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22 June 2012

BY USPS AND EMAIL

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

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

Dear Ms. DeFilippo:

Regarding the subject attachment, we must focus on the exact and purposely misleading wording deployed by General Motors, documented atop page 2 of the FaAA “Information Services” release, which states:

“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.”

Given that the intense focus of this 1990’s NHTSA investigation was not on fatalities caused by side collision, but on fatalities caused by fire during/after side collisions, it would be a stretch to accept an ad hoc explanation that GM’s wording really meant the latter: The MHEs were fire deaths. Therefore the wording is probably another example of misdirection. NHTSA in 1992 was not focused on impacts wherein a GM pickup truck driver and/or passenger was killed, and there was also a fire. Currently we (and NHTSA in 1992 and now under EA-12-005) are focused on data that is limited to those collisions that were survivable ergonomically/anatomically, but death or injury is caused by a post-collision fuel-fed fire.

But even if one assumes that the GM wording, however obtuse or clumsy, refers strictly to the MHE = fire death event, the associated statistics still require scrutiny.

Historically, during the relevant period, the American pickup truck market was dominated by Ford and GM, with Dodge in the mix, but rarely a contender for dominance. Approximate historical market share data is used in the following table, in conjunction with the data stated in the GM quote, to provide normalized (actual) highway exposure :

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 ¹	20%	(5,000)	(0.0025)	7.600

The historical Ford versus GM duel for market dominance is well-known. Note that because equalized long-term market share is assumed (GM vs Ford), there is no “Corrected” data needed for Ford. In this instance the Dodge required correction to arrive at the “normalized” comparison to properly use the “Registered Vehicle Years” dimension (The latter, when viewed in the context of engineering design safety defects and FMEA criteria, amounts to just another statistical shell-game.).

¹ Prior to being correctly normalized, as originally stated by FaAA, the columnar entries for Dodge would be 20%, 10,000, and 0.005. Even this incorrect analysis results in a rightmost column multiplier entry of 3.800.

Conclusion

1. The wording of this GM public relations announcement openly declares, at the strict semantic level, that the focus of the data analysis, performed by their expert FaAA, was not limited to side collisions that were survivable ergonomically/anatomically, but non-survivable once the fuel-fed fire erupted. The wording implies that both collision trauma and fire-related death data was combined (i.e. creation of a larger denominator) to arrive at more favorable death rates.

2. Even if you indulge the FaAA analysis, with its use of “*Registered Vehicle Years*,” it must be normalized for the historical market share between the three brands: GM vs Ford vs Dodge. The GM notion, quoted in their December 2, 1992 press release, that “*the chances of being killed in a GM full-size pickup truck (is) less than either Ford or Dodge*,” is not logical or sustainable at any level.

Specifically, the GM death rate was nearly 3 times the Ford, and nearly 8 times that of the Dodge. Again, this is implicitly skewed because the data set is NOT focused on only those collisions that were survivable ergonomically/anatomically, but not survivable once a fuel fed fire erupted (Please see Conclusion #1).

Comment

The last paragraph of Mr. Stockwell’s letter of 18 June 2012 is confused and confusing. He states:

*“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, relevant GM media releases and newswires were part of my FMVSS-301 file. The attachment to Mr. Stockwell’s letter is widely available from the plaintiff or defense Bar.

However, it is also well known that the 1992 GM release, and voluminous documents of similar portent, are “reasonably available” from NHTSA file EA92-041.¹

Please do not hesitate to contact me at any time.

Respectfully,

Paul V. Sheridan

cc: Courtney E. Morgan, Esq.
Russell J. Sacco, Jr. Esq.

¹ 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 2).

Attachment 1

22 June 2012

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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

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

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-- 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-truck 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

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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

22 June 2012

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Reference: Estate of Susan Morris Kline

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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.

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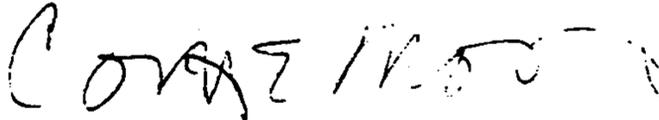
Page 4

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)

End of Document

22 June 2012

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