

CL-10228449-5310

[REDACTED]  
Menlo Park, California [REDACTED]

Telephone/Fax: [REDACTED]

2008 MAY 16 AM 7:21

5/7/2008

US Department of Transportation  
National Highway Traffic Safety Administration  
Office of Defects Investigation  
NSA-10.01 7<sup>th</sup> Street SW  
Washington, D.C.

Dear Madam/Sir:

At the suggestion of the office of Attorney General, Edmond G. Brown, Jr., I am sending this letter and enclosed correspondence. My purpose in sending this information is to express my concern regarding the safety of my former automobile: Lexus ES 300, 2003 model, VIN # JTHBF30G330 [REDACTED]. I have also written to the Department of Consumer Affairs, Bureau of Automobile Repair, 1020 Systems Parkway, Sacramento, CA 95827, but have not heard from them.

I experienced a braking failure on March 25, 2008 a few weeks after having new front and rear brakes installed at Lexus of Serramonte in Colma, California. All prior service work had been done by this dealer since the purchase of the automobile from them. No satisfactory explanation of the braking failure was given to me and the dealership was supported by Lexus in the statement that the car had been tested and no defect found.

It was not until yesterday, May 06, 2008, that I received a telephone call from a Lexus representative stating that they would look in to the matter. Prior to this my communications were answered by a claims representative, even though I had made no claim but specifically expressed my concern for whomever might drive the automobile or if it were used or sold, whether or not full disclosure would be made.

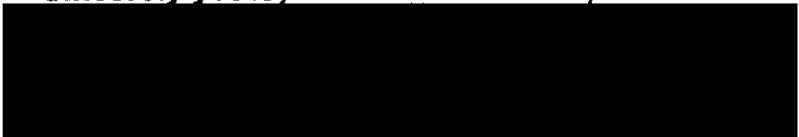
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KB

I will briefly summarize what is contained in my correspondence with Lexus. While backing out of my carport, which required me to have my foot on the brake and turn on the ignition key, the automobile while in reverse began moving backward slowly and the brakes failed to stop the automobile. With only 30 - 40 feet from an elm tree in my driveway and no ability to stop, I turned the ignition off and was stopped by the tree. The automobile was not moving rapidly and there was only a small dent in the bend of the trunk door and no change in the alignment of the door caused by the impact.

The explanation given by the service department was that the carpet must have slid under the brake pedal and over the gas pedal. When asked to reproduce this combination of events, they were unable to do so. I also reminded them that I had pushed the brake pedal to the floor and that the automobile was moving backward slowly and the impact did not cause major damage to the automobile.

I am deeply troubled that it was not until yesterday that I received a telephone call, and not a letter, saying that Lexus planned to look into the matter. I will add that in the meantime, I received several letters from Lexus congratulating me on my new purchase.

Sincerely yours,

A large black rectangular redaction box covers the signature area of the letter.

CC:  
Mr. Yuky Funo & Mr. Mark Templin  
Toyota Motor Sales, USA, Inc.  
19001 South Western Ave.  
Dept, WC11  
Torrence, CA 90501

Department of Consumer Affairs  
Bureau of Automobile Repair  
10240 Systems Parkway  
Sacramento, CA 95827

[REDACTED]  
Menlo Park, California [REDACTED]

Telephone/Fax: [REDACTED]

03/28/08  
~~03/28/08~~

**Ms. Yuky Funo & Mark Templin  
Toyota Motor Sales, USA, Inc.  
19001 South Western Ave.  
Dept, WC11  
Torrence, CA 90501**

**Dear M. Funo and Mr. Templin:**

**I recently had a frightening and potentially life-threatening experience while driving my year 2003 Lexus ES 300. I had just had new front and rear brakes in preparation for a visit from my children and grandchildren. The rear brake had a frozen caliper which was repaired during the installation of the brakes. The automobile appeared to be performing well.**

**On Tuesday, March 25, 2008, while backing out of my carport, the brakes failed. As you know, in order to start the car, my foot must be on the brake pedal and the gear in park when the ignition is turned on. When I performed this to start the car and shifted into reverse to back out of my carport, the car went slowly backward but the braking to control the backward movement failed and realizing the loss of control, I turned off the engine. About 30-40 feet behind my carport is an elm tree which stopped the car denting the area of the bend in the trunk door. Fortunately the automobile was not accelerating and moving at a slow speed. The resultant damage to the automobile was not great.**

**Had I been in another situation, there could have been considerably more damage to the car, to me and any passengers, or loss of life if I were in a parking lot where other persons might be in the pathway. I, personally, have had three back surgeries and so hitting a tree was not a minor event even at a slow speed.**

**I had the automobile towed to the dealership and was given a loaner until the inspection was done on the next day. No cause was found and the explanation given to me was that the floor mat might have pushed forward under the brake and possibly over the gas pedal. When I asked the technician to reproduce this placement of the floor mat, he was unable to show me how that would have interfered with the braking. I repeated that I pushed the brake to the floor and had no response. In addition, if the floor mat was off the floor hook and the car had just been serviced and brakes installed, it would seem negligent for the service department not to have secured the floor mat.**

**In summary, I have received very courteous service at Serramonte Lexus but am not satisfied that the problem has been resolved or explained. Although I had more than a year left in my extended warranty I could no longer feel safe for myself or for passengers in the automobile and in addition felt that others outside might be injured if the loss of braking recurred.**

**Everyone was polite and attentive but unable to give me a satisfactory explanation. I still consider the Lexus a safe and comfortable automobile and purchased a new ES350 on the day of the inspection and traded the ES300, the safety of which I question. I hope you will see fit to investigate this matter and I look forward to hearing from you before I decide what further action to take.**

**Sincerely yours,**

A solid black rectangular redaction box covering the signature area.

# TOYOTA

Writer's Direct Dial: (310) 468-5027  
Writer's Direct Fax: (310) 381-6317  
Carole\_hargrave@toyota.com

Toyota Motor Sales, U.S.A., Inc.  
19001 South Western Avenue  
Torrance, CA 90501

April 8, 2008

## VIA US MAIL

[REDACTED]  
Menlo Park, CA [REDACTED]

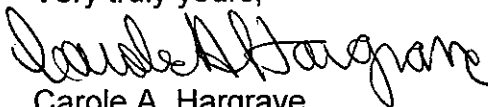
**RE:**                   **Date of Loss:**           **March 25, 2008**  
                          **Vehicle:**               **2003 Lexus ES 300**  
                          **VIN #:**                 **JTHBF30G33[REDACTED]**

Dear [REDACTED]:

This letter will acknowledge our receipt of your letter dated March 28, 2008 address to Mr. Funo and Mr. Templin in regards to the above referenced incident.

Unfortunately you have sold the vehicle and it is not available to us for inspection in regards to your concerns. However the vehicle was inspected by Lexus of Serramonte and they found the vehicle in proper working order free of any type of defects.

We are very sorry about this most unfortunate incident and glad that you were not injured. We have noted your concerns. However based on the inspection of the vehicle by the dealer it does not appear that it was the result of any type of manufacturing defect.

Very truly yours,  
  
Carole A. Hargrave  
Claims Manager  
Toyota Motor Sales, U.S.A., Inc.

# TOYOTA

Writer's Direct Dial: (310) 468-5027  
Writer's Direct Fax: (310) 381-6317  
Carole\_hargrave@toyota.com

Toyota Motor Sales, U.S.A., Inc.  
19001 South Western Avenue  
Torrance, CA 90501

April 30, 2008

## VIA US MAIL

[REDACTED]  
Menlo Park, CA [REDACTED]

**RE:                    Date of Loss:            March 25, 2008**  
**Vehicle:                    2003 Lexus ES 300**  
**VIN #:                     JTHBF30G33[REDACTED]**

This letter will serve to acknowledge our receipt of your letter dated April 11, 2008 addressed to Mr. Fono and Mr. Templin which was forward to me.

Please be advised that I did read your letter and did understand it. However without the opportunity to inspect the vehicle in regards to your concerns we cannot respond to your allegations of brake failure.

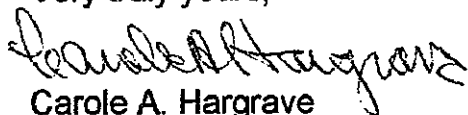
As stated in my letter the dealer did inspect the vehicle and found it to be in proper working order. It is my understanding that they informed you that their inspection had found the vehicle to be in proper working order and that the driver side carpeted floor mat was not secured to the retaining clips and had moved toward the driver's foot controls. If this information was not given to you by the dealer I apologize for the miss understanding. This information was furnished to us by the dealer in regards to their inspection.

It is quite possible that the mat had slid forward interfering with the pedal operation. However as we did not inspect the vehicle we cannot determine or confirm this.

Your letter states you did not sell this vehicle but left it with the dealer. You traded the vehicle to the dealer when purchasing another vehicle. You state the vehicle was "taken by the dealer with a very low trade-in value given to me toward the purchase of a new vehicle". This would be considered selling the vehicle back to the dealer.

We do understand how alarming an incident like this can be and Toyota does take these matters very seriously however based on the inspection by the dealer it does not appear that it was the result of any type of manufacturing defect.

Very truly yours,



Carole A. Hargrave  
Claims Manager  
Toyota Motor Sales, U.S.A., Inc.

**2003 Lexus ES 300**

**April 30, 2008**

**Page 2**

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**Toyota Motor**

**Cc: Attorney General Edmund G. Brown Jr  
Attorney General's Office  
California Department of Justice  
Attn: Public Inquiry Unit  
P.O. Box 944255  
Sacramento, CA 94244-2550**

**Department of Consumer Affairs  
Bureau of Automobile Repair  
10240 Systems Parkway  
Sacramento, CA 95827**

[REDACTED]  
Menlo Park, California [REDACTED]

Telephone/Fax: [REDACTED]

May 3, 2008  
5/7/2008

Mr. Yuky Funo & Mark Templin  
Toyota Motor Sales, USA, Inc.  
19001 South Western Ave.  
Dept, WC11  
Torrence, CA 90501  
Department of Consumer Affairs  
Bureau of Automobile Repair  
10240 Systems Parkway  
Sacramento,  
CA, 95827

Dear Mr. Funo and Mr. Templin:

Today I received a letter, dated April 30, 2008, from your claims manager in answer to my letter to you dated April 11, 2008. Since I have made no claim, I wonder why you have not responded and referred my letter to your claims manager. Enclosed you will find a copy of my original letter of March 28, 2008. The pertinent paragraphs of my original letter are repeated below.

"On Tuesday, March 25, 2008, while backing out of my carport, the brakes failed. As you know, in order to start the car, my foot must be on the brake pedal and the gear in park when the ignition is turned on. When I performed this to start the car and shifted into reverse to back out of my carport, the car went slowly backward but the braking to control the backward movement failed and realizing the loss of control, I turned off the engine. About 30-40 feet behind my carport is an elm tree which stopped the car denting the area of the bend in the trunk door. Fortunately the automobile was not accelerating and moving at a slow speed. The resultant damage to the automobile was not great.

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**I had the automobile towed to the dealership and was given a loaner until the inspection was done on the next day. No cause was found and the explanation given to me was that the floor mat might have pushed forward under the brake and possibly over the gas pedal. When I asked the technician to reproduce this placement of the floor mat, he was unable to show me how that would have interfered with the braking. I repeated that I pushed the brake to the floor and had no response. In addition, if the floor mat was off the floor hook and the car had just been serviced and brakes installed, it would seem negligent for the service department not to have secured the floor mat.**

**There is still no satisfactory explanation of what happened and why with new front and rear brakes, and servicing within the weeks before, and all servicing at the same dealership the braking failed. Again, I repeat that the lead service person was unable to reproduce the hypothetical explanation. There was clearly a failure of the braking system that is still unexplained. In addition, you have avoided responding to my concern about what was or would be disclosed to a new owner if the automobile was or were to be sold. If no answer to the braking failure was found and no disclosure made, I have already expressed my concern that others would potentially be put in harms way.**

**Ms. Hargrave's responses clearly avoid these issues and are those of a claims person disclaiming responsibility. These responses are unsatisfactory and irresponsible and not fitting of a leading automobile maker. I will await your reply.**

**With serious concern,**

