

C1-10477723-7732

OCT 26 2012

October 16, 2012

Santa Clara, CA

INFORMATION Redacted PURSUANT TO THE FREEDOM OF INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6)

DOT Auto Safety Hotline
1200 Jersey Ave., SE
West Building
Washington, DC 20590

Dear Sir/Madam:

Please review the attached correspondence and advise your resolution both to the undersigned and to Toyota Motor Sales, USA, Inc..

As you can see from the attached documents, as a result of a "sudden unintended acceleration" a bad auto accident involving my 2004 Lexus, ES 330 occurred on June 24, 2012 which was caused by the absence of floor mat retaining hooks, as determined by the Santa Clara Police in the attached Accident Report No # 12-7044.

Now, Toyota/Lexus is denying their responsibility for the cause of this accident as well as contesting their product liability and advisory negligence.

I am kindly requesting your timely response.

Thanking you in advance, I remain.

Enclosures:

1. Santa Clara Police Report # 12-7044
2. Correspondence with Toyota dated August 23, 2012
3. My reply to Toyota dated September 15, 2012
4. Toyota's 2nd reply to my letter dated September 27, 2012
5. Letter to California Department of Consumer Affairs dated September 14, 2012
6. Bay Area News Article dated October 12, 2012

MC
10/12
DW

1. SUMMARY:

- 2. PI WAS TRAVELING WESTBOUND RANCHO MCCORMICK BLVD (PRIVATE STREET) TOWARDS LOS PADRES BLVD AS PI
- 3. WAS DRIVING, IT APPEARED THE FLOOR MAT WAS ABLE TO REST ON THE ACCELERATOR PEDAL, WHICH
- 4. ACCELERATED THE VEHICLE ONTO LOS PADRES BLVD, DROVE WESTBOUND ACROSS LOS PADRES BLVD (NORTH/SOUTHBOUND
- 5. STREET), DROVE OVER THE WEST SIDEWALK AND COLLIDED WITH A 2 FOOT TALL BRICK RETAINING WALL
- 6. ON THE PROPERTY OF [REDACTED] PI CONTINUED FORWARD ONTO THE PROPERTY AND COLLIDED WITH
- 7. A WHITE FENCE.
- 8.

9. CAUSE:

- 10. PI CAUSED THIS TRAFFIC COLLISION BECAUSE THE FLOOR MAT RESTED ONTO THE ACCELERATOR, WHICH CAUSED PI
- 11. TO VIOLATE 22350 C.V.C. - UNSAFE SPEED FOR CONDITIONS.
- 12.

13. ADDITIONAL:

- 14. I TOOK PHOTOGRAPHS OF PI, THE PROPERTY DAMAGE OF [REDACTED], AND THE FLOOR MAT
- 15. RESTING OVER THE ACCELERATOR PEDAL. I BOOKED THE PHOTOS INTO VERIFIC AT SCPD EVIDENCE.
- 16.
- 17.
- 18.
- 19.
- 20.
- 21.
- 22.

SANTA CLARA POLICE DEPARTMENT
CONTROLLED DOCUMENT

Released To: [REDACTED]
By: WJM Date: 10/19/12

DO NOT DUPLICATE

TOYOTA

Nekii Montgomery
Direct Phone (310) 468-7436
Fax (310) 381-6982

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

August 23, 2012

[REDACTED]
Santa Clara, CA [REDACTED]

RE: Date of Loss: June 24, 2012
 Vehicle: 2004 Lexus ES 330
 Vin #: JTHBA30G045 [REDACTED]

Dear [REDACTED]

This letter will acknowledge our receipt of your communication with Toyota Motor Sales, USA, Inc. in regards to the above referenced incident.

It is our understanding that you experienced an unintended acceleration with the vehicle causing you to drive across the street, jump the curb and hit a wall.

As you are aware, the vehicle was inspected on August 10, 2012 at CoPart. An inspection was completed involving the accelerator pedal. There was no damage observed to the accelerator pedal. There was no sticking and binding observed with the accelerator pedal when operated. The inspector did note that there were two stacked floor mats that were not secured and the hooks were missing at the time of the inspection. Due to the damage the vehicle could not be test driven, however the visual inspection showed no abnormalities. Your concern could not be duplicated.

We are very sorry to hear about your unfortunate incident; however, our inspection determined that this incident was not a result of any type of manufacture design or defect. Thank you for allowing us to address your concerns.

Very truly yours,


Nekii Montgomery
Toyota Motor Sales, U.S.A., Inc.

[REDACTED]
Santa Clara, CA [REDACTED]

September 15, 2012

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

Re: Date of Loss June 24, 2012
 Vehicle: 2004 Lexus ES 330
 Vin #: JTHBA30G045 [REDACTED]

Dear Mr. Montgomery:

This letter is in response to your letter dated August 23, 2012. You stated in your letter that the damaged vehicle was inspected on August 10, 2012 at CoPart. An inspection was completed involving the accelerator pedal, there was no damage observed to the accelerator pedal and there was no sticking and binding observed with the accelerator pedal when operated. The inspector did note the floor mats were not secured and the hooks were missing at the time of the inspection. You further stated that this incident was not a result of any type of manufacture design or defect.

I find it appalling for the lack of concern on your part when in fact your findings indicated a clear and definite Toyota/Lexus Manufacture Design and Defect, a poor Floor Mat design without hooks to secure the mat in place. In fact, the mats were not secured and hooks were missing at your own admittance! And this was determined to have triggered the gas pedal to accelerate the vehicle and caused the accident as reported by the Santa Clara Police Department (Police Report #12-7044 dated 06/24/12).

When I purchased the 2004 Lexus ES 330 at one of your dealership, the floor mats came with it as is, and there were never any hooks to secure them. I have not received any Recall Notices on this regard, nor have any one at your Authorized Service Centers alerted me to this effect where I have had numerous services done on this car and not once did anybody pointed out a concern about the Floor Mats. I was not aware that there were corrective measures available via Recall Notices which I never received, and this is my Main Concern, have this Floor Mat issue been imparted to me and corrected as soon as the problem was discovered, this could have prevented the accident!

Toyota/Lexus Company has the obligation under the Product Liability Law to inform the public via Recalls or other means should a problem arise and need corrections. Your negligence and failure to advise me of this Floor Mat Defect had caused me economic loss, psychological problems, medical issues, pains and sufferings. Please respond on this regard.

[REDACTED]

Cc: National Highway Transportation Safety Administration; California Department of Consumer Affairs

TOYOTA

Nekii Montgomery
Direct Phone (310) 468-7436
Fax (310) 381-6982

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

September 27, 2012

[REDACTED]
Santa Clara, CA [REDACTED]

RE: Date of Loss: June 24, 2012
 Vehicle: 2004 Lexus ES 330
 Vin #: JTHBA30G045 [REDACTED]

Dear [REDACTED]

This letter will acknowledge receipt of your recent correspondence we received in regards to the above referenced loss.

Please be advised, that your vehicle is not part of any Special Service Campaign involving the floor mats.

We are sorry that you don't agree with our decision in relation to the above captioned incident. At this time we are unable to honor your claim and our position will remain the same.

Thank you for allowing us to address your concerns.

Very truly yours,


Nekii Montgomery
Toyota Motor Sales, U.S.A., Inc.

[REDACTED]
Santa Clara, CA [REDACTED]

September 14, 2012

Department of Consumer Affairs
Consumer Information Division
1625 North Market Blvd., Suite N 112
Sacramento, CA 95834

Re: 2004 Lexus ES 330
No Floor Mat Recall

Dear Sir/Madam:

I am writing this letter to report the lack of concern Toyota Motor Company had responded to me regarding an accident that occurred on June 24, 2012 as I was driving my 2004 Lexus ES 330 it suddenly accelerated across the street and plunged on to my neighbor's brick fence thereby completely damaging the car, declared totally damaged. I have a Police Report indicating that the floor mat may have caused the sudden acceleration. I also reported this incident to Lexus/Toyota Company where they traced the car and made inspections as to what may have caused the unintended sudden acceleration. Their inspection completed with undetermined cause, but noted the floor mat was not secured and hooks missing. See attached letter from Toyota.

I then found out that there were recalls with regard to Floor Mats on some Lexus models, but none was issued to me. I purchased this vehicle and there were never hooks to secure the mats. I have had numerous services performed on this car at their Authorized Lexus service Center and Floor Mat issue was never discussed, nor a recall ever sent to me to correct this defect where the floor mat can be displaced and interfere with the gas pedal. Clearly, Toyota noted this defect when they inspected my damaged car and still determined that this incident was not a result of any type of manufacture design or defect! The issue is, there was no recall sent to me with this regard.

If there were recalls of this nature that may cause sudden acceleration and accident, and which I was never informed- how can they justify the outcome of what occurred when Toyota Motor Company failed to warn consumers of a problem. Clearly, their negligence in fixing the floor mat defect issue and not warning me of a defect that may cause an accident is appalling. I need a letter of explanation as to why a Floor Mat Recall was not sent to me, or why a simple service advice regarding a floor mat issue was not addressed to me at any time I had my vehicle serviced at their Authorized service Centers... and an apology from them as well as how to rectify my losses and the effects of what I went through as a result of this accident.

[REDACTED]

Cc: Toyota Motor Corp.;NHTSA

Toyota knew of fire hazard, documents say

Recall due to bad switch first seen in 2008, papers say

By Angela Greiling Keane
Bloomberg News

Toyota Motor first learned in 2008 about a defect in power-window switches that Wednesday prompted it to recall 7.43 million vehicles worldwide for fire hazards, according to documents filed with U.S. regulators.

Toyota, based in Toyota City, Japan, received a report in September 2008 from the U.S. about "an unusual smell" from the power-window master switch and "thermal dam-

age" to the switch, the company said in a report posted today on the U.S. National Highway Traffic Safety Administration website.

The automaker sent the part to the supplier to investigate and no "root cause" was found. No other problems with the switch were reported until May 2010, when the company said it began sporadically receiving information about an abnormal smell or smoke coming from driver's side doors, according to the report.

"There was really no trend early on and it took considerable time to diagnose what seemed to be an

isolated problem and how it was occurring," John Hanson, a U.S.-based spokesman for Toyota, said in an e-mail.

In 2009 and 2010, Toyota, Asia's biggest carmaker, recalled a record number of vehicles worldwide for defects that may cause unintended acceleration. The company in April 2010 agreed to pay a record \$16.4 million U.S. fine for failing to promptly report the flaws with vehicle accelerator pedals.

"I'm a little disappointed in that Toyota didn't act sooner especially because of the debacle in 2010 and, more importantly, the tragedy in 2010," said Re-

becca Lindland, an analyst with IHS Automotive, referring to deaths that occurred due to unintended acceleration. "It's not surprising that they would delay given their pattern of resisting recalls historically."

The U.S. auto-safety

regulator opened an investigation into about 830,000 Camry cars and RAV4 crossover sport-utility vehicles in February after receiving six reports of fires that started in the window switch. It's received reports of nine injuries and 161 fires, Lynda Tran, a NHTSA spokeswoman, said.

"NHTSA is aware of the recall announced by Toyota yesterday and is in contact with the manufacturer," Tran said in an e-mail. "The agency's investigation remains open pending its review of Toyota's documents regarding its recall action."

THE ALL-ELECTRIC

TOYOTA

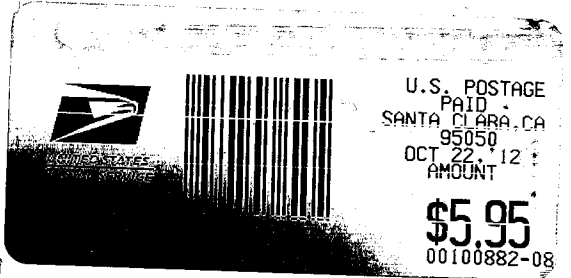


Santa Clara, CA

CERTIFIED MAIL™



7011 1150 0000 7882 9370



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1200 JERSEY AVE. SE
WEST BUILDING
WASHINGTON, DC 20590

