

# General Motors uses bankruptcy to deflect safety responsibility

Matthew MacEgan  
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As lawsuits have mounted against General Motors over the past several months due to a defect in the ignition system on the 2003-2007 Chevrolet Cobalt, Saturn Ion and other lower-priced models, the automobile giant has reacted by filing a motion in United States bankruptcy court to enforce a ban on lawsuits resulting from defective cars sold prior to its bankruptcy in 2009. Many of the lawsuits are tied to automobile accidents that resulted in severe injury and death.

Earlier this year, GM began a recall of several of its vehicles, including the Cobalt, the Ion, and the Pontiac Solstice. Over 2.6 million vehicles were recalled worldwide due to an ignition switch flaw that could cause the engine to cut off unexpectedly, disabling power brakes and power steering as well as airbags, preventing them from deploying properly in the case of an accident. This defect has been linked to thirteen deaths and likely resulted in many more. To make matters worse, a report from safety regulators showed that GM knew about the defect more than a decade ago, yet did nothing to correct the problem.

During a Congressional hearing held earlier this month, GM CEO Mary Barra claimed to have no knowledge of the defect until this year but admitted that in 2002 her company approved an ignition switch that failed to meet specifications, after which a redesigned switch was implemented in GM cars beginning in 2006. This newer switch also failed to meet specifications. Barra claimed to have no knowledge of why the specifications were not met and suggested that the failure to meet them did not necessarily mean the parts were defective.

The first reported fatality that was linked to the defective switches came in 2005. However, complaints had already reached the company one year prior to this

incident, after several customers complained about accidental engine shut-offs. Even though company engineers proposed multiple fixes to the problem, GM executives vetoed all of them. By 2007, the company was aware of at least ten fatal crashes likely related to the ignition switch defect.

In response to the skyrocketing number of lawsuits being filed against the company by those who have suffered in some way due to the defect, GM has sought to avert liability for incidents occurring before 2009, when the company filed for bankruptcy after the Wall Street crash of 2008. The restructuring, facilitated by the Obama administration, included the layoffs of nearly 40,000 employees worldwide and the acquisition of more than \$40 billion in loans from several financial institutions.

GM's motion asks the bankruptcy court in New York to enforce an order made during the 2009 bankruptcy splitting GM into a new company and an old company. Claims from before July 2009 would go to the "Old GM," called Motors Liquidation Co, which has few assets.

The motion states, "Just like other ignition switch actions' that other plaintiffs have filed in the wake of public reports regarding outstanding recall, this case relates to a vehicle designed, manufactured, originally sold and advertised by Old GM."

GM is seeking to block about 50 class action lawsuits seeking damages for lost car values. A GM spokesman claimed the company hadn't decided yet if it will seek bankruptcy court protection for lawsuits related to deaths or injuries related to defective vehicles that occurred before July 2009.

The company has posted profits for four consecutive years since the bankruptcy, bringing in a net income of \$4.9 billion in 2012 and \$3.8 billion in 2013. Revenue

increased between 2012 and 2013 by 2 percent, reaching \$155.4 billion.

A group of plaintiffs recently filed a class action lawsuit in bankruptcy court in Manhattan, seeking an order to declare that GM may not use its bankruptcy protection to relieve itself of its responsibilities. Their lawsuit explains that GM's "intentional misconduct" should prevent the company from any entitlement to protection from liability. They accuse GM of fraudulently concealing its knowledge of the defect.

A judicial panel on multidistrict litigation is currently deciding whether the many cases should be consolidated with each other and whether the claims violate GM's 2009 bankruptcy sale order. GM has sought a stay on lawsuits until the panel announces its decisions. An ongoing investigation into the recall could result in a \$35 million fine and criminal charges if it is determined that the company did not respond in a timely manner to fix the problem. According to government regulations, an automaker must report a safety defect within five working days.



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