 <p>U.S. Department of Transportation National Highway Traffic Safety Administration</p>		<p>DOT Auto Safety Hotline Vehicle Owner's Questionnaire To Report Vehicle Safety Defects 1-888-DASH-2-DOT (1-888-327-4236) INTERNET www.nhtsa.dot.gov/hotline</p>		<p>FOR AGENCY USE ONLY 335</p>	
<p>Date Received</p> <p>03 OCT 2008 PM 2:33</p>		<p>Repository <input type="checkbox"/></p> <p>Reference No. 10032495</p>			
<p>OWNER INFORMATION (Type or Print)</p>					
<p>Name</p> <p>[Redacted]</p>		<p>Daytime Telephone Number</p> <p>[Redacted]</p>		<p>E-mail Address</p>	
<p>Address</p> <p>[Redacted]</p>		<p>Evening Telephone Number</p>			
<p>City NOVELTY</p>		<p>State OH</p>		<p>Zip Code [Redacted]</p>	
<p>Do you authorize NHTSA to contact the manufacturer of your vehicle? <input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>In the absence of an authorized signature, please provide your name or address to the vehicle manufacturer.</p> <p>Signature of Owner [Redacted] Date 09/15/08</p>					
<p>VEHICLE INFORMATION</p>					
<p>17 digit vehicle identification number (VIN) on driver's side</p> <p>WBAAJ9319ME100548</p>		<p>Make</p> <p>BMW</p>	<p>Model</p> <p>318IS</p>	<p>Model Year</p> <p>1991</p>	
<p>Date Purchased</p> <p>APRIL 1991</p>	<p>Dealer's Name and Telephone Number</p> <p>Ganley Westside Imports 440-734-2100</p>		<p>Engine No: Cylinders</p>	<p>Fuel Type:</p> <p>Plasm, unleaded</p>	
<p>Original Owner</p> <p><input checked="" type="checkbox"/></p>	<p>Dealer's City</p> <p>North Olmsted</p>	<p>State</p> <p>Oh</p>	<p>Zip Code</p> <p>44070</p>		
<p>Transmission Type</p> <p>Manual</p>	<p><input checked="" type="checkbox"/> Antilock Brakes</p> <p><input type="checkbox"/> Cruise Control</p>	<p>Powertrain</p>	<p>Vehicle Component Code</p> <p>062000 ENGINE AND ENGINE COOLING; COOLING SYSTEM</p> <p>Multiple Failure: 1 and on going until repaired</p>		
<p>FAILED COMPONENT(S)/PART(S) INFORMATION</p>					
<p>Incident Date(s)</p> <p>1st 6/23/08</p>	<p>Failure Mileage</p> <p>68750</p>	<p>Failure Speed</p> <p>Zero (parked)</p>			
<p>ADDITIONAL ITEMS TO BE COMPLETED WHEN REPORTING A TIRE FAILURE</p>					
<p>Tire Make</p>		<p>Tire Model (Name or Number)</p>		<p>Tire Size (Example P215/65R15)</p>	
<p>DOT No. (Example: DOTM19ABC036)</p>		<p><input type="checkbox"/> Original Equipment <input type="checkbox"/> Prior Repair</p>	<p>Failure Location:</p>		
<p>Tire Component Code</p>			<p>The Failure Type</p>		
<p>ADDITIONAL ITEMS TO BE COMPLETED WHEN REPORTING A CHILD SEAT FAILURE</p>					
<p>Make:</p>		<p>Date Manufactured:</p>		<p>Model No./Name:</p>	
<p>Seat Type:</p>		<p>Installation System:</p>			
<p>Child Seat Component Code:</p>		<p>Failed Part:</p>			
<p>APPLICABLE INCIDENT INFORMATION (Please describe in detail the incident(s), failure(s), crash(es), and injury(ies).)</p>					
<p>Crash</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>Fire</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>Number of Persons Injured</p> <p>0</p>	<p>Number of Deaths</p> <p>0</p>	<p>Reported to Police</p> <p>N</p>	
<p>Narrative Description of Incident(s), Crash(es), and Injury(ies). Please describe (1) events leading up to the failure, (2) failure and its consequences, and (3) what was done to correct the failure (e.g., parts repaired or replaced (and if old part is available)).</p> <p>THE VEHICLE EXPERIENCED A COOLANT LEAK. *JB</p> <p>coolant leak directly related to defective profile gasket installed at factory. additional info attached. old parts are available.</p>					
<p>Include, if available: Police/Fire Department Report, Photos, and Repair Invoice.</p>			<p>ATTACH ADDITIONAL SHEETS IF NECESSARY</p>		
<p><small>The Privacy Act of 1974 (Public Law 93-579) This information is requested pursuant to authority vested in the National Highway Traffic Safety Administration and subsequent amendments. You are under no obligation to respond to this questionnaire. Your response may be used to assist the NHTSA in determining whether a manufacturer should take appropriate action to correct a safety defect. If the NHTSA proceeds with administrative enforcement or litigation against a manufacturer, your response, or a statistical summary thereof, may be used in support of the agency's action.</small></p>					



U.S. Department
of Transportation
National Highway
Traffic Safety
Administration

400 Seventh Street, S.W.
Washington, D.C. 20580

Dear Consumer:

As a result of your recent report to the DOT Auto Safety Hotline (DOT Hotline), we have recorded that report on the enclosed Vehicle Owner's Questionnaire (VOQ) form. Please review the form and make changes, additions and corrections as necessary. Additionally, please provide a more detailed description of the failure(s) you reported that you believe is(are) relevant to safety. Also, if available, include copies of repair invoices, letters to the manufacturer, or any other document related to the problem(s) you reported. If a crash or fire occurred, include a copy of the police or fire department report.

It is helpful to be as thorough as possible in your report so that our ability to use your report will be maximized. If you do not have the information, it is not necessary to complete all the boxes. However, it is very difficult to identify the scope of a vehicle problem unless the vehicle identification number (VIN) is known. The VIN is located inside the vehicle on the dashboard adjacent to the left (driver's side) of the windshield pillar. When reporting a tire problem, the brand name, tire name and complete tire size should be included. If possible also provide the DOT tire identification number. It is usually located near the rim flange of the tire on either side of the tire.

The Privacy Act prohibits our agency from identifying you to the manufacturer without your permission. If you wish to give us that permission, please mark the appropriate authorization box and sign the form to allow us to provide your name to the manufacturer. The information you provide may assist the manufacturer and NHTSA in determining if a safety-related defect exists.

Any information provided is entirely voluntary. There is no consequence or penalty of any kind if you do not wish to provide it. We seek this information to develop both statistical and investigative evidence that will help identify potential safety related problems in vehicle or vehicle equipment, e.g., tires, child safety seats, jacks, etc.

When completed, please fold and staple or tape the form so that the pre-address portion of the form is on the outside. If a larger envelope is used, tape the VOQ form to the larger envelope so that the pre-address portion of the form is showing.

If further assistance is needed, please contact Mr. Michael J. Jordan, Safety Defects Program Assistant, Correspondence Research Division, Office of Defects Investigation, at (202) 493-0576.

Thank you for your cooperation.

Sincerely,

Alberto A. Jimenez, Chief
Correspondence Research Division
Office of Defects Investigation
Enforcement

Enclosures: VOQ
DOT Hotline Pamphlet



DOT AUTO SAFETY HOTLINE
888-DASH-2-DOT
888-327-4236

[REDACTED]
Novelty, OH
[REDACTED]

1991 318i BMW 4 door
69000 miles original owner
VIN WBAAJ9319M EJ00548
M42 engine E30 chassis

September 15, 2003

I am a proud owner of a 318i BMW installed with M42 engine. I am filing a claim for defective parts installed in my car at the factory and the campaign recall policies of the BMWNA. I have included the following

- Photograph of my automobile as of last month.
- Report to US Department of Transportation, National Highway Safety Administration
- Phone conversations with BMWNA and the local BMW service center.
- Paid receipt of detailed auto repair to Solon BMW.
- Information obtained from a few of the 3350 web sites related to this defective gasket.

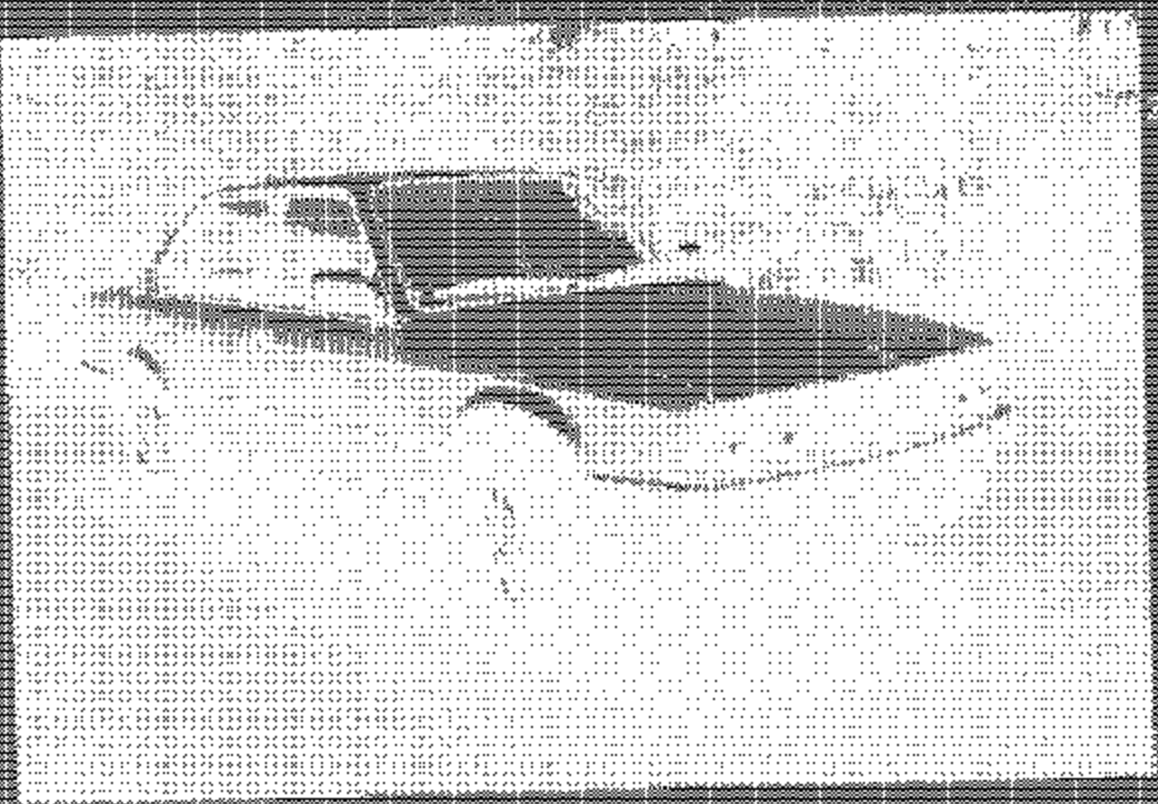
In October 1993 the BMWAG and BMWNA realized the M42 engine was installed with a faulty gasket and issued a wide spread tech alert report. October 1993 my auto had approximately 14,000 miles. I should have been issued a recall notice.

Our Society should not knowingly put one in a dangerous possibly fatal accident due to the bottom line profits of its company. I am Truly disappointed.

And finally the feelings addressed to me on my last conversation with BMWNA was "Go ahead file your small court claim against us, we will pay the same amount as if we settled today".

I have spent many hours compiling this information and will continue to collect data until my court hearing date. Thank you for addressing my claims and concerns.

Sincerely
[REDACTED]



Sandra J. Wokaty 440-338-1085
7769 Kinsman Rd (also known as S. Woodland)
Rusell, OH 44072
Novelty Post Office

BMW of North America, BMNA 1-800-531-1117
111 Chestnut Ridge Rd
Woodcliff Lake, NJ 07675
Attn: Legal Dept.

Jeremy ? at extension # 8557 (would not release last name)
Brian Kemp, 3yr employee (would not release extension number)
Greg 2 1/2 yr employee
Jess Chamano, Supervisor extension 7624 3yr employee
Nita Engler, Head of Customer Relations

BMW Dealership/Service Dept 440-542-5600
BMW Cleveland
A Division of Davin Automotive Group, Inc.
6135 Kraus Drive
Solon, Ohio 44139

John Naly, Service Manager 10 yrs. employment
Bill Kzany, Asst. Service Manager 15 yrs. employment
Jeff Baloga, service assistant
Tom Roy, Senior Mechanic

July 7 Contacted BMWNA, explained my car was leaking coolant and I expected the problem was due to the profile gasket. I was directed to the closest BMW service center.

July 7 Contacted dealership, my VIN # WBAAJ9319M EJ00548, was not on the campaign list for recall assistance. I questioned "Does that mean my car was not installed with the faulty profile gasket? I was told to contact BMWNA for the answer.

July 7 Contacted Jeremy at BMWNA. He stated my car didnot contain the faulty gasket, however he would be curious to receive a call once the problem was diagnosed. He also stated at that time since I didnot have continuous maintenance service of my BMW at a BMW authorized service center no recall would have been provided to me, sorry. I stated I had a terrible experience Feb. 92 with the BMW Service Dept. located 45 minutes away in North Olmsted , where I purchased my vehicle April 991. My car has 68,000 and required only basic maintenance, oil, tires, muffler, spark plugs, filters, and battery. My father was an auto mechanic for over 40 years and well qualified to perform these repairs. I stated "I should be able to have my car serviced anywhere I want and still be entitled to be included in a recall campaign if a defective part was installed at the factory." Jeremy stated he would review their records and contact me to confirm or deny if this defective gasket was installed in my car and would contact me ASAP.

July 8 Contacted BMWNA spoke with Brian, at this time I wanted a letter in writing mailed/faxed to me stating the following (1) I would not receive a recall notice unless I'm only loyal to a authorized BMW service center (2) My BMW 1191 318i did not contain the faulty profile gasket. He stated he would.

July 10 Contacted BMW looking for an answer regarding my profile gasket. I was transferred into Jeremy's voice mail box.

July 10 Called Back to BMWNA. I needed an answer, I was not driving my car for fear of creating extensive engine damage. Spoke with Brian In this conversation we confirmed my address and telephone number in their computer to be correct and that I was the original owner. Brian stated the supervisor was not in his office however he would return my call within the hour. I left a message on supervisor mailbox, Jess, at 2:11 pm

July 10 Contacted BMWNA at 3:00 pm spoke with Greg. He stated that my vehicle didnot have defective profile gasket, and continued to say your car is out of warranty, what do you expect from a 12 year old car, Don't go without a car, get it fixed at a authorized BMW service dept. and then make a claim.

July 10 Contacted Solon BMW John Naly, Service Manager. He was very nice and explained to me at that time my car was not listed in the recall campaign however all M42 engines have the faulty profile gasket. Mr. Naly offered to look at my car free of charge

to confirm or deny if indeed this was the reason for losing coolant and oil. We scheduled an appointment for 1:00 pm on July 11.

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July 11 Traveled to Solon BMW for 1:00 appointment. John Naly confirmed at this time the profile gasket was defective and he would not participate in any form of assistance with the \$ 1600.00 repair because I didnot purchase the vehicle at this dealership. I explained I was told to bring my car to this location for diagnosis. The earliest appointment available for this 2-3 day repair was July 28 and he would provide a loaner car to me.

July 11 Jess, BMWNA contacted me and at that time I stated my car had the defective profile gasket and was scheduled for July 28. Jess stated it was the best thing for me to take it to the BMW dealership and after the car is repaired a management team would review and decide if any compensation was due to me.

July 28 dropped off car

July 31 Solon BMW, Jeff called at 2:30 pm and stated car was ready for pick up. My total experience with this service center was exceptional.

July 31 Contacted Solon BMW will pick car up Friday morning August 1

August 1 picked car up at Solon BMW and paid invoice of \$ 1623.03.

August 1 Contacted Jess at BMWNA left message on voice mail box.

August 5 Contacted Jess again, sorry for not returning your call. I will have Jeremy get back with you.

August 8 Contacted BMWNA, spoke with ??? (I honestly can't remember).
" However the management team has reviewed your case and has decided not to offer any assistance." I explained I will be moving forward with a small claims complaint and requested address information. I was denied a telephone number and a contact person for their legal dept. located in New Jersey. The attitude expressed to me at that time, if we lose in small claims no big deal we will pay the same amount now or then. I was totally discouraged and disgusted with BMW of North America.

BMW Tips

SELECT A TIP:

Many BMW 318's were produced from the factory with a major engine defect. This defect ensures loss of all engine coolant, either slowly or suddenly. BMW acknowledges the problem, but will NOT guarantee any assistance to cover their defect, unless your car is under warranty.

- **Who is affected?** Any and every BMW 318 with an M42 (16 valve twin-cam 4-cylinder) engine built prior to 11/93. This includes the E30 chassis sold as a 1991 model and 1992-1994 E36 chassis models.
- **What is the problem?** A rubberized gasket (officially known as the "Timing Case Profile Gasket", often incorrectly referred to as the Head Gasket) measuring approximately 10 inches long and approximately 1.5 inches high that resides between the cylinder head and timing case is defective. I hesitate to put any exact statistics on it, but this gasket is failing at an EXTREMELY HIGH rate...I would guess a 95-97% failure rate. When it fails, coolant leaks from the engine into the engine compartment, usually near the vicinity of the passenger side of the steering rack/onto the AC compressor/onto the ground.
- **When does this occur?** "average" failure appears to be between 68,000 miles and 77,000 miles. Some of these gaskets gradually deteriorate, leaving telltale drops of coolant on garage floors, while there have been documented cases of others failing suddenly, leaving cars overheated, stalled, and slick coolant all over road surfaces. NOT good.
- **Why does this occur?** According to BMW Technical Service Bulletin Number 11 10 93 (3863) dated 11/93, the Timing Case Profile Gaskets fail due to inferior/defective rubber used in the manufacture of the actual gasket. Cars built after 10/93 have Timing Case Profile Gaskets made with "an optimized rubber material composition".
- **How is the repair done?** Removal of the cylinder head is necessary for repair. This is very labor intensive, once the head is off, its simply a matter of scraping/removing the old gasket off, repairing any pitting of the metal surfaces using a JB Weld type compound, allowing ample time for the JB Weld to dry, then installing a new/improved gasket.

- M50/M52 water pump failure
- M50/M52 Thermostat Check
- Microfilter change
- Not to wait until 10000 miles
- "Clunk, clunk." Who's there?
- Trunk switch problem.
- What's that smell?
- Fail to flush brake fluid annually can lead to spongy brake and ...
- Fail to change timing belt can cause cylinder head crack that can cost \$2000+
- Inspect cylinder head bolts to avoid cylinder head damage.

318 Timing Case Profile Gasket

Submitted by Ron Browne (rbrowne@erols.com)

(If you'd like this emailed to you within minutes, send a blank email to 318gaskets@mesaperformance.com)

Background:

Many BMW 318's were produced from the factory with a major engine defect. This defect ensures loss of all engine coolant, either slowly or suddenly. BMW acknowledges the problem, but will NOT guarantee any assistance to cover their defect, unless your car is under warranty. What follows below are all the details I have uncovered during my research.

Who is affected?

Any and every BMW 318 with an M42 (16 valve twin-cam 4-cylinder) engine built prior to 11/93. This includes the E30 chassis sold as a 1991 model and 1992-1994 E36 chassis models.

What is the problem?



*FAILING COOLANT HEAD - THIS
DOES NOT LEAK BY ITSELF, AND
ESSENTIALLY SEALS HEAD
AND BRITZLE.*

A rubberized gasket (officially known as the "Timing Case Profile Gasket", often incorrectly referred to as the Head Gasket) measuring approximately 10 inches long and approximately 1.5 inches high that resides between the cylinder head and timing case is defective. I hesitate to put

any exact statistics on it, but this gasket is failing at an EXTREMELY HIGH rate. When it fails, coolant leaks from the engine into the engine compartment, usually near the vicinity of the passenger side of the steering rack/onto the AC compressor/onto the ground.

When does this occur?

I have had contact with 318 owners whose gaskets have failed before 30,000 miles (in which case their BMW warranty covered all costs to repair), but the "average" failure appears to be between 68,000 miles and 77,000 miles. Some of these gaskets gradually deteriorate, leaving telltale drops of coolant on garage floors, while there have been documented cases of others failing suddenly, leaving cars overheated, stalled, and slick coolant all over road surfaces. NOT good.

Why does this occur?

According to BMW Technical Service Bulletin Number 11 10 93 (3885) dated 11/93, the Timing Case Profile Gaskets fail due to inferior/defective rubber used in the manufacture of the actual gasket. Cars built after 10/93 have Timing Case Profile Gaskets made with "an optimized rubber material composition".

How is the repair done?

Removal of the cylinder head is necessary for repair. This is very labor intensive, with most BMW dealers charging approximately \$800 for labor, and around \$400 for parts. Once the head is off, its simply a matter of

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BMW Fan

scraping/removing the old gasket off, repairing any pitting of the metal surfaces using a JB Weld type compound, allowing ample time for the JB Weld to dry, then installing a new/improved gasket.

Is the new gasket really any better?

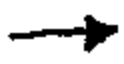
Hard to say, I have no evidence either way. However, I have not heard of any new/replacement gaskets failing. That's not to say they haven't/aren't.

Why doesn't BMWNA issue a recall for this?

I asked BMWNA this via their Website, and was ignored over 8 times. A certified letter to BMWNA did get a response, but did not address the actual question of why they won't issue a recall for this problem. I have been told by a reliable BMW source (under the condition of anonymity), that BMWNA technical reps are well aware of the widespread failure of this gasket, and recognize the seriousness of it, but BMWNA has NO plans to issue a recall due to the financial cost they would incur.

Does BMWNA offer ANY type of assistance if this fails post-warranty?

Several people have written me with instances of BMW paying the "\$400 for the parts bill as a good-will gesture", but "made me cover the labor costs". This seems to be a very common move on BMW's part. By the way, this \$400 in parts actually costs BMW around \$150 to \$175, so don't think they are actually "giving" you \$400 worth of stuff. Regardless, if BMW offers any assistance, its a decision usually made by the local BMWNA representative for your regional area.



Is there any type of preventative maintenance I can do to ward off this problem?

Basically, no. The only thing you can do is ensure you change your coolant at least once every two years, using a phosphate-free coolant. BMW's coolant meets this criteria, and I suggest using it. It's probably worth the extra couple of bucks. Besides, it looks good in court if you decide to go that route. ;-)

I think I want to tackle this job myself, do you have a parts list?

Below is the actual list of parts from the BMW receipt issued to me after my Timing Case Profile Gasket failed on my 1992 318is. This repair was performed by an authorized BMW dealer. Note: Some dealers may or may not decide to replace the water pump/belts while they perform this repair. It's a judgement call. My dealer stated that my pump and belts looked fine, so they didn't replace them. Here is the parts list.

QTY	PART #	DESCRIPTION
1	11121721546	GASKET
1	11121721939	BOLT SET
1	11121721876	VALVE COVER
1	11121721476	VALVE COVER
3	11121721475	VALVE COVER
1	11141247849	GASKET
1	11141247837	GASKET
1	12141727220	O-RING
1	07119963355	SEAL-RING
1	11611734490	GASKET
1	11611734684	GASKET

1	11531721218	O-RING
1	11531721172	GASKET
1	82141467704	ANTI-FREEZE
2	13541247400	THROTTLE-B
1	18301711969	GASKET
4	18301737774	NUT M10
1	11141721919	GASKET SET

This whole thing really sounds unfair. BMW should issue a recall if the problem is so widespread. Is there anything I can do?

Sure. You can always call the BMWNA Customer Service line and complain. The number is 1-800-831-1117. You may feel you want to write a letter. You can send it to the headquarters at P.O. Box 1227, Westwood, NJ 07675-1227.

You can also file a complaint with the National Highway Transportation Administration (NHTSA). They have the authority to force an automaker issue a recall. Their 1-800 hotline for complaints is 1-800-424-9393, or you can fill out an online form at WWW.NHTSA.DOT.GOV/CARS/PROBLEMS/. I (as well as many others) have done all the above, to no avail so far. Small claims court is an option. A class-action lawsuit may even be an appropriate action. It all comes down to time, money, and willingness to pursue.

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profile gasket BMW

(1-3350)

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M42 Engine Recall

- Subject: M42 Engine Recall
- From: rbrowne@erols.com
- Date: Mon, 29 Jul 1996 22:02:41 -0400 (EDT)

In response to my inquiry on whether or not the M42 engine (318) profile gasket should be considered for mandatory safety recall, Pat Donohue wrote:

>NHTSA's primary concern is safety (National Highway Traffic SAFETY Admin.).
 >The point about dumping antifreeze on the road seems valid to me, especially
 >for what it does to the car behind and his windshield in the next rain.
 >There is an online form to make a complaint on the same page:
 > <http://www.nhtsa.dot.gov/cars/problems/>
 >and probably if enough of you take advantage and post the same problem with
 >the same risk, NHTSA can begin pressuring BMW to fix this. Realise though
 >that this is going to cost BMW some really BIG bucks. They'll i) fight the
 >recall tooth and nail, ii) pass on the costs of the fight, and iii) pass on
 >the costs of the repairs. Because of the fight BMW'll put up NHTSA will
 >probably need more of a nudge. There is already a fight with Chrysler about
 >some seat belt disagreements going on now.
 >--
 >

Thank for the info/opinion Pat.

I checked the above site, and it is excellent, by the way. For those who have not visited, even contains safety related Technical Service Bulletin info.

If this was something small, like a bubbling door panel, I wouldnt even think twice about it. (obviously, its not safety related). But Im getting more and more dissapointed with BMW's handling of obvious problems with their cars that are "product problems", even by their own admission. And apparently according to various CONSUMER Satisfaction surveys, I'm not alone.

The form found at the above website appears EE enough to fill out. It is specifically dsigned for owners who have already had a problem. If anyone that has already had their profile gasket go on them, I would encourage you to fill out the online form. BMW needs to take responsibility when they have a major problem with their product. If this is the route we need to take to get their attention, then so be it.

For those who have NOT had their profile gasket go yet (and it will, to the tune of at least \$800, probably out of OUR pockets), you can call NHTSA at 1-800-424-9393...the website states that NHTSA encourages phone calls, whether you have already had a problem or not. I THINK there already exists a TSB for the Profile Gasket issue.

I've spoken with at least 3 E36 318 owners who have had their gaskets go on them. They all mentioned that it didnt come out in a trickle...apparently when the gasket goes, you know it...with GALLONS of slick coolant pouring out of the car. Imagine that occurring on I-xx at about 70mph..if that 'aint a safety issue.....

Ron Browne
Bowie, MD
1992 318is

From LMendonca@sja.ca Thu Sep 10 13:10:50 1998

Date: Thu, 10 Sep 1998 15:25:35 -0400

From: "Lib Mendon" <LMendonca@sja.ca>

To: lmw@mallgate.wizvax.net

Subject: BMW M42 Engine Profile Gasket Defect - Court Action Launched!!!

The Lemon Aid Guide, in the 1997 edition of their publication, described BMW owners as 'complacent', allowing a maker of average quality cars to get away with high service prices, and poor customer service. On September 8th. I filed the following claim in the Small Claims Court in Ottawa, Ontario. I won't attach any of the proofs, but if you are interested in more details I can provide them, because I am not complacent.

Liberio Mendona vs Elite Automobiles Inc. and BMW Canada

I am seeking damages, and costs, because I was sold a defective automobile, a BMW 318i (model E36), by Elite Automobiles, Inc., of Ottawa, and BMW Canada, of Whitby Ontario.

- On August 19, 1993, I took possession of a car, VIN WBACA5317PPG07404. Proof #1 is the bill of sale. The car was equipped with a four cylinder, sixteen valve, 1.8-liter engine, designated the M42 engine by BMW. This engine was built with a defective gasket compound, which allowed engine coolant to be lost. Proof #2 is a Service bulletin published by BMW Canada, and distributed to dealerships less than two months after the sale, in October 1993. The bulletin warns of coolant loss from the "the front area of the cylinder head and upper timing case sealing surface due to a deteriorated rubber timing case profile gasket." Proof #3 is an open letter from Mike Miller, the Technical Editor for The Roundel, the monthly publication of the BMW Car Club of America, (BMW CCA). Mr. Miller deplors the poor response of BMW North America to "this admittedly defective part". "Do they not have a moral obligation to loyal BMW owners to make good on this admittedly defective part?" This letter was published in the July 1998 edition of The Roundel, in response to what is described in a preface to the letters section as being "swamped" with complaints from aggrieved owners. Proof #4 is the October 1996 column, by Jenny Morgan BMW CCA Service Advisor, published in The Roundel. In this edition of her regular Die Werkstatt column Ms. Morgan calls the M42 engine "your own personal little Chernobyl" in her description of the catastrophic coolant loss suffered by one of her clients. Proof #5 is a Frequently Asked Questions (FAQ) posting from the 'The Unofficial E36 Homepage', a Website published by BMW enthusiast Dale Beuning, (www.eakimo.com/bmw_e36.html). The FAQ is found under the "engine" heading, and describes the problem as endemic to the 1991 through 1993 model years, explains the defect concisely, and again deplors BMW's poor response to owner complaints. Proof #6 is a printout from the National Highway Traffic Safety Agency (NHTSA) Website. Their Office of Defect Investigation maintains a record of consumer complaints concerning automobiles. As of July 17, 1998, 111 complaints were registered with NHTSA about the 1991, 1992, and 1993 E36 model with the M42 engine. Of these 32, (or 28.8%), are complaints about coolant loss due to gasket failure. There are no complaints about faulty gaskets listed in the 1990 or 1994 model year files. Proof #7 is a printout from a Website maintained by John G. Burns, a British BMW enthusiast, (www.unixnerd.demon.co.uk). Mr. Burns, in the section dealing with candid appraisals of BMW products, describes the M42 engine gasket as defective. Proof #8 is a collection of e-mail letters, taken from the BMW Digest, an electronic bulletin board operated by BMW owners, or addressed to me by aggrieved owners. Each owner describes their own gasket failure, and the consequences. The e-mail from Mr. Richard Walsh, of Florida, describes a far different outcome to his dispute. There are also letters published in The Roundel by victims of the gasket defect. Proof #9 is a series of e-mail letters from Ron Browne, an aggrieved BMW owner from Maryland. Mr. Browne wrote to the BMW Digest, The Roundel, and me, concerning his experience with the gasket failure, and how he resolved his dispute only after filing a Small Claims Court action. ✱
- My timing case profile gasket was found to be faulty on the 4th. of September, 1997. I had my car serviced regularly by the dealer. Elite Automobile had warned me in June 1997 that there was 'seepage' from the water pump, which was not a problem, but I should monitor coolant levels closely to catch any worsening of the 'seepage'. I was not warned about the possibility of catastrophic coolant loss while under way. Proof #10 is the service invoices for the car, indicating regular maintenance was performed, but containing no evidence of the gaskets being inspected, or a pressure test of the cooling system being performed. The coolant loss, while never significant, continued throughout the summer, requiring me to top up the radiator constantly. In anticipation of a long highway trip, necessitated by the funeral of a family friend, I brought the car to Duss Brothers Motors Ltd., an independent garage specializing in BMWs, on September 4th. 1997, and asked them to look at the 'seepage' from the water pump. Mr. Rudy Duss examined my car and reported that the water pump gasket was indeed leaking, but that the profile gasket had failed a simple pressure test of the coolant system. I remember him using the words 'leaking like a sieve'. He informed me that this was an expensive repair, and could cost up to \$2,000.00, depending on the amount of damage to the surfaces the gasket was supposed to seal. I told him not to do the repair, because I could not afford such an expense at that time. Mr. Duss informed me that this was a common problem with the M42 engine, he had repaired dozens in 1997 alone, therefore Elite Automobiles might do the repair as a "goodwill gesture" towards a loyal customer. I was to leave the next day on the highway journey, so I accepted Mr. Duss's offer to tow the car to Elite Automobiles and talk to them on my behalf. Mr. Duss was certain that Elite Automobile would repair the faulty gasket, because I was the first owner, had all the warranty service and other maintenance performed by Elite, and there was such low mileage on the car. Proof #11 is a letter from Duss Brothers Motors Ltd. which details the dispute. I rented a vehicle from Discount Car and Truck Rentals. Proof #12 is the rental receipt from Discount for \$523.71. I returned from the trip to discover that Elite Automobiles had repaired the defective profile gasket, and as their 'goodwill gesture' did not charge me for the parts required, which they listed as \$180.00 retail price (far less wholesale cost to them of course.) Duss Brothers had also replaced the defective water pump gaskets. The repair was performed without any input, or agreement, from me, but was presented as a fait accompli upon my return. Proof #13 is the combined invoice from Duss Brothers and Elite Automobiles for

3. I was extremely disappointed that a well-maintained car should suffer such a serious malfunction so early in its lifespan so I wrote to BMW Canada, and Elite Automobiles about my concerns with product quality. Proof #14 is my correspondence with BMW Canada, and Elite Automobiles. BMW pointed out that the warranty time period had expired just a few weeks before the repair, and the car was also over the 80,000 kilometer limit as well, (there was approximately 92,000 kilometers on the odometer), therefore they were not obligated to do anything. They offered a credit towards future repairs out of "goodwill" only. Because the response to my complaint was so inadequate I began to research manufacturer liability with the Automobile Protection Association (APA) through the APA's annual publication Lemon-aid New and Used Car Guide. I learned that manufacturers, to disguise secret warranty programs, often use the term "goodwill gesture". I obtained the previously cited Service Bulletin through Phil Edmonston, author of the Lemon-aid Guide. Unfortunately further correspondence with BMW proved fruitless, as can be seen in Proof #13.
4. I attempted to arrange some mediation. Proof #15 is the letters I have written to the following: The Canadian Motor Vehicle Arbitration Plan, (CAMVAP). Their response: BMW chooses not to participate in CAMVAP. The Ontario Motor Vehicle Industry Council, (OMVIC). Their response: they have no jurisdiction in this matter. The Ontario Automobile Dealers Association, (OADA). There has been no response to date. The Ontario Ministry of Consumer and Commercial Relations, (MCCR). Their response: the matter is not within their purview. Transport Canada. Their response: the matter is not within their purview. Industry Canada. Their response: the matter is not within their purview. The Better Business Bureau, (BBB). Their response: BMW chooses not to participate in their arbitration program. They advised a Small Claims Court action to resolve the matter. Tony Cote, Action Line columnist for the Ottawa Citizen. No response to date. Maryanna Lewyckj, Action Line columnist for the Toronto Sun. Her response: she could not arrive at a satisfactory resolution of the dispute, and published a column detailing the dispute in the July 3rd edition of the Toronto Sun. She also advised me to file a claim in Small Claims Court. Charlie Greenwell, consumer reporter for CJOH TV. His response: a segment on the local news program was broadcast, explaining how technical service bulletins do not have to be disclosed to owners in Ontario, causing uninformed owners to miss out on repairs under warranty. David Honig, Ombudsman for the BMW CCA. He has had no success in mediating between Club members and BMW. Canadian Automobile Association. There has been no response. The Automobile Protection Association. They have noted the defect. Consumers Union. They also have taken note of the defect. Consumer Association of Canada. No response to date. Consumers for Auto Reliability and Safety. They have noted the defect, and advised a small claims court action. Clarence Ditlow, Center for Auto Safety. No response to date. I believe I have been earnest in seeking to resolve this dispute without recourse to the courts.
5. The dispute was not resolved, therefore I sent a Demand Letter by registered mail on July 27th, 1998. The final attachment is the demand letter, and the signed receipts.
6. Since there has been no response to my Demand Letter, and because of the failure of mediation, I wish to file this claim. In summary, BMW, and Elite Automobile, knew the engine was defective, as stated in the Service Bulletin. For four years, while the warranty was in effect, they did nothing to repair the defect, or prevent the engine from failing, as is indicated on the service invoices. When the engine failed they offered only a credit, and an unsolicited refund for parts, to mitigate my expenses and inconvenience. I wish to claim the following:

The original repair	\$928.05
The rental vehicle	\$523.71
The interest payable (@ 7% apr)	\$101.62
Postage and registered mail	\$250.00
Stationary/photocopies	\$300.00
BMW CCA membership fees	\$ 80.00
Service Bulletin retrieval	\$ 15.00
Time, and inconvenience	\$2,000.00
TOTAL	\$4,198.38

From: L & S Mendonca [mendonca@cyberus.ca]
Sent: Tuesday, October 27, 1998 9:14 PM
To: I_sm_mad_too@bmvlemon.com
Subject: BMW 318i M42 Engine Gasket Defect

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The M42 Engine Profile Gasket Ripoff!

I wish to bring to everyone's attention a major engine defect, for which BMW is attempting to avoid all responsibility. As a long time BMW owner I was disappointed when, in September 1997, my 1993 318i required a \$928.00 repair to replace the head, profile and water pump gaskets. This repair forced me to rent another vehicle at an additional \$523.00 cost. I was concerned that a well maintained vehicle that was less than four years old, with only 92,000 kilometers on the dial would experience such a major failure. This was in addition to four other repairs in the spring which totaled over \$1,000.00.

I contacted BMW Canada and was offered a 'goodwill' gesture: a \$300.00 credit for future repairs. I consider this offer inadequate. I discovered, through the Automobile Protection Association, a Dealer Service Bulletin in which BMW Canada warns dealerships of coolant leaks "due to a deteriorated rubber timing case profile gasket" on the M42 engine. The Dealer Service Bulletin was issued in October 1993. I purchased my BMW in August. The Dealer Service Bulletin acknowledges a major design flaw, or manufacturing error, that was not revealed to me at time of purchase, nor was I informed of the defect during four years of loyal service visits! If the part had failed within the warranty period BMW would have had to repair it free, but they gambled that the failure would occur after the warranty expired and knowingly sold me the car with the defective gasket.

In the July 1998 issue, Mike Miller, Technical Editor of the Roundel, the magazine of the BMW Car Club of America, wrote: "The 1991-'93 engine profile gasket is clearly not a shining moment for BMW." He goes on to add, "...wouldn't it make good business sense for BMW NA to stand behind their product in this case? Do they not have a moral obligation to loyal BMW owners to make good on this admittedly defective part?"

It seems that since a Mr. Ron Browne brought the defect to the BMW CCA's attention earlier this year, the Roundel has "been swamped with complaints about the problem". The sudden influx of complaints surprises me, because the October 1996 'Die Werkstatt' column in the Roundel details the problem succinctly. Jenny Morgan, contributing editor, wrote: "...there's a little gasket in them (the M42 engines) that can make your own personal Chernobyl...When it blows out, the leak can be sudden and significant."

In the December 1998 edition of BIPPER magazine contains an article on purchasing used BMWs, written by Associate Editor Alexander Palevsky. He writes, "Perhaps more than any other recent model, the E36 was introduced with teething problems that took a few years to straighten out. The cost of replacing items like the faulty profile gaskets...can constitute a significant percentage of the asking price....check the paperwork for a profile gasket replacement on 318s."

Because of this Dealer Service Bulletin, and these articles by knowledgeable technical writers, the 'goodwill' offer by BMW seems to be nothing but a sop to cover poor engineering and indifferent customer service. A golden opportunity to earn customer loyalty and consumer respect has passed, now BMW has nothing to look forward to except damage control and legal actions. Please read the June or July edition of the Roundel, or call David Honig, the BMW CCA Ombudsman, to confirm the damage done to BMW reputation for engineering excellence. In a telephone conversation with him, he estimated that as many as twenty thousand 1991 to 1993 E30 and E36 models have the defective gaskets, which costs an average of \$1,200.00 to repair.

I have filed suit in small claims court to recover my costs and damages, seeking \$4,327.73. BMW Canada offered \$2,000.00 to settle, not enough, but at least they are heading in the right direction. To read my Statement of Claim go to:
www.eskimo.com/~dalus/bmw/all/engine/all_m42_profile_gasket_defect_lib.html

A FAQ on the subject is:

www.eskimo.com/~daluw/bmw/all/engine/all_m42_profile_gasket_faqs.html
I will soon post BMW Defense Statement for you to judge for yourself.

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I would appreciate anything you could do to publicize this scandalous lack of business ethics. Not only did BMW knowingly sell defective cars, but they never informed owners that their M42 engines were ticking time bombs, destined to fail in an expensive and unnecessary manner. The more owners who know that they are not the alone, the more pressure we can put on BMW to do the right thing.

**Sandra J. Wokety
7769 Kinsman Rd.
Novelty, OH 44072**

August 25, 2003

US Department of Transportation
National Highway Traffic Safety Administration
Office of Defects Investigation, NVS - 216
400 7th Street SW
Washington, DC 20590

Dear Alberto A. Jimenez,

I just finished watching a TV program about a young gentleman in a car accident who sustained total paralysis. He was a victim, in the wrong place at the wrong time.

Approximately 2 months ago I happened to read on the internet my 1991 BMW 318i 68800 miles, was a ticking time bomb due to a defective profile/head gasket. The defective gasket can slowly deteriorate or very suddenly releasing all coolant, creating immediate shutdown of my engine and obscuring the vision of all humans beings driving behind me. I am grateful my coolant started dripping on the garage floor

BMW of North America, BMWNA, released a Tech Service Bulletin Number 11 10-93 3885 dated 11/93. The Timing Case Profile Gaskets fail due to inferior/defective rubber used in the manufacture of the actual gasket. Cars built after 10/93 have Timing Case Profile Gaskets made with " an optimized rubber material composition". Average failure appears to be between 68000 - 77000 miles. Naturally BMWNA covered all costs if the car was under warranty, otherwise each remaining owner was dealt with on an individual basis. All their best customers, (based on \$'s spent) at their dealerships/service department all expenses would be covered for this repair, that is if you were aware of the defective rubber gasket installed originally in your BMW at the factory. My total expense for repair was \$1623.03.

Shame on them. I am sure many BMW drivers with M42 engines built prior to Nov 93 are not aware of this potentially disastrous defective gasket, including myself.

If one types into their computer on Yahoo internet search " profile gasket BMW ", it will display 3350 different sites to review. Many web sites are on individual disastrous stories, repairs, warnings on purchasing vehicles with M42 engine, successful small claims and how it is necessary to report this problem to National Traffic Highway Safety Administration.

I am thankful I was not injured and I did not create any type of accident involving others. What I don't understand is why Europe recalled and replaced all of the defective profile gaskets in M42 engines at their expense. What's wrong with America ????

Sincerely,



Sandra J. Wokety
Original Owner of BMW 318i

Enclosures:

- After reviewing over 50 internet sites relating to the defective profile gasket. I have chosen the most informative for your review.
- Telephone conversations with BMWNA.
- A current photograph of my vehicle illustrating exceptional care of my car.
- A copy of my repair bill from BMW dealership located in Solon, Ohio.
- Upon request I can supply the defective parts replaced in my auto from the BMW Service Center.

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THE FREEDOM OF INFORMATION
ACT (FOIA), 5 U.S.C. 552(b)(6).**