position), but also the details of the entire FMVSS rule making process, with a particular emphasis on OEM participations.

Paraphrasing Director Comey, your sworn rebuttal to my position would help assure him that there is no existing or upcoming need in:

“ a hundred years . . . ”

to bring a case against the participants and beneficiaries of Attachment 1, which would be

“ . . . focused on gross negligence.” †

I look forward to your positive response to the upcoming requests for your testimony in the seat-back failure litigations discussed above. Please feel free to contact me at any time.

Cordially yours.

Paul V. Sheridan

Endnotes

* <http://www.mcclatchydc.com/news/nation-world/national/article88042162.html>

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

<https://www.youtube.com/watch?v=olZ84r-AgDM>

‡ **ITEM 1:** In connection to the upcoming death case product litigation of *White versus Chrysler*, the offending driver was criminally charged, and spent 11 days in prison. I was **not** called upon to testify in that preliminary criminal matter regarding the irrelevance of FMVSS-301. One would expect Director Comey to testify, that since the offending driver was not aware of that irrelevance, then Comey's 7 July 2016 testimony should prevail:

And we don't want to put people in jail unless we prove that they knew they were doin' somethin' that they shouldn't do . . .

That is to say, there is no way that the offending driver should have been criminally charged in the horrific fire death of twenty-three-year old Ms. Kayla White, since neither "*knew they were doin' somethin' that they shouldn't do . . .*" That is, being associated with a product that, although it complied with NHTSA standards, it was known to be defective and dangerous.

<http://pvsheridan.com/Sheridan2Ditlow-4-12Feb2015.pdf>

<http://pvsheridan.com/KLW-Autopsy.pdf>

ITEM 2: In connection with the upcoming death case product litigation of *Anderson v Chrysler*, the offending driver was criminally charged, and is spending two-plus years in prison, but **not** for any reason connected to the Jeep fuel system defect. I **was** called to testify in that criminal matter, in Massachusetts, regarding the incompetence of FMVSS-301. Director Comey would testify that since the offending driver (Mr. Joel Nieves-Cruz) was not aware of that product defect, "*we don't want to put (him) in jail.*"

That is to say, there is no way that the offending driver should have been criminally charged in the horrific fire death of seventeen-year-old Mr. Skyler Anderson, since neither "*knew they were doin' somethin' that they shouldn't do . . .*"

http://www.masslive.com/news/index.ssf/2016/02/springfield_man_given_2-year_j.html

During testimony this week, the defense presented an expert witness who said Anderson-Coughlin and the defendant were both victims of the Jeep's safety defect.

Safety consultant and former Chrysler manager Paul Sheridan testified that the Jeep's fuel tank placement made it vulnerable, and presented photos of gasoline leaking from a Jeep that had been struck from behind.

Following closing arguments, jurors found Nieves Cruz guilty of leaving the scene of a fatal motor vehicle accident, but cleared him of the more serious charge of manslaughter by wanton or reckless conduct.

In an interview Thursday, Sheridan said no judge or jury has found defendants guilty in similar cases after being presented with evidence of the fuel tank defect.

Endnotes - con't

ITEM 3: At this point we should be thankful to FBI Director Comey for his testimony of today.

I am being called upon to testify in the criminal matter of the State of Georgia versus Bryan Lamar Harrell. Mr. Harrell, and the entire state of Georgia, were mortified with the thought that his actions caused the fire-death of four-year-old Remington Walden. Those actions were, in my opinion and in truth, far more moral and courageous, than that of Mr. Nieves-Cruz (Item 2 above, this endnote).

By contrast, Mr. Harrell did everything humanly possible at the accident, which he did cause. But given the impossible circumstances provoked by an implicit Jeep fuel system defect, Mr. Harrell was unable to battle the ensuing conflagration, and save the little boy. Unlike Mr. Nieves-Cruz, Mr. Harrell did not leave the scene.

Regardless, **Mr. Harrell is currently serving an eight year prison sentence, as a result of pleading guilty under circumstances that did NOT include my testimony ala Items 1 and 2 above.** I intend to do everything in my power to rectify this torrid legal mistake.

Perhaps FBI Director James B. Comey would indulge this corrective process by informing the prosecutor in Georgia of today's relevant testimony:

And we don't want to put people in jail unless we prove that they knew they were doin' somethin' that they shouldn't do . . .

Mr. Harrell had nothing whatsoever to do with the fuel system design defects in the 1999 Jeep Grand Cherokee, that he had the horrific misfortune of colliding with on 6 March 2012. The notion that Mr. Harrell caused the fire-death of Remington Walden is absurd. Had the latter been in just about any SUV *other* than the defective Jeep, his injuries would have been, and were pre-conflagration, minor. In fact, the accident was so minor that Mr. Harrell experienced no injury.

<http://www.law360.com/articles/638755/chrysler-hit-with-150m-verdict-over-fatal-jeep-fire>

ATTACHMENT 1

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

7 July 2016

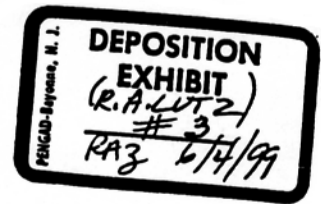
Subject: Your Personal Defense of FMVSS-207 at Upcoming Death/Injury Litigations
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Two Pages:

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

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

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



MINIVAN LATCH ISSUE

Proposed Agreement with NHTSA

1. Crash Test Video and the Public Record:

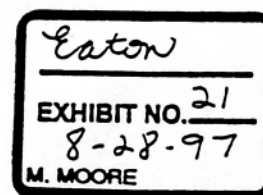
- NHTSA has agreed that they will deny all FOIA requests to place their investigative files, including the crash test video, on the public record and that the Department of Justice will defend any lawsuits seeking to compel production under FOIA.

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

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

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

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



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

- Chrysler goes first with its own statement and reads approved NHTSA statement supporting Chrysler's action;
- Chrysler characterizes campaign as done solely to ensure the peace of mind of its owners, i.e. "your concern is our concern";

• Letter from Martinez to Chrysler and NHTSA press statement praise Chrysler action as fully satisfying all of NHTSA's concerns and state that Chrysler is a safety leader;

- NHTSA officials acknowledge publicly that there has been no finding of defect and that there will be none; and
- NHTSA officials acknowledge that owners should not be concerned over the delayed implementation of the action and that they can best protect themselves by keeping seat belts buckled at all times.

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

- The letter to owners makes reference to the NHTSA hot line phone number;
- Latch replacement will be offered as part of any routine minivan servicing (once replacement latches are available);

• Chrysler will submit six quarterly reports on the progress of the campaign (helps to support defense of FOIA requests); and

- NHTSA can make reference to the service campaign in response to owner inquiries.

END OF DOCUMENT

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