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INFORMATION ACT (FOIA), 5 U.S.C . 552(B)(6)

eq-10673083-4162

From: [EVOQ \(NHTSA\)](#)
To: [Fogle, Brenda CTR \(NHTSA\)](#)
Subject: FW: NHTSA: Follow up to ODI Complaint: ----10673083-----
Date: Monday, February 09, 2015 9:16:46 AM
Attachments: [COMPLAINTSAFETYGOV.docx](#)

From: [REDACTED]
Sent: Friday, February 06, 2015 4:23 PM
To: DataQuality, DataQuality (NHTSA); EVOQ (NHTSA)
Subject: Re: NHTSA: Follow up to ODI Complaint: ----10673083-----

Please add the following document to my complaint.

-----Original Message-----

From: EVOQ <EVOQ@dot.gov>
To: [REDACTED]
Sent: Fri, Feb 6, 2015 2:26 pm
Subject: FW: FW: NHTSA: Follow up to ODI Complaint: ----10673083-----

Please see the attached copy of your recent complaint and instructions. Please make any necessary edits and return via email to dataquality@dot.gov or fax to (202) 366-1767. Due to the volume of complaints we receive and our limited resources, we cannot respond to every complaint.

NHTSA/Office of Defects Investigation



Amended Complaint Number

Case # 10673083

1. [REDACTED] is an individual residing individual residing at [REDACTED] New Albany, Ohio [REDACTED]
2. On or about April 1 2008, [REDACTED] purchased a certified preowned 2006 Mercedes ML 350 SUV from Mercedes of Larchmont NY. VIN 4JGBB86E06A [REDACTED] (Hereinafter the “VECHICLE”).
3. The VECHICLE was “Mercedes PREOWNED CERTIFIED”.
4. Mercedes represented that “Mercedes PREOWNED CERTIFIED” means that the buyer can be sure that it is a quality used vehicle that has undergone a Comprehensive Check of Vehicle Systems and Equipment,” including “Under-Hood Inspection” and “Under-Vehicle Inspection
5. [REDACTED] purchased obtained financing from Mercedes Benz USA on or about April 12, 2008
6. [REDACTED] relied upon the aforementioned representations by Mercedes in deciding to purchase the Mercedes SUV. This included safety reliability and luxury, which was important as she was expecting her first child in two months.
7. The VECHICLE is equipped with Mercedes’ M272 engine.
8. The balance shaft gears in the Vehicle wore out with approximately 57,000 miles of use.
9. In August of this 2014 the vehicle stalled and the “check engine light” remained illuminated, and then eventually the vehicle stopped driving.
10. At the time the vehicle stopped because of the balance shaft gear failure, ’s husband

██████████ was in the vehicle with our two children (ages █████ and █████ years) on Route 161, a highly traveled, commercial road in Central Ohio. The Vehicle stopped in the middle of the road with heavy traffic going by at a rapid speed on either side of the vehicle, creating a very dangerous situation. In addition, almost immediate after the failure occurred and before being able to extract ██████████ and the two children from the Vehicle. It was not safe to stay in the vehicle because passing vehicles might not be able to identify the vehicle was stopped until it was too late. Thus, ██████████ needed to exit the vehicle and get to the side of the road, with two young children, on a busy road, in the rain.

11. The balance shaft gear defect which is known by Mercedes to cause premature failure, clearly creates a safety issue. The Vehicle had to be towed.
12. ██████████ had the Vehicle towed to a repair facility (Evans Automotive in Columbus Ohio) to diagnose the problem. A representative from Evans automotive phoned ██████████ and stated that he had to replace the fuse and the cam sensors and the cost would be approximately \$700.00.
13. ██████████ approved the repair.
14. Within 48 hours ██████████ picked up vehicle and noticed the check engine light was still illuminated.
15. ██████████ took it back to Evans automotive and upon further diagnosis they stated the balance gear shaft had to be replaced for an additional cost of \$7,000.
16. Upon further inspection, said repair facility declared that the Mercedes was **“UNSAFE TO DRIVE”** and noted that the code indicated a premature deterioration of the balance gear shaft. They also stated this appears to be a known issues with

- Mercedes and they issued a service bulletin identifying the repair needed.
17. The estimate for the repair cost was \$7,200 plus the additional expenses. [REDACTED] has already incurred (700.00).
 18. [REDACTED] then took the vehicle to Germain Mercedes of Easton, 4300 Morse Crossing Columbus, Ohio 43210, to get a diagnostic from an authorized dealer. The diagnostic was consistent with Evans automotive.
 19. [REDACTED] was charged 150.00 for the diagnostic and Mercedes noted that the camshaft solenoid had been recalled.
 20. At this time they performed the repair of the camshaft solenoid at no cost due to the recall.
 21. Upon completion of the repair the check engine light was still illuminated.
 22. After the repair the light remained illuminated and the issue was now in the engine timing belt/cam shaft balance gear.
 23. This issue has been known from Mercedes to cause drivability/safety issues and parts have been remanufactured.
 24. The crankshaft position sensor measures the rotational speed and the positional location of the crankshaft and transmits the data to the engine control computer. The symptoms of wear or failure include stalling problems, illumination of the check engine light and severe engine misfire.
 25. Whenever the crankshaft sensor is replaced, its electrical connector should be inspected for damage or wear.
 26. [REDACTED] has always diligently maintained this Vehicle, have had it serviced regularly by the authorized dealer. They refused to repair it under warranty.

27. Prior to the balance shaft gears failure, [REDACTED] brought the vehicle into the dealer in 2011 at approximately 34,000_miles in 2011 because the service engine light was on and the Vehicle was accelerating up to 50_mph, but no higher.
28. At this time Mercedes could have_informed [REDACTED] of the balance shaft defect or checked the wear on the gears or replaced the gear_with the repair kit materials at their cost, and while still under warranty
29. Upon further research [REDACTED] realized that this safety issue has been known by Mercedes Benz USA as evidenced through the Mercedes's diagnostic manuals alerting technicians to balance shaft gear problems in vehicles equipped with M272 engines prior to mid-2007, when Mercedes issued its first of a series of Technical Service Bulletins to its technicians informing them about the defective gears and instructing them on how to make appropriate repairs.
30. This defect was not brought to the attention of [REDACTED] when she purchased the vehicle or when it was serviced 16 times in a Mercedes Authorized dealer.
31. After speaking with another Mercedes dealer in Columbus Ohio (Crown Motors of Dublin) the service manager agreed to repair the vehicle for \$5,000 (including taxes),
32. [REDACTED] sought additional good faith relief from Mercedes Benz USA and after speaking to numerous case workers and escalating to the head of customer service Mr, Gareth Joyce. After five weeks of back and forth Mercedes agreed to cover another 20% of the cost.
- 33| [REDACTED] was concerned regarding the safety of the vehicle and asked the service manager to help her understand how a major malfunction could occur with only 57K miles on the vehicle.

34. [REDACTED] expressed concern and wanted to be reassured that after the repair this vehicle would be deemed safe to drive.
35. Mercedes personnel reassured her that Mercedes has issued new updated parts that are more reliable so [REDACTED] went ahead with the repair and paid \$2,800 additional to the \$850.00 she had already incurred.
36. After the repair she was able to get a picture of the gear shaft (see attached exhibit)
37. Following the repair she returned to driving the vehicle Less than 30 days after the above engine repair 's husband took the car with her two older children [REDACTED] and [REDACTED] years old) to the movies and the vehicle stopped accelerated on a major highway in Columbus (Interstate 270).
38. The vehicle would not accelerate past 20 miles per hour forced to try and get from the left lane over three lanes to a small shoulder in the highway.
39. It was a very dangerous situation as cars and trucks were driving by at approximately 70 miles per hour.
40. [REDACTED] than restarted the car and it seemed to reset the timing and worked again.
41. [REDACTED] immediately drove the car home.
42. [REDACTED] refused to have her children in this vehicle again as it is a major safety concern.
43. [REDACTED] notified the dealership (Crown Mercedes of Dublin) who did the repair and they requested she bring in the vehicle for a proper diagnostic to be performed to evaluate the problem.
44. [REDACTED] took the car in for service and less than 48 hours was told that the conductor plate inside the transmission would need to be replaced. Dealership said

- transmission plate that holds solenoids needs to be replaced. The repair would cost 1,500.00.
45. Furthermore Mercedes technicians informed [REDACTED] that due to an internal component failure Mercedes has released updated parts; the transmission will need to be removed and disassembled to complete the necessary repairs.
 46. [REDACTED] notified MBUSA seeking relief and also wanted to get an understanding why when the car experienced issues back in 2011 with acceleration the proper diagnostic to rule out this issue was not performed.
 47. In 2011 the car was under warranty and the proper diagnostic testing (plugging car into the Mercedes "Star Diagnostic" system) was not performed.
 48. The mechanic stated the rug was getting stuck that what caused the car to not accelerate.
 49. Mercedes refused to provide any assistance to [REDACTED] and she has repaired the vehicle at her cost \$1200.00.
 50. Mercedes also knew about this issues with the conductor as evident through the service bulletin and verification for diagnostic issues on in April 2011.
 51. [REDACTED] has not driven the vehicle since the repair as she is concerned for her safety.