

Judge denies suit seeking to force GM to ground recalled cars

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A federal judge in Texas Thursday denied a lawsuit seeking to force General Motors to tell owners of 2.6 million recalled cars with defective ignition switches to park their vehicles until repairs are made. The suit alleged that the vehicles are unsafe since they are prone to unexpected engine shutdown, which disables power steering and brakes as well as airbags, leaving occupants unprotected in the event of a collision.

GM had vigorously opposed the lawsuit, claiming that the cars were safe to drive once extra items were taken off the key ring. The recall covers the 2003-2007 Chevrolet Cobalt, Saturn Ion and other smaller vehicles whose ignitions can be easily jarred out of the “run” position, shutting off the engine. The company knew about the issue for over 10 years, but ordered a recall only in February.

GM acknowledges 13 fatalities resulting from the defect, with the actual death toll likely much higher. The recall was later expanded to include later model years and the ignition cylinder lock as well as the switch.

GM has only recently begun shipping replacement parts to dealers, and the repairs are not expected to be completed until sometime in the fall of this year.

In denying the motion, Judge Nelva Ramos Gonzales of the US District Court in Corpus Christi, Texas ruled that the National Highway Traffic Safety Administration (NHTSA), which is supposed to monitor auto safety, was in a better position than the court to determine if the cars were safe to drive. However, a safety consultant and former NHTSA employee contacted by the *New York Times* said that the law did not give the agency the power to force an auto company to tell owners not to drive their cars.

The timeline submitted by General Motors following the recall strongly suggests collusion on the part of

NHTSA in covering up the ignition defect. In 2007, NHTSA informed GM of a fatal accident in 2005 involving a Cobalt in which the airbags did not deploy and the ignition was in the “accessory” position. However, NHTSA did not pursue the matter, even as lawsuits and customer complaints mounted.

The lawyer for the plaintiffs denounced the court ruling and the position of GM, declaring, “They made winning a hearing on technical legal arguments more important than saving their own customers’ lives.”

As for the claim that cars are safe to drive with extra items taken off the key ring, an April 9 article in the *Times* points to a number of cases where drivers of the recalled vehicles suffered loss of engine power with “naked” key rings. One instance it cites is the case of a 35-year-old home health aid worker in South Carolina who was driving near her home when the car suddenly veered and hit a tree. The airbags did not deploy and the woman and her 18-year-old son were injured. The woman had only one small ornament on her key ring.

In another case, a man in Smyrna, Tennessee hit a bump in the road and his car shut down, causing him to lose control. He slammed into a guardrail, narrowly avoiding going over a 30-foot cliff. There were no extra items on his key ring at the time.

Since the recall announcement, there have been at least two fatal accidents involving the recalled cars in which airbags did not deploy. On March 7, a 12-year-old girl in Laurel, Mississippi died when her mother’s Cobalt ran off the road. The mother said she suddenly had difficulty steering, which indicates a possible engine cutoff.

A 27-year-old woman died March 19 when her 2004 Ion rear-ended a semi-trailer. Again, the airbags did not deploy.

The hardball tactics of GM are indicated by its

motion to Judge Gonzales that the plaintiffs in the case, a couple who own a recalled GM model, be required to pay damages should the court order it to tell drivers to park their cars and it subsequently emerged that the move was not necessary for safety reasons. The auto giant, which has taken in billions in profits since it emerged from bankruptcy in 2009—largely on the basis of reduced wages and benefits to workers and retirees—called for the plaintiffs to make good on all of the company’s losses resulting from a court order to take the defective cars off the road.

GM is also seeking a ruling from a bankruptcy judge in New York to block all lawsuits related to the recall and stemming from events that occurred before July 2009, when the reorganized company emerged from bankruptcy. At least 9 of the deaths tied to the defective ignition occurred in accidents that took place before the bankruptcy. One of the cases that GM would like to block was filed on behalf of 13 owners of recalled vehicles. The plaintiffs, who are seeking to broaden their case into a class action lawsuit, want GM to pay damages for selling them defective cars.

The reorganization and bankruptcy of GM overseen by the Obama administration includes a provision holding the new GM harmless from pre-bankruptcy lawsuits.

The families of two Wisconsin teenagers killed in a 2006 accident involving a 2005 Cobalt have filed a lawsuit against GM challenging the bankruptcy shield. Eighteen-year-old Natasha Weigel and 15-year-old Amy Rademaker died when the ignition of the car in which they were riding cut off and the vehicle slammed into a telephone pole. The driver, 17-year-old Megan Ungar-Kerns, suffered brain damage but survived.

The lawsuit alleges that GM perpetrated a “fraud” by concealing the ignition defect and failing to order a recall. The defects were “knowingly, intentionally and fraudulently ignored and intentionally kept secret from the public,” according to the suit. The company chose to “preserve its cash rather than preserve the lives of its vehicle owners,” the plaintiffs’ filing adds.

New evidence that GM engaged in a cover-up of its faulty ignition switches emerged this week when the NHTSA released documents showing that the company ordered improvements in the design of the ignition switch for the new Cadillac 2007 SRX. The decision followed complaints by test drivers that the ignition

switch “could move out of place” while driving, thus “turning off the car.”

Delphi Automotive, which produced the defective ignitions used in the recalled vehicles, also built the Cadillac ignition. The changes to the Cadillac ignition switch came just two months before GM ordered a changed ignition switch design for the Cobalt and other now-recalled vehicles.

Other documents released by GM show that in 2001 the company rejected a safer ignition switch design because it would cost too much money, opting for the cheaper, defective design instead. Later, in 2006, GM quietly substituted the safer ignition switch design on its vehicles, without assigning it a new part number, a “cardinal sin” according to a former GM engineer. GM put the engineer who approved the change on paid leave last week.



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