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March 24, 2000

Mr. Thomas Kienbaum
KIENBAUM, OPPERWALL, HARDY & PELTON, P.L.C.
325 South Old Woodward Avenue
Birmingham, Michigan 48009
Phone: (248) 645-0000

Via Fax: (248) 645-1385

Re: *LeCompte v. DCC*

Dear Mr. Kienbaum:

I am in receipt of your letter of yesterday¹ wherein you seek to "confirm" my conversation with Florida counsel. First, judging by your recitation of the same, you confirm incorrectly. Second, the fact is that the David Tyrell E-mail² has already been widely disseminated by me and others to other persons in the plaintiffs' automotive defect bar. Discovery efforts already are specifically being planned and coordinated among the several hundred truth-seeking members of AIEG to depose each of the members of the Door Hardware Workteam and the NS Safety Leadership Team in order to document DCC's concerted and now-documented efforts to cause its employees "to become incensed or outraged" at Paul Sheridan's willingness to tell the truth. Third, I can assure you that an E-mail planning a concerted smear campaign at a material witness in Texas litigation is not protected by the attorney-client privilege under either Texas or Florida law. If you disagree, I encourage your client to seek the opinion of a Nueces County, Texas judge with jurisdiction over my mouth and my mailbox, or one with jurisdiction over the Attorneys' Information Exchange Group in Birmingham, Alabama. Finally, I am shocked at the temerity of your firm and your client to once again seek a court-imposed "muzzle" on one of the truly honorable whistleblowers this country has ever seen, who according to your client's own national counsel, Mr. Tyrrell, "was at Chrysler for an extended period of time, had a good work history according to his late reviews and awards," and who is "organized, obsessive, detailed," and who "will present a ... superior appearance as a witness."

Imagine the safety that could have been incorporated into Chrysler vehicles over the past five years had your firm not been successful in keeping Chrysler's conduct completely sealed from public view through a now-lapsed "gag order." The Honorable court handling your case against Sheridan, who no doubt initially decided the issue

¹ Attached hereto as Exhibit "A" for your reference.

² Attached hereto as Exhibit "B" for your reference.

Corpus Christi • Brownsville

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based upon your firm's and your client's representations, was entirely correct in his recent decision to let the injunction lapse.

Although I am not certain whether Daimler's Germany recognizes a first amendment right to free speech,³ I am certain your client's American subsidiary, Chrysler, is well aware of the fact that this country does recognize free speech rights.

Certainly providing truthful testimony in a brain-damaged baby case involving a vehicle defectively designed between seven and ten years ago should be applauded, instead of responded to by your former employer seeking to extend a five-year muzzle on entirely specious grounds.

I trust you advised the Honorable court that Sheridan was designated as a material fact witness early-on in that litigation by the Plaintiffs.⁴ I trust that in your "motion to re-muzzle", you advised the Honorable court that Sheridan's affidavit references only documents produced to me in litigation, which according to the terms

³ Attached hereto as Exhibit "C" for your reference.

⁴ As Justice Ginsberg recently noted in *Baker v. General Motors*: "Most essentially, Michigan lacks authority to control courts elsewhere by precluding them, in actions brought by strangers to the Michigan litigation, from determining for themselves what witnesses are competent to testify and what evidence is relevant and admissible in their search for the truth. See Restatement (Second) of Conflict of Laws, 137-139 (1969 and rev.1988) (forum's own law governs witness competence and grounds for excluding evidence); cf. *Societe Nationale Industrielle Aerospatiale v. United States Dist. Court for Southern Dist. of Iowa*, 482 U.S. 522, 544, n. 29, 107 S.Ct. 2542, 2556, n. 29, 96 L.Ed.2d 461 (1987), (foreign "blocking statute" barring disclosure of certain information "do[es] not deprive an American court of the power to order a party subject to its jurisdiction to produce [the information]"); *United States v. First Nat'l City Bank*, 396 F.2d 897 (C.A.2 1968) (New York bank may not refuse to produce records of its German branch, even though doing so might subject the bank to civil liability under German law)... In sum, Michigan has no authority to shield a witness from another jurisdiction's subpoena power in a case involving persons and causes outside Michigan's governance. Recognition, under full faith and credit, is owed to dispositions Michigan has authority to order. But a Michigan decree cannot command obedience elsewhere on a matter the Michigan court lacks authority to resolve. See *Thomas v. Washington Gas Light Co.*, 448 U.S. 261, 282-283, 100 S.Ct. 2647, 2661, 65 L.Ed.2d 757 (1980) (plurality opinion) ("Full faith and credit must be given to [a] determination that [a State's tribunal] had the authority to make; but by a parity of reasoning, full faith and credit need not be given to determinations that it had no power to make.")"

In *LeCompte*, Judge J. Ray Gayle accepted Mr. Sheridan's affidavit as evidence, and made no pronouncement from the bench that Mr. Sheridan was not welcome to testify in his courtroom.

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of those cases' protective orders, are no longer confidential.⁵ I trust that in your motion to re-muzzle, you have advised the Honorable court that Sheridan's testimony involves a vehicle line which has been on the road for years, subject to vehicle tear-downs and competitive engineering, and a vehicle line which already is entirely being replaced by Chrysler with its "RS" line of minivans whose designs have been completed by the date of this writing.⁶ I trust you advised the Court that of the previously-produced documents referenced in Sheridan's affidavit, the vast majority of them were produced in a deposition that Chrysler's employment law firm, Dickinson, Wright, defended⁷, and that therefore, any attempt by Chrysler to insinuate that Sheridan disclosed "new" information would be a gross fraud on the Court. I trust that in your motion to re-muzzle, you advised the Honorable court that Sheridan's affidavit testimony was confirmed in almost every respect by the deposition testimony of Chrysler's own corporate representative in *LeCompte*.⁸

In Texas, one of our great Supreme Court justices, Hon. Franklin Spears, wrote that "the ultimate purpose of discovery is to seek the truth, so that disputes may be decided by what the facts reveal, not by what facts are concealed."⁹ In an effort to have disputes decided across the nation by "what facts are concealed," your client has, in my humble opinion wrongfully terminated an honorable man, disgracefully trumped-up charges against him that subsequently have been proven meritless, and shamefully shackled him with a gag order lasting five years, even though your own client's fellow employees showered him with glowing praise in performance reviews just weeks before Chrysler wrongfully terminated him. I would suggest that if Chrysler believes Paul Sheridan is such a threat, it immediately should permit me to depose all persons whom it believes will prove him a liar. We can then compare their sworn testimony with the representations made by your firm in Court in the *Chrysler v. Sheridan* litigation, and see whether it is Paul Sheridan or his former employer that is spreading falsehoods.

⁵ See Rule 76a Order of 1996 of Anderson County, Texas District Court Judge Calhoun in *Matthews v. Chrysler*.

⁶ See testimony of Dennis Malecki in *LeCompte v. Chrysler*.

⁷ See Deposition of Paul Sheridan, in *Gonzalez/Matthews v. Chrysler*, dated May 2, 1996.

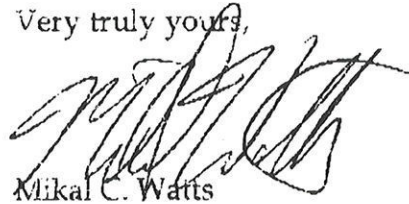
⁸ See Deposition of David Monette in *LeCompte v. Chrysler*, dated February 29, 2000.

⁹ *Jampole v. Touchy*, 673 S.W.2d 569 Tex. 1984).

Mr. Thomas Kienbaum
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I hope this letter will assist you in clarifying our respective positions on this matter.

Very truly yours,



Mikal C. Watts

P.S.:

I have just received a copy of your Brief in support of Chrysler's Motion to re-Muzzle. Among the myriad misrepresentations made therein, the one containing particularly-strong stench to me is your blatant lie to the Court with respect to how the *Matthews* documents became public. To insinuate that those documents were made public by me filing them behind Chrysler's back is shameful; in fact, Judge Calhoun conducted a five-hour hearing before ruling that the documents should be released according to Rule 76a. You may want to pull up the *Dallas Morning News* coverage of the hearing to refresh your recollection, so that you can file a retraction of this falsehood with the Court immediately.

cc:

Richard Greenberg - *60 Minutes*
Bill Vlassic - *Detroit News*
Milo Geyelin - *Wall Street Journal*
Jeffrey Ball - *Wall Street Journal* - Detroit Bureau
AIEG Executive Committee

Via Fax: (212) 975-0322
Via Fax: (313) 222-1461
Via Fax: (212) 416-2653
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MAR. 23, 2000 3:13PM

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NO. 2291 P. 1

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FACSIMILE TRANSMISSION SHEET

Date: March 23, 2000
To: Mikal C. Watts
Fax #: (361) 887-0055
Phone:
Total Pages: 3, including this cover sheet
From: Thomas G. Kienbaum
Regarding: LeCompte v. DCC

If you have not received the total number of pages, please call 248-645-0000. Thank you.

MESSAGE:

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EXHIBIT "A"

MAR. 23. 2000 3:13PM

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NO. 2291 P. 2

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March 23, 2000

Via Facsimile (361) 887-0055

Mikal C. Watts, Esquire
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Re: **LeCompte v. DCC**

Dear Mr. Watts:

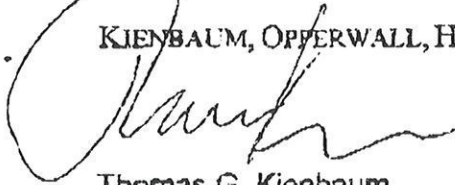
This letter will confirm the conversation you had with Bob Fulton today concerning David Tyrrell's e-mail to DaimlerChrysler Corporation's counsel, Rita Burns. Mr. Tyrrell's e-mail related to Paul Sheridan's affidavit in LeCompte v. DaimlerChrysler Corporation. As Bob explained to you, this e-mail was inadvertently attached to an exhibit to a motion filed on behalf of DaimlerChrysler Corporation in the action pending against Mr. Sheridan. Mr. Tyrrell's e-mail is clearly a privileged attorney-client communication, and it is obvious that its disclosure was inadvertent. I am filing a motion today to remove the attorney-client communication from the pleading filed recently in the Oakland County Circuit Court, and to obtain return of any distributed copies. I understand you will not hereafter distribute the inadvertent attorney-client communication that you received from Mr. Sheridan's counsel, Courtney Morgan, until you hear further on the matter.

Mikal C. Watts, Esquire
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If you have any questions in this regard, please give me a call. We appreciate your cooperation.

Very truly yours,

KIENBAUM, OPPERWALL, HARDY & PELTON



Thomas G. Kienbaum

cc: David R. Tyrrell
Rita Burns
Gregory J. Ridella



David Tyrrell <dtyrrell@hwhlaw.com> on 02/29/2000 11:16:37 AM

To: "Burns Rita - Chrysler (E-mail)" <rab26@daimlerchrysler.com>
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 Subject: Sheridan's Affidavit - LeCompte v. DCC

Re: Sheridan's Affidavit - LeCompte v. DCC - CASE ID: 1030000

Rita,

I reviewed Watts' response to the Motion for Summary Judgment in LeCompte which includes a detailed affidavit from Paul Sheridan. Interestingly, the affidavit is executed in Texas and, therefore, apparently Sheridan has been spending time with Watts.

Sheridan's affidavit goes far beyond any subject matter we have seen in the past. I predict you are going to see a lot more of this guy in many different types of cases. He is going to become the new, improved, Tom Flanagan. He was at Chrysler for an extended period of time, had a good work history according to his late reviews and awards, and is willing to testify about Chrysler's "knowledge" on any number of different issues. I also expect he will be a librarian of information and documents. This is the role Tom Flanagan has filled in the past - Sheridan will be much better organized, obsessive, detailed, and will present a far superior appearance as a witness.

From John Stilson's report in LeCompte I anticipated that Sheridan would be used to describe Chrysler's knowledge of ejection-related issues from his NS SLT work period. I anticipated Watts would use Sheridan with Flanagan and the documents and past testimonies he developed during the liftgate latch litigation to enhance his allegation that "[Chrysler] was aware of the relationship between occupant ejection from the vehicle and the increased likelihood of death and serious bodily injury. The evidence was also clear that effective door latches were critical to prevent this, since the seat belt usage rate was very low." He wants to make latches generic and dovetail all the liftgate latch and side door latch failure issues with the side sliding door latch. Watts certainly uses Sheridan for this purpose. However, Sheridan is also used to go far beyond the "generic" latch and ejection risk issues.

Sheridan's affidavit makes extensive reference to the Door Hardware Work Team and meeting minutes from that team. The minutes were taken from Bob Vend's deposition who, of course, testified that Sheridan never attended any of those meetings and whose name does not appear as an attendee at these meetings. Therefore, Sheridan will apparently base a significant amount of his more specific testimony on meeting minutes from meetings he did not attend.

Sheridan also spends considerable time talking about the reduction of the NS budget; the "major upper management concern was product cost versus approved program target levels." He makes frequent references to cost reductions

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necessitated by budget decreases. Indeed, he makes references to "upper management" decisions by Messrs. Zator, Lutz, Gale and Castang. For example, Sheridan states "upper management at Chrysler was already aware that its new NS body minivan would not have a latch in the front of the sliding door, while most other offerings did have such a second latch. However, cost and pricing pressures were stated as the reason that the body hardware budget must be reduced, as opposed to allowing it to increase to accommodate 'real world' safety requirements." Thus, Sheridan expands his area of involvement and expertise to include budgeting and cost considerations.

Next, he makes specific references to the side sliding door latch and Chrysler's alleged knowledge that this latch was inadequate; "the safety importance of multiple latching mechanisms on doors such as the sliding door and the real liftgate was discussed and communicated to upper management. However, because of the pricing and cost pressures already on the minivan, upper management insisted that no other latching features be added; rather, management insisted that the body hardware investment and piece costs be lowered still further."

His expanded knowledge also goes to testing. He is apparently ready to testify that the NS SLT "strongly recommended" that the NS be testing with offset impacts to evaluate structure. These recommendations were, according to Sheridan, rejected by the Production Direction Team.

Finally, Sheridan is now a statistician, apparently from his survey work, and a glass expert. He notes that he and other members of the door hardware work team "extensively" discussed the type of glass to be used in the side sliding door. The NS SLT believed the use of "shatter proof" glass should be further discussed and this recommendation was rejected by the Product Direction Team due to "cost." He also noted that Mr. Lutz made the decision that the glass would be fixed rather than a window that could be opened.

Sheridan further places knowledge within Chrysler in stating that he recalls "specific conversations and discussions with management at Chrysler during meetings when the fact was discussed that ejected occupants are statistically more likely to be killed or seriously injured in a collision if they were ejected from a vehicle, than if they remained in the vehicle."

I intend to spend considerable time with Sheridan going through his 20-page affidavit and its 58 exhibits to pin him down precisely to documents, persons, etc. This affidavit should be shown to other members of the Door Hardware Work Team and the NS SLT. In the past those employees never seemed to become incensed or outraged by Sheridan's statements. Perhaps this affidavit will help them in that regard.

This guy is not going away any time soon.

David

cc: Kenneth Gluckmar
Louann Van Der Wiele
Michael Kidney
Micki Singer
Greg Ridella
Bob Fulton

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

EXHIBIT "C"