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INFORMATION Redacted PURSUANT TO THE FREEDOM OF
 INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6)
 Printed: 12/28/2016

**NHTSA #: ES16-005857****XREF #:****Delivery: S10 E-MAIL****Rec'd Date: 12/28/2016****Doc Type: S10****Address To:****Referred By: NAD-200****Doc Date: 12/27/2016****Due Date:****S10 #: S10-161227-002****DOT/I #:****RMP #:**

**Subject: S10 APPROPRIATE HANDLING - COPY OF EMAIL COMPLAINT AND DEMAND SENT TO
 DAIMLER ON DECEMBER 12, 2016 REGARDING AL RESPONSE LETTER TO MERCEDES**

Ack Date:**Sign Office: AA FOR
 ENFORCEMENT****Cleared Date:****File Loc:****Added By: TMAPP x62870****Ack By:****Signature: AS APPROPRIATE****Cleared By:****XREF File:****Modified By: TAMMY.MAPP****Signed For:****Cleared For:****Closed Date: 12/28/2016****Most Recent Comment:****Author:**

DEC 30 2016

EXECUTIVE SECRETARIAT
 RECEIVED-NHTSA
 2016 DEC 28 P 3:36

Assigned To	Task	Asgn Date	Deadline	Returned Date
NEF-010	APPROPRIATE	12/28/2016		12/28/2016

RR
 123016
 SMP

Spriggs, Brian (OST)

From: Sanders, Ben (OST)
Sent: Tuesday, December 27, 2016 9:22 AM
To: Spriggs, Brian (OST)
Subject: FW: Response to letter from Mercedes
Attachments: 161214_asbury_agreement.pdf; 161214_asbury_complaint_9.6.16
_version_to_commission.pdf; Intentionally backdated letter from Mercedes.pdf;
Envelope postmarked December 16 2016.pdf; Response from Mercedes reference
number [REDACTED] Complaint and Demand.pdf; July 1st Service Record-1.pdf;
Gmail - Service Report from August 24th.pdf

From: [REDACTED]
Sent: Monday, December 26, 2016 3:55 PM
To: andrew.kambich@daimler.com
Cc: beate.mandelartz@daimler.com
Subject: Response to letter from Mercedes

December 26, 2016

EXHIBIT
RECEIVED-INTSA
2016 DEC 28 P 3:29

Good afternoon Mr. Kambich,

I am writing in response to the letter I just received from you on behalf of Mercedes-Benz USA, LLC. The letter was purportedly sent in response to the below attached Complaint and Demand sent to Daimler on December 12, 2016. **I have several serious concerns regarding your response to my Complaint and Demand the most glaring being the intentional backdating of the letter to December 15, 2015 to support your unlawful and unjustified denial of my Complaint and Demand.** The letter was backdated to support your unjustified and unlawful denial of my Complaint and Demand because on December 15, 2015, the date you used on your letter, the vehicle had only been in service for the issues I am complaining about once, October 29, 2015 (See letter attached below)

Ironically, while the letter is backdated to December 15, 2015 the envelope is postmarked December 16, 2016 which is the same date the FTC filed a Complaint against the dealer where I leased the 2015 Mercedes CLA250 4MATIC. The Complaint was for the exact behavior I am complaining about in my Complaint and Demand.

Similarly, the FTC's complaint against Georgia-based Asbury Automotive Group, which also does business as Coggin Automotive Group and Crown Automotive Group, alleges that the company made claims such as..."We find and fix problems - from bulbs to brakes - before offering a vehicle for sale." However, as alleged, the company advertised some...vehicles without adequately disclosing that some of the cars were subject to open recalls, including one that could cause fuel to leak and the engine to misfire or stall, and one that could cause a car to move in an unexpected or unintended direction.

As you know, my complaint centers around the vehicle violently jerking when shifting gears 1 thru 4, when coming to a complete stop, and getting stuck in 2nd gear. Most recently, I have had issues with brake failure, the brakes engaging while driving the vehicle and issues with the COMAND system malfunctioning. To date the car has been to the dealer 9 times for the same issue and out of service for 69 days. Six of the nine visits included repair attempts two of which occurred after MBUSA received two Lemon Law demand letters from me. Accordingly, contrary to your backdated letter the car more than meets the requirements of the Lemon Law statute in my state as well as all 50 states.

The backdating of the letter corresponds with the erroneous July 11th date and mileage listed on my service report from Plaza Motors, an Asbury Automotive dealer. As you know the car was at Plaza from July 1st until August 24th and 300 miles were put on the vehicle. However, the service report I received states the vehicle was picked up on July 11th and no mileage was put on the vehicle. Therefore, it appears that the letter was sent in furtherance of concealing the behavior complained about in the FTC's

Complaint which I attached below. Both of the aforementioned are federal crimes as codified by Title 49 Subtitle VI of the United States Code. (See July 1st Service Report and Email to Service Manager attached below)

However, despite the aforementioned MBUSA has refused act in accordance with the Lemon Law Statute or even honor the vehicle's warranty. Further, in addition to sending the intentionally backdated letter, MBUSA attempted to make my account appear delinquent by charging an unwarranted late fee in retaliation for my complaint. The late fee was charged in spite of my payments never being late.

I must say that I am truly upset and appalled by the behavior I have encountered. Unfortunately, I can think of no justifiable reason for the blatantly hostile, retaliatory and illegal treatment I have encountered besides Mercedes belief that there will be no consequences for these unlawful actions because of my race.

The impression I have received from your correspondence is that my complaints/concerns can be dismissed because I am black. You never contacted me by phone to discuss the ongoing vehicle issues prior to sending your letter which as I understand it is unprecedented.

Additionally, it is my belief that my race is the reason an unjustified late fee was added to my account in retaliation for my complaints regarding the ongoing unaddressed safety issues plaguing the vehicle. The late fee was added despite my payments never being late. I can almost guarantee that if I were Caucasian this issue would have been resolved months ago. In fact, I can support this claim with examples of several similarly situated Caucasian Mercedes drivers who have had ongoing vehicle issues and who had their complaints immediately resolved by you. Those drivers most certainly did not receive a letter that had been intentionally backdated to a date before their vehicles met the legal requirements for being deemed a Lemon.

I have upheld my end of our agreement; however, Mercedes has refused to do the same. The only difference I can find between myself and the other Mercedes drivers I referenced above is the color of my skin. Throughout this months long nightmare I have maintained my willingness to amicably resolve this ongoing problem, yet, instead of working with me MBUSA has responded by doctoring documents to hide the problem, refusing to honor the warranty, and retaliating because I complained about the vehicle's safety defects.

Words cannot express how deeply disappointed I am to discover that discrimination is the reason Mercedes has refused to resolve this issue and instead forced me to drive an unsafe vehicle.

Sincerely,

[REDACTED]

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

In the Matter of

**Asbury Automotive Group, Inc.,
also d/b/a Coggin Automotive Group and
Crown Automotive Group,
a corporation;**

**AGREEMENT CONTAINING
CONSENT ORDER**

FILE NO. [REDACTED]

AGREEMENT CONTAINING CONSENT ORDER

The Federal Trade Commission has conducted an investigation of certain acts and practices of Asbury Automotive Group, Inc. also d/b/a Coggin Automotive Group and Crown Automotive Group, a corporation ("proposed respondent"). Proposed respondent, having been represented by counsel, is willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

IT IS HEREBY AGREED by and between Asbury Automotive Group, Inc., also d/b/a Coggin Automotive Group and Crown Automotive Group, by its duly authorized counsel, and counsel for the Federal Trade Commission that:

1. Proposed respondent Asbury Automotive Group, Inc., also d/b/a Coggin Automotive Group and Crown Automotive Group, is a Delaware corporation, with its principal office or place of business at 2905 Premiere Parkway, NW, Suite 300, Duluth, GA 30097.
2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint.
3. Proposed respondent waives:
 - a. Any further procedural steps;
 - b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
 - c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to proposed respondent's address as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed respondent waives any rights it may have to any other means of service. The complaint may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

6. Proposed respondent has read the draft complaint and consent order. Proposed respondent understands it may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. Unless otherwise specified, "Respondent" shall mean Asbury Automotive Group, Inc., also d/b/a Coggin Automotive Group and Crown Automotive Group, and its successors and assigns.

2. "Advertisement" shall mean a commercial message in any medium that directly or indirectly promotes a consumer transaction.

3. "Clearly and conspicuously" shall mean that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

- a. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be made through the same means through which the representation requiring the disclosure is presented.
- b. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
- c. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
- d. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
- e. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
- f. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
- g. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

4. "Material" shall mean likely to affect a person's choice of, or conduct regarding, goods or services.

5. "Motor vehicle" shall mean:

- a. Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;
- b. Recreational boats and marine equipment;
- c. Motorcycles;
- d. Motor homes, recreational vehicle trailers, and slide-in campers; and
- e. Other vehicles that are titled and sold through dealers.

I.

IT IS HEREBY ORDERED that Respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with the marketing, advertising, offering for sale, or sale of used motor vehicles to consumers shall not, in any manner, expressly or by implication:

A. Represent that used motor vehicles that Respondent offers for sale are safe, have been repaired for safety issues, or have been subject to an inspection for issues related to safety unless:

1. The used motor vehicles are not subject to any open recalls for safety issues, and the representation is otherwise not misleading, or
2. Respondent discloses, clearly and conspicuously, and in close proximity to such representation, any material qualifying information related to open recalls for safety issues, including but not limited to:
 - i. the fact that its used motor vehicles may be subject to unrepaired recalls for safety issues, and
 - ii. how consumers can determine whether an individual motor vehicle is subject to an open recall for a safety issue that has not been repaired,

and the representation is otherwise not misleading. *Provided further that* if Respondent receives any written notification from a manufacturer that an individual used motor vehicle is subject to an open recall for a safety issue, Respondent must clearly and conspicuously provide to the consumer, prior to the consummation of the sale of that used motor vehicle, either (a) any written notification from a manufacturer that Respondent has received that the motor vehicle is subject to an open recall for a safety issue, or a document that conveys the same information using a substantially similar format, or (b) a written notification that clearly and conspicuously conveys that the vehicle is subject to an open recall that is unrepaired, and the safety risks associated with the recall, that is made available by the U.S. Department of Transportation's National Highway Traffic Safety Administration ("NHTSA") or a commercial provider of recall information.

B. Misrepresent the following:

1. Whether there is or is not an open recall for safety issues for any used motor vehicle;

2. Whether Respondent repairs used motor vehicles for open recalls for safety issues; and
3. Any other material fact about the safety of the used motor vehicles it advertises for sale.

II.

IT IS FURTHER ORDERED that Respondent, within sixty (60) days of entry of this Order, must provide, by first class mail to the last known address of every consumer who purchased a certified used motor vehicle from Respondent between July 1, 2013 and September 2, 2015, a notice on Respondent's letterhead that clearly and conspicuously discloses the following:

“We want to alert you that some of the used vehicles we recently sold had been recalled for safety issues, but weren't repaired as of the date they were sold. You can check whether the vehicle you bought from us is subject to an unrepaired recall at the National Highway Traffic Safety Administration's recall website, <https://vinrcl.safercar.gov/vin/>. That site also provides information on how to get your vehicle fixed if it's been recalled.”

Respondent shall not include any advertising, marketing, or other promotional information in the notice. Moreover, the mailing shall not include any other documents. The envelope enclosing the notice shall have printed thereon in a clear and conspicuous fashion the disclosure “Important Safety Recall Information.”

Provided, however, that Respondent is not required to provide this notice for (A) any motor vehicle that Respondent can demonstrate was not subject to an open recall for a safety issue at the time of purchase and delivery, or (B) any motor vehicle that was the subject of one or more open recalls for safety issues at the time of purchase and delivery that Respondent can demonstrate have subsequently been fixed.

For purposes of Subpart (A) of this proviso, records showing that the vehicle was not listed as subject to an open recall for a safety issue, as of the date of the purchase, on the Original Equipment Manufacturer's recall database, on the National Highway Traffic Safety Administration's www.safercar.gov database, or on a database with information on vehicle recalls that is generally accepted based on the expertise of professionals in the relevant area to yield accurate and reliable results, shall be deemed to be sufficient to demonstrate that the vehicle was not subject to an open recall for a safety issue at the time of purchase and delivery.

For purposes of Subpart (B) of this proviso, (i) repair records generated by the dealer in the ordinary course of business that demonstrate that a vehicle with an open recall for a safety issue

has been repaired; or (ii) records showing that the vehicle is no longer listed as subject to an open recall for a safety issue on the Original Equipment Manufacturer's recall database, on the National Highway Traffic Safety Administration's www.safercar.gov database, or on a database with information on vehicle recalls that is generally accepted based on the expertise of professionals in the relevant area to yield accurate and reliable results, shall be deemed sufficient to demonstrate that an open recall for a safety issue has been fixed.

III.

IT IS FURTHER ORDERED that Respondent shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Commission for inspection and copying:

- A. Each advertisement or other marketing material that makes any representation covered by the order unless, in comparison to an advertisement or other marketing material already maintained by Respondent pursuant to this Section, the advertisement or marketing material: (i) is a duplicate, or (ii) differs only in the description of the vehicle in ways not related to any representations covered by this order;
- B. All materials that were relied upon in disseminating the representation;
- C. All evidence in its possession or control that contradicts, qualifies, or calls into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and
- D. Any documents reasonably necessary to demonstrate full compliance with each provision of this order, including but not limited to all documents obtained, created, generated, or that in any way relate to the requirements, provisions, or terms of this order, and all reports submitted to the Commission pursuant to this order.

IV.

IT IS FURTHER ORDERED that Respondent shall deliver a copy of this order to all current and future principals, officers, and directors, and to all current and future managers, employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order, with any electronic signatures complying with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.* Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

V.

IT IS FURTHER ORDERED that Respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however*, that, with respect to any proposed change in the corporation about which Respondent learns less than thirty (30) days prior to the date such action is to take place, Respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The subject line must begin: *In re Asbury Automotive Group, Inc.*

VI.

IT IS FURTHER ORDERED that Respondent, within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit additional true and accurate written reports.

VII.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any Respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that Respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and

the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Signed this ____ day of _____, 2016.

ASBURY AUTOMOTIVE GROUP, INC.

Dated: _____

By: _____

Name: DAVID W. HULT

Title: EVP and COO

Dated: _____

LUCY MORRIS

HUDSON COOK, LLP

Attorney for Respondent

FEDERAL TRADE COMMISSION

Dated: _____

COURTNEY A. ESTEP
EVAN ZULLOW
Counsel for the Federal Trade Commission

APPROVED:

DUANE POZZA
Acting Assistant Director
Division of Financial Practices

MALINI MITHAL
Acting Associate Director
Division of Financial Practices

JESSICA L. RICH
Director
Bureau of Consumer Protection

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Edith Ramirez, Chairwoman**
 Maureen K. Ohlhausen
 Terrell P. McSweeney

In the Matter of

Asbury Automotive Group, Inc.,
also d/b/a Coggin Automotive Group and
Crown Automotive Group,
a corporation;

DOCKET NO.

COMPLAINT

The Federal Trade Commission, having reason to believe that Asbury Automotive Group, Inc., also d/b/a Coggin Automotive Group and Crown Automotive Group, a corporation ("Respondent"), has violated provisions of the Federal Trade Commission Act ("FTC Act"), and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent is a Delaware corporation, with its principal office or place of business at 2905 Premiere Parkway, NW, Suite 300, Duluth, GA 30097. Respondent has marketed, advertised, offered for sale, and sold used motor vehicles.
2. The acts or practices of Respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
3. Since at least November 2014, Respondent has disseminated or has caused to be disseminated advertisements promoting the sale of used motor vehicles.
4. Respondent's advertisements include, but are not necessarily limited to, advertisements and marketing materials posted on the websites www.cogginauto.com and www.crownauto.com, excerpts of which are attached as Exhibits A through E. On its website, on a page prominently titled "Coggin Certified," and on other pages similarly touting the "Crown Automotive Certified Program," it makes claims which include the following representations regarding certified used vehicles:

"Inspected, Reconditioned & Certified

Every Coggin Certified used car or truck has undergone a 150 point bumper-to-bumper inspection by Certified mechanics. We find and fix problems - from bulbs to brakes - before offering a vehicle for sale."

Exhibit A (excerpt from www.cogginauto.com)

"Our Crown Certified Used Vehicles Include: | 150 Point Bumper-to-bumper inspection . . .

Inspected, Reconditioned & Certified

Every Crown Certified used car or truck has undergone a 150 point bumper-to-bumper inspection by Certified mechanics. We find and fix problems from bulbs to brakes before offering a vehicle for sale."

Exhibit B (excerpt from www.crownauto.com).

"...Are your used cars inspected?

Answer: Yes, Crown Automotive sends every Crown Certified used vehicle through a rigorous 150 point inspection to ensure that every vehicle is in top shape before you take it home. It is important to Crown that every feature of your vehicle work as it should so that you have peace of mind before you leave the dealership.

...What are certified used cars?

Answer: It's the reliability of new and the affordability of pre-owned car. A certified used car must go through a rigorous inspection. The certification comes from the manufacturers to ensure top quality of the pre-owned car being sold to you. Crown Automotive also offers Crown Certified used vehicles."

Exhibit C (excerpt from www.crownauto.com).

5. Even though it makes the claims set forth in Paragraph 4, Respondent has advertised numerous certified used vehicles subject to open recalls for safety issues on its websites.

6. In some instances, these open recalls for safety issues have included recalls for defects that can cause serious injury. For example, Respondent has advertised a certified used vehicle that has a recall for defects, which, among other things, could cause fuel to leak out and the engine to misfire or stall; thereby increasing the risk of a crash. Respondent has also advertised a certified used vehicle that has an open safety recall for a defect that can cause the vehicle to move in an unexpected or unintended direction, thereby increasing the risk of a crash.
7. In numerous instances, when Respondent has advertised certified used vehicles that are subject to open recalls for safety issues making the claims set forth in Paragraph 4, it has provided no accompanying clear and conspicuous disclosure of this fact.
8. When consumers search for particular categories of vehicles on Respondent's websites, there is no disclosure regarding open recalls for safety issues. An example of such search results includes the following:



2011 Honda Civic LX Sedan

Stock #: [REDACTED]
 Exterior Color: Pewter
 Interior Color: Beige
 Body Style: Sedan
 Transmission: Manual 5 Speed
 Location: Coggins Honda Jacksonville
 Mileage: 26541
 more...

Certified Pre-Owned

HONDA

Internet Price **\$12,994**

Get Internet Price

Compare ☐

Compare Selected



2011 Nissan Juke SUV

Stock #: [REDACTED]
 Exterior Color: Sapphire Black
 Interior Color: Black
 Body Style: SUV
 Transmission: Manual 6 Speed
 Location: Courtesy Nissan of Tampa
 Mileage: 25886
 more...

Certified Pre-Owned

NISSAN

Internet Price **\$16,991**

Get Internet Price

Compare ☐

Compare Selected



2011 Hyundai Sonata Sedan

Stock #: [REDACTED]
 Exterior Color: Radiant Silver
 Interior Color: Gray
 Body Style: Sedan
 Transmission: Automatic
 Location: Courtesy Hyundai
 Mileage: 42062
 more...

Certified Pre-Owned

HYUNDAI

Internet Price **\$18,991**

Get Internet Price

Compare ☐

Compare Selected



2011 Hyundai Sonata Sedan

Stock #: [REDACTED]
 Exterior Color: Camel
 Interior Color: Beige
 Body Style: Sedan
 Transmission: Automatic
 Location: Courtesy Hyundai
 Mileage: 54497
 more...

Certified Pre-Owned

HYUNDAI

Internet Price **\$13,991**

Get Internet Price

Compare ☐

Compare Selected

Exhibit D at 3.

9. Until at least June 2015, when consumers have viewed specific vehicle listings on Respondent's websites, there has been no disclosure regarding open recalls for safety issues. An example of such a listing includes the following:



[Search Inventory](#)
[Search](#)

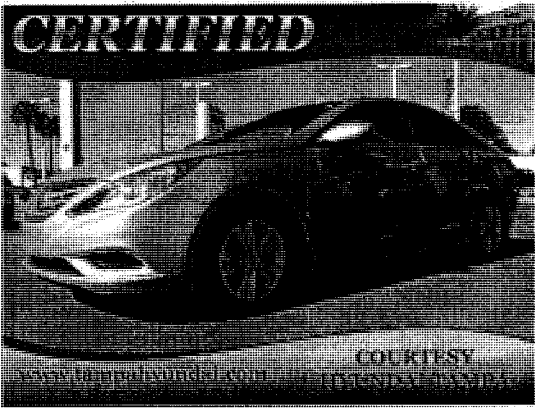
[Home](#)
[Inventory](#)
[Research](#)
[Finance](#)
[Service & Parts](#)
[Specials](#)
[Collision](#)
[Dealerships](#)
[Map & Locations](#)
[Careers](#)

2011 Hyundai Sonata Sedan

Back To Inventory Share

**Price excludes tax, tag, dealer installed options, \$98 private tag agency fee and \$999.00 pre-delivery service fee.

Photos Video



COURTESY



Request More Info

First Name*

Last Name*

Preferred Contact*

Email*

Home Phone

Comments

Submit

Internet Price **\$13,991**

Get Internet Price

Your estimated monthly payment:
\$221 per month
60 Months @ 6.9% A.P.R. (estimated financing rate)
 (\$2,799 Down Payment)

☐ Calculate another payment

Save This Car

Get Price Alerts

HYUNDAI
 Certified Pre-Owned

SHOW ME THE FREE CARFAX
VEHICLE HISTORY REPORTS

Vehicle Location

Courtesy Hyundai
 3810 W. Hillsborough

Overview Options & Packages Tech Specs

Details

VIN: SNPEB4AC8BH City MPG **22** Hwy MPG **35**

Stock #: BH

Body Style: Sedan

Engine: 2.4L I-4 cyl Actual rating will vary with options, driving conditions, habits and vehicle condition.

Transmission: Automatic

Drive Line: Front-wheel Drive

Exterior Color: Camel

Interior Color: Beige

Mileage: 54497

Location: Courtesy Hyundai

Exhibit E.

- To uncover any information about open recalls for safety issues through Respondent's website, a consumer would have to locate the "Carfax" link on the search results page or the vehicle listing page and click on it to access a vehicle history report, although the "Carfax" link provides no descriptive information or in any way conveys that it contains

important safety information about recalls. Moreover, in numerous instances, even these reports omit information about open recalls for safety issues.

VIOLATION OF THE FEDERAL TRADE COMMISSION ACT

Count I

11. In connection with the marketing, advertising, offering for sale, or sale of used motor vehicles, Respondent has represented, directly or indirectly, expressly or by implication, that used motor vehicles it sells have been subject to rigorous inspection, including for safety issues.
12. In numerous instances in connection with the representation set forth in Paragraph 11, Respondent has failed to disclose, or disclose adequately, that used motor vehicles it sells are subject to open recalls for safety issues.
13. Respondent's failure to disclose, or disclose adequately, the material information set forth in Paragraph 12 above, in light of the representation described in Paragraph 11, above, constitutes a deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THEREFORE, the Federal Trade Commission, this ____ day of ____, 2016, has issued this complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL:



Mercedes-Benz

Mercedes-Benz USA, LLC
Customer Assistance Center

December 15, 2015

[REDACTED]
Gregory, MI [REDACTED]

Re: 2015 Mercedes-Benz CLA250C4; WDDSJ4GB4FN [REDACTED]

Dear [REDACTED]

Thank you for your contact to our Customer Assistance Center. Please be assured that Mercedes-Benz USA, LLC (MBUSA) has reviewed your request concerning the above-referenced vehicle.

After a thorough review of the request it was confirmed that your vehicle does not qualify for refund or replacement. Our records and investigation indicate that the subject vehicle's repair history does not qualify it for repurchase or replacement under the "Lemon Law." More specifically, in order to legally qualify for MBUSA to offer restitution or replacement, the subject vehicle must have defects covered by MBUSA's written warranty which substantially impaired its use, value and/or safety which were not repaired after a reasonable number of attempts. As your vehicle's repair history does not meet these legal requirements, MBUSA must therefore respectfully decline your request to repurchase the above-mentioned vehicle.

Additionally, MBUSA rejects all other claims regarding alleged violations of the law as they pertain to your vehicle.

MBUSA will continue to honor all of the terms of any remaining Mercedes-Benz Warranty.

Sincerely,

Andrew Kambich
Aftersales Operations Manager
Mercedes-Benz USA, LLC

AK/ec/dl

Mercedes-Benz USA, LLC
Three Mercedes Drive
Montvale, NJ 07645-0350
Phone 1-800-FORMERCedes
(1-800-367-6372)
Fax (201) 476-6213
www.MBUSA.com



Mercedes-Benz are registered trademarks of Daimler AG, Stuttgart, Germany

S10-161227-002

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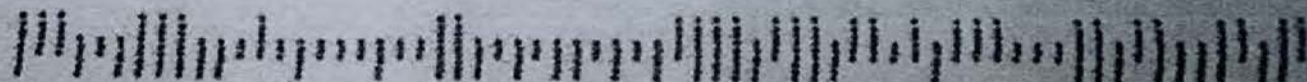
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[REDACTED]
Gregory, MI [REDACTED]





reference number: [REDACTED]

Mon, Dec 19, 2016 at 2:32 PM

To: beate.mandelartz@daimler.com

Good afternoon Mr. Mandelartz,

I am writing to follow up with you regarding your email and with new information regarding the vehicle. This past Friday my vehicle was almost involved in an accident while driving in moderate winter conditions. The vehicle almost hit another vehicle, a sign and a guardrail because the anti-lock brakes and Collision Prevention Assist system failed to engage. I have never before experienced the kind of brake failure I experienced on this vehicle. There is also an issue with the COMAND system. I have not contacted the dealership because as I mentioned in my initial correspondence I have had zero success with getting the vehicle repaired. To date, I have not received any communication from Mercedes-Benz USA beyond your initial email. Thus, the reason I am notifying you of the most recent mechanical failures. Thank you in advance for your prompt attention to this ongoing problem.

Sincerely,

On Dec 14, 2016, at 10:54 AM, beate.mandelartz@daimler.com wrote:

Dear [REDACTED]

Thank you for your letter addressed to Dr Dieter Zetsche, Chairman of the Board of Management of Daimler AG and Head of Mercedes-Benz Cars.

We are very sorry that your experience with Mercedes-Benz has not met your expectations.

Due to the fact that this issue solely falls into the responsibility of Mercedes-Benz USA, we have forwarded your correspondence to our colleagues, and they will contact you accordingly. We will continue to keep an eye on the further steps and receive feedback, which will be reported to our Board of Management.

Meanwhile we wish you all the best!

Yours sincerely

Mit freundlichen Grüßen

Beate Mandelartz
Daimler Team for the Board of Management /
Daimler Kundenbetreuungsteam für den Vorstand

Daimler AG

Sitz und Registergericht/Domicile and Court of Registry: Stuttgart

HRB-Nr./Commercial Register No. 19360

Vorsitzender des Aufsichtsrats/Chairman of the Supervisory Board: Manfred Bischoff

Vorstand/Board of Management: Dieter Zetsche (Vorsitzender/Chairman), Wolfgang Bernhard, Renata

Jungo Brüngger, Ola Källenius, Wilfried Porth, Hubertus Troska, Bodo Uebber, Thomas Weber

If you are not the addressee, please inform us immediately that you have received this e-mail by mistake, and delete it. We thank you for your support.

TO: Daimler and Mercedes Benz USA
FROM: [REDACTED]
DATE: December 12, 2016
SUBJECT: Regulatory Complaint and Demand

Sent via email

I. COMPLAINT

Repair Attempts

[REDACTED] leased her 2015 Mercedes Benz CLA250 on August 16, 2015. Beginning in October of 2015 she began having problems with the vehicle. The vehicle began violently jerking when shifting gears 1 thru 4 and when coming to a complete stop. [REDACTED] began taking her vehicle into service for this issue on October 29, 2015. The vehicle was not repaired. [REDACTED] brought the car in for regular service on December 16, 2015 and again complained about the vehicle violently jerking when shifting from gears 1 thru 4 and when coming to a stop. Again, the vehicle was returned without any repairs being done. On or about February 16th Ms. [REDACTED] was driving to work and the car would not shift out of 2nd gear. The engine revved and the RPMs rose extremely high but the car would not shift out of gear. [REDACTED] immediately contacted Plaza Motors regarding the problem. Plaza had no answer as to why the car became stuck in 2nd gear and requested that she bring the car in the following day. On February 17, 2016 [REDACTED] dropped the vehicle off at Plaza and reiterated her concerns about the vehicle violently jerking and getting stuck in gear. Again, Plaza returned the vehicle the same day without repairing it.

On June 8, 2016 [REDACTED] took her car in for service and again complained about the car violently jerking when shifting gears, when stopping, getting stuck in gear and now vibrating when driving as well as braking. On June 10, 2016 Plaza service manager called and said that he could not figure out why the car violently jerked while shifting gears and stopping. Because the problems had been occurring for 6 months and were becoming increasingly worse [REDACTED] began researching the problem and found that this was a common complaint among 2014 and 2015 CLA owners/lessees. [REDACTED] shared the information she found regarding the transmission issues along with proposed fixes with the service manager. The information was disregarded and the car was returned without any repairs to address the jerking issue.

On July 1, 2016 [REDACTED] took the vehicle back into service because it was again violently jerking while shifting from gears 1 - 4, stopping and getting stuck in gear. Prior to taking the car in for service [REDACTED] contacted Mercedes Benz corporate office to notify them of the ongoing issues and to request that they ensure necessary repairs are made to the vehicle. As a result of the email, [REDACTED] was contacted by Mercedes Benz Corporate Customer Care Manager Irene G who assured her that they would perform a comprehensive inspection on the vehicle and make all necessary repairs in accordance with the warranty.

On July 11, 2016 [REDACTED] sent her service advisor Morgan Mikel and Irene G a video of the transmission jerking she has been complaining about after receiving a call from Plaza saying that they could not duplicate the problem to make repairs. She never received a response to her email. On July 26, 2016 she was contacted by Plaza and told that they could not repair the car because they could not duplicate the issue. On or about July 27, 2016 [REDACTED] again emailed Mercedes Benz executives with her concerns regarding the problems with the vehicle and the lack of repairs. The next day she received a call from Irene G at Mercedes Benz Corporate. Irene stated that she thought the problem had been fixed and [REDACTED] had her car. Apparently Plaza did not follow up with her and she did not follow up with them. For the next three weeks [REDACTED] and Irene had several conversations but no resolution. The car remained at Plaza Motors.

Finally on August 19th Irene contacted [REDACTED] and said that Mercedes was willing to exchange her current CLA for a C-Class Mercedes and provide her with a \$1500 incentive. She was then contacted by Plaza's sales department who immediately began searching for a new vehicle for [REDACTED]. The entire transaction was scheduled to be finalized early the next week. On Monday August 22, 2016 [REDACTED] was contacted by Plaza's sale department and informed that Mercedes was not going to replace her nonconforming vehicle with a new one. She then contacted Irene G at Mercedes Customer Service who was surprised to hear the new information Plaza conveyed to [REDACTED]. She requested the opportunity to look into the issue and get back to [REDACTED]. After a brief hold Irene returned to the phone and confirmed that Mercedes would no longer be replacing [REDACTED] nonconforming vehicle with a new one. She stated that it would be up to [REDACTED] to get out of the lease but she was welcome to use the \$1500 incentive. Shortly after speaking with Irene she was contacted by the service manager and asked to pick up her vehicle.

Demand Letters Letters/Notifications of nonconformity to Mercedes

On August 23, 2016 [REDACTED] sent an email to Mercedes Benz executives including the lead engineer outlining her concerns about the vehicle and the repeated failed repair attempts. On or about August 24th [REDACTED] picked her vehicle up from Plaza. Again no work was performed despite the car being in service for 53 consecutive days. Her car immediately began violently jerking while shifting gears and stopping. She drove the vehicle to Mercedes Benz of St. Louis and made an appointment for service for the next day. On August 25th [REDACTED] took the car in for service at Mercedes Benz of St. Louis. Again the car was returned with no work being performed and she was given no service report for her records. Shortly after picking up her car she was contacted by Irene G who purported to be responding to her email to the Mercedes executives. Irene G reiterated Mercedes position regarding the nonconforming vehicle in a voicemail. [REDACTED] responded via email again reiterating her concerns about the vehicle and Mercedes decision to breach the oral agreement it made with [REDACTED] to replace the vehicle. On or about September 2, 2016 while examining her service records [REDACTED] noticed that Plaza used incorrect information on her service report from July 1st. The service report stated

that her vehicle was released to her on July 11, 2016 and that no miles were put on the car. This was incorrect. The car was not released until August 24th, 43 days after the date on the service report, and they put 300 miles on the car while it was in service. [REDACTED] immediately notified Plaza's service manager via email of the incorrect information on the service report.

Shortly after [REDACTED] retained counsel who sent Mercedes a demand letter pursuant to the applicable law demanding that they comply with Michigan Lemon Law. Mercedes did not respond to the first notification. On September 12, 2016 [REDACTED] took the car back into service for the same problem violently jerking while changing gears, stopping, and getting stuck in gear. The dealership performed a software update which is not listed on the service report. On September 15, 2016 [REDACTED] contacted Mercedes Benz of St. Louis via email to notify them that the problems with the transmission violently jerking while shifting gear, stopping and getting stuck in gear and whether she should bring the car into them to check for codes. She never received a response from the service department. Approximately, two weeks later Mercedes received another demand letter regarding the nonconforming vehicle. On or about the first week of October Mercedes responded again refusing to replace the nonconforming vehicle. It was at this time that [REDACTED] terminated her relationship with her attorney. On October 11, 2016 [REDACTED] filed a complaint against Mercedes with the Consumer Financial Protection Bureau for violations of the Consumer Leasing Act due the extra expenses she was incurring due to the vehicle problems. Mercedes Benz Financial Services responded saying that they were sending the complaint to MBUSA for follow up.

On or about October 14th [REDACTED] was contacted by Irene G who reiterated Mercedes position to not replace the vehicle or repair the vehicle. On or about October 20, 2016 Ms. [REDACTED] filed a complaint with Missouri Attorney General regarding the nonconforming vehicle. On October 25, 2016 [REDACTED] took the car into service for the same issue; however, this time the car's electrical system went out prior to violent jerking while shifting gears and stopping. She took pictures of the instrument panel when the incident occurred and provided them to the service advisor.

On October 26th the car was returned. No repairs were done to the transmission; however, the COMAND system was updated. The service report attempts to allege that the electrical outage and transmission issues were caused by [REDACTED] resetting the system, or human error which is misleading and a misrepresentation of the facts. [REDACTED] reset the system after it malfunctioned per the instructions provided by MBACE.

Lemon Law Claim Review

On or about November 14th [REDACTED] sent Mercedes Benz another demand letter regarding the nonconforming vehicle and made an offer of settlement. On November 16th Ms. [REDACTED] was contacted by Kyla, an Executive Referral Manager. Kyla stated that they were evaluating [REDACTED] vehicle for buy back pursuant to Michigan Lemon Law. She stated in her correspondence that the evaluation would take 2 to 3 business weeks. On November 21, 2016

██████ took the vehicle in to Mercedes Benz of St. Clair Shores in Michigan after experiencing the same issues driving from St. Louis MO to Michigan. She received a loaner vehicle, a 2016 CLA250 4Matic and the driving differences were so significant that every passenger who rode in the loaner car and had previously been in her car could tell the difference in the two vehicles.

On Tuesday November 22, 2016 after corporate received notification that her car was back in service, Kyla contacted ██████ and stated that Mercedes was rejecting her Lemon Law Claim, a mere 7 days after the review was initiated. ██████ inquired as to why the review only took 7 days and not the 2 to 3 business weeks outlined in Kyla's initial email and was told that this case only took 7 days. Shortly, after receiving Kyla's email ██████ received a call from Juan Benjamin a new car salesperson at Mercedes Benz of St. Clair Shores who was directed by Mercedes Benz Corporate to contact ██████

She explained the issues with her vehicle to Mr. Benjamin who said he would check into it and get back to her. Shortly after she received a series of text messages with pictures of a white vehicle from Mr. Benjamin. The text were highly inappropriate due to her not giving him permission to contact her via text. His messages included an offer to trade in her vehicle for a 2014 E350 for \$1000 down and \$650/month. ██████ rejected the offer for the older car that costs \$220 more per month than her car. It was at this time that ██████ learned of Mercedes knowledge of the jerking issues plaguing the CLA and their repair of certain vehicles. She also learned that the \$1500 incentive she was given by Irene G was meant to be reimbursement of her car and insurance payment for the two months her car was at Plaza Motors.

On November 28, 2016 she picked her car up from Mercedes Benz of St. Clair Shores. Again no repairs were made to the vehicle. Additionally, the service report attempted to state that ██████ accidentally hits the Manual gear paddles located on both sides of the steering wheel and that is the cause of the jerking while driving and stopping. The service report was attached to an initial quick test and final quick test that contained the error codes found on her vehicle. She disputed the inclusion of human error on the service report and refused to sign the report until the false information was removed. The dealer complied but removed the initial quick test and final quick test reports from the service paperwork. ██████ requested the tests but the service advisor refused falsely claiming that this information was for internal use only.

Lemon Laundering of 2014/2015 MB CLAs

It was also at this time that she learned Mercedes had been quietly contacting drivers who purchased not leased their 2014/2015 CLA and offering them the opportunity to trade in their current CLA for a brand new 2016 CLA for no out of pocket cost. In some instances, Mercedes offered financial payments to 2014/2015 CLA owners to trade their current vehicle for a 2016 CLA. Less than 10 minutes after leaving the dealership the car began violently jerking while shifting and stopping.

Naturally, [REDACTED] contacted Kyla via email at MBUSA to inquire about the CLA trade in program and request that she be included. Also, she requested that the \$1500 reimbursement for the 2 months car and insurance payment be applied to her account instead of as an incentive that she could not use due to its expiration in one year and Mercedes refusal to buyback or trade her nonconforming vehicle. Kyla attempted to state that the CLA trade in program was a dealer program not a manufacturer program which is patently false. [REDACTED] responded by saying that she was told this was a manufacturer program and reiterated her desire to participate. Additionally, she requested all of the initial and final quick tests performed on her vehicle including the most recent tests. To date, she has received no response from Kyla or anyone else at Mercedes Benz. [REDACTED] later discovered that the no cost upgrade trade in/ buyback program was only for people who purchased their 2014/2015 CLAs because they were not included in the ADAS&ME/PEGASUS project. The car is still jerking violently while shifting, stopping and getting stuck in gear.

ADAS&ME/PEGASUS Research Project

On or about December 9th [REDACTED] received information that indicated her vehicle issues were being caused by a software conflict. The information disclosed that the conflict is the result of duplicate automated driving software programs and mechanisms that were installed on the vehicle because both she and her vehicle are being studied as part of the ADAS&ME project that Daimler and several Daimler supplier software manufacturers are a part of via the PEGASUS subproject. The project is a Horizon 2020 project that just started. Develop Advanced Driver Assistance Systems (ADAS) that incorporate driver/rider state, situational/ environmental context and adaptive interaction, to automatically transfer control between vehicle and driver/ rider and thus ensure safer and more efficient road usage for all vehicle types (conventional and electric car, truck, bus, motorcycle)

The problems [REDACTED] have been complaining about for the past 12 months, the vehicle violently jerking while shifting from gears 1 - 4, stopping and getting stuck in gear. The specific list of software and their manufacturers are as follows:

Autoliv

- **Collision Prevention Assist Plus/Attention Assist:** radar devices directs a vehicle's accelerator and braking systems, controlling the distance between it and another vehicle. The radar sensors note vital information, such as range, angle and doppler velocity. This information is used to determine the driving situation and warn the driver in potentially dangerous events. If the driver does not take appropriate action in time and a crash is about to happen, advanced radar systems take control of the vehicle, collision mitigation by braking.
- **The electronic control unit (ECU)** integrates active and passive safety. The System monitors the environment around the vehicle and control the vehicle motion. This Electronic Safety Domain Controller (ESDC) links all safety sensors (including the environmental sensors such as radars) and all actuators that control vehicle motion (brakes, steering, and engine/ transmission).
- **Brake Assist System Brake Actuation and Brake Control:** building blocks towards autonomous driving integrating with active and passive safety. Antiskid Brake System, is equipped with sensors that detect the vehicle's instability when over-steering or under-steering occurs. The system applies the brakes, controls the engine output, and instantly stabilizes the behavior of the vehicle.
- **Hill Start Assistance** for vehicles equipped with the idle stop function that are on an incline, so that the driver can start driving smoothly and safely, by preventing the vehicle from going backwards. Master Cylinder & Master Power uses a vacuum

to amplify the force applied by the driver's foot to convert it into hydraulic pressure. Proportioning Valve adjusts the distribution of the brake force among the front and rear wheels, and prevents the rear tires from locking up.

Bosch

- **Electronic Stability Program: ESP®** is always enabled. A microcomputer monitors the signals from the ESP® sensors and checks 25 times a second, whether the driver's steering input corresponds to the actual direction in which the vehicle is moving. If the vehicle moves in a different direction ESP® detects the critical situation and reacts immediately – independent of the driver. It uses the vehicle's braking system to stabilize the vehicle.
- **Bosch Motor Electronics:** for combustion engine the hydraulic unit executes the commands from the control unit and regulates, via solenoid valves, the pressures in the wheel brakes. The hydraulic unit is the hydraulic connection between the master cylinder and the wheel cylinders. It is located in the engine compartment. The control unit takes over the electrical and electronic tasks as well as all control functions of the system.
- **The steering-angle sensor:** measures the position of the steering wheel by determining the steering angle. From the steering angle, the vehicle speed and the desired braking pressure or the position of the accelerator pedal, the driving intention of the driver is calculated (desired state).
- **The yaw-rate sensor:** registers all the movements of the vehicle around its vertical axis. In combination with the integrated lateral-acceleration sensor, the status of the vehicle (actual state) can be determined and compared with the driver's intention.
- Via the data bus, the ESP® control unit is able to communicate with the engine control unit. In this way, the engine torque can be reduced if the driver accelerates too much in certain driving situations. Similarly, it can compensate for excessive slip of the driven wheels provoked by the engine drag torque.
- **Hill Hold Control:** Hill starts are not always easy, particularly when the vehicle is heavily loaded. The driver has to operate brake, accelerator and clutch pedals very fast in order to prevent the vehicle from accidentally rolling backwards. The ESP® value-added function Hill Hold Control facilitates a hill start by keeping the brakes applied for about two more seconds after the driver has already released the brake pedal. The driver has enough time for changing from brake to accelerator pedal without using the handbrake. The vehicle drives off comfortably and without rolling backwards.
- **Hydraulic Brake Assist:** The Hydraulic Brake Assist identifies a pending emergency braking situation by monitoring the pressure on the brake pedal as well as the pressure gradient. If the driver does not brake strongly enough, the Hydraulic Brake Assist increases the brake force to a maximum. The stopping distance is reduced.

Continental

- **COMAND** vehicle information and infotainment system combined component that integrates vehicle systems. COMAND links to the Transmission, Engine and Suspension systems.
- **DCT Electronic Transmission Control**
- **Adaptive Brake Assist/Traffic Jam Assist** Braking, starting, and adherence to a safe following distance take place. Transmission control technology is in keeping with the trend toward AWD and 4WD vehicles. Applications include transfer case controls, differential locks and hang-on clutch systems plus application software.
- **The Emergency Brake Assist-City**, the entry-level version, prevents accidents in these areas at speeds of up to 25 km/h. The Short Range Lidar sensor used to do this delivers a favorable cost-benefit ratio and is already establishing itself in the compact car segment as another standard active safety element, along with ABS and ESC.
- **Air Suspension System**, adaptable, fast-reacting and resilient: air suspension system that derives its efficiency from the interaction between sensors, electronics, and mechanics. In conjunction with the integration of ESC, a ContiGuard® function is realized which ensures a precisely aligned reaction of the shock absorbers, the suspension, the engine control, and the braking system.
- **Back-up assist** Objects in the vehicle's path which obstruct the space needed for maneuvering are recognized in the image analysis. Continental uses the image analysis from the rear camera for the back-up assist in order to avoid a collision with objects behind the vehicle. The electronic control unit for the Surround View system is connected to the vehicle's electronic brake system and automatically brakes when a collision with a recognized object cannot otherwise be avoided.

The software, the CLA and [REDACTED] are being studied in the PEGASUS project as part of the ADAS&ME automated driving project. At no time did [REDACTED] consent to be part of any kind of research project nor would she have consented to participate in this program had this information been disclosed to her prior to her lease of the vehicle. Further she would not have leased the CLA had she been notified that her participation was in this project was a mandatory component. Because part of the project's goal is to determine which automation software works the best conflicting software programs were loaded onto the vehicle so that they could be monitored to see which was the most responsive/effective. Unfortunately, the conflicting automation software programs are causing serious mechanical, driveability and safety issues with

the vehicle. It is the equivalent of installing four different antivirus programs made by four different manufacturers on a computer which of course causes serious issues with computer's ability to function in the manner intended.

II. CLAIMS

Misrepresentations and Misleading Information/Data

Because [REDACTED] vehicle, the software and she are part of the ADAS&ME/PEGASUS study if Mercedes were to repair or repurchase her vehicle in accordance with the Magnuson Moss Warranty act and applicable Lemon Law this data would have to be reported as part of the ADAS&ME research study. The Magnuson-Moss Warranty Act provides that "a consumer who is damaged by the failure of a supplier, warrantor, or service contractor to comply with any obligation under this chapter, or under a written warranty, implied warranty, or service contract, may bring suit for damages and other legal and equitable relief." 15 U.S.C. § 2310(d)(1).

Further Under certain conditions, Michigan law allows a consumer to revoke the acceptance of a good "whose nonconformity substantially impairs its value to him if he has accepted it." See M.C.L. § 440.2608(1). The revocation of acceptance can be based on "the reasonable assumption that its nonconformity would be cured and it has not been seasonably cured." See M.C.L. § 440.2608(1)(a). A buyer who revokes his acceptance of goods has the same rights and duties with respect to the goods as if he had rejected them. See M.C.L. § 440.2608(3). A buyer who justifiably revokes acceptance may recover as much of the price as has been paid. See M.C.L. § 440.2711(1). Causing a probability of confusion or of misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction. [MCL 445.903(1)(n); MSA 19.418(3)(1)(n).] Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer. [MCL 445.903(1)(s); MSA 19.418(3)(1)(s).]

Michigan Lemon Law is clear and states, If a defect or condition that was reported to the manufacturer . . . pursuant to [MCL 257.1402] continues to exist and the new motor vehicle has been subjected to a reasonable number of repairs as determined under subsection (5), the manufacturer shall within 30 days, do either of the following as applicable. If the new motor vehicle was leased, the consumer has the right to a refund of the lease price paid by the consumer. The consumer may agree to accept a comparable replacement vehicle in lieu of a refund for the lease price paid. If the consumer agrees to accept a replacement vehicle, the lease agreement shall not be altered except with respect to the identification of the vehicle.

The numerous misrepresentations and misleading information given to [REDACTED] and listed on her service reports meets those certain conditions. The most glaring example being the July 1, 2016 service report that states [REDACTED] vehicle was ready and picked up on July 11th not the actual pickup date of August 24th. It was disclosed to [REDACTED] that the ADAS&ME

was approved for funding by the EU on July 11, 2016, thus the reason for the erroneous July 11th vehicle pickup date listed on her July 1, 2016 report. Consumer law prohibits deceptive acts and practices as well as unfair ones." An unfairness determination considers whether the practice offends public policy; whether it is immoral, unethical, oppressive, or unscrupulous; whether it causes substantial injury to consumers. A business practice is unfair if, among other things, it "offends public policy" A consumer can recover damages for "unfair as well as deceptive conduct. In this case, using [REDACTED] as a human research subject without her knowledge or consent is immoral, unethical and offends public policy.

Another example is the service report from October 26th where it states that the transmission jerking and COMAND system electrical outage was caused by [REDACTED] manual reset of the system, which was patently false. The dealer attempted to misconstrue and misrepresent the malfunction that occurred as human error because the COMAND system, Engine software, and Transmission software are all linked together in a software program that is part of the ADAS&ME/PEGASUS project; thus, a malfunction would have to be included in the project research. Human error aside, both the Magnuson-Moss Act and Michigan Lemon Law are strict liability laws meaning there is automatic responsibility (without having to prove negligence) for damages sustained by the consumer on the part of Mercedes due to possession and/or use of equipment, materials or possessions that meet the legal standard set forth by applicable state and federal law. The misleading and patently false information Mercedes included on the service report does not negate this presumption of liability.

Forcing her to continue driving an unsafe nonconforming vehicle because replacing the vehicle would require reporting the problem in the research data, disclosing the unlawful inclusion of [REDACTED] a US resident in the study without her knowledge and/or consent to protect the project's funding and future funding that is based on the research data is oppressive and unscrupulous. Accordingly, the actions of Mercedes Benz violates state lemon laws, consumer protections laws and federal lemon/consumer protection laws.

Honest Services Fraud

Congress enactment 18 U.S.C. § 1346 to protect the public from schemes or artifices to defraud which includes a scheme or artifice to deprive another of the intangible right of honest services in violation of a fiduciary duty. Such fiduciary duty is not limited to a formal 'fiduciary' relationship well-known in the law, but also extends to a trusting relationship in which one party acts for the benefit of another and induces the trusting party to relax the care and vigilance which it would ordinarily exercise. The statute has been applied in cases in which private individuals breached a fiduciary duty to another. In this case, Mercedes abused [REDACTED] trust. In leasing her vehicle trusted Daimler, owner of the vehicle and Mercedes to provide a safe vehicle and abide by all applicable safety and privacy laws. Daimler as the vehicle's owner grossly abused this trust.

Mercedes assured [REDACTED] that they would provide a safe vehicle and service/maintenance of said vehicle. They induced her to believe that the vehicle would conform with applicable US DOT/NHTSA regulations and safety standards. The dealerships induced Ms. [REDACTED] to trust that they were acting in her best interest when servicing her vehicle instead they were acting in the best interest of Mercedes participation in the ADAS&ME/PEGASUS project and the funding received from said project.

Mercedes intentionally breached their fiduciary duty and "foresaw or reasonably should have foreseen" that their actions could cause economic harm to [REDACTED] Mercedes possessed a fraudulent intent and made numerous misrepresentations that they knew would have the natural influence [REDACTED] to change her behavior.

Moreover, Mercedes failing to address the serious mechanical issues occurring with the vehicle in an attempt to produce positive research results and protect funding by making the patently false claim that they cannot duplicate the problem, while placing an order to not repair the vehicle in her vehicle's service file stored on the Daimler/Mercedes cloud. The issues Ms. [REDACTED] is complaining about are known issues that Mercedes has addressed in several CLA vehicles. The difference is the vehicles Mercedes repaired were purchased not leased. The intentional failure to repair [REDACTED] vehicle to protect research data and funding violates [REDACTED] intangible right to honest services.

Automation Software on the 2014/2015 CLA Violates NHTSA Guidelines and Vienna Convention

[REDACTED] vehicle has completely automated components that she has no ability to control, particularly when the vehicle is in ECO mode. The aforementioned violates the NHTSA Automated Vehicle Guidelines and March 2016 amendment of the Vienna Convention on Road Traffic. Accordingly Mercedes surreptitiously changed several components on the 2016 Mercedes CLA so that it would comply with the September 2016 NHTSA Automated Vehicle Policy and Vienna Convention Amendment including adding Comfort mode to the vehicle which provides drivers with more control over the vehicle functions than both the ECO and Sport modes. Thus, the reason that they are quietly contacting 2014 and 2015 CLA owners offering to trade in the vehicle for a brand new 2016 CLA for no extra charge. [REDACTED] is ineligible for this program because of the numerous complaints she has made regarding the vehicle and the more than 60 days that it has been out of service for said complaints.

Mercedes Failed to Notify [REDACTED] of the Study and Failed to Obtain her Informed Consent is Discriminatory Treatment of Vehicle Lessees

[REDACTED] is extremely upset by this new information that she has been studied as a subject in a research project without her knowledge and/or informed consent because she chose to lease not purchase her vehicle. She did not consent to be part of any kind of research project nor would she have consented had this information been disclosed to her at the time or any time

before the inception of the lease. Mercedes Benz had knowledge of the project on the date of the transaction with [REDACTED]. The submission for the grant obtained for the project was submitted in 2015 prior to the date [REDACTED] leased her CLA. Mercedes could have and was required to disclose that inclusion as a subject in an overseas automated driving project was part of the lease agreement. The grant funds went into affect on January 9, 2016, 3 and a half months after the inception of her lease and 2 months after she began complaining about the issues with her vehicle.

Accordingly, Mercedes inclusion of drivers who leased instead of purchased their CLAs as subjects in the ADAS&ME/PEGASUS project without their knowledge and/or informed consent is discriminatory. As a lessee of the Mercedes CLA [REDACTED] is part of a group of people qualified for special protection by a law, policy, or similar authority. The inclusion of CLA lessees as subjects and not CLA owners has resulted in unequal behavior and treatment towards lessees because they chose to lease not buy their vehicles from Daimler.

Mercedes CLA lessees like [REDACTED] are members a protected class because they do not own the vehicle's they drive, they are renting them. Therefore, they are in a position where they are forced to place a tremendous amount of trust in the vehicle's owner, in this case Daimler.

Federal law is clear regarding all research involving human subjects conducted, supported or otherwise subject to regulation by any federal department or agency which takes appropriate administrative action to make the policy applicable to such research. It also includes research conducted, supported, or otherwise subject to regulation by the federal government outside the United States. Each institution engaged in research which is covered by this policy and which is conducted or supported by a federal department or agency shall provide written assurance satisfactory to the department or agency head that it will comply with the requirements set forth in this policy. A statement of principles governing the institution in the discharge of its responsibilities for protecting the rights and welfare of human subjects of research conducted at or sponsored by the institution, regardless of whether the research is subject to federal regulation. This may include an appropriate existing code, declaration, or statement of ethical principles, or a statement formulated by the institution itself. Documentation of informed consent by the use of a written consent form approved by the IRB and signed by the subject or the subject's legally authorized representative. A copy shall be given to the person signing the form. In [REDACTED] case none of the above occurred as it pertains to her inclusion in the ADAS&ME/PEGASUS study.

To be material, the representation need not "relate to the sole or major reason for the transaction, but it [must] relate to a material or important fact. A seller's omission of fact was tantamount to a representation and was material because it related to a fact crucial to the plaintiff's decision to buy. By analogy, then, a material fact for purposes of liability under the law would likewise be one that is important to the transaction or affects the consumer's decision to enter into the transaction. The law prohibits making an omission that tends to mislead or deceive

any consumer, but only if the omitted fact could not reasonably be known by that consumer. Thus, the issue is not whether the omission is misleading to a reasonable consumer but whether the consumer could reasonably be expected to discover the omission at issue. [REDACTED] would have no reason or way of knowing that her purchase of the vehicle was conditioned on her being part of an overseas research project on automated driving programs. Had this information been disclosed she would not have agreed to the transaction.

Violations of Privacy and Computer Fraud and Abuse Act

[REDACTED] inclusion as a subject without her knowledge and/or informed consent in the ADAS&ME/PEGASUS project violates federal privacy laws. Mercedes intentionally, via its inclusion of [REDACTED] as a subject in its ADAS&ME/PEGASUS study, intentionally intruded, physically or otherwise, upon the solitude or seclusion of [REDACTED] in her private affairs and concerns.

The ADAS&ME/PEGASUS project studies the interaction between humans and autonomous vehicles by monitoring driver behavior behind the wheel in various conditions. This means that someone overseeing the study is constantly monitoring and eavesdropping on Ms. [REDACTED] while she is in her vehicle without her knowledge and/or consent. They know her destinations, monitor her telephone conversations and vehicle conversations. Mercedes and various other ADAS&ME/PEGASUS participants repeatedly knowingly accessed the computers in [REDACTED] vehicle without authorization and exceeded their authorized access, and by means of such conduct obtained information that has been determined by the United States Government pursuant to an Executive order or statute to require protection against unauthorized disclosure.

Since August 16, 2015 to the present day Mercedes has knowingly and with intent to defraud, accessed [REDACTED] vehicle computers without authorization, exceeded authorized access, and by means of such conduct furthers the intended fraud and obtained valuable personal driving habits and behaviors, location information, etc for use in developing automated driving software worth billions of dollars.

Further, Mercedes, by virtue of its inclusion of conflicting software on [REDACTED] vehicle for the sole purpose of studying which automated safety program performed the best in various driving situations, knowingly caused and continues to cause the transmission of a program, information, code, or command, and as a result of such conduct, intentionally caused damage without authorization, to the computers in [REDACTED] vehicle. The aforementioned ; intentional access of [REDACTED] vehicle computers without authorization recklessly caused damage and loss. Mercedes, via its unlawful inclusion of [REDACTED] in its ADAS&ME/PEGASUS study and unlawful access of her vehicle's computers knowingly and with the intent to defraud interfered with traffics which resulted in such trafficking negatively affecting interstate or foreign commerce.

Finally, The electronic intrusion of solitude into [REDACTED] vehicle violates her right to privacy and Fourth Amendment Constitutional Rights against unlawful searches and seizure. The disclosure of the facts [REDACTED] private life and personal information without her knowledge or consent as part of a research study has resulted in the public disclosure of [REDACTED] information which is not of public concern, and the release of which would offend a reasonable person. The right to privacy is a human right that is universal, indivisible, interdependent, interrelated, and inalienable. Accordingly, Mercedes has violated this right and is liable for damages.

III. DEMAND

Due to the above outlined egregious acts on the part of Daimler and Mercedes Benz [REDACTED] demands the following:

- Repurchase of [REDACTED] 2015 Mercedes CLA250 4MATIC;
- Replacement vehicle of [REDACTED] choice;
- Payment of \$30,000 in compensatory damages which includes reimbursement of costs incurred as a result of the vehicle being in service for 60+ days, privacy/consumer fraud and abuse act violations, violations of consumer protection laws, the Consumer Leasing Act and all other applicable laws;
- Written assurance that neither my vehicle's computers, my telephone and another personal electronic device containing Mercedes software will be unlawfully accessed for improper purposed and;
- Assurance that [REDACTED] will not be included as a subject in the ADAS&ME/PEGASUS project or any other research project without her express and informed written consent pursuant to US federal law.

Should Daimler/Mercedes reject the above demand and/or refuse to respond to this correspondence within seven days, December 19, 2016. Please be advised that [REDACTED] will aggressively pursue all available legal remedies which includes providing a copy of this complaint along with the supporting evidence to the below listed regulatory agencies.

cc:

SIGTARP

DOT-OIG

NHTSA

DOJ

Office's Securities and Commodities

Fraud Task Force and

Complex Frauds and Cybercrime Unit

Money Laundering and Asset Forfeiture Unit

FBI



Office of the Secretary of Transportation Executive Secretariat

Control number: S10-161227-002	Action office: NHTSA
Document date: 12/27/2016	Due date:
Author(s): [REDACTED]	
Subject: Copy of Email Complaint and Demand Sent to Daimler on December 12, 2016 Regarding a response Letter to Mercedes	
Action: Appropriate Handling	

Comments:

Date	Action	Action by
12/28/2016	Folder Processed for Appropriate Handling.	JAY.HEMSLEY
12/28/2016	Updated Folder Information.	JAY.HEMSLEY
12/28/2016	DIST: B1,C1,S3	JAY.HEMSLEY
12/28/2016	Updated Folder Information.	JAY.HEMSLEY
12/27/2016	Work Folder Assigned to NHTSA.	BRIAN.SPRIGGS
12/27/2016	Incoming File Uploaded.	BRIAN.SPRIGGS
12/27/2016	Control Number Created.	BRIAN.SPRIGGS

Date	Note	Note by
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