

[REDACTED]  
Poughkeepsie, Ny  
[REDACTED]

2007 JUL 10 AM 9:39

6/8/07

Mercedes Benz USA LLC  
One Mercedes Drive  
PO Box 350  
Montvale, NJ 07645-0350

Phone: 1-201-573-0600  
Fax: 1-201-573-0117

Attn: Mr. Frank P. Berenz, Associate General Council

Re: (a) Mercedes Benz C240 year 2002  
(b) Vin#WDBRF61J42F [REDACTED]  
(c) 1<sup>st</sup> Accident 4/8/07 Mileage 34,077  
(d) 2<sup>nd</sup> Accident 4/23/07 Mileage 34,265  
(e) Encompass Ins. Claim 1<sup>st</sup> [REDACTED]  
(f) Encompass Ins. Claim 2<sup>nd</sup> [REDACTED]  
(g) Your letter dated 6/4/07 (attached)  
(h) NYS Attorney General File #2007-62-8813

Dear Mr. Berenz:

Please be advised that we do not agree with your clients finding ref. the accident, as there (in all our correspondence) have always been two accidents. Those 2 accidents happened within 188 miles (travel time). Both happened while car was being parked (traveling 1 mile per hr.) Both happened while brakes were being applied. Both accidents were attributed to a sudden vehicle acceleration.

As you may or may not know, safety issue and high priority status was assigned to our car after the 2<sup>nd</sup> accident. (4/23/07)

Please provide the following information:

- (1) (a) When was someone assigned to our case?  
(b) Name/title & years of service
- (2) (a) When was engine diagnostic test preformed?

Add to:  
10191974MC  
7/10/07  
SB

- (b) Where was test performed?
  - (c) Who requested test?
  - (d) Who reviewed documents?
  - (e) Please provide copies of all electronic test perform
- (3) Louis Shaia, Technical Specialist Mercedes Benz USA/Garret Wetteauw, Regional Service Manager/Brian Lavin, Friendly Motorcars Service Manager, and myself visited site of second accident on 5/4/07, and witnessed Mr. Shaia taking numerous pictures/measurements of accident scene as follows:
- (a) Showing: rubber marks across parking space pavement due to cars acceleration while brakes were applied.
  - (b) Showing: rubber imprint (treads marks) on concrete bumper as car hit same prior to going thru 9' high chain link fence.
  - (c) Showing: Cars path while going thru and under chain link fence, down a 3' embankment.
  - (d) Showing: Debris old wood fence/brush/old abandoned bicycle car traveled thru, before ending up on abandoned railroad track.
  - (e) Showing: Chain link fence/post & subsequent damage to same on other side of railroad track that finally stopped car.
  - (f) Showing Divots in abandoned railroad cinder road bed that were caused By car still trying to go forward after hitting second chain link fence. Position of divots in railroad cinder road bed matched distance from our cars bumper against chain link fence and both rear wheels. (I helped Mr. Shaia take those measurements.) (Mr. Shaia stated that the measurements represented the exact measurements of our car.)

Please provide copies of all pictures taken of our damaged car and accident scene.

- (4) Louis Shaia informed me on 5/4/07, that I would have his report on 5/7/07. On 5/11/07 Brian Lavin informed me that Mr. Shaia told him report was Complete and sent to Mercedes Benz Corporate on 5/11/07. I called Louis 5/11/07 at 3:35pm and he informed me that corporate would be in touch With me by Monday 5/14/07. Today 6/7/07 we received our first reply from Mercedes Benz (46 days after our car was assigned as a safety issue high priority status.) Please provide the following:
- (a) Full copy of all data generated by Mr. Shaia reference our car.
  - (b) Who reviewed that data, and when?
  - (c) Who was the individual that rendered the decision as expressed in your letter dated 6/4/07
- (5) Reference car being test driven, please provide the following:
- (a) When was test drive performed?
  - (b) Who witnessed test?
  - (c) Where was test performed?
  - (d) How many miles were driven in the performance of that test? \
  - (e) What maneuvers were performed during the test?

- (6) Reference your C240 & C230 cars: Please provide the following data:
- (a) How many complaints reference sudden acceleration problems are documented in your world data bank?
  - (b) What was the year and models of cars affected?
  - (c) How did you handle those complaints?
  - (d) Are any of those cars still being driven today?
  - (e) What are the vin#'s of all cars with acceleration problems that are still On the road today?

Your letters last line states that brakes were sufficient to overcome "vehicle acceleration" Mercedes Benz USA is now admitting that vehicle accelerations happened. Our numerous correspondence and/or phone calls to Mercedes Benz is asking why did car Suddenly accelerate. We are still waiting for that answer.

This car has been in Friendlys Motorcars parking lot since 4/23/07. Due to car being assigned as a safety issue, (to be resolved by Mercedes Benz USA) we were not offered a loaner car while our car was disabled. My wife has been renting a car since 5/1/07, without assistance from Mercedes Benz.

Knowing of the problem that this car has experienced, would Mercedes Benz USA be willing to guarantee, and be held liable if the next accident attributed to sudden acceleration resulting in property, bodily injury, and/or death?

Please review and provide documentation requested within 7 days.

Sincerely yours,

[REDACTED]

Cc: State of N.Y. Office of Attorney General Mark T. Hoops, Bureau of Consumer  
Frauds & Protection  
National Highway Traffic & Safety Administration (adding new information File#  
2007-62-8813  
Encompass Insurance Co. Anna Osborne  
Marshall & Sterling Insurance Shawn Viana  
Gellert & Klein PC Stephan E. Ehlers, Attorney

This correspondence and all prior or subsequent communications and/or investigative efforts are made with the express reservation of all rights and defenses that [REDACTED] has or may have at law. This reservation includes, without limitation, defenses that may be available under any applicable notice and suit limitation provisions. Subject to this strict and continuing reservation, we look forward to hearing from you.

[REDACTED]



Mercedes-Benz

Mercedes-Benz USA, LLC

A DaimlerChrysler Company

June 4, 2007

Received  
6/7/07  
a.f.

[REDACTED]  
Poughkeepsie, NY [REDACTED]

Re: 2002 Mercedes-Benz C240

VIN: WDBRF61J42F [REDACTED]

Dear [REDACTED]

In response to your request, this will confirm that my client's representative's inspection of the above referenced vehicle revealed no defect or malfunction in its braking or acceleration system that could have caused or contributed to the accident sustained with it. The inspection included a physical examination of the accelerator and brakes, search for any engine diagnostic codes as well as road testing that established that the brakes were sufficient to overcome vehicle acceleration.

The opportunity to confirm my client's findings is appreciated.

Very truly yours,

Frank P. Berenz  
Associate General Counsel

