

**STATEMENT OF ISSUE PRESENTED**

SHOULD THE COURT DENY THE MOTION OF DAIMLER  
CHRYSLER FOR THE REASONS STATED IN THE ANSWER  
OF PAUL SHERIDAN TO SAID MOTION?

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

TIMOTHY HARLOW, individually and  
as Representative of his minor children,  
MARILYN HARLOW and PRISCILLA HARLOW

Plaintiff

Case: 2:06-x-50571  
HON. ROBERT H. CLELAND  
MAGISTRATE JUDGE PEPE

vs.

DAIMLERCHRYSLER CORPORATION,

Defendant.

---

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**PAUL SHERIDAN'S RESPONSE TO EXPEDITED MOTION OF DAIMLERCHRYSLER  
CORPORATION TO HOLD PAUL SHERIDAN IN CONTEMPT OF COURT, TO  
COMPEL HIS DEPOSITION AND PRODUCTION OF DOCUMENTS  
AND FOR SANCTIONS**

NOW COMES Paul Sheridan, by and through his attorneys, MORGAN &  
MEYERS, PLC and hereby answers the Expedited Motion of DaimlerChrysler  
Corporation to Hold Paul Sheridan in Contempt of Court, to Compel his Deposition and  
Production of Documents and for Sanctions, paragraph by paragraph as follows:

1. Upon information and belief, it is admitted that the plaintiff, Timothy Harlow, has filed a product liability lawsuit against DaimlerChrysler Corporation pending in the United States District Court for the Eastern District of Texas. Mr. Sheridan can neither admit nor deny that he is one of "one of plaintiff fact witnesses" other than to point out that on June 8, 2006, attorneys for Mr. Harlow forwarded to counsel for DaimlerChrysler a letter found at Exhibit 8 of the instant motion indicating that Mr. Sheridan's deposition was being cancelled and stating, "we will more probably instead present Mr. Sheridan's testimony through Mr. Sheridan's prior testimony in previous cases, such as *Heider*." Mr. Sheridan can neither admit nor deny whether or not the subpoena was lawfully issued for his deposition. Mr. Sheridan assumes that the subpoena referred to is one dated on or about June 6, 2006 and purporting to contain the signature of Cheryl A. Bush. The problem that arises is that elsewhere in the motion filed by counsel for DaimlerChrysler, she represents that she was apparently in Europe at the time that she allegedly issued the subpoena. Thus, it is unknown whether or not the subpoena was validly issued or not as the signature thereon may not be that of Cheryl Bush. See FRDP 45(a)(3)(b).

Mr. Sheridan also points out that, as is noted at Exhibit 7 of defendant DaimlerChrysler's motion, it was served with a Notice of Taking Deposition by the plaintiff's counsel in the Harlow case, on or about May 17, 2006. The date of the deposition was alleged to be Monday, June 12, 2006. Despite notice of the deposition, counsel for DaimlerChrysler failed to issue any subpoena until almost three weeks later and affording Mr. Sheridan very little time within which to react to counsel's subpoena duces tecum.

Moreover, defendant DaimlerChrysler was placed on notice of Mr. Sheridan's alleged involvement in the Harlow matter as early as November 2005, and yet waited until literally the last minute to make its discovery intentions known. This type of conduct hardly merits an award of sanctions or a finding of contempt. The urgency of the situation was created by defendant DaimlerChrysler's counsel's lackadaisical approach to its responsibilities to its own client's needs. Surely, counsel knew well in advance of her plans to travel outside the country, and if she felt the need to depose Mr. Sheridan, she could have done so in an orderly fashion. Mr. Sheridan has been deposed and cross-examined in trial numerous times by defendant DaimlerChrysler, including at least once by Cheryl Bush.

It should also be noted that contrary to the affidavit of service, Mr. Sheridan was actually served with the DaimlerChrysler subpoena after the close of business at about 10:30 p.m. on Wednesday, June 7, 2006, leaving him actually only two business days to attempt to react to the subpoena. **(Exhibit 1 attached hereto, Affidavit of Paul Sheridan)**

Lastly, the subpoena was not accompanied by the fees for one day's attendance and the mileage allowed by law. Therefore, pursuant to FRCP 45(b)(1), service of the subpoena was defective and Mr. Sheridan was, therefore, not properly commanded to do anything.

Mr. Sheridan is unaware of any motion being filed in the Eastern District of Texas requesting to permit or compel his testimony or to extend the time period for discovery in that particular case.

2. Paul Sheridan can neither admit nor deny that the plaintiff in the Harlow matter identified him as a fact witness other than as indicated by counsel for the Harlow's in Exhibit 8 to defendant DaimlerChrysler's motion, the aforementioned letter dated June 8, 2006. It is admitted that Mr. Sheridan is an ex-employee of Chrysler Corporation. It is also admitted that Mr. Sheridan consults with attorneys representing injured parties in product liability cases involving DaimlerChrysler Corporation and that, on occasion, but not always, Mr. Sheridan charges for his time. It is further stated that Mr. Sheridan's efforts in the area of consumer safety resulted in his receipt of a 2005 Civil Justice Champion Award from the Civil Justice Foundation. **(Exhibit 2 attached hereto, letter dated May 25, 2005 notifying Mr. Sheridan of his selection as a Civil Justice Champion and Exhibit 3 attached hereto, photograph)**

Further, Mr. Sheridan admits only that he has identified to certain persons who have consulted with him publicly available documents which may, in the opinion of the consulting persons, be of use to them as regards to their cases involving DaimlerChrysler. Mr. Sheridan objects to the characterization of "DaimlerChrysler Corporation documents". That designation is both vague and misleading in that it implies ownership of documents which are now clearly in the public domain.

3. It is denied that on June 6, 2006 DaimlerChrysler Corporation served a subpoena on Mr. Sheridan. As noted above, the subpoena was actually served at 10:30 p.m. on June 7, 2006 and was unaccompanied by the requisite fees as required by FRCP(b)(1).

It is admitted that attached to the subpoena there was an attachment A, consisting of some seven separate paragraphs seeking production of documents from

Mr. Sheridan. (The Court is reminded that FRCP 34 would have afforded a party 30 days to respond to the request)

The seven paragraphs are shocking in their overbreadth. For example, paragraph three requests Mr. Sheridan to produce phone bills for a three year period for "any telephone used by Paul Sheridan". (emphasis added). This request is overbroad for several reasons:

(a) The Harlow case was apparently filed in 2005, yet the request seeks phone bills from an arbitrary date in September 2003.

(b) The request addresses itself to phones used by Paul Sheridan. This is very overbroad and could include phones owned or leased by friends, family or acquaintances of Mr. Sheridan. It could even include pay phones.

(c) Paragraph four seeks production of "all DaimlerChrysler Corporation documents . . ." Again, the term DaimlerChrysler Corporation documents is undefined. It is particularly vague where, as here, DaimlerChrysler is well aware that there are numerous publicly available documents which had been authored by persons then employed by DaimlerChrysler. The term, "DaimlerChrysler documents" implies an ownership interest of DaimlerChrysler. If a document was previously owned by DaimlerChrysler, but is now publicly available, is it a "DaimlerChrysler document" or not? The subpoena does not specify.

(d) DaimlerChrysler also seeks production of "all DaimlerChrysler Corporation documents in the possession of any other person but to which Paul Sheridan has access". This is obviously a tremendously overbroad and vague request. What is meant by the word access as used in the subpoena? For example, if Paul Sheridan

could submit a Freedom of Information Act request to a governmental agency and that agency is in possession of "DaimlerChrysler Corporation documents", does this mean that Mr. Sheridan must seek "access" to those documents from the public agency? If Mr. Sheridan had a consultants relationship with attorneys representing claimants against DaimlerChrysler and those attorneys are in possession of "DaimlerChrysler Corporation documents", is Mr. Sheridan charged with seeking "access" to those documents in possession of those consulting attorneys?

A subpoena which is so inartfully drawn that it leaves a deponent guessing at its meaning is, to say the least, unenforceable.

(e) The paragraph of the subpoena which Mr. Sheridan finds most objectionable is paragraph 6. This paragraph reads as follows:

All DaimlerChrysler documents that were previously in the possession, custody or control of Paul Sheridan but which have been given to a third person so that Paul Sheridan can avoid producing them in response to subpoena.

This paragraph accuses Mr. Sheridan of obstruction of justice and implies perjurious statements by him in previous proceedings. Mr. Sheridan respectfully, but firmly, objects to such scandalous and vexatious material. Mr. Sheridan has requested through counsel that DaimlerChrysler specify what basis it has for suggesting that Mr. Sheridan has concealed documents and then apparently lied about it. DaimlerChrysler has thus far produced nothing in response to these requests.

4. Denied. Mr. Sheridan, without benefit of counsel, appeared on June 12, 2006 and placed his objections to the subpoena on the record at the outset.

5. It is denied that Mr. Sheridan "stormed out of the deposition" or that he was warned of anything by DaimlerChrysler Corporation's counsel. Exhibit 9 to

DaimlerChrysler Corporation's is a complete transcript of the proceeding of June 12, 2006. A copy of the video tape is attached as **Exhibit 4** filed in the traditional matter with the Clerk of the Court and Magistrate Judge Pepe's office. (This video tape is not being provided to defendant DaimlerChrysler's counsel because she is already in receipt of same). These items demonstrated conclusively there was no "storming" and no "warning".

6. It is denied that DaimlerChrysler Corporation's counsel made any attempt during the deposition or otherwise to address the legitimate concerns raised by Mr. Sheridan. Moreover, in the days since the deposition said counsel has refused to entertain any compromise from the positions taken in the instant motion.

7. It is specifically denied that Mr. Sheridan's activity in connection with this matter is in bad faith or that it violates the Federal Rules of Civil Procedure or that it is in contempt of Court. The reasons for this position are as follows:

a. Defendant DaimlerChrysler was aware of a Notice of Taking Deposition for Mr. Sheridan as of May 17, 2006, but delayed the issuance of and the service of a subpoena until after the close of business on June 7, 2006, leaving Mr. Sheridan only two business days within which to attempt to react to the subpoena. This is not reasonable notice to Mr. Sheridan, particularly given the breadth and vagueness of the subpoena at issue. This is particularly so where, as here, defendant DaimlerChrysler Corporation has deposed Mr. Sheridan numerous times and had ample opportunity to depose Mr. Sheridan in an orderly fashion before June 12, 2006 but chose not to do so. Moreover, counsel provides no explanation as to why, when she received the notice for Mr. Sheridan's deposition on May 17, 2006 for June 12, 2006, and she knew she had



prior plans to be in Europe, she did not seek to have the deposition date moved to accommodate her trip.

b. At the time of service of the subpoena, it was not accompanied by any funds and, therefore, was served in violation of Rule 45(b)(1).

c. Prior to the commencement of the deposition, plaintiff, Timothy Harlow, withdrew his Notice of Deposition and cancelled the deposition. Counsel for DaimlerChrysler Corporation was aware of this fact within hours of its service of the subpoena.

d. There is an apparent irregularity in the issuance of the subpoena. The subpoena purports to be signed by Cheryl Bush. However, defendant's motion takes the position that at the time of the issuance of the subpoena, Cheryl Bush was in Europe. When the undersigned counsel attempted to discuss this issue with Ms. Bush, she stated "my deposition is over, I am not answering any more of your questions". Thus, the issue remains unexplained. This the issue remains unexplained.

e. The duces tecum portion of the subpoena is amazingly overbroad, vague, and misleading.

f. The duces tecum portion of the subpoena contains scandalous and vexatious material in that without justification it alleges that Paul Sheridan has engaged in obstruction of justice and implies that Mr. Sheridan has committed perjury.

g. Attempts at discussing resolution of this matter have been summarily refused by DaimlerChrysler Corporation's counsel, Cheryl Bush.

h. The plaintiff in the underlying case of *Harlow v DaimlerChrysler* has apparently withdrawn Mr. Sheridan as a fact witness and seeks to use previously taken

testimony of Mr. Sheridan instead. That previous testimony was taken in the case of *Heider v DaimlerChrysler Corporation*. At that deposition, DaimlerChrysler was represented by Cheryl Bush. Therefore, Ms. Bush has already been given ample opportunity to cross-examine Mr. Sheridan both at the deposition and at trial.

For all of the foregoing reasons, Paul Sheridan respectfully requests this Court to deny the motion of DaimlerChrysler Corporation and to enter a Protective Order authorized by Rule 26(c) and pursuant to FRCP 37(a)(4)(b) to consider an appropriate award of attorneys' fees and costs.

Respectfully submitted,

BY: \_\_\_\_\_

s/Courtney E. Morgan, Jr.  
MORGAN & MEYERS, PLC  
Attorney for Paul Sheridan  
3200 Greenfield Road, Suite 260  
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P29137

DATED: June 30, 2006

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Bruce M. Squire

June 6, 2006

File Number: L00541

**VIA FACSIMILE AND U.S. MAIL**

Courtney E. Morgan, Jr., Esq.  
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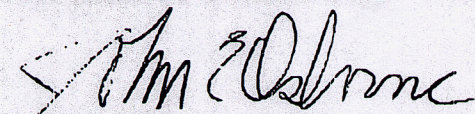
Re: Harlow v. Daimler Chrysler  
Deposition of Paul Sheridan

Dear Mr. Morgan:

Pursuant to our phone conversation on June 6, 2006, I agree to release Mr. Paul Sheridan from the subpoena recently served upon him regarding his deposition. In other words, we agree to cancel Mr. Sheridan's deposition, which is currently scheduled for Monday, June 12, 2006.

Very truly yours,

**GOLDBERG & OSBORNE**

  
John E. Osborne  
Attorney at Law

JEO/mm

**33 North Stone Ave., Suite 900, Tucson, AZ 85701**  
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Allen D. Bucknell  
Bruce M. Squire

June 08, 2006

File Number: L00541

VIA FACSIMILE & U.S. MAIL

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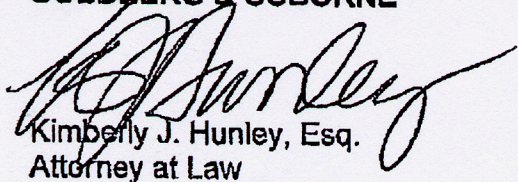
Re: Harlow vs. Daimler Chrysler

Dear Ms. Bush:

This is to advise you that we are canceling Mr. Paul Sheridan's deposition currently set for Monday, June 12. While we may call Mr. Sheridan at the Harlow trial, we will more probably instead present Mr. Sheridan's testimony through Mr. Sheridan's prior testimony in previous cases, such as Heider.

Very truly yours,

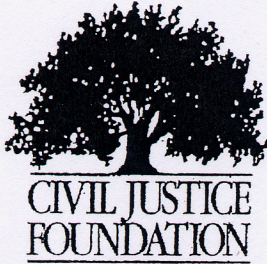
**GOLDBERG & OSBORNE**



Kimberly J. Hunley, Esq.  
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cc: Tim Harlow  
JEO/ps

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1050 31st Street, N.W.

Washington, D.C. 20007

(202) 965-3500

May 25, 2005

Paul V. Sheridan  
22357 Columbia Street  
Dearborn, MI 48124-3431

RE: 2005 Civil Justice Champion Award

Dear Mr. Sheridan:

On behalf of the Civil Justice Foundation, I am pleased to advise you that you have been selected as one of our 2005 Civil Justice Foundation Champion Award recipients. This award is granted to individuals who have made a difference to consumers in our country.

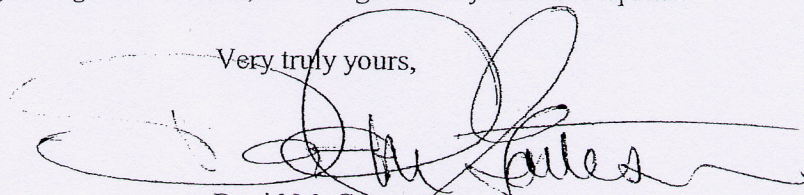
In reviewing your nomination, it was clear to the Trustees of our organization that you have committed yourself to alerting the public of defects in automobiles manufactured by Chrysler. Your position as a staffer-turned-whistleblower of Chrysler's minivan-latch design has allowed for precedent setting efforts to protect the consumer in the area of automotive safety. Further, as Chair of Chrysler's "Minivan Safety Leadership Team", we note that you recommended that many safety features be incorporated into these vehicles. Despite the fact that Chrysler disbanded the Safety Leadership Team and tried to intimidate you into silence about the defects in those vehicles and others, you persisted in telling the truth about what you knew. Your testimony in cases involving injuries to families has made the difference in Chrysler's actions to correct and improve its vehicles.

For these actions, and your continuing commitment to consumer safety, honesty and integrity, the Civil Justice Foundation is pleased to honor you at its annual Award Breakfast in Toronto, Canada on Tuesday, July 26, 2005. You will join two other recipients of this award, Father Thomas Patrick Doyle, who has been an advocate for sexually abused children by members of the Catholic clergy, and Senator John Edwards, for his years of advocacy for families and his commitment to citizens of this country by his service to them in the United States Senate.



We take great pleasure in granting these awards, and congratulate you as a recipient.

Very truly yours,

A handwritten signature in black ink, appearing to read "David M. Gottesman". The signature is highly stylized and cursive, with a large, prominent loop at the beginning and a long, sweeping tail.

David M. Gottesman

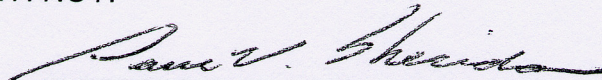




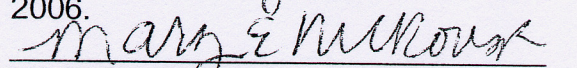


2. At no time while I was with the process server did I become upset and, in fact, we had a nice conversation about his Ford Windstar minivan.

FURTHER, DEPONENT SAITH NOT.

  
\_\_\_\_\_  
PAUL SHERIDAN

Subscribed and sworn to before me  
this 29th day of June  
2006.

  
\_\_\_\_\_  
NOTARY PUBLIC  
Oakland COUNTY, MICHIGAN  
MY COMMISSION EXPIRES: 9-16-11  
ACTING IN WAYNE COUNTY

MARY E. NICKOWSKI  
Notary Public, State of Michigan  
County of Oakland  
My Commission Expires Sept. 16, 2011  
Acting in the County of Wayne

**BRIEF IN SUPPORT**

Paul Sheridan hereby relies upon his answer to defendant DaimlerChrysler's Motion, and for the all the reasons stated therein, request this Honorable Court to deny the motion of DaimlerChrysler Corporation and to award appropriate sanctions under FRCP 37.

Respectfully submitted,

BY: \_\_\_\_\_  
s/Courtney E. Morgan, Jr.  
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Dearborn, MI 48120  
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[cmorgan@morganmeyers.com](mailto:cmorgan@morganmeyers.com)  
P29137

DATED: June 30, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that on June 30, 2006, I electronically filed the foregoing paper with the Clerk of the Court by using the ECF system which will send notification of such filing to the following: Cheryl A. Bush, 3001 W. Big Beaver Road, Suite 500, Troy, MI 48084.

I hereby certify that I have federal expressed the documents to the following non ECF participants: John E. Osborne, 33 North Stone Avenue, Suite 900, Tucson, Arizona 85701.

s/Courtney E. Morgan, Jr.  
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