

LEARY, BRIDE, TINKER & MORAN

A PROFESSIONAL CORPORATION

COUNSELLORS AT LAW

7 RIDGEDALE AVENUE

CEDAR KNOLLS, NEW JERSEY 07927

(973) 539-2090

TELEFAX (973) 539-0806

W. STEPHEN LEARY (Ret.)
JAMES D. BRIDE
JOHN G. TINKER, JR.
GLENN R. MORAN
JAMES T. GILL
WILLIAM H. MERGNER, JR.
MARK BONGIOVANNI
DAVID J. DERING

TRACEY L. VANWIEMOKLY
BRIAN PEOPLES
WENDY ALLYSON REEK
MARK A. TRUDEAU
CHRISTINA E. SIRICO
JAMES V. WY SOCKI
MATTHEW E. KENNEDY
ADRIAN K. COUSENS
OF COUNSEL:
PETER M. BOUTON

April 29, 2011

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

RE: Estate of Susan Kline v. Victoria Morgan-Alcala, et als.
Docket No.: MRS-L-3575-08
Claim No.: 4125256158
D/A: February 24, 2007
Our File No.: 25727Z JTG

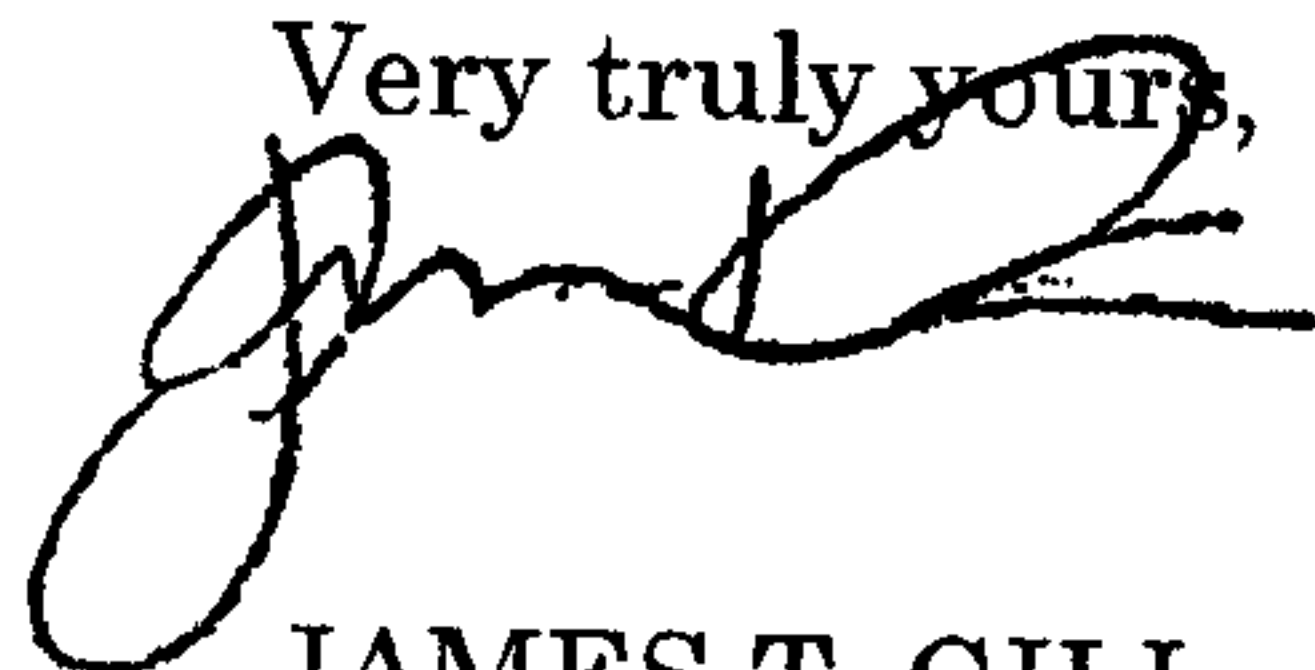
Dear Ms. DeFilippo:

Kindly amend defendant's answers to interrogatories with respect to the above captioned matter to include the report of William J. Meyer, P.E., of Affiliated Engineering Laboratories, Inc, dated April 20, 2011, annexed hereto. This is being furnished in conformity with R.4:17-4 and 4:23-5(b), with the specific understanding that it does not constitute an adoptive admission as referenced in Sallo v. Sabatino, 146 N.J. Super. 416 (App. Div.), certif. den., 75 N.J. 24 (1977) and Skibinski v. Smith, 206 N.J. Super. 345 (App. Div. 1985). The defendant hereby names William J. Meyer, P.E., as an expert who may testify at the time of trial.

The production of said report is done pursuant to Court Rule and shall not be deemed an admission or denial of the contents therein. I hereby certify that, if this amendment is being served outside of the discovery period, it is because same was not reasonably available or discoverable by the exercise of due diligence prior to the discovery end date.

Kindly accept this amendment in lieu of a more formal one. If I do not hear from you to the contrary within five days of your receipt of the above, I will assume that same is acceptable. You may accept this amendment as though formally certified by my client and be advised that I may rely upon same at the time of trial.

Very truly yours,

A handwritten signature in black ink, appearing to read "James T. Gill", written over the typed name below.

JAMES T. GILL

JTG/ak

Enclosure

cc: Robert M. Cook, Esq.
Kenneth A. Schoen, Esq.
Michael J. Rossignol, Esq.
Robert Francis Gold, Esq.
M. Sheila Jeffrey, Esq.

AFFILIATED ENGINEERING LABORATORIES, INC.

Engineering Consultants

Physical Location:
777 New Durham Road
Edison, NJ 08817

P.O. Box 3300
Edison, NJ 08818-3300

Phone (732) 429-1200
Fax (732) 429-1201
www.affiliatedinc.net

April 20, 2011

Leary, Bride, Tinker & Moran, P.C.
7 Ridgedale Avenue
Cedar Knolls, New Jersey 07927

Attention: James T. Gill, Esq.

Re: Kline, Susan v. Alcala, et al.
Your File No. 25727Z JTG
Our File No. T-1181

Dear Mr. Gill:

In accordance with your request, the writer has reviewed file documents pertaining to the captioned matter. Specifically, the writer has reviewed the following:

- New Jersey Police Crash Investigation report for the subject motor vehicle accident;
- Photographs of the accident scene;
- Photographs of the Morris-Kline Jeep Grand Cherokee and Morgan-Alcala Toyota Sienna after removal from the accident scene;
- 4/22/09 report prepared by Donald R. Phillips, P.E.;
- 12/4/09 report prepared by Neil Hannemann;
- 12/3/09 report prepared by William R. Bush, Jr.;
- Supplemental Interrogatories propounded on Chrysler Group, LLC, titled "*Confidential PE10-031 Chrysler 10-15-10 Enclosure 6F FARS and State Crash Data Analysis.*"

Additionally, the writer has reviewed the National Highway Traffic Safety Administration (NHTSA) documents pertaining to a defect investigation number PE10031 and associated Federal Motor Vehicle Safety Standards. Upon review of the aforementioned documents and engineering analysis, the writer has developed the following understanding and opinions regarding the subject matter.

It is reported that on 2/24/07, at approximately 8:53 A.M., a multiple-vehicle accident occurred at the approximate location of milepost 42.8 of southbound Interstate 287 (I-287). During this accident event, one vehicle, identified as a 1996 Jeep Grand Cherokee bearing VIN

1J4GZ58S9TC401311, was being operated by Ms. Susan Morris-Kline and sustained a rear impact that caused it to “*immediately burst into flames.*” This impact and resulting fire serves as a basis for the captioned matter.

Review of photographs of the impact damage to the rear of the incident Jeep Grand Cherokee and the front of the vehicle that impacted it (2004 Toyota Sienna bearing VIN 5TDZA22C344S052135) reveals that there was a significant amount of vehicle under ride during the impact. The Morris-Kline Jeep was shown to have sustained direct rear impact damage that affected the rear underside of the vehicle from the location of the rear bumper up to the approximate location of the rear axle. The rear bumper structure was shown to be deformed upward and rear suspension elements of the Jeep appear to have been directly impacted. Photographs of the involved Toyota Sienna reveal that the frontal impact damage was mainly located above the front bumper. The front bumper structural element exhibited minimal rearward deformation and was pushed slightly downward. The engine compartment hood was displaced rearward and upward. The engine of the Toyota Sienna did not exhibit significant rearward displacement and any displacement that did occur increased progressively with vertical distance above the bumper. The pattern of the impact damage to both vehicles clearly indicates that the front of the Toyota Sienna traveled underneath the rear of the Jeep.

Research reveals that the fuel tank for 1996 Jeep Grand Cherokee is located at the rear underside of the vehicle between the bumper and the rear axle. It is also positioned at an elevation slightly below the rear bumper. As an all-wheel drive sport utility vehicle, the subject Jeep Grand Cherokee has a relatively high ground clearance and a relatively high rear bumper.

An NHTSA defect investigation identified as Action #PE10031 was opened on 8/23/10. This investigation applies to the Jeep Grand Cherokee vehicle with model years 1993-2004 and the propensity for said vehicles to sustain crash related fuel tank fires upon rear impact by another vehicle. This action was initiated by the Center for Auto Safety (CAS) who allege that “*The subject vehicles have defective fuel tank storage systems that present a fire hazard in crashes.*” CAS further allege that the vehicle “*fuel tank’s placement behind the rear axle below the rear bumper, and the lack of adequate shielding, make it more vulnerable to rupture or leakage from a rear impact by another vehicle.*” As of the date of this report, this NHTSA investigation remains open.

Based upon file documents reviewed, engineering analysis and the foregoing, it is the writer’s opinion that the fatal injury to Ms. Morris-Kline during the subject 2/24/07 motor vehicle accident directly resulted from a design defect in the 1996 Jeep Grand Cherokee vehicle she was operating at the time. Evidence indicates that the occupant compartment of the subject vehicle remained intact during the impact and that there was no significant intrusion into the occupant space. Considering the reasonable protection to the vehicle occupants provided by the seats and restraint systems and the absence of intrusion, it is the writer’s opinion that the impacts incurred by the Morris-Kline vehicle during the subject accident would have not been life

threatening in the absence of the explosion and fire that occurred immediately upon rear impact. In the writer's opinion, the location of the fuel tank on the incident 1996 Jeep Grand Cherokee and the absence of any substantial, effective means of protecting the fuel tank constituted a design defect that was causally related to the fatal injury that resulted from the subject accident.

The writer generally concurs with the allegations set forth by the Center for Auto Safety and the aforementioned NHTSA defect investigation and the opinions set forth by Mr. Neil Hannemann in his 12/4/09 preliminary report regarding the subject matter. In the writer's opinion, it is highly foreseeable that the fuel tank of the 1996 Jeep Grand Cherokee vehicle would experience direct primary contact damage during a rear impact by another vehicle. A condition of vehicle under ride during impact results from a differential in the height of the structural elements of vehicle bumper systems resulting in the vehicle with the lower bumper elevation traveling underneath the vehicle with the higher bumper elevation. The condition of vehicle under ride is exacerbated during front-to-rear vehicular impacts in which braking is typically involved. Vehicle braking during forward longitudinal movement results in forward weight shift on the vehicle suspension that essentially results in the downward movement of the front of the vehicle and upward movement of the rear. The design of the subject 1996 Jeep Grand Cherokee is such that the vehicle fuel tank is exposed for direct contact damage and rupture during rear impact by a typical passenger vehicle.

The Federal Motor Vehicle Safety Standards set forth requirements for motor vehicle manufacturers with regard to the integrity of motor vehicle fuel systems. Specifically 49CFR §571.301 "*Fuel System Integrity*" indicates in a paragraph titled "*Purpose*":

"The purpose of this standard is to reduce deaths and injuries occurring from fires that result from fuel spillage during and after motor vehicle crashes.."

The standard sets forth testing criteria, which includes a "*rear moving barrier crash*." In the writer's opinion, simply conforming to the rear moving barrier crash set forth in this safety standard does not constitute prudent engineering design. The rear moving barrier crash that is specified would fully engage the vehicle bumper system, which does not consider the highly foreseeable under ride condition of a real-life accident event with a typical passenger vehicle and a 1996 Jeep Grand Cherokee vehicle. In the writer's opinion, it was or should have been readily apparent to the designers of the 1996 Jeep Grand Cherokee vehicle that the test specified in this standard would not satisfy the purpose of the standard when applied to said vehicle in real life accidents. In the writer's opinion, conformance to the tests specified in the Federal Motor Vehicle Safety Standard number 301 "*Fuel System Integrity*" does not satisfy the purpose of the standard for the subject 1996 Jeep Grand Cherokee vehicle and does not provide reasonable protection of vehicle occupants during rear impacts to said vehicle.

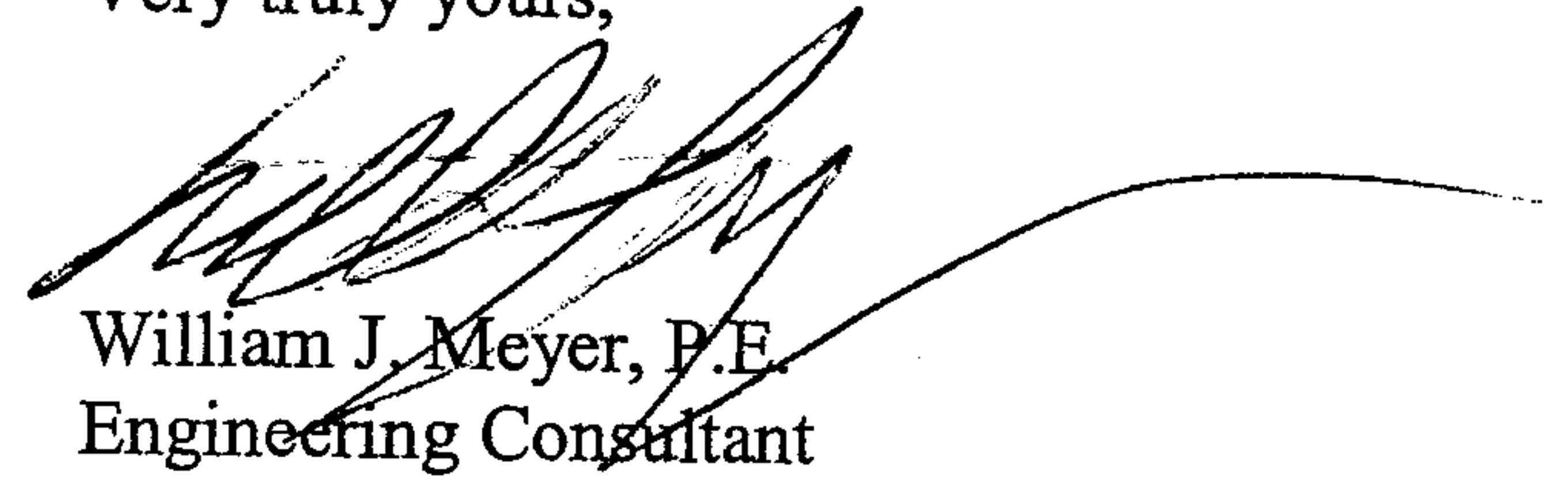
It is the writer's concluding opinion within a reasonable degree of engineering certainty that the explosion, fire and associated fatal injury to Ms. Morris-Kline during the subject 2/24/07 motor vehicle accident resulted directly from the defective design of the 1996 Jeep Grand

Re: Kline, Susan v. Alcala, et al.
April 20, 2011
Page 4 of 4

Cherokee she was operating at the time. Had the 1996 Jeep Grand Cherokee been designed to provide reasonable protection of its fuel tank such that it conformed with the purpose of Federal Motor Vehicle Safety Standard number 301 under reasonable foreseeable real-life accident conditions, the explosion, fire and resulting fatal injury to Ms. Morris-Kline would have been avoided.

Please feel free to contact the writer should further discussion or information be required.

Very truly yours,



William J. Meyer, P.E.
Engineering Consultant

WJM/afp