

IN THE SUPERIOR COURT OF DECATUR COUNTY
STATE OF GEORGIA

THE STATE OF GEORGIA

Versus

Bryan Lamar Harrell

Criminal Action
Case Number 14CR-00168

BRIEF IN SUPPORT OF PRO SE MOTION
SUBMITTED BY DEFENDANT BRYAN LAMAR HARRELL

The Defendant, BRYAN LAMAR HARRELL, has submitted to the Honorable Court a *pro se* motion requesting that his “Guilty” plea previously entered by this Court on October 14, 2014 by vacated. What follows is offered for consideration by the Court in the event that this *pro se* motion is ruled by the Court to be worthy of certiorari and/or an open hearing.

PREAMBLE

The focus of this brief will be exculpatory evidence that was openly available to all relevant parties prior to, during, and subsequent to the plea hearing of October 14, 2014 before the Honorable Judge A. Wallace Cato. It will be shown that this evidence is especially relevant to the first of the following merged counts against Mr. Harrell:

- A. ‘Homicide by Vehicle in the First degree’, on the date of March 6, 2012,
- B. ‘Reckless Driving’ on the date of March 6, 2012.

I will present perspective on the true cause of the tragic death of March 6, 2012. I will review how innumerable prior similar deaths were obscured from the public. I was the first safety expert to contact members of the Georgia State Police (GSP) involved with the accident scene of March 6, 2012. I subsequently telephoned the office of the District Attorney (DA) for the South Georgia Judicial District. In both conversations of March/April 2012 I specified that my purpose was a photographs-only inspection of the vehicle driven by defendant Mr. Harrell, and the 1999 Jeep Grand Cherokee which was the focus of a government defect investigation that I helped initiate. These conversations took place immediately after the Jeep fire-death of Remington Walden on March 6, 2012.

GENERAL PROFESSIONAL BACKGROUND INFORMATION

1. My name is Paul V. Sheridan. I have resided in Dearborn, Michigan for 37 years.

The facts and opinions of this brief are known to me personally or professionally and have been formed based upon my experience(s), training, education, observations, knowledge, and review of relevant literature. I base the statements of this brief upon extensive vocational and professional review of automobiles and the automotive industry.

2. I hold a Bachelor's of Science Degree (BS) in Mathematics and Physics conferred in 1978 by the State University of New York. I hold a Master's in Business Administration (MBA) in General Management and Logistics conferred by Cornell University in 1980.

3. After graduation from Cornell University I was hired by Ford Motor Company, where I worked from 1980 until 1984. My responsibilities included program management, vehicle production planning, powertrain planning, and regulatory affairs. I was promoted twice and awarded several substantial salary increases.

4. In July 1984 I accepted an unsolicited offer from Chrysler Corporation, where I worked from July 1984 until December 1994. During my career at Chrysler I worked as a manager in future product planning, and engineering programs management.

5. As an engineering programs manager (EPM) I was responsible for the work of both internal engineers at Chrysler and external engineers at Chrysler suppliers. In 1985 I won the coveted "*Chairman's Award*" from Chairman Lee A. Iacocca; an award bestowed only three times in his career. As an EPM I received recognition in the *Chrysler Times* magazine. To the best of my knowledge I am the only EPM in Chrysler history to receive such recognition. My work as an EPM was recognized numerous times by the Society of Automotive Engineers (SAE), including but not limited to expertise interview reports in their world famous *Automotive Engineering* publication.

6. In late 1992, Chairman Iacocca and his executive staff appointed me to head the internal Safety Leadership Team (SLT), which I chaired from 1992 to 1994. My efforts as chair of the SLT have been recognized by state courts, federal courts, and the United States Supreme Court; the highest court in the land. My efforts as SLT chairman have been featured by innumerable national and international media, including ABC News 20/20, the Wall Street Journal, ABC News Primetime, the British Broadcasting Company, the New York Times, local television news programs, etc.

7. In 2005 I was given the National Champions award from the Civil Justice Foundation (CJF) in Washington DC. I am the only CJF National Champion in history to be awarded for efforts in transportation safety. I was nominated for the CJF award by the president of the American Bar Association.

SPECIFIC PROFESSIONAL BACKGROUND EXPERIENCE : THE JEEP

8. I am an expert on the fuel system crashworthiness of the Jeep vehicles. This expertise has been utilized in litigation, government investigations and news reports.

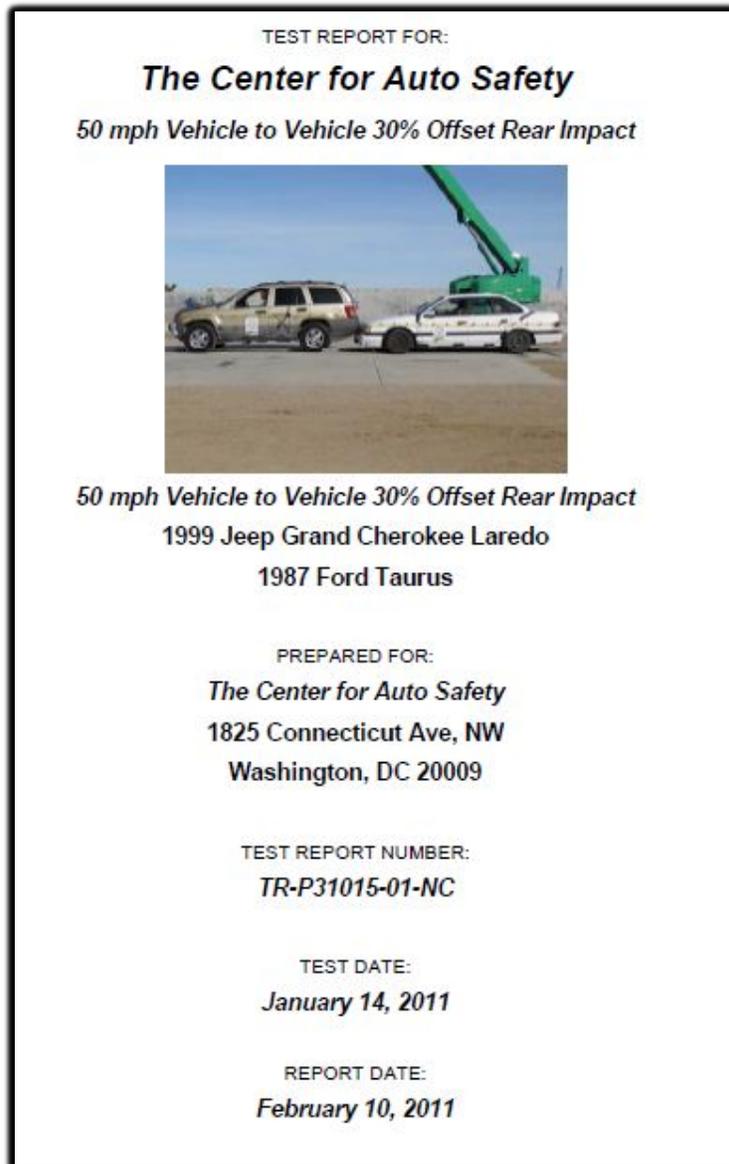
9. I was co-petitioner with the Center for Auto Safety (CAS in Washington DC), wherein we petitioned the Federal Government to conduct a safety defect investigation of the crashworthiness of the Jeep Grand Cherokee fuel tank system. This petition was submitted to the National Highway Safety Administration (NHTSA) on October 2, 2009. Portions of the petition were authored by the undersigned:

- a. As a result of the CAS petition, NHTSA opened a formal investigation of the lack of Jeep fuel tank system crashworthiness on August 23, 2010.

10. My work with the CAS dates to 1994; my expertise is well-known to and relied upon by CAS. As part of our petition efforts, I assisted CAS with their Jeep Grand Cherokee fuel tank crash test programs. My roles included vehicle configuration confirmation, test procedure protocol, and post-test inspection and reporting. I represented CAS and was present for the crash testing at the Karco Engineering facility in Adelanto, California (please see sample photographs next page):



11. I personally inspected the vehicles and Jeep components involved in the CAS/Karco crash tests, including that of January 14, 2011:



- a. The January 14, 2011 CAS/Karco crash test involved the exact model year and vehicle type which caused death on March 6, 2012 in Bainbridge, Georgia,
- b. This 1999 Jeep Grand Cherokee crash test was conducted at 50 mph, wherein fuel leakage occurred, and therefore **a fuel tank crashworthiness failure**.
- c. These results were shared with Fiat-Chrysler Automobiles (FCA), the defendant in the trial of Walden v FCA, where the jury verdict asserted a safety defect in the 1999 Jeep Grand Cherokee wherein Remington Walden was a rear seat passenger (Civil Action 12CV472 of April 2, 2015).
- d. Disputed by the plaintiff attorneys and Mr. Harrell as lower, the collision speed of March 6, 2012 was not more than 50 mph. The CAS/Karco crash test failure was shared with defendant FCA more than a year prior to that accident.

FACE-TO-FACE MEETING WITH THE NHTSA ADMINISTRATOR :
CONCEALMENT OF THE 1978 BAKER MEMO

12. In May 19, 2010 I was invited to testify at the US Senate *Committee on Commerce, Science, and Transportation*; Senator Jay Rockefeller presiding. The invitation came from Mr. Clarence Ditlow, Director of the Center for Auto Safety (CAS). My role was to assist Mr. Ditlow with rescinding proposed legislation that would have restricted the legal rights of the so-called “whistler-blower.” The legislation was shelved as a result of this hearing.

At the conclusion of this hearing I was formally introduced to NHTSA Administrator David Strickland. In the presence of Mr. Ditlow and many others, I voiced a concern with Mr. Strickland that the Jeep fuel tank defect petition (paragraph 9 above) under his purview was not lawfully receiving complete files from Fiat-Chrysler Automobiles (FCA). Having reviewed the NHTSA file in-detail, I explained that a key internal document, *The Baker Memo of 1978*, had not been submitted. I emphasized the second page of that memo:

Chrysler is investigating fuel tank relocation ahead of the rear wheels for vans and multi-purpose vehicles, but present plans for pickups through 1983 and for MPV's and vans through 1985 have the fuel tank located behind the rear wheels. In vehicles both with and without bumpers there is a concern with vertical height differences that create a mismatch with passenger car bumpers. Where fuel tank location behind the rear axle is all that is feasible, a protective impact deflection structure may have to be provided whether or not a bumper is provided. An investigation whether to relocate the fuel tank or to provide impact deflecting structures is presently underway.

After hearing of its content, and its concealment by FCA from the petition process, Mr. Strickland, in front of many, demanded that he receive a copy (from me).

I came into possession of the Baker Memo as part of my duties at Chrysler. In 1987 I made a formal presentation involving the memo at the Engineering Programs Review (see paragraph 5 above). The Vice President of Jeep and Dodge Truck Engineering (JTE), Mr. Francois J. Castaing, presided over and was present for my presentation(s). Mr. Castaing has been promoted as **The Father of the Jeep**. As such he had overall product and engineering responsibility for the Jeep fuel system design(s), including crashworthiness.

TESTIMONY REGARDING JEEP CRASHWORTHINESS :
FRANCOIS J. CASTAING – FATHER OF THE JEEP

13. Perspective on the tragedy of March 6, 2012 is incomplete without knowing the attitudes and capabilities of the key individual responsible for the design philosophy of the 1999 Jeep Grand Cherokee. The *Father of the Jeep*, Mr. Francois Castaing embodies an important portion of that perspective.

On March 14, 1996, while overseeing Jeep design philosophy, development and testing, for the 1999 Jeep Grand Cherokee, Mr. Castaing testified in the Jeep crashworthiness case of *Tenaglia v Chrysler*. In that deposition, by plaintiff attorney Lawrence Coben, the *Father of the Jeep* testified as follows:

Coben: What does the term crashworthiness mean in terms of design of a product?

Castaing: I don't know. Tell me.

Coben: You don't know the phrase?!

Castaing: No.

Coben: Well, let me make sure I'm clear on this. As the chief engineer of the company, are you at all familiar with the use of the phrase crashworthiness by the engineers of the company?

*Castaing: **Crashworthiness is so vague that you have to tell me what you intend by that.***



In 1987, as an Engineering Programs Manager at JTE, I made a presentation to Castaing that included the **Baker Memo**. I proposed that the upcoming Jeeps, including the Grand Cherokee be based on an alternative design that relocated the fuel tank from its vulnerable unprotected rear-most position, to a location that more easily sustains crashworthiness; a middle position. Mr. Castaing, and executives above him, rejected my recommendation. In the Grand Cherokee death case of *Kline v Chrysler*, in my presence, Castaing admitted that my recommendation had been made, but was rejected (Page 16 below).

SWORN TESTIMONY REGARDING JEEP CRASHWORTHINESS :
THE TESTIMONY OF CHRYSLER EXPERTS

14. I was also present at the deposition of the Chrysler ‘fire source and causation’ expert and former Chrysler employee colleague, Mr. Robert D. Banta. After decades of association I can attest to his competence and integrity. I photographed the Jeep Grand Cherokee below, prior to its crash test of May 16, 2011, anticipating a crashworthiness test failure, and defense expert depositions such as that of Mr. Banta.

In the same Jeep fire death case of *Kline v Chrysler*, on September 7, 2012, mere months after the fire death of Remington Walden on March 6, 2012, when confronted with my photo, Mr. Banta testified to plaintiff attorney Ms. Angel Defilippo as follows:



DeFilippo: Now, in looking at that photo, can you tell me what part of the vehicle protects the part of the tank that we’re looking at in that photograph?

Banta: No. It’s covered by the fascia.

DeFilippo: So if a vehicle were to strike just that yellow piece of the car, whether it be because it’s lower or some kind of vehicle that’s not even a car, let’s say it was a recreational vehicle of some sort, what would protect that portion of the tank that we see here in yellow.

Banta: Just the tank surface itself.

DeFilippo: So in other words, whatever the material of the tank is at the time?

*Banta: **The tank’s on its own.***

15. The following photographs depict what happens at a mere 40 mph, in a rear crashworthiness test of a Jeep Grand Cherokee; equivalent in all relevant design parameters to the Jeep that caused the tragic death of 4-year-old Remington Walden:



16. In paragraph 13 I discuss the “*design philosophy*” of Mr. Castaing. By enforcing a philosophy that locates the fuel tank in the rear-most position (yellow, page 8), he also projected that location philosophy into future Jeep models such as the 1999 Jeep Grand Cherokee (and the Jeep Liberty model). **ALL** of these have been the cause of horrific injury and death litigation. **ALL** of the associated litigations have been subject-to “*confidentiality agreements,*” making prior knowledge of the technical facts of these Jeep defects and associated tragedies inaccessible to the Walden family . . . or Bryan Harrell.

17. As history has shown, my 1987 recommendation of an alternative vehicle base design philosophy was not enacted until the 2005 Jeep Grand Cherokee . . . a design that moved the fuel tank to the “*mid-ship,*” the exact location recommended by me in 1987, and Leonard Baker in 1978! Since German engineers redesigned the Jeep Grand Cherokee, not one rear collision fuel fed fire injury or death has occurred.

18. On January 23, 2015, in the death case of Walden v FCA, Chrysler expert Mr. Philip Cousino testified that the revised design philosophy of the 2005 Jeep Grand Cherokee, which would have protected Remington Walden, involved the highest levels of German management:

Attorney: Isn't it true that the 2005 model year Grand Cherokee had the gas tank **midships**?

Cousino: Yes.

Attorney: All right. Now, you said in one of your answers previously that the architecture of the vehicle starts as an idea. Whose idea was it to put the gas tank in the **midships** location rather than at the rear?

Cousino: *I don't know . . . I think that Dieter Zetsche and Wolfgang Bernhard, who were the CEO and COO of the company, both from Mercedes, were involved in that decision.*



19. But an informed customer need not wait for Germany's redesign of the 2005 Jeep for a layout that eliminated the vulnerable and defective rear-most fuel tank location . . .

On August 5, 2010, two years before defendant Bryan Harrell collided with a defective 1999 Jeep Grand Cherokee, the CAS conducted a rear crash test its primary competitor : the Ford Explorer. I immediately uploaded these test videos to my YouTube account :



This test was not conducted at 10 mph. Not 20 mph. Not 30 mph. Not 40 mph. Or the alleged Bryan Harrell collision speed of 50 mph. This test was not conducted at 60 mph.

The Ford Explorer was hit at 70 mph. The amount of fuel system leakage? **Zero.** The probability of a post-crash fuel tank fire in this Ford Explorer test? **ZERO.**

It is unlikely that the Waldens would have purchased their 1999 Jeep had they been informed of its fuel tank crashworthiness defect, versus the fact that competitive models such as the Ford Explorer have never been part of a government investigation, contain no such defect, and would have protected their son Remington from fire-death.

20. In the context of my professional experience, I ask the following question:

If, on the date of the Bryan Harrell collision of March 6, 2012, Remington Walden been a passenger in a mid-mounted fuel tank vehicle, such as the original Ford Explorer or the 2005 Jeep Grand Cherokee, what would be the likelihood that Remington's autopsy would have declared his death causation as follows (screenshot) ?

Cause of Death:
Thermal Injury In conjunction with a right femur fracture

Pathologic Diagnoses:
Thermal injury with predominant charring, 100% body surface area
Right femur fracture

ZERO . . . because other than the fuel tank fire, the accident was survivable . . . and therefore Remington would be alive today.



Dr. Maryanne Gaffney-Craft, Regional Medical Examiner for the South Georgia Judicial Circuit, testifying at the Jeep fire death trial of Walden v FCA.

Summary Opinion - Paragraphs 8 through 20

- I. If information regarding the scores of prior death cases, involving defective Jeep fuel tank systems, had not been obscured from public scrutiny via “*confidentiality agreements*,” it is likely that the Walden family would not have purchased their 1999 Jeep Grand Cherokee in the first place.

- II. Mr. Bryan Harrell, a tenth grade education roofing laborer had the deep misfortune of colliding with the wrong SUV on March 6, 2012. Had Remington Walden been a passenger in just about any other brand SUV, the accident would not have been catastrophic. An excerpt of March 25, 2015, from the trial testimony of criminal defendant Mr. Harrell, in the Jeep death case civil matter of Walden v FCA:

1 A I would believe that, yes, sir.
2 Q Why were you crying, Bryan?
3 A (Weeping.) Same reason now, I guess.
4 Q Why is that?
5 A I feel sorry for the family. Guilty somewhat for the
6 little boy's death.
7 Q Did you deliberately, on purpose, hit the back of
8 that Jeep?
9 A Of course not.
10 Q Did you intend to cause any harm to Remi Walden?
11 A No, sir.
12 Q Did you know that that Jeep had a gas tank on the
13 back of the Jeep that was just 11 inches from the back of the
14 Jeep hanging 6 inches below the bottom of the Jeep? Did you
15 know that before this accident happened?
16 A No, sir.
17 Q Had you ever noticed where gas tanks were on Jeeps
18 like that?
19 A No, sir. Never paid any attention.
20 Q Did you know the gas tank on that Jeep was totally
21 unprotected from rear impact?
22 A No, sir.
23 Q You were driving a 1997 Dodge Dakota pickup, were you
24 not?
25 A Correct.

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THE JEEP FIRE INJURY / DEATH CRISIS:
A HISTORY OF CRIMIAL PROSECUTION AGAINST SECONDARY VICTIMS

21. Hundreds of Jeep fire injury/death cases have been litigated over several decades. In nearly all of these the secondary victim, the offending driver has either been considered for criminal charges or had been formally charged. The following is a very small sampling.

Kenneth Smith versus DaimlerChrysler

On October 6, 2001 Mr. Smith was rear-ended while driving his Jeep Grand Cherokee. The accident geometries and parameters were very similar to that of March 6, 2012. Mr. Smith's Jeep instantaneously burst into flames and, although he survived, he was horribly burned. As an initial, but emotional and uninformal reaction, the local prosecutor considered charging the offending driver . . . until he discovered that the offending driver was a Florida State Police officer:



The Smith v DaimlerChrysler matter was settled under a “*confidentiality order.*”

Total time that the offending driver was incarcerated: ZERO.

Jarmon versus DaimlerChrysler

On February 6, 2006, four-year-old Cassidy Jarmon was a Grand Cherokee passenger, positioned in the same location as four-year-old Remington Walden. After being rear-ended the Jeep instantly burst into flames. Both parents, positioned in the front seats barely escaped, but could not save their daughter as the inferno overtook the entire scene.



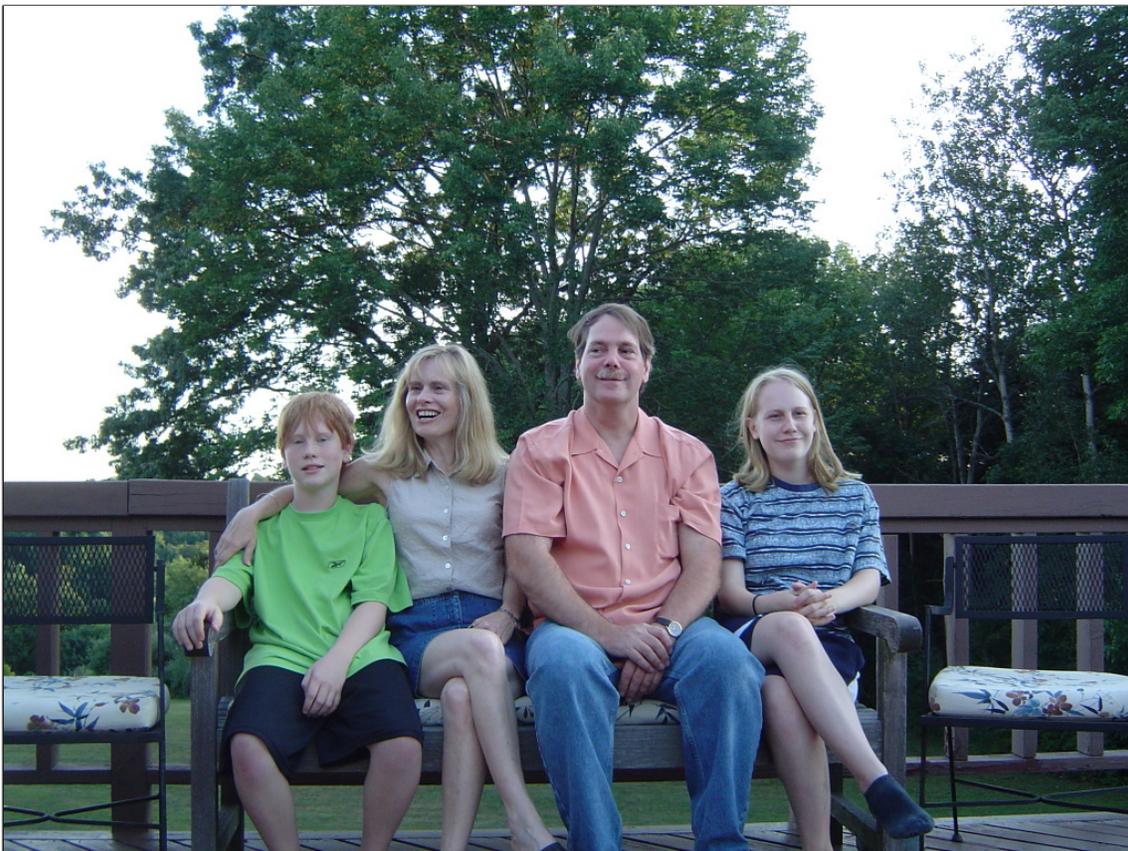
Criminal charges against the offending driver were considered, but never filed when it was revealed that the autopsy report declared that the accident was not the cause of Cassidy's death; that *"fire and smoke inhalation"* was the true cause.

Total time that the offending driver was incarcerated: ZERO.

Kline versus Chrysler Group

The horrific Jeep fire death of wife and mother Susan Kline was a major motivating factor in the Center for Auto Safety (CAS) petition to the federal government to investigate the lack of Jeep fuel system crashworthiness. An attachment, that I authored is dedicated to Mrs. Kline, and was included in the petition of October 2, 2009. I was involved from the very beginning, in all aspects of the Kline litigation.

On February 24, 2007 the Grand Cherokee being driven by Mrs. Kline was rear-ended. Her Jeep instantaneously burst into flames. Pictured here with her family mere weeks before, Mrs. Kline died trying to escape the conflagration:



None of the other persons involved in the accident were injured.

Criminal charges against the offending driver were filed by New Jersey authorities. But as the case against Chrysler proceeded, and the true cause of death, fire, was repeatedly affirmed, all criminal charges were dropped.

Total time that the offending driver was incarcerated: ZERO.

Sanchez versus Chrysler Group

On April 5, 2014 the Sanchez brothers, Magdaleno and Raymundo, able-bodied construction workers, were rear-ended on their way home from work. Upon collision, their Grand Cherokee instantly burst into flames. The doors were characteristically jammed and, just like Mrs. Susan Kline, Magdaleno and Raymundo were trapped.

They suffered no injury from the collision, but the fire immediately reached their front seats, and both brothers are burning; a scene straight from Hell itself. But unlike Mrs. Kline, Magdaleno was very strong, he was able to break his driver's side door glass to escape. Rushing to the passenger side, he smashed that glass, breaking his hand in the process, and removed Raymundo while he was still burning. Both escaped with their lives. But horribly burned, neither will ever work again . . .

I was involved from the very beginning, in all aspects of the Sanchez litigation. Their Jeep was rear-ended by a little Honda Civic. The offending driver, after impact, simply opened her door and got out. She suffered no injuries, and refused medical attention. Initially she was accused of causing the following scene on a Los Angeles highway :



Criminal charges against the offending driver were filed by California authorities. But as the case against Chrysler affirmed that the true cause of the fire, and the horrible burn injuries to the Sanchez brothers, was a defective Jeep, all criminal charges were dropped.

Total time that the offending driver was incarcerated: ZERO.

White versus FCA

Very few, if any, are more qualified than I to declare the “worst” of the Jeep fire death accidents. But if I were compelled, it would be the horror of November 11, 2014 which took the life of expecting mother Kayla White and her eight-month-term son Braedon:



The Michigan accident scene was so horrific that one paramedic resigned, and another is still undergoing psychiatric assistance.

It is alleged that the offending driver was guilty of distracted driving just before colliding with the rear of Kayla's 2003 Jeep Liberty vehicle. In my professional opinion the Jeep Liberty has a fuel system design that is . . . as astounding as this might seem . . . *more* incompetent, and even *less* crashworthy than the Jeep Grand Cherokee that caused the death of Remington Walden. The Jeep Liberty was added to the NHTSA investigation that was initialized by the CAS petition (paragraph 9 above).

Criminal charges were filed against the offending driver, not felony charges but only a misdemeanor in connection to, not one death but two deaths: Kayla and Braedon.

This Jeep fire death was mere weeks before the Harrell plea of October 14, 2014. Similar to the Harrell plea sequence, the offending driver in Michigan (1) accepted advice of his criminal defense lawyer and, (2) did so **prior** to adjudication of the product defect case:



DATE OF AUTOPSY: November 12, 2014	TIME: 8:50 a.m.
CAUSE OF DEATH: THERMAL INJURY and SMOKE INHALATION	
MANNER OF DEATH: ACCIDENT	

Total time that the offending driver in Michigan was incarcerated after pleading “Guilty” regarding the death of not one, but two people??

TEN DAYS !

The Commonwealth of Massachusetts versus Joel Cruz

Please note . . . I have revised the title format and context. In the prior samples I have listed Chrysler as the defendant.

The narrative that follows, regarding the Cruz matter, is offered as the most compelling regarding the injustice that continues to afflict Mr. Bryan Harrell of Bainbridge, Georgia.

The Honorable Court may find this context revision deeply indicative.

But the Honorable Court may also see that the reason a civil product case was never even filed in the Jeep fire death case in Massachusetts as even MORE INDICATIVE.



The Massachusetts criminal case against Mr. Cruz, relating to the Jeep fire death of seventeen-year-old Skyler Anderson (pictured), is striking for the following reasons:



- A. In stark contrast to Defendant Harrell's behavior post accident, the Cruz behavior post accident in Massachusetts was utterly despicable.
- B. Like Bainbridge, the Springfield, Massachusetts community was deeply traumatized by the way Skylar was killed. Springfield was especially animated about the post-accident behavior of Mr. Cruz.
- C. The Springfield community, the police, the court, the jury, and their District Attorney were, proverbially speaking, "*out for blood*," regarding Mr. Cruz.
- D. This "*out for blood*" atmosphere was what I encountered when asking to travel to Springfield, to do a photos-only inspection of the affected vehicles.
- E. The **adjudication sequence** regarding the offending driver was the same as White and Walden: That is, the criminal case against Cruz was hurriedly orchestrated **prior** to the civil products litigation wherein the issue of a Jeep safety defect as exculpatory evidence, would be fully exposed.

F. Although I never emailed the DA for South Georgia, my telephone calls were not returned. In contrast I received several return calls from the Springfield authorities. The Springfield DA sent an email acknowledging my person, my purpose and, most relevant to this brief, his recognition that a safety issue existed with the Jeep Grand Cherokee that killed young Skyler on the evening of November 10, 2013:

Mr. Sheridan

There is an active criminal investigation in this matter. I must deny your request.

I am aware of the subject matter and your purpose for viewing the vehicle. All requests for access are being denied.

Sent from my Android phone using TouchDown (www.nitrodesk.com)

-----Original Message-----
From: Paul V. Sheridan [pvsheridan@wowway.com]
Received: Friday, 15 Nov 2013, 1:15pm
To: Forsyth, James (WES) [James.Forsyth@MassMail.State.MA.US]
Subject: FW: Jeep Grand Cherokee

Mr. Forsyth:

I just left a voice mail; I would like to schedule a vehicle inspection (photos only) for Monday 25 Nov.

Paul Sheridan
Dearborn, MI
313-277-5095

G. Similar to the death of Remington Walden, once again, the autopsy report for Skyler Anderson does **NOT** list the accident *per se* as the cause of death:

6. The following injuries were sustained by the involved parties during the crash:

Operator #1: No injury.

Operator #2: The cause of death was determined by the Office of the Chief Medical Examiner to be extensive thermal injuries.

Operator #3: No injury.

Passenger #1: No injury.

Passenger #2: No injury.

Passenger #3: No injury.

Passenger #4: She was brought to Mercy Hospital approximately two hours after the crash as a precaution related to her pregnancy.

Seeking to obviate the misguided results rendered against prior offending drivers, where the litigation sequence has criminal first, and then the civil lawsuit, defense attorney Joseph Franco retained me in *Commonwealth of Massachusetts versus Joel Cruz*.

- I. I testified for an entire day in the Springfield court.
- II. It took extensive preparation and personal fortitude to undo the enormous emotional response to the Jeep fire death of young Skyler, an emotion that no reasonable juror would be immune from.
- III. Mr. Franco's direct examination was extraordinarily competent. When complete, it was clear to the Springfield DA that the exculpatory evidence I presented had obviated any chance that the twelve jurors (and two alternates, also present) would sustain his charge of 'Involuntary Manslaughter' regarding the death of Skyler :

HAMPDEN, SS	COMMONWEALTH OF MASSACHUSETTS	SUPERIOR COURT INDICTMENT NO.
	COMMONWEALTH VS. JOEL NIEVES-CRUZ	14 675 -1
INDICTMENT INVOLUNTARY MANSLAUGHTER GENERAL LAWS CHAPTER 265, SECTION 13		
<p>At the Superior Court, begun and holden at Springfield, within and for the County of Hampden, on the first Tuesday of June 2014. The GRAND JURORS for the Commonwealth of Massachusetts on their oath present that:</p>		
JOEL NIEVES-CRUZ		
<p>defendant herein, of Springfield in the County of Hampden, on or about November 10, 2013 at HAMPDEN COUNTY, did assault and beat Skyler Anderson-Coughlin, and by such assault and beating did kill said Skyler Anderson-Coughlin.</p>		
<p>Specifically, that Joel Nieves-Cruz on or about November 10, 2013, having a legal duty of care, did engage in wanton and reckless conduct, and by such conduct did cause the death of Skyler Anderson-Coughlin, in violation of General Laws chapter 265, section 13.</p>		

Mr. Franco's direct examination concluded as follows:

12 Q. Mr. Sheridan, how long have you been examining
13 and reviewing the Jeep systems, the fuel systems on the
14 Jeep?

15 A. Well, as to the field failures, I began analyzing
16 in 2007. That's when I first officially began doing the
17 field failure analysis. My analysis of the Jeep itself
18 began in 1987.

19 Q. And do you have an opinion to a reasonable
20 degree of engineering certainty as to the cause of the
21 fire of Mr. Skyler Anderson-Coughlin's Jeep?

22 A. Yes. In my opinion the cause of the fire was the
23 defective design of the Jeep Grand Cherokee. The rear
24 of the Jeep Grand Cherokee that Mr. Anderson was in is
25 not crash worthy and it is not road worthy.

The Springfield DA, Mr. Joseph Forsyth, concluded his cross examination as follows:

23 Q. And for -- that rear-end collision is what
24 caused that fire on the -- on the -- on the Jeep Grand
25 Cherokee contacting the tractor-trailer?

1 A. The rear-end collision provoked the defect in the
2 Jeep which led to the fire.

3 Q. And this happened in 2013?

4 A. November 10, 2013.

5 Q. Very good, sir.

6 MR. FORSYTH: Thank you.

A very important point must be emphasized: Aware that I was scheduled to testify in *Commonwealth of Massachusetts versus Joel Cruz*, Chrysler defense lawyers were present throughout, including the reading of the verdict:

- (a) It cannot be overestimated; the legal value that Chrysler product defense lawyers place in Jeep fire death cases, upon the “*Guilty*” verdicts of their secondary victim, the offending driver. Chrysler must be viewed by the Honorable Decatur Court as a ‘*vested interest*’ in these criminal matters, benefiting from and later using the “*Guilty*” verdict in defense of their defective products. Indeed, this is exactly what they plan to do in *White vs. FCA*, and exactly what they **did** in *Walden vs. FCA* . . . using the hasty plea from criminal defendant Bryan Harrell.

A verdict of “**Not Guilty**” on the charge of ‘Involuntary Manslaughter’ was rendered by the Springfield jury, as reported in the local news media :

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.

Earlier I promised that the Honorable Court may determine the reason a civil product case was never filed in Massachusetts as MORE INDICATIVE. Indeed, subsequent to the verdict of “**Not Guilty**” in Cruz, the parties in *Anderson vs. FCA* settled . . . without even filing a lawsuit! Albeit, under a “*confidentiality agreement.*”

Total time that the offending driver in Massachusetts was incarcerated regarding the charge of ‘ Involuntary Manslaughter ’ ? Zero.

THE JEEP FIRE INJURY / DEATH CRISIS:
THE INJUSTICE OF THE CRIMIAL PROSECUTION AND
ONGOING INCARERATION OF MR. BRYAN LAMAR HARRELL

22. At criminal defendant Bryan Harrell's plea hearing of October 14, 2014, the following individuals were present:

Mr. Joseph K. Mullholland,
District Attorney
South Georgia Judicial Court
Office of the District Attorney
P.O. Box 1870
Bainbridge, GA 39818
229-246-1823

Mr. Robert R. McLendon, IV, PC
Defense Attorney
Suite C
150 Court Square
Blakely, Georgia 39823
229-723-2635

At the hearing DA Mullholland makes the following declarations:

19	I have spoken about this case at length with the
20	victim's family, Brian, and I believe her name is Lauren,
21	but the mother and the father of the child about this
22	recommendation. I have spoken with Mr. Butler, their
23	attorney. He's satisfied with the recommendation of 15 to
24	serve eight. I have also spoken to Walt Landrum, who was
25	the trooper involved in this case, and he was satisfied

13

As stated in the Preamble, I telephoned Mr. Mullholland in March/April 2012. Now Mr. Mullholland states that he had contact, immediately **prior** to the Harrell plea hearing, with the plaintiff's attorney ("Mr. Butler") in the Jeep fire death case of Walden vs. FCA:

Mr. Mullholland is ostensibly admitting that he was aware of the portent of that civil matter: That the Jeep Grand Cherokee, that Remington Walden was a passenger in, contained a fuel system defect.

23. Regarding his conversation with “Mr. Butler,” the notion that the plaintiff would be “satisfied” or declare ANY positive equity in the criminal counts filed against Mr. Harrell is, on its face, **absurd**. Given the ‘vested interest’ discussion above (Page 25-a), there is no tactical or legal benefit to the plaintiff’s safety defect litigation against FCA/Jeep. It is to the plaintiff’s benefit that no mitigating diversions be present at the accident, and therefore not be available to defendant FCA. For example, the exoneration in the criminal matter of *Massachusetts versus Joel Cruz* obviated that FCA tactic. I emphasize with the Honorable Court how elimination of this diversion, from the defense case in the civil matter of *Anderson vs. FCA*, resulted in no defect lawsuit even being filed! (Page 25)

I have had contact with both Jeb and Jim Butler. They never claimed to be “satisfied” ala DA Mullholland’s planned fifteen-year sentencing of Mr. Harrell. **In truth, in his closing of April 2, 2015, in *Walden vs. FCA*, Mr. Butler stated the exact opposite, he declared **DISSATISFACTION** with Mr. Harrell’s incarceration:**

11	Chrysler has denied everything and still denies
12	everything and has put up what is, in all candor, a
13	dishonesty defense. Chrysler ought to be in Reidsville
14	instead of Bryan Harrell.
15	MR. BELL: Your Honor, I have the same objection and
16	the same motion.
17	THE COURT: Overruled.
18	MR. JIM BUTLER: Ladies and gentlemen, we asked --
19	we're going to ask that you do full justice for Remi.
20	Bryan and Lindsay are here, and we are here, and we've
21	been working for three years to let people know about this
22	danger. People do not know. Ms. Kelly, sitting right
23	there -- where did you -- Bertha Walker, that's right,
24	sitting right there where Mr. Jerry Butler is sitting,
25	might have been up one row, see Mr. Butler out there, he

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Prompted by emails that I had sent to him and Jeb Butler, Jim Butler responded to the DA Mullholland declaration regarding being “satisfied.” In an email of March 24, 2016, to Bryan Harrell fiancée Ms. Christina Small, Jim Butler states:

Sent from my iPhone

On Mar 24, 2016, at 4:43 PM, Jim Butler <jim@butlerwooten.com> wrote:

Christina, this case is still pending. It is in the Court of Appeals. We are not at liberty to talk to you or Mr. Harrell. He is represented by counsel.

We have lied to no one.

I can't speak to the drug charge, but we made it very clear to the DA that (1) there was no evidence Mr. Harrell was dui in the wreck, and (2) Mr. Harrell did not cause Remi's death. I suspect that is why Mr. Harrell got a concurrent sentence - he is serving no additional time as a result of the wreck charges.

Jim Butler

As the Honorable Decatur Court can see, Jim Butler ostensibly affirmed my earlier point; that his defendant in “this case” (Walden vs. FCA) is a vested interest and, implicitly, that FCA, as a civil defendant, would benefit from and use a **prior** plea of “*Guilty*” from the offending driver, FCA’s secondary victim, criminal defendant Mr. Bryan Harrell.

24. Upon review of the plea transcript I was concerned that DA Mullholland never made any mention of the Jeep defect information. But my review turned to angst when not one word of that defect was offered to the Honorable Court ***by the defense attorney!***

All of the historical information discussed in this Support Brief, and much more, was available prior-to and **at** the hearing of October 14, 2014. In fact, in conversations I have had with his fiancée, Ms. Small, she is adamant; she has told me repeatedly that prior-to and **at** the hearing she reviewed the Jeep safety defect history with defense attorney Mr. McLendon. Despite this review, he responded to the Honorable Decatur Court as follows:

6	THE COURT: Do you know of any reason why the Court
7	should not accept the plea?
8	MR. McLENDON: No, sir.

There most definitely was a reason! It is called exculpatory evidence.

25. In his *Pro Se*, Mr. Harrell derides “*grossly inadequate legal defense representation and advice.*” The Honorable Judge Cato repeatedly questioned the validity and legality of the plea. After hearing from Mr. Harrell, detailing the accident of March 6, 2012, and despite having pre-knowledge of the horrific death of Remington, His Honor declares:

7	THE COURT: So you're telling me it was an accident,
8	then?
9	THE DEFENDANT: Yes, sir, I sure am.
10	THE COURT: That it wasn't homicide by vehicle, it
11	was just an accident?
12	THE DEFENDANT: Yes, sir.
13	THE COURT: Okay. It sounds like to me I can't
14	accept this plea either if he is not guilty.
15	THE DEFENDANT: Sir?
16	(Discussion off the record between client and
17	counsel.)

I am told that Mr. Harrell will testify that the ‘discussion off the record’ involved a threat of “30 years!”, hence placing him under legal duress (See *Pro Se* Motion paragraph 7).

26. But perhaps the most insidious aspect of the tactics leading up to October 14, 2014, and the hasty “*Guilty*” plea entered by Mr. Harrell, is the possible abusive use of emotion. Again, at that hearing, DA Mullholland declares:

19	I have spoken about this case at length with the
20	victim's family, Brian, and I believe her name is Lauren,
21	but the mother and the father of the child about this
22	recommendation.

Not only was the emotional impact of March 6, 2012 deployed against Mr. Harrell, it was apparently evoked by DA Mullholland in discussions with Remington Walden’s parents.

Assuming that DA Mullholland did speak to the “victim’s family,” then the adjudication sequence that I mentioned above must be re-emphasized (Page 21-E and 23). I am told that Remington’s parents were repeatedly told that Mr. Harrell was DUI at the accident. I am told that the entire town of Bainbridge was also inundated with that accusation.

But since emotion played a part in the State’s case against Mr. Harrell, most especially his ongoing incarceration, then perhaps the most dramatic undermining of that ploy is borne by the ‘*Request for Clemency*’ of January 16, 2017, submitted by Remington’s parents, Ms. Lindsay Strickland and Mr. Bryan Walden:

Dear Board Members:

Our son Remington Cole Walden was killed on March 6, 2012 in a wreck in Bainbridge, Georgia. The car in which our son was riding was struck in the rear by a truck driven by Bryan Harrell. The car was a 1999 Jeep Grand Cherokee with a rear-mounted gas tank. Because of the location of the gas tank, the impact caused a gas tank explosion and fire. *That is what killed our son.*

We have always believed and contended that while Mr. Harrell caused the wreck, Chrysler (now “Fiat Chrysler Automobiles” or “FCA”) caused our son’s death. The gas tank design on that Grand Cherokee was defective and dangerous – and Chrysler knew it. Chrysler’s own engineers admitted as much at the trial of our civil case. Mr. Harrell, by contrast, acknowledged his responsibility for the wreck itself from the start.

A jury of twelve Decatur County citizens clearly agreed: at the civil trial, on April 2, 2015 they voted unanimously to apportion 99% of the fault for our son’s death to Chrysler, and only 1% of the fault to Mr. Harrell.

We believe Mr. Harrell has been adequately punished, and deserves clemency now. He has a wife and a young child. He was and is filled with remorse: that was obvious both before the civil trial and when he tearfully testified at the trial of our civil case. This tragedy has tormented Mr. Harrell enough. He is punished every day, regardless of whether he is in prison or not.

We would ourselves like closure from this tragic loss. Knowing Mr. Harrell is no longer being punished by the State under these circumstances would be very helpful and meaningful to us both.

We strongly urge that the Board release Mr. Harrell. We urge the Board to do so immediately, rather than waiting until May 17, 2017.

Thank you for your consideration of this request.

Sincerely

Lindsay Strickland & Bryan Walden

Summary Opinion - Paragraphs 21 through 26

- I. Again, if Remington Walden been a passenger in just about any other brand SUV, the accident would not have been catastrophic, and he would be alive.
- II. I was the first safety expert to contact authorities in the great state of Georgia, including but not limited to the office of District Attorney Joseph K. Mullholland. Other contacts made in the March/April 2012 timeframe included Lieutenant Marc Godby (229-758-3070) and Troop G Secretary Donna Singleton (229-931-2400):
 - a. Therefore there was awareness, regarding the Bainbridge, Georgia tragedy of March 6, 2012, that exculpatory defect evidence (versus the charge of Homicide by Vehicle) existed and was being sought by a safety expert years before the plea hearing of October 14, 2014.
- III. In previous Jeep fire death/injury accidents wherein criminal charges were initially filed against the offending driver, but the prosecutor later became aware of the exculpatory defect evidence, those charges were dropped. In those cases the offending driver was never incarcerated.
- IV. In previous Jeep fire death/injury accidents wherein the prosecutor was aware of the exculpatory defect evidence, criminal charges were never filed. In those cases the offending driver was never incarcerated.
- V. The defect evidence presented in the civil trial of Walden vs. FCA, which was exculpatory in *The State of Georgia vs. Bryan Lamar Harrell*, resulted in the following jury determination:

5. State the percentage of fault of each Defendant (total must equal 100%):

1 % Bryan Harrell and
99 % Chrysler Group

But given I thru IV above, and in the opinion of the undersigned, this determination is skewed in favor of Chrysler.

VI. In the matter of *Massachusetts versus Joel Cruz*, the jury unanimously found the criminal defendant “**Not Guilty**” on the charge of Involuntary Manslaughter. In fact, in terms of the *death* of Skyler Anderson (pages 20 thru 25 above), the jury agreed that he would have survived were the Jeep not defective. Paraphrasing the Walden jury form, the Cruz jury essentially found:

State the percentage of fault for each defendant in the <i>death</i> of Skyler :	
Joel Cruz	0 %
Chrysler Group	100 %

Under Massachusetts law, a person found guilty of leaving the scene can receive a sentence of six to thirty months. Joel Cruz not only left the scene, he showed no remorse. Mr. Cruz (pictured) received the maximum 30-month sentence on February 26, 2016, but is expected to be released on good behavior:



Alternatively, as is well-known to DA Mullholland, defense lawyer McClendon, and accident scene officer W.R. Landrum, the exact opposite occurred with Mr. Harrell. He did not leave the scene, and did everything humanly possible to save Remington from the Jeep inferno. Mr. Harrell has repeatedly shown remorse (Page 13 above).

27. In a recent cordial telephone conversation with DA Mullholland he shared his emotional response to the Bainbridge accident scene. Confirming his lack of experience in these matters, he declared to me, an expert with involvement spanning nearly forty years : ***“It was the most horrible thing I have ever seen.”***

But the troubling dynamic that I detected was that the DA allowed his personal emotion to taint his approach; to be subjective in the course of carrying out his duties as a public servant. I detected very similar subjectivities during a recent conversation with a fine member of the Georgia State Police, the reporting Officer W.R. Landrum.

We do not have the luxury to react or behave in such a manner. This is not to say that I do not relate to the motivation to exact justice on who/whom we deem guilty of wrong doing, such a defect related Jeep fire-death horrors. But we must remain professional.

The DA’s zeal directed against Mr. Bryan Harrell, a tenth-grade self-employed roofing contractor, is woefully misplaced and, as such, detracts from his oath as a public servant. On that point, let us again paraphrase the Walden jury form:

State the percentage of fault for decisions to design and engineer an automotive product where the fuel tank is ill-placed, unprotected in a foreseeable crash, vulnerable to breach, and becomes the subsequent source of fuel that feeds fire, and horrific occupant death spanning DECADES:	
Bryan Lamar Harrell	0 %
Chrysler Group	100 %

That 100% statistic connects to corporate individuals that enjoy education at all degree levels. Unlike ordinary people like Mr. Harrell, these individuals have legions of defense lawyers that protect their positions in the event that a safety defect is alleged; positions that involve six, seven and eight-figure incomes (Page 7 above).

If DA Mullholland wishes to uphold public servant status, I would be happy to assist him with indictments against the Chrysler Group. Immediately after the \$150,000,000 verdict in Walden vs. FCA I wrote to Georgia Attorney General Samuel Olens requesting a properly placed criminal investigation: <http://pvsheridan.com/Sheridan2Olens-1-29April2015.pdf>

28. As I stated in paragraph 21, those cases represent a small sampling; there are hundreds more. But I ask the Honorable Court's indulgence with the following:

- a. What is the total time of incarceration, relating to the Jeep fire-injury or fire-death portion of the accident, for **ALL** offending drivers in hundreds of other accidents ?

Total Time of Incarceration for ALL others combined: 10 days

- b. What is the total time of incarceration, as of this Support Brief, for the offending driver, and Chrysler Group secondary victim, Mr. Bryan Harrell:



Total Time of Incarceration for Mr. Bryan Harrell (plea hearing): 926 days

During this 926 day period, the executives described in the boxed item of paragraph 27 have been enjoying their incomes, their family time . . . and now they too enjoy Jeeps that deploy a safe fuel tank design that the undersigned recommended in 1987.

CONCLUSION

- i. There is zero evidence that Bryan Harrell is guilty of a felony charge of '*Homicide by Vehicle in the First degree*' but there was **overwhelming exculpatory evidence** that confirmed a Jeep fuel system defect, **exculpatory evidence** that the following two individuals consciously chose not to share with Judge A. Wallace Cato:

District Attorney Joseph K. Mullholland (Paragraph 22)

Defense Attorney Robert R. McLendon (Paragraph 24)

- ii. There is zero evidence that Bryan Harrell is guilty of a 'Reckless Driving.' Stupidity? Inattentiveness? Incompetence? Yes. But that behavior is a far-cry from a felony charge. In fact, if the reckless driving charge were sustainable, why was Mr. Harrell **not** given a formal citation for such, at the scene or at any time thereafter by the Georgia State Police??
- iii. There is zero evidence that Bryan Harrell is guilty of DUI on the accident date of March 6, 2012. In fact, Mr. Harrell was not failing to cooperate with law enforcement, refusing their request for a blood sample at the scene; his apparent failure was the result of family legal advice. After receiving nearly \$20,000 in retainer from Mr. Harrell's fiancée (Ms. Christina Small, pictured in paragraph 28) defense attorney McClendon managed to assert the lack of DUI evidence at the plea October 14, 2014.
- iv. There is zero evidence that plaintiff attorneys Jeb and Jim Butler were "*satisfied*" with the DA Mullholland intent to ask for a sentencing of Bryan Harrell for fifteen years to serve eight. In truth, protocol and the evidence clearly affirms the reverse!
- v. There is zero evidence that Remington Walden's parents, Ms. Lindsay Strickland and Mr. Bryan Walden, were fully informed regarding all the facts (e.g. Harrell was not DUI) in relation to the fire-death of their son. Despite his claim, that he spoke to them "*at length*," there is zero evidence that DA Mullholland established their informed agreement with his sentencing "*recommendation*." Clearly the '*Request for Clemency*' letter (page 30 above) makes any rebuttal from Mr. Mullholland moot.

CONCLUSION – con't

- vi. The Parole Board asserted that, based on the 'Request for Clemency' and other positive Harrell behaviors, that he would be released as "early" as September 2017. The Honorable Court should disregard this recommendation, in its deliberations of the Bryan Harrell *pro se* motion, since the Parole Board cannot serve to correct the injustice of October 14, 2014.
- vii. In response to the Honorable Judge J. Kevin Chason ruling on their motion for retrial (denied), FCA defense lawyers have slandered the people of Bainbridge, the jury in *Walden v FCA*, the plaintiff attorneys and the judge; by publically declaring that they are "*irrational.*" In my opinion, as I intimated under oath (page 22 above), what is irrational is the FCA practice of placing into the hands of an innocent public products that are not crashworthy and therefore, by modern definition, not roadworthy. My opening response to any FCA rebuttal on this point, regarding their irrationality, would be to present their testimony on pages 7 and 8 above.

ACCOMODATION

If it serves the Honorable Court, I am available for any further inputs or inquiry regarding this Support Brief, and would be honored to appear and be placed under oath. Support documents for this brief can be found here: http://pvsheridan.com/harrell_pro_se/

Respectfully,

Paul V. Sheridan

Attachments