

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

IN RE:

SUBPOENA ISSUED TO CHRYSLER GROUP, LLC

IN CONNECTION WITH THE MATTER OF THOMAS KLINE, AS ADMINISTRATOR AD PROSEQUENDUM OF THE HEIRS AT LAW OF SUSAN MORRIS KLINE, (DECEASED), AS ADMINISTRATOR OF THE ESTATE OF SUSAN MORRIS KLINE, and THOMAS KLINE, INDIVIDUALLY, Plaintiff(s), v. VICTORIA MORGAN-ALCALA, CARLOS ALCALA, NATALIE RAWLS, DAIMLER CHRYSLER CORPORATION A/K/A CHRYSLER CORPORATION, LOMAN AUTO GROUP, JOHN DOES A THROUGH Z, (Names being Fictitious), ABC CORPORATIONS, 1 THROUGH 100, (Names Being Fictitious), Defendant(s), Civil Action No. MRS-L-3575-08, Superior Court of New Jersey Law Division, Morris County

CIVIL ACTION NO. 10-109074-CZ

AFFIDAVIT OF LAWRENCE E. BROOKES

STATE OF MICHIGAN )
)
COUNTY OF OAKLAND)

I, LAWRENCE E. BROOKES, hereby declare as follows:

1. I am currently the Head of the Product Analysis and Regulatory Processes Group of Chrysler Group LLC (hereafter "Chrysler Group"). I became employed by

Chrysler Corporation in 1986 and thereafter worked for Chrysler Corporation's successors, DaimlerChrysler Corporation and Chrysler LLC (hereafter collectively referred to as "the former Chrysler LLC").

2. It is my understanding that Chrysler Group is owner of records of the former Chrysler LLC, subsequently known as Old Carco LLC, that are the subject of the subpoena served on Chrysler Group.

3. My positions at the former Chrysler LLC and at Chrysler Group have required that I become familiar with their internal practices regarding the treatment of confidential documents and data and the dissemination thereof. I have personal knowledge of the matters set forth in this Affidavit and state that they are true and correct.

4. I have been advised that this Affidavit is being filed in support of Chrysler Group's Motion for Protective Order related to documents that it is agreeing to provide in response to a subpoena, which documents contain trade secrets and other commercially confidential information.

5. I have also been informed that this case involves a 1996 Jeep Grand Cherokee (ZJ) and that Plaintiff is refusing to sign a protective order related to the disclosure of test documents and design drawings related to the 1993 through 1998 Jeep Grand Cherokee (ZJ). These documents were generated by the former Chrysler LLC.

6. The former Chrysler LLC introduced the Jeep Grand Cherokee (ZJ) in 1993 and continued production through the 1998 model year. The vehicle was a successful product in the market.

7. The market for sport utility vehicles remains a competitive segment in the automotive industry.

8. The design, prototype development, and production of the Jeep Grand Cherokee (ZJ) consumed substantial resources of the former Chrysler LLC, including personnel, capital, facilities, and equipment. Since the initial production of the Jeep Grand Cherokee (ZJ), substantial money has been spent to improve the vehicles themselves and the assembly process by which they were manufactured in order to maintain their competitive advantage.

9. As will be more fully detailed below with respect to specific document categories, the former Chrysler LLC zealously protected the design, testing, and assembly information relating to its vehicles, and Chrysler Group continues to protect this information because it would benefit its direct competitors (other automobile manufacturers), and the so-called "after-market" industry. The after-market industry is composed of companies that manufacture replacement parts and accessories for vehicles in competition with Chrysler Group, as well as other original equipment manufacturers.

10. One key to competitive advantage in the automotive industry is to make a better vehicle at a reasonable cost. Thus, the design and development of the vehicle itself and the design and development of the testing and assembly processes are significant factors in producing a competitive vehicle. In this case, Plaintiff has requested, and Chrysler Group has agreed to produce, pursuant to protective order, documents that would enable Plaintiff to appropriate without cost, design, and assembly concepts and processes that cost the former Chrysler LLC hundreds of millions of dollars and years to

develop. This information includes engineering drawings/math models, graphics, specifications, compliance reports, testing procedures, and test results. Chrysler Group has a specific, serious, and substantial interest in protecting the documents, materials, and information that will be produced to Plaintiff.

### ENGINEERING DRAWINGS

11. Plaintiff seeks production, without a protective order, of engineering drawings related to the fuel system of the 1993 through 1998 Jeep Grand Cherokee (ZJ). Engineering drawings (copies of which historically are sometimes called “blueprints” and in recent years computer math models) are pictorial representations of the design work that resulted in the development and production of the vehicles. Such original drawings/math models also contain a description of the components and identify the materials used in the construction of the components, the exact dimensions of the components, the tolerances to which the components must be made, surface finish specifications, heat treating or other processes to be applied to the components before final manufacturing and assembly, and the evolution of the design of each component (shown by the “change blocks” on the drawing).

12. The information provided by these engineering drawings/math models and specifications could not be obtained by merely disassembling a vehicle into its component parts. Such a tear-down process is possible with some products, but not for a product as complex as a motor vehicle. Thus, although a competitor could buy a Jeep Grand Cherokee (ZJ), examine it, and attempt to copy it, the process would be extremely

expensive, time consuming, and mostly ineffective. The limitations and costs of “reverse engineering” explain exactly why the documents that Chrysler Group has agreed to produce in this case are so valuable.

13. The development of the material, performance, and process specifications memorialized on the engineering drawings/math models involved substantial expenditures of time, talent, and money by the former Chrysler LLC. The only way for a competitor to duplicate the result is to expend a like amount of time, talent, and money or to obtain a copy of the engineering drawings/math models and specifications in Chrysler Group’s custody.

14. This information could be used by other automobile manufacturers and by those who manufacture replacement parts to copy vehicle parts for the Jeep Grand Cherokee (ZJ) without compensating Chrysler Group for the design and development expense. If these engineering drawings/math models were obtained by a competitor, it could use them to improve its own parts and/or to produce components comparable to those produced by the former Chrysler LLC without the outlay of time and money expended by the company.

15. By reading and studying an engineering drawing and the called out specifications, a competitor’s automotive engineers could derive information relating to the type of materials utilized. This information is not readily apparent from physical examination alone. The automotive engineers would then know that the particular material had properties (e.g., formability, machinability, structural characteristics)

suitable for use in that part without incurring the expense that the former Chrysler LLC incurred in determining the suitability of that material.

16. Engineering drawings/math models also specify production tolerances that are based on experience, testing, and engineering know-how gained over many years. Tolerances and acceptable variations provide the degree of accuracy necessary to manufacture specific parts and their interface with connecting parts. Such information cannot be determined by examining the part itself.

17. The engineering drawings/math models for the Jeep Grand Cherokee (ZJ) that were initially released in the 1993 through 1998 model years are still valuable to Chrysler Group and its competitors for several reasons. First, the vehicle has features that competitors seek to copy. This "lead time" to copy any features would be substantially reduced if a competitor could shortcut the development process by obtaining the engineering drawings/math models instead of having to start at the beginning of the design process. Second, even for the vehicles that are no longer in production, the after-market industry could use the engineering drawings/math models to produce replacement parts in competition with Chrysler Group.

18. Because Chrysler Group takes great precautions to maintain confidentiality of Chrysler LLC's records, Chrysler Group does not, in the ordinary course of business, allow outsiders, including government agencies, access to the confidential information contained in the engineering drawings/math models to be produced here, except in two very limited circumstances. First, with respect to some components, outside suppliers are provided engineering drawings/math models relating to the components they are

supplying in order to have the information necessary to manufacture that component part. Those suppliers are contractually bound not to disclose any information from the engineering drawings/math models and to maintain their confidentiality. Second, Chrysler Group sometimes permits litigants in product liability cases access to engineering drawings/math models and specifications pursuant to protective orders.

19. The only Chrysler Group employees with knowledge of the information contained in Chrysler LLC's engineering drawings/math models and specifications are those who have a "need to know" by virtue of their work and position at Chrysler Group.

20. Chrysler Group has a number of safeguards in place to ensure the confidentiality of engineering drawings/math models, specifications, and other confidential materials, as did the former Chrysler LLC. The original drawings/math models are kept in secure electronic storage and are removed only for engineering purposes. The secure electronic storage limits access to those who possess electronic passwords. Electronic passwords are only available to those with legitimate business. Access to electronic files is only by permission and with proper authorization on a "need to know" basis. Further, Chrysler Group employees are required to protect the confidentiality of commercially confidential information.

## TESTING MATERIALS

21. The former Chrysler LLC's documents related to the design, development, and testing of Jeep Grand Cherokee (ZJ) vehicles is the product of continuing evolutionary research and development. I am advised that in this case, Plaintiff seeks production of fuel system tests, test procedures, reports, and results related to the Jeep Grand Cherokee (ZJ) that Chrysler Group is agreeing to provide, subject to protective order, in response to the subpoena in this action. These materials contain information not only relative to the vehicles and the components at issue here, but also to other component parts and functions, and additionally provide insight into much of the former Chrysler LLC's testing protocol and manufacturing processes. Such information would be valuable to any competitor involved in the development of parts and products similar to those manufactured by the former Chrysler LLC and by Chrysler Group.

22. As part of the design and development process, many tests and inspections of the vehicle and its components are performed. These tests include Federal Motor Vehicle Safety Standard (FMVSS) certification testing and limit handling testing.

23. Prior to distribution of vehicles, all motor vehicle manufacturers, including Chrysler Group, must certify that the vehicles they assemble comply with applicable FMVSS requirements. Manufacturers must conduct certification testing in accordance with the provisions set forth in those standards. However, the actual reports of testing for compliance with FMVSS are not, in the ordinary course of business, produced to or maintained by any entity other than the automobile manufacturers who conduct such



testing or on whose behalf such testing is conducted, and are not available for public inspection or copying.

24. Disclosure of testing procedures, reports, and results would reveal trade secret and commercially confidential information to Chrysler Group's competitors in several ways. First, providing information about the testing procedures and instrumentation used by the former Chrysler LLC would assist competitors in refining their own test procedures and laboratories without expending the time and resources the former Chrysler LLC expended in developing its procedures. Second, testing materials could provide insight as to the margins by which the former Chrysler LLC required its vehicles to exceed applicable specifications. This would assist a competitor in evaluating its own vehicle standards. Third, these materials would provide data on product performance in general. This information is not available to Chrysler Group's competitors from any other source. Disclosure of any or all of this information would damage Chrysler Group's competitive position in the automotive market.

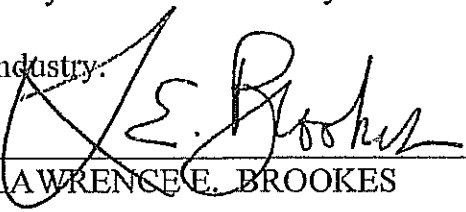
25. The testing materials Chrysler Group is agreeing to provide subject to the protective order contain specific information as to internal methods developed by the former Chrysler LLC over many years and at great expense for the evaluation of designs not only of the vehicle and components at issue, but also of other components and vehicles as a whole. Such documents may reflect a link in the chain of development necessary to achieve an improvement in design and manufacture. That link would be based upon past experience. Disclosure of such information would enable a competitor to gain a competitive advantage by avoiding early development endeavors, including

approaches that the former Chrysler LLC abandoned, and would result in time and money savings that reduce the lead time needed to incorporate the solution into the product. Giving this advantage to competitors diminishes Chrysler Group's competitive position. Moreover, a competitor's knowledge of developmental approaches not pursued might spark a solution previously not thought of that would otherwise not be readily available.

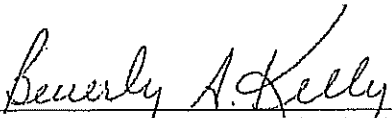
26. In order to protect its competitive advantage in the market, Chrysler Group has numerous procedural safeguards in place to maintain the confidentiality of its testing materials. Chrysler Group does not, in the ordinary course of business, voluntarily give outsiders access to testing materials, except in response to requests of an authorized governmental agency, such as the National Highway Traffic Safety Administration (NHTSA). However, testing information is generally submitted to NHTSA with an accompanying request for confidentiality. In this regard, Chrysler Group notes that NHTSA has accorded confidentiality to documents of the former Chrysler LLC that are in the possession of Chrysler Group in its capacity as custodian of records.

27. Testing and related materials are maintained at secure Chrysler Group facilities or in secure electronic storage, and only those with a "need to know" have access to the information therein. Those with knowledge of this information include only: (1) those Chrysler Group engineers responsible for conducting tests; (2) Chrysler Group design and development engineers, where design or development action is considered or taken in light of tests; and, (3) those persons assisting Chrysler Group in the defense of product liability litigation.

28. As stated above, Chrysler Group employees are required to maintain the confidentiality of commercially confidential information and, except as required in their duties at Chrysler Group, are prohibited from discussing such documents and information with anyone. These precautions are necessary to ensure that Chrysler Group maintains a competitive advantage in the automotive industry.

  
LAWRENCE E. BROOKES

Subscribed and sworn to before me  
in Oakland County, Michigan  
on this 22<sup>nd</sup> day of June, 2010

  
Notary Public, State of Michigan  
County of \_\_\_\_\_  
Acting in Oakland County  
My Commission Expires \_\_\_\_\_

**BEVERLY A. KELLY**  
Notary Public, Macomb County, Michigan  
Acting in Oakland County, Michigan  
My Commission Expires October 29, 2011