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FAX

TO: Ann Carlson, NHTSA Chief Counsel FROM: Joanna L. Johnson

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SUBJECT: Interpretation Request DATE: March 16, 2022

COMMENTS: 5 pages including cover page

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March 16, 2022

Sent Via Facsimile

Ms. Ann Carlson
Chief Counsel
National Highway Traffic Safety Administration, W41-326
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590
F (202) 366-3820

Re: Request for Interpretation

Dear Ms. Carlson,

This letter requests interpretations of 49 CFR Part 579, Reporting of Information and Communications About Potential Defects on behalf of the Automotive Oil Change Association.

The first request for interpretation concerns consumer complaints automakers must report to NHTSA on a timely basis. 49 CFR §579.4(c) defines “consumer complaint,” “warranty claim,” and “claim” as follows:

Consumer complaint means a communication of any kind made by a consumer (or other person) to or with a manufacturer addressed to the company, an officer thereof or an entity thereof that handles consumer matters, a manufacturer website that receives consumer complaints, a manufacturer electronic mail system that receives such information at the corporate level, or that are otherwise received by a unit within the manufacturer that receives consumer inquiries or complaints, including telephonic complaints, expressing dissatisfaction with a product, or relating the unsatisfactory performance of a product, or any actual or potential defect in a product, or any event that allegedly was caused by any actual or potential defect in a product, but not including a claim of any kind or a notice involving a fatality or injury.

Warranty claim means any claim paid by a manufacturer, including provision of a credit, pursuant to a warranty program, an extended warranty program, or good will. It does not include claims for reimbursement for costs or related expenses for work performed to remedy a safety-related defect or noncompliance reported to NHTSA under part 573 of this chapter, or in connection with a motor vehicle emissions-related recall under the Clean Air Act or in accordance with State law as authorized under 42 U.S.C. 7543(b) or 7507.

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Claim means a written request or written demand for relief, including money or other compensation, assumption of expenditures, or equitable relief, related to a motor vehicle crash, accident, the failure of a component or system of a vehicle or an item of motor vehicle equipment, or a fire originating in or from a motor vehicle or a substance that leaked from a motor vehicle. Claim includes, but is not limited to, a demand in the absence of a lawsuit, a complaint initiating a lawsuit, an assertion or notice of litigation, a settlement, covenant not to sue or release of liability in the absence of a written demand, and a subrogation request. A claim exists regardless of any denial or refusal to pay it, and regardless of whether it has been settled or resolved in the manufacturer's favor. The existence of a claim may not be conditioned on the receipt of anything beyond the document(s) stating a claim. Claim does not include demands related to asbestos exposure, to emissions of volatile organic compounds from vehicle interiors, or to end-of-life disposal of vehicles, parts or components of vehicles, equipment, or parts or components of equipment.

Does the definition of "consumer complaint" include the common situation of a consumer bringing their vehicle to an automaker's authorized dealer requesting a warranty repair to fix an engine malfunction if the automaker/authorized dealer denies warranty coverage and the consumer disputes their decision? If not, what additional step or steps must the consumer take to convey their complaint so that the underlying engine malfunction would be reported by the automaker to NHTSA?

Does the definition of "consumer complaint" include the increasingly common situation of a consumer bringing their vehicle to an automaker's authorized dealer requesting warranty repair to fix an engine malfunction if the authorized dealer claims the malfunction is "normal" or cannot be diagnosed and the consumer disputes their findings? If not, what additional step or steps must the consumer take to convey their complaint so that the underlying engine malfunction would be reported by the automaker to NHTSA?

The definition of "consumer complaint" includes "a communication of any kind made by a consumer (or other person)..." Does an automotive aftermarket maintenance provider (i.e., a non-automaker-authorized dealer providing maintenance services to consumers) qualify as an "other person" who can make a consumer complaint to an automaker regarding the unsatisfactory performance of a product, or any actual or potential defect in a product, or any event that allegedly was caused by any actual or potential defect in a product, but not including a claim of any kind or a notice involving a fatality or injury?

The next request for interpretation concerns 49 CFR §579.21 *Reporting requirements for manufacturers of 5,000 or more light vehicles annually*, which states:

For each reporting period, a manufacturer whose aggregate number of light vehicles manufactured for sale, sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported into the United States, during the calendar year of the reporting period or during each of the prior two calendar years is 5,000 or more shall submit the information described in this section. For paragraphs (a) and (c) of this section, the manufacturer shall submit information separately with respect to each make, model, and model year of light vehicle manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

Paragraph (c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports* specifies:

Separate reports on the numbers of those property damage claims, consumer complaints, warranty claims, and field reports which involve the systems and components that are specified in codes 01 through 22 or 25 through 28 in paragraph (b)(2) of this section, or a fire (code 23), or rollover (code 24).

Is a covered automaker required to include in its §579.21 reporting consumer repair request situations for Code 6¹ system and components for a failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications when the automaker denies warranty coverage due to the consumer's use of a non-automaker-authorized service provider or the presence of a non-automaker brand part?

Does the answer change if the covered automaker has received a multitude of consumer complaints, granted some warranty claims, and denied some warranty claims with regard to the identical Code 06 system and components for the same failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications? If not, would any other section of Part 579 require an automaker to include such information as part of their early warning reporting obligation?

Does the answer change if the covered automaker has received a multitude of consumer complaints, granted some warranty claims, and/or denied some warranty claims with regard to the identical Code 06 system and components for the same failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications occurring both with and without use of automaker brand parts and service?

¹ Code 06 is "engine and engine cooling" which means "the component (e.g., motor) of a motor vehicle providing motive power to the vehicle, and includes the exhaust system (including the exhaust emission system), the engine control unit, engine lubrication system, and the underhood cooling system for that engine. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.)."

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If not, would any other section of Part 579 require an automaker to include such information as part of their early warning reporting obligation?

Thank you for your consideration of this request for interpretation. Please let the undersigned know if you need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to be 'JLJ', written over a light purple rectangular background.

Joanna L. Johnson



July 13, 2022

VIA EMAIL

Stephen A. Ridella, Ph.D.
Director, NHTSA Office of Defects Investigation
1200 New Jersey Avenue SE
Washington, DC 20590
stephen.ridella@dot.gov

Re: Petition for defect investigation of Hyundai/Kia oil drain pan assemblies

Dear Dr. Ridella:

This letter comes on behalf of the undersigned organizations which represent the majority of the nation's automotive repair and preventative maintenance professionals. We are both petitioning for a safety-related vehicle defect investigation pursuant to 49 CFR 554 and providing notice of manufacturer failure to provide necessary maintenance and repair information to consumers as well as required information to NHTSA pursuant to 49 CFR §579.5. Specifically, Hyundai Motor Company and Kia Motor Company ("H/K") have defective oil drain pan assemblies that have experienced unprecedented allegations of mid-interval plug-outs thousands of miles after service without malfunction indicator lights or the leakage associated with under-tightening an oil drain plug or a plug or pan with damaged threads.

Our field research combined with consumer complaints to NHTSA and several consumer forums indicates these unique H/K mid-interval plug-outs likely occur suddenly at highway speeds as a result of (1) double-gasketing due to a paint-camouflaged factory gasket fused to either the plug or the pan; and/or (2) overall flimsy pan material that expands and contracts under pressure such as the kind of intense pressure and vibration associated with H/K's pervasive engine defects.¹

¹ *Cho v. Hyundai & Kia* (March 2022) Class action alleging piston oil ring defect causes excessive oil consumption in Nu, Gamma, Theta, Lambda, and Kappa engines used by both Hyundai and Kia; Kia TSB 222 Rev. 6 March 2022 (Rev 1 Dec 2020) Excessive oil consumption in Nu, Gamma, Theta, and Kappa Engines impacting 69 models; NHTSA Recall 21V301 (April 28, 2021) for Hyundai Improperly Heat-Treated Piston Oil Rings resulting in excessive oil ring hardness. Excessive hardness can cause chipping of the piston oil ring's outer periphery, which could lead to abnormal scuffing of the engine's cylinder bore. A damaged cylinder bore could create accelerated oil consumption, which may then cause abnormal knocking noise from the engine and/or illumination of the oil pressure warning light; Hyundai TSB 21-EM-003H (March 2021) Oil consumption inspection & repair guidelines for 436 models; Hyundai TSB 21-EM-004H (March 30, 2021) Connecting rod bearing

The H/K Oil Drain Pan Assembly Defects

H/K share engines and engine parts like oil drain pan assemblies. In 2020, automotive aftermarket service providers discovered a trending problem with H/K oil drain pan assemblies about which the manufacturers provide no warning: their oil drain pan assemblies come paint-fused in black paint so that the gasket is painted onto either the drain plug or drain pan and effectively hidden in place thereby causing the likelihood of double-gasketing.

EXAMPLES Factory Paint-Fused Oil Drain Plug and Gasket

H/K factory oil drain pan assembly 21510-2G500, the most common part in AOCA's study, fits 83 vehicles: 2006-2019 Hyundai Sonata, 2013-2018 Hyundai Santa Fe Sport, 2010-2012 & 2019-2020 Hyundai Santa Fe, 2010-2015 & 2018-2019 Hyundai Tucson, 2011-2021 Kia Sportage, 2005-2020 Kia Optima, 2011-2020 Kia Sorento, 2010-2013 Kia Forte, 2010-2013 Kia Forte Coup, and 2007-2010 Kia Rondo.



clearance testing to determine engine replacement in 297 models—note: this problem causes excessive oil consumption and rod knock; Hyundai & Kia Engine Litigation (Settled 2021) Theta II GDI engine defect and related Hyundai TSB 21-EM-005H-1 (Oct 2021) Warranty Extension for connecting rod bearing wear damage; NHTSA 2021 Recalls Hyundai 21V301 and Kia 21V259 for 2.0L MPI Nu engine with piston oil ring defect that causes excessive oil consumption; NHTSA Recall Kia 20V750 (Dec 2020) and Hyundai TSB 22-EM-001H Inspect & install/update knock sensor; *In re: Hyundai and Kia Engine Litigation*, No. 8:17-cv-00838-JLS-JDE and *Flaherty v. Hyundai Motor Company, et al.*, No. 18-cv-02223 (C.D. Cal.) settlement covers originally equipped or replaced w/ genuine Theta II 2.0- or 2.4-liter GDI engine including: All 2011-2018 & certain 2019 Hyundai Sonatas; All 2013-2018 & certain 2019 Hyundai Santa Fe Sport; All 2014-2015, 2018 & certain 2019 Hyundai Tucson; All 2011-2018 & certain 2019 Kia Optima; All 2011-2018 & certain 2019 Kia Sorento; and All 2011-2018 & certain 2019 Kia Sportage; *Sara Pelayo, et al., v. Hyundai Motor America, Inc. et al.* (C.D. Cal) (dismissed w/out prejudice May 2021) alleges 1.6L Gamma engines cause sudden stalling, shaking, excessive oil consumption, engine failures and fires in these Hyundai and Kia vehicles; *Canada Defects Class Action* <https://www.strosbergco.com/class-actions/hyundai/>; *Brown v. Hyundai*, No.: 2:18-cv-11249 (D.N.J. filed 2018), alleges Hyundai Elantra model years 2011-16 with the Nu 1.8-liter engine have a latent defect in the piston assembly that causes total and irreparable engine failures; symptoms include knocking noise, and about which plaintiffs' various dealerships claimed any damage was caused by consumer neglect and/or use of aftermarket oil filters; *Robert Buettner v. Hyundai Motor America, Inc., et al*, 8:21-cv-01057 (C.D. Cal filed June 15, 2021) alleges defects in 2.0L and 2.4L Theta II MPI engines.

2018 Hyundai Sonata 1.6L T-GDI Gamma 5NPE24AAXJH***** (submitter 1)
Part 21510-2B700



2020 Hyundai Veloster 1.6L T-GDI Gamma KMHTH6AB5LU***** (submitter 37)
Part 21510-2B700 (gasket pried loose by technician prior to photograph)



2017 Hyundai Veloster Turbo 1.6L Gamma KMHTC6AD3HU***** (submitter 39)
Part 21510-2B700



2020 Kia Telluride 3.8L V-Shaped GDI Lambda-II 5XYP34HC5LG***** (submitter 103)
Part 21510-3LFB0



The examples provided above were found by trained experts on the lookout for this problem. For anyone uninformed, the paint-fused gasket is easy to miss. Consider this video of an experienced do-it-yourselfer (DIYer) doing the first oil Change on a 2021 Kia K5:

[REDACTED]

- At 18:00 the DIYer struggles to loosen the factory painted oil drain pan plug with the correct torque wrench. “Wow! That was tight! What’d they do at Kia—use Loctite on it?” He must add torque to get the plug loose.
- At 18:57 the DIYer again struggles to loosen the factory painted oil drain pan plug.
- At 19:54 the DIYer examines underside of the drain plug: “Looks like there’s a magnet on it.”
- At 21:30 the DIYer talks about getting the new washer to reinstall the factory painted oil drain pan plug and wonders aloud, “Where’s the old one?” He checks the factory painted drain pan and tries to pry off what appears to be the gasket stuck on the opening. It won’t come off. He concludes it’s part of the pan.

The DIYer video also highlights the fact—and expert technicians agree—that prying off the factory-painted drain plug for the first oil change is difficult and requires extra torque pressure to achieve. Since the DIYer here couldn’t find the paint-fused gasket, he didn’t experience the added risk of trying to pry it off as well, a task for which automotive professionals use a vice and chisel. The few DIYers who report finding the paint-fused gasket say they used knives and flathead screwdrivers to get it off—dangerous approaches that can cut hands and destroy plug threads.

EXAMPLE Consumer experience with paint-fused gasket on drain plug

[REDACTED]

2019 Hyundai Veloster owner: "Very first oil change I did at 1500 miles it felt like the crush washer was welded onto the plug. So I went ahead and left it. Just did another change at 6000 and got after it with a flathead screwdriver and eventually felt like I was messing up some of the threads."

Why is Hyundai's oil drain plug so bad?

1 - 20 of 22 Posts

Discussion Starter #1 Feb 2, 2021

Very first oil change I did at 1500 miles it felt like the crush washer was welded onto the plug. So I went ahead and left it. Just did another change at 6000 and got after it with a flathead screwdriver and eventually felt like I was messing up some of the threads. Had to drive to a dealership and buy a new one. This is has been the only vehicle I've ever driven that uses washers instead of a plug with a built in gasket. Why did Hyundai choose to go this route? And does anyone make a reusable drain plug?



Joined Aug 25, 2020
89 Posts







The safest approach to the double-gasketing risk would be for H/K to recommend replacing both the plug and gasket at the first oil change after making sure the factory gasket isn't painted onto the pan, but they haven't done that. Moreover, their owners' manuals no longer contain any necessary technical information for changing oil (such as oil filter specification, oil drain plug torque pressure, gasket replacement) nor have they issued a TSB or consumer outreach on the subject. *See Appendix A.*

Unfortunately, identifying and safely managing the paint-fused factory gasket is not the only problem with these H/K oil drain pan assemblies. The factory paint also camouflages the material inadequacy of the drain pan. They appear to be made from cheap, stamped steel with only light reinforcement provided for the oil drain opening. As described above, the factory paint creates an exceptionally strong bond for the first oil change service provider to break. Once broken, however, the pans appear to be unable to maintain their integrity when subjected to the pressure and vibration associated with H/K's engines. Expansion, contraction, and vibration can loosen the drain plug as well as crack the pan.

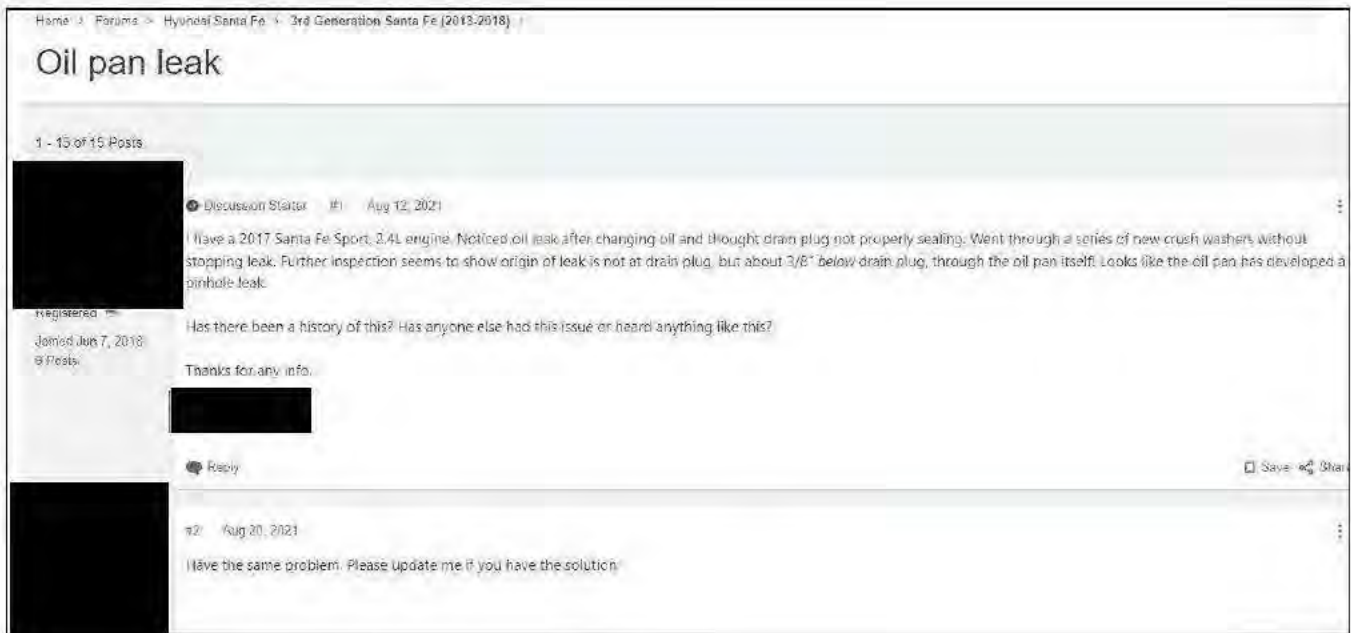
The following chart includes cases where consumers used automotive aftermarket professionals (AAPs) for preventative maintenance and later experienced leakage due to cracked oil pans. It should be noted that none of the oil drain plugs or pan threads were stripped or stuck from over-tightening and, even if they had been over-tightened, it isn't possible to crack the pan via that method because the pan and/or plug threads simply give way.

EXAMPLES Cracked H/K Oil Drain Pans

Make / Model / Engine / VIN	Oil Drain Pan Assy	Odometer / DOS	Problem
2018 Hyundai Sonata 2.4L Theta II GDI 5NPE24AF8JH*****	21510-2G500	24,963 09/04/21	<p>On or about Oct 13, 2021, customer reported dealer said oil was leaking and the pan cracked.</p> 
2016 Kia Sorento 2.4L DOHC GDI Theta II 5XYPGDA3XGG*****	21510-2G500	114,040 10/01/21	<p>On October 28, 2021, customer reports oil leaking. AAP inspection shows oil pan is cracked under drain plug.</p> 

Make / Model / Engine / VIN	Oil Drain Pan Assy	Odometer / DOS	Problem
2017 Kia Sportage 2.4L In-Line GDI Theta II KNDPMCAC2H7*****	21510-2G500	70,029 02/ 11/22	<p>Customer took vehicle to Auto Repair shop on May 20, 2022; replaced leaking oil pan; odometer was 76,489. AAP inspection shows oil pan was cracked. PHOTOS show oil pan is cracked with the original factory-painted drain plug.</p> 
2017 Kia Optima 2.4L In-Line GDI KNAGT4L3XH5*****	21510-2G500	98589 02/26/21	<p>February 27, 2021, at 98621 odometer, customer reports oil leaking and a crack in the pan. Inspected by dealership March 1, 2021. AAP inspected oil drain pan; front crack; large crack on the pan belly from slight pressure applied.</p> 





H/K has Reason to Know About the Oil Drain Pan Assembly Defects

Failure to properly torque an oil drain plug is now extremely rare and usually caught before the vehicle leaves the service facility property due to telltale leakage. Moreover, in the past ten years, videotaping in AAP service bays has augmented AAPs' already detailed records made during the vehicle maintenance process with dedicated torque wrenches and engine-specific replacement oil filters, gaskets, and plugs. It therefore came as a shock when the automotive aftermarket documented over 100 cases of alleged H/K mid-interval plug-outs with an average of 1,796 miles post-service and as high as 8,000 miles post-service. See case details in Appendix B. In addition to the high mileage involved, no consumers reported any malfunction indicator lights and only a few reported some oil leakage and seeing the plug out, which simply does not track the progress of a plug-out based on torque pressure alone. Few AAPs had the opportunity to investigate, however, because H/K warranty periods are very long and AAP consumers experiencing a H/K engine problem generally have their vehicles towed directly back to H/K. It is safe to say they have reason to know better than anyone the significant number of consumers involved.

In addition to the cases in Appendix B, consumers have submitted the following eight cases directly to NHTSA and eleven to various consumer forums.

NHTSA ID 11431200 2019 Hyundai Kona 2.0L MPI Nu VIN KM8K12AA5KU****
August 31, 2021: The contact owns a 2019 Hyundai Kona. The contact stated she was informed at the service inspection that her vehicle was low on engine oil however, the oil had recently been refilled. There were no warning lights illuminated. The vehicle was taken to the dealer who

diagnosed that the oil plug was loose. The dealer refilled the engine oil. The contact stated that the failure had been reoccurring and the vehicle was using a third of the engine oil every 1,000 miles. The vehicle was taken to a second dealer (Texoma Hyundai 2500 Texoma Pkwy, Sherman, TX 75090) who test drove the vehicle and diagnosed that no issues were found. The manufacturer was not made aware of the failure. The vehicle was not repaired. The approximate failure mileage was 58,200. Bob Howard Hyundai Oklahoma City OK 73139

NOTE: This vehicle was likely subject to NHTSA CAMPAIGN NUMBER 21V301000 (April 28, 2021) for Improperly Heat-Treated Piston Oil Rings resulting in excessive oil ring hardness. Excessive hardness can cause chipping of the piston oil ring's outer periphery, which could lead to abnormal scuffing of the engine's cylinder bore. A damaged cylinder bore could create accelerated oil consumption, which may then cause abnormal knocking noise from the engine and/or illumination of the oil pressure warning light.

This vehicle is also subject to the following TSBs:

- Hyundai TSB 22-01-043H (May 2022): Hyundai service campaign to enhance the knock sensor logic with the Cylinder Noise Diagnostic System (CNDS) software update. CNDS is to detect abnormal cylinder wall scuffing or noise of the engine block before potentially severe engine damage occurs. [Although this TSB does not discuss it, abnormal cylinder wall scuffing leads to excessive oil consumption.]
- Hyundai TSB 21-EM-004H (March 30, 2021): This bulletin provides the service procedure for engine connecting rod bearing clearance testing to determine next required steps including engine replacement applicable to 297 models. [Although this TSB does not discuss it, connecting rod bearing problems lead to excessive oil consumption.]
- Hyundai TSB 21-EM-003H (March 2021) Engine oil consumption inspection and repair guidelines applicable to 436 models.

NHTSA ID 11366918 2017 Hyundai Sonata Hybrid 2.0 L GDI Nu KMHE24L34HA****

October 26, 2020: The oil plug fell out and seized the engine. I bought the car and drove it lightly for 2 days through city streets and highways. Right before the engine seized. The check hybrid systems light came on, followed by the oil light, then the check engine light (within the span of around 45 seconds). After the lights the car became unresponsive to the gas pedal and slowed to a halt. After getting it towed to a Hyundai dealership the next day, they called and said that the oil plug is missing and it caused the whole engine to seize and need a complete replacement. After researching I've found many owners of 2017 Hyundai Sonata hybrids to have had similar issues with the plug falling out. I believe it should be looked into getting recalled.

NOTE: This vehicle is now likely subject to NHTSA CAMPAIGN NUMBER: 21V727000 (Sept. 17, 2021) Engine Damage May Cause Stall or Fire; specifically the connecting rod bearings inside the engine may wear prematurely, break, and puncture the engine block., which can result in a vehicle stall at highway speeds increasing the risk of a crash. If engine oil leaks onto certain engine components running at high operating temperature it could ignite and start an engine compartment fire. Identified warning signs include:

- A. Abnormal (knocking) noise from engine
- B. Reduced motive power and/or hesitation
- C. Illumination of the “Check Engine” warning lamp
- D. Illumination of engine oil pressure warning lamp
- E. Burning smell, oil leaking, smoke

This vehicle is also subject to the following Investigation and TSBs:

- NHTSA Investigation EA21003 (December 22, 2021—Present) for Engine Fires.
- Hyundai TSB 22-01-028H-1 (April 28, 2022) Campaign to enhance the knock sensor software to detect abnormal engine bearing noise before potentially severe engine damage occurs.
- Hyundai Service Campaign T6G DTC P1326 (April 28, 2022) ENGINE BEARING INSPECTION /ENGINE REPLACEMENT- Dealer Best Practice associated with Hyundai TSB 22-01-023H-1.
- Hyundai TSB 22-EM-006H-1 (April 2022) The Powertrain warranty coverage for certain engine repairs and/or replacement where the engine damage or malfunction is related to connecting rod bearing wear, has been extended to 15 years or 150,000 miles.
- Hyundai TSB 21-EM-004H (March 30, 2021): This bulletin provides the service procedure for engine connecting rod bearing clearance testing to determine next required steps including engine replacement applicable to 297 models. [Although this TSB does not discuss it, connecting rod bearing problems lead to excessive oil consumption.]
- Hyundai TSB 21-EM-003H (March 2021) Engine oil consumption inspection and repair guidelines applicable to 436 models.

NHTSA ID 11433038 2018 Hyundai Sonata 2.4L GDI Theta II VIN 5NPE34AF2JH****

Incident occurred on October 15, 2020: The contact owns a 2018 Hyundai Sonata. The contact stated that while driving, the oil warning light illuminated. The contact stated that he checked the engine oil level and discovered that there was no oil in the engine. **The vehicle was taken to the dealer where the failure was diagnosed as an oil plug needing replacement.** The vehicle was repaired however, the failure continued. The vehicle was taken back to the dealer several times and the failure cause could not be determined. The contact stated that recently an oil consumption test was completed, and the dealer determined that to be the failure cause. The dealer contacted the manufacturer who stated that the failure cause was due to the owner's negligence and no solution was offered. The approx. failure mileage was 40,000. McGrath City Hyundai Chicago IL 60707

NOTE: This vehicle is subject to the following TSBs:

- Hyundai TSB 22-EM-001H (January 2022) warranty coverage for engine long block repair or replacement regarding engine damage or malfunction from connecting rod bearing wear has been extended to a Limited Lifetime Warranty and is valid for original and subsequent owners Theta II 2L Turbo & 2.4L. Connecting rod bearing wear symptoms include excessive oil consumption.

- Hyundai TSB 21-EM-004H (March 30, 2021): This bulletin provides the service procedure for engine connecting rod bearing clearance testing to determine next required steps including engine replacement applicable to 297 models.
- Hyundai TSB 21-EM-003H (March 2021) Engine oil consumption inspection and repair guidelines applicable to 436 models.

NHTSA ID 11320689 2017 Hyundai Tucson 2.0L GDI Nu KM8J3CA41HU****

February 21, 2020: The contact owns a 2017 Hyundai Tucson. The contact stated that while attempting to accelerate after a stop, the vehicle stalled without warning. Due to the failure, the contact had the vehicle towed to McCarthy Olathe Hyundai (681 n Rawhide, Olathe, KS 66061) where the vehicle was diagnosed with a loose drain plug. Due to the damage caused by the loose drain plug, the contact was informed that the engine needed to be replaced. The contact then notified the manufacturer of the failure. After an extensive investigation, the manufacturer deemed the failure to have been caused by the negligence of the independent mechanic who serviced the vehicle for oil changes. The manufacturer denied to honor the warranty. The vehicle had not been repaired. The failure mileage was 47,110.

NOTE: This vehicle is now likely subject to the following recalls:

- NHTSA CAMPAIGN NUMBER: 21V727000 (Sept. 17, 2021) Engine Damage May Cause Stall or Fire; specifically the connecting rod bearings inside the engine may wear prematurely, break, and puncture the engine block., which can result in a vehicle stall at highway speeds increasing the risk of a crash. If engine oil leaks onto certain engine components running at high operating temperature it could ignite and start an engine compartment fire. Identified warning signs include:
 - A. Abnormal (knocking) noise from engine
 - B. Reduced motive power and/or hesitation
 - C. Illumination of the “Check Engine” warning lamp
 - D. Illumination of engine oil pressure warning lamp
 - E. Burning smell, oil leaking, smoke
- NHTSA Recall Number 20V543000 “URGENT: FIRE RISK WHEN PARKED” An urgent safety recall for this vehicle due to the risk of a fire. Use our VIN lookup tool to see if your vehicle is part of this recall. If your vehicle is part of this recall, the manufacturer has recommended that you follow their instructions on how and where to park this vehicle.

This vehicle is also subject to the following Investigation and TSBs:

- NHTSA Investigation EA21003 (December 22, 2021—Present) for Engine Fires.
- Hyundai TSB 22-01-028H-1 (April 28, 2022) Campaign to enhance the knock sensor software to detect abnormal engine bearing noise before potentially severe engine damage occurs.
- Hyundai Service Campaign T6G DTC P1326 (April 28, 2022) Engine Bearing Inspection /Engine Replacement- Dealer Best Practice associated with Hyundai TSB 22-01-023H-1.

- Hyundai TSB 22-EM-006H-1 (April 2022) The Powertrain warranty coverage for certain engine repairs and/or replacement where the engine damage or malfunction is related to connecting rod bearing wear, has been extended to 15 years or 150,000 miles.
- Hyundai TSB 21-EM-004H (March 30, 2021): This bulletin provides the service procedure for engine connecting rod bearing clearance testing to determine next required steps including engine replacement applicable to 297 models. [Although this TSB does not discuss it, connecting rod bearing problems lead to excessive oil consumption.]
- Hyundai TSB 21-EM-003H (March 2021) Engine oil consumption inspection and repair guidelines applicable to 436 models.

NHTSA ID 11245086 2019 Kia Soul 2.0L GDI Nu KNDJP3A5XK7****

August 19, 2019: Drain plug missing which caused a leak in vehicle, which caused engine to break while driving car stopped working, was towed then found the drain plug was missing please help I have been reading and found other cases like mine on the Kia Soul. My car was stationary on the highway. I had to get it towed to a gas station where I slept in the car overnight then call a tow company to take me to the closest Kia dealership. There they told me their findings. I had an oil change on 05/20/19, at a Kia dealership in MD. Where I believe that my car was not handled professionally hence the cause of my problem.

NOTE: This vehicle is subject to the following TSBs:

- Kia TSB PI2107Y/Z (May 2022) Engine Replacement Instructions for DTC P1326 (rod knock). Related TSBs & MCs go back to November 11, 2021.
- Kia TSB 222 Rev. 6 March 2022 (Rev 1 Dec 2020) Excessive oil consumption in Nu, Gamma, Theta, and Kappa Engines impacting 69 models.
- Kia TSB 219 (July 2020) Oil Change Maintenance Reminder Feature discussion including (1) oil change reminder feature not set in factory; and (2) KMA's evaluations are that many and maybe most owners are using their vehicles under such SEVERE conditions and they should therefore have their oil and oil filter changed every 3,000 or 3,750 miles depending on the model.

NHTSA ID 11196311 2018 Kia Sportage 2.4L Theta II GDI

April 22, 2019: consumer writes in regards to engine failure. *LD consumer sent additional correspondence. *LD the consumer stated the dealer denied assistance with the failure due to an aftermarket oil plug being installed in the vehicle. The dealer advised that the 3rd party who changed the oil should be held responsible for the failure. The engine failed and needed to be replaced. Metal shavings were found in the oil.

Consumer's complaint letter to Kia states: "January 29, 2019 the engine in the vehicle failed while I was driving. January 29, 2019 the vehicle was towed to Four Star Automotive where the mechanic found a catastrophically failed engine. January 30, 2019 the vehicle was towed to your service department in West Nyack. Your service department denied to have the vehicle repaired because 'someone installed an aftermarket oil plug in the vehicle'.... I insisted that the cause of the failure was not the oil plug and I have a mechanic's opinion to refute these findings."

NOTE: This vehicle is likely subject to the following recalls:

- NHTSA Recall Number 20V543000 “URGENT: FIRE RISK WHEN PARKED” An urgent safety recall for this vehicle due to the risk of a fire. Use our VIN lookup tool to see if your vehicle is part of this recall. If your vehicle is part of this recall, the manufacturer has recommended that you follow their instructions on how and where to park this vehicle.
- NHTSA Recall 21V137000 (March 4, 2021) Engine Compartment Fire
- NHTSA Recall 18V907000 (December 19, 2018) High Pressure Fuel Pipe May Leak

This vehicle is also subject to the following TSBs:

- Kia TSB 222 Rev. 6 March 2022 (Rev 1 Dec 2020) Excessive oil consumption in Nu, Gamma, Theta, and Kappa Engines impacting 69 models.
- Kia Product Improvement Campaign PI1802YZ (December 23, 2021; updated from March 2020) Engine Replacement Instructions for DTC P1326 (rod knock).
- Kia TSB 067 (Rev 1, Nov. 11, 2021; original March 2020) Testing engine rod bearing wear.
- Kia TSB 219 (July 2020) Oil Change Maintenance Reminder Feature discussion including (1) oil change reminder feature not set in factory; and (2) KMA’s evaluations are that many and maybe most owners are using their vehicles under such SEVERE conditions and they should therefore have their oil and oil filter changed every 3,000 or 3,750 miles depending on the model.
- Kia TSB PI1802W/X (Rev 2/11/2019) Engine replacement instructions for DTC P1326 (rod knock).

NHTSA ID 11114946 2016 Hyundai Tucson 2.0L KM8J3CA46GU****

July 31, 2018: Engine oil pressure warning light turned on without any auguries while driving on a highway. We pulled over the car as soon as possible, but the car could not be started again after we turned off the engine. We had the car towed to a Hyundai dealership, and then we were told the engine was seized and needed to be replaced. When we asked how it happened, they told us that our engine oil plug was missing, so all the engine oil was drained out. They checked our maintenance record, and found that we had an oil change three months back at another Hyundai dealership. We were told that it could be possible that the engine oil plug was not properly installed during last maintenance service, but they were not sure about it, after all it had been 3 months not 30 minutes since then. We were never given a sure reason for what happened to the car, but the engine replacement was taken care of by Hyundai warranty. Personally I don't think the 'maintenance mistake' hypothesis make sense. We did not drive this car daily, maximum average usage was about weekly, but long distance most times. If the plug was loose due to the maintenance, we should have a problem sooner unless the oil doesn't drain when a car is parked. In addition, it could not be someone loose the plug at a parking lot on purpose either. Because when we drove the car out, we did not notice any oil trace on the ground, and we had been continuously driving this car for about 2 hours before the engine failure happened. The most possible reason that

I could think of is the engine was defective. I am hoping this issue can be brought into a formal investigation, because it could lead to very serious consequences.

NOTE: This vehicle is likely subject to the following recalls:

- NHTSA Recall 20V543000 URGENT: FIRE RISK WHEN PARKED

This vehicle is also subject to the following TSBs:

- Hyundai TSB 22-01-028H-1 (April 28, 2022) Campaign to enhance the knock sensor software to detect abnormal engine bearing noise before potentially severe engine damage occurs.
- Hyundai Service Campaign T6G DTC P1326 (April 28, 2022) ENGINE BEARING INSPECTION /ENGINE REPLACEMENT- Dealer Best Practice associated with Hyundai TSB 22-01-023H-1.
- Hyundai TSB 22-EM-006H-1 (April 2022) The Powertrain warranty coverage for certain engine repairs and/or replacement where the engine damage or malfunction is related to connecting rod bearing wear, has been extended to 15 years or 150,000 miles.
- Hyundai TSB 22-EM-001H (January 2022) warranty coverage for engine long block repair or replacement regarding engine damage or malfunction from connecting rod bearing wear has been extended to a Limited Lifetime Warranty and is valid for original and subsequent owners Theta II 2L Turbo & 2.4L. Connecting rod bearing wear symptoms include excessive oil consumption.
- Hyundai TSB 21-EM-004H (March 30, 2021): This bulletin provides the service procedure for engine connecting rod bearing clearance testing to determine next required steps including engine replacement applicable to 297 models. [Although this TSB does not discuss it, connecting rod bearing problems lead to excessive oil consumption.]
- Hyundai TSB 21-EM-003H (March 2021) Engine oil consumption inspection and repair guidelines applicable to 436 models.

NHTSA ID 11097819 2017 Hyundai Elantra 2.0 L KMHD74LF4HU****

March 22, 2018: This complaint is involving USA Auto Care and ABC Hyundai I went to have an oil change done at USA Auto Care and a week later my oil plug fell out of my car and I lost all my oil had my car towed to Hyundai. Hyundai put a new plug in there refilled with oil show me everything was okay so I proceeded to go to USA Auto Care number for and try and get the money that I paid to ABC Hyundai for the oil in the plugs on my way my engine locked up car came to a stop and shut off I then have the car towed back to Hyundai and was notified by Hyundai that my engine was pretty much done for call progressive insurance my insurance at the time notified them of the claim they sent someone down to take pictures they got back with me after a few days and my case was transferred to about three different people because the original agent had to leave for maternity leave and I was notified by one of the other agents that was on my case that it would not be covered by progressive insurance because it was a non comprehensive accident and that it wasn't in a physical accident causing body damage I also called my warranty because my car is brand new and they told me it was [void] because I did not have the oil change done at Hyundai after a couple of weeks I was notified by ABC Hyundai that my car was fixed thought it was

through the warranty and they change their mind but my insurance went ahead and completed the claim they never notified me of them taking the claim no emails or correspondence what I was notified by ABC Hyundai to come get my car I was told that I had to pay a \$1,000 deductible and that my insurance went ahead and completed the claim I am on social security I do not have \$1,000 sitting around and I was also told that progressive could not cover it now I'm stuck because I can't afford the deductible and I can't use my car to do uber and make the money I need some guidance in this.

NOTE: This vehicle is subject to the following TSBs:

- Hyundai TSB 21-EM-004H (March 30, 2021): This bulletin provides the service procedure for engine connecting rod bearing clearance testing to determine next required steps including engine replacement applicable to 297 models. [Although this TSB does not discuss it, connecting rod bearing problems lead to excessive oil consumption.]
- Hyundai TSB 21-EM-003H (March 2021) Engine oil consumption inspection and repair guidelines applicable to 436 models.

2018 Kia Soul owner reports vehicle going approximately 3,500 miles before oil drain plug came out.

Oil plug blow out going down the highway

1 - 20 of 21 Posts

Discussion Starter #1 Feb 4, 2020

2018 kia soul 45,000 miles only had it for four months have not had to do oil change yet and have put about 3500 miles on it. Driving down the highway after 8-hour road trip oil lose oil plug out of the blue. Dealer says has to be vandalism somebody had to have loosened it. Not possible I live down a private road out of town no one even around. Any one heard of anything like this before?

Registered
2018 Kia Soul SE

I am experiencing the worse possible things ever to go wrong with a brand new vehicle. I purchased a 2018 Hyundai Elantra GT, only had 300 miles on it when I drove off the dealership lot. I had a little over 10,000 miles on the car, when the oil plug fell out and locked the engine up. Strange thing is had little over 2,000 miles on since last oil change. Dealership said it's not a warranty issue and place that changed oil wouldn't stand behind the issue. Now I have new vehicle with huge payments and nobody helping me out with this issue. It's been almost a year now. So I worked on freeing up engine and got it running, then the next crazy thing happens. The piston in cylinder 3 breaks and connecting rod knocked hole in my block. Been reading about the piston problems in the Hyundai Elantra GT and other Kia models. Dealership still won't admit that there an issue with my car . I owe huge amount and have a 2018 Hyundai Elantra GT with under 11,000 miles and stuck walking with disabilities. Anyone else experience these issues??

One huge nightmare of a car.

1 - 13 of 12 Posts



Discussion Starter · #1 · Sep 28, 2020

I am experiencing the worse possible things ever to go wrong with a brand new vehicle. I purchased a 2018 Hyundai Elantra GT, only had 300 miles on it when I drove off the dealership lot. I had a little over 10,000 miles on the car, when the oil plug fell out and locked the engine up. Strange thing is had little over 2,000 miles on since last oil change. Dealership said it's not a warranty issue and place that changed oil wouldn't stand behind the issue. Now I have new vehicle with huge payments and nobody helping me out with this issue. It's been almost a year now. So I worked on freeing up engine and got it running, then the next crazy thing happens. The piston in cylinder 3 breaks and connecting rod knocked hole in my block. Been reading about the piston problems in the Hyundai Elantra GT and other Kia models. Dealership still won't admit that there an issue with my car. I owe huge amount and have a 2018 Hyundai Elantra GT with under 11,000 miles and stuck walking with disabilities. Anyone else experience these issues??

Registered

Joined Sep 2012
3 Posts

RESOURCES NEWS INVESTIGATIONS RECALLS

CARCOMPLAINTS.COM



2017 HYUNDAI TUCSON OWNER COMMENTS

#1 Tucson SE 2.0L
Automatic transmission 69,540 miles

Yes I put \$13,000 to replace my motor because that is the estimate I got from the Hyundai dealer in Modesto, CA. I never had an issue with my car. Did my oil changes and checked it regularly.

On New Years Eve my motor seized up and I was told my drain plug fell out. Not once did any check engine lights or oil pressure lights came on the dash.

[Redacted] Ceres, US

3 Engine Oil Leaking problem

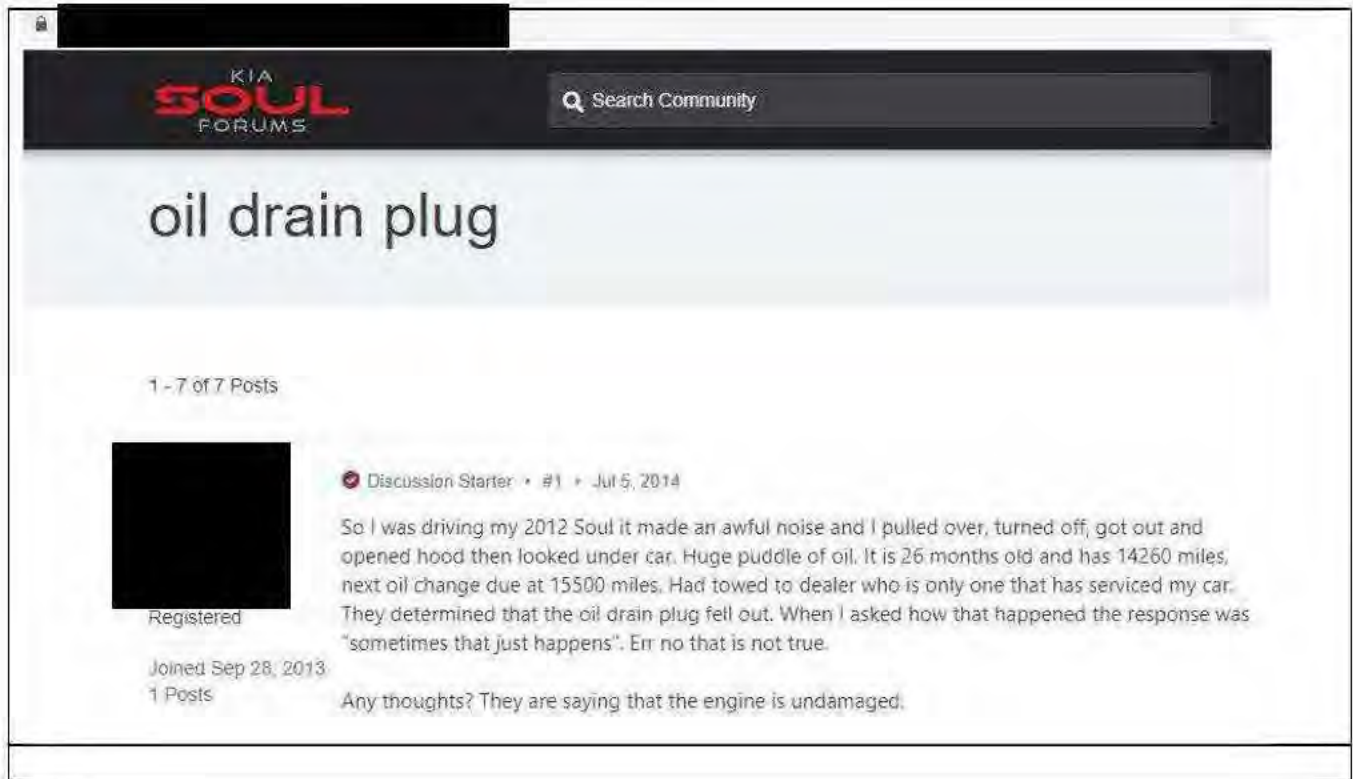
Failure Date: 02/13/2019

While driving on the 5n freeway in the fast lane, my car seized. I had enough momentum to get on the right shoulder. Warning light said nothing of oil leak and gave me the tpms warning (tire pressure). Diagnosis: oil plug fell out of oil pan, all oil leaked and engine was ruined. Weeks later, I receive a "new" engine and they do not know why the plug fell out. If it was loose, it would have fell out quicker than 600 miles after the oil was serviced. Perhaps it was the wrong size oil plug, we wont know because it fell out. Recall is for 2011-2013 models..... Perhaps the 2017 has same issues!!! NHTSA's campaign number: 19v063. 120,000 Hyundai Tucson suvs from the 2011 to 2013 model years. The oil pan may have been improperly sealed during engine production. As a result, an oil leak could develop and lead to engine damage, the engine stalling, or even a fire, NHTSA says.

January 18, 2017



do not get your car serviced here had my oil changed at this dealer in Nov. of 2016. In Jan. my oil plug fell out and blow my engine they r saying its my fault for this happening and will not replace my engine now I have a car that don't run and payments for a car I can not drive now my life is over...30 more payments for a car I can not drive!!!!!! this place is the going to make me commit suicide bye world!!!! LIES




The screenshot shows a forum post on the KIA SOUL FORUMS website. The page title is "oil drain plug". The post is the first of seven in the thread, dated July 5, 2014. The user is a registered member who joined in September 2013. The post content describes a problem with a 2012 KIA SOUL where the oil drain plug fell out, causing a large puddle of oil. The user mentions that the car is 26 months old with 14,260 miles and that the next oil change is due at 15,500 miles. The user asks for thoughts on the engine being undamaged.

KIA SOUL FORUMS Search Community

oil drain plug

1 - 7 of 7 Posts

 Discussion Starter • #1 • Jul 5, 2014

Registered
Joined Sep 28, 2013
1 Posts

So I was driving my 2012 Soul it made an awful noise and I pulled over, turned off, got out and opened hood then looked under car. Huge puddle of oil. It is 26 months old and has 14260 miles, next oil change due at 15500 miles. Had towed to dealer who is only one that has serviced my car. They determined that the oil drain plug fell out. When I asked how that happened the response was "sometimes that just happens". Err no that is not true.

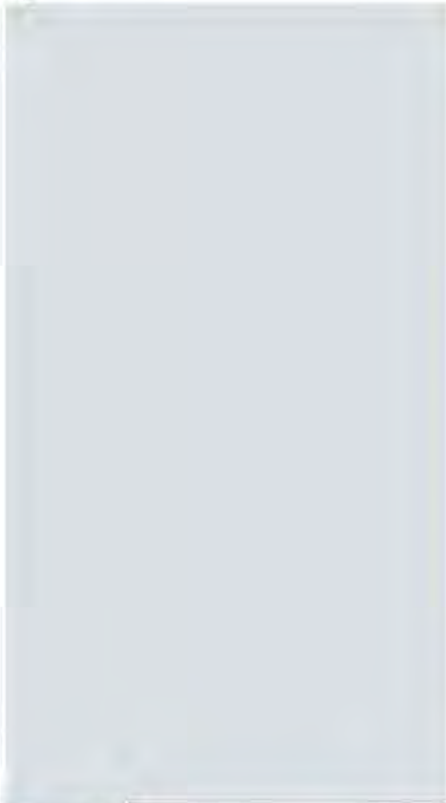
Any thoughts? They are saying that the engine is undamaged.



Oil drain plug fell off while driving new-ish car, engine now completely destroyed (\$8500 to replace) [WY]

I bought a new 2017 Kia Soul in July 2017 in the state of Washington and moved to my current residence in Wyoming the following month. Since then I have put 16,500 miles on the car and have maintained it in good condition. This past weekend, I was driving on the highway going about 70 mph when the vehicle shut down- the battery and oil warning lights both turned on at the same time. I was no longer able to accelerate, and I was forced to coast onto the shoulder to a safe location. I tried starting the car back up, unsuccessfully. I then called a tow truck provided by my roadside assistance insurance. When the tow truck arrived and pulled the car onto the bed, we noticed a large puddle of oil formed under the car and leaking onto the truck bed. That is when we noticed that the car was completely missing the oil drain plug. We followed the spotted trail of oil back onto the road and concluded that the oil drain plug somehow fell off while driving, drained the oil, and forced the car to disable itself.

The tow truck driver suggested I tow the car back to the last place I had an oil change, because usually if this happens, it is because the mechanics did not properly tighten the oil drain plug. The last oil change I had, however, was over 3 months ago after having driven over 5000 miles. According to other forums I have read online about oil drain plugs falling out while driving, their oil had just been changed the same day; is it wrong to think that 3 months and 5000 miles is too long to hold the oil change facility responsible for this? I still had the car towed back to the oil change place and they replaced the oil drain plug and changed the oil. Initially, the mechanics and the manager of the shop said it is highly unlikely that they would be responsible, since it had been over three months since the last time they touched my car. They then tried starting the car back up, but it would not start. The mechanics suggested this might have been due to a "computer issue that only licensed Kia mechanics could fix" at a dealership service center. Since the service center was closed over the weekend, I waited until this morning to have my car towed there and have them try to "hot start" the car. After trying this, however, the Kia mechanics said that the engine was completely seized, or locked up. After turning the engine with a crankshaft, they concluded that the engine is pretty much completely finished, and needs to be fully replaced in order for the car to run again. They estimate the cost to total \$8500, plus labor. This is nearly half the value of my car when I bought it brand new only 8 months ago.



Per my request, the manager at the dealership set up an inquiry/claim for Kia's corporate department, to see if this malfunction with the oil drain plug was possibly due to faulty equipment on the vehicle (perhaps a product that has or will be recalled, or due to heat expansion or some other random effect that caused the drain plug to fall off while driving.). He submitted photos and detailed my version of what happened when the oil drain plug fell off. A few hours later, the manager informed me that Kia corporate had denied liability/responsibility for the damage, also saying that this would not be covered under warranty, and suggested that I go back to the oil change place and pursue them to regain my losses. I should also mention that nearly every person I talked to over the past few days, from the oil change shop, to the Kia dealership, half-jokingly asked me if I had "any enemies", pretty much implying that somebody deliberately took a wrench to the oil drain plug under my (1ft of ground clearance) Kia Soul, while it was parked in my apartment parking lot. I have comprehensive auto insurance; I contacted them as well, and they said that they do not cover any mechanical issues. When I asked about the possibility of criminal vandalism leading to the mechanical failure, I was transferred to another department, which was closed for the day (I will call them back tomorrow).

So here I am, with an 8 month old, \$18,000 car in the shop with a dead engine that will cost over \$8500 to repair, and neither the oil change shop nor Kia will accept any liability. I am not sure what other options I have at the moment, and I am now considering hiring an attorney to regain my losses. For this catastrophic failure to happen to my relatively new car from an issue with a cheap oil drain plug is mindboggling and extremely frustrating. If anyone has any suggestions that can help me in this situation I would really appreciate it. Thanks

** [TL;DR]** Oil drain plug fell out of my 2017 Kia Soul w/ 16,500 miles on it. Last oil change was 3 months and 5000 miles ago. Oil change shop denies responsibility from faulty service. Kia Motors denies responsibility due to malfunctioned part. Engine is destroyed, over \$8500 to replace. Considering hiring an attorney. What do I do?



Car Talk Community

Can it take 2 months for the oil pan plug to blow if loose?

Maintenance/Repairs • Hyundai • Elantra/Elantra



12/11

We have a 2012 Hyundai Elantra touring bought brand new off the lot 20 months ago with 35K miles. Regular scheduled maintenance and this last week the engine blew on the interstate within about 2 miles of starting to rattle. Dealer at first said it was a rod that pierced the block and oil pan, but then changed that theory and said that the oil pan plug was not secured and is trying to blame the engine on either the last service which was two months ago or "vandalism". So my question is if the last service provider didn't secure the oil pan plug all the way, could it take two months to dislodge enough to blow the engine? Also, we checked the oil three days before the incident and it was fine, and there is no evidence of oil leak in our driveway. And if it is not possible for it to go two months with a problem, then how do we get the manufacturer to take care of this? the car is still under manufacturer warranty PLUS we purchased additional bumper to bumper up to 100K miles.

HYUNDAI FORUMS Search Community

Discussion Starter #1 Jan 9, 2018

Registered [redacted]
Joined Nov 12, 2016
25 Posts

So i went in to the dealer for my second oil change. I noticed on the invoice that they changed the oil drain plug under warranty. I questioned this and was able to talk to the tech. He was very sympathetic to my concerns and explained that he assumed that the previous tech (at the same dealer) over-tightened the drain bolt significantly and caused the bolt threads to warp and he had a very hard time getting the bolt out. He said he inspected the threads (on the pan) and they were definitely not stripped out. He installed a new bolt, which went in fine, and tightened up with no problem. So far no leaks.

Does this sound legitimate? I guess i'm curious if the pan is made of steel. Is it possible for the bolt to have "warped" threads and the pan threads be fine?

My other question is regarding the oil filter. When i bought the car (new) i believe it came from the Alabama factory with a black oil filter on it. After my first oil change it still had a black filter on it. After my second oil change it had a blue filter on it. Do OEM filters from the dealer come in both black and blue or did the first tech likely just dump the oil without changing the filter?

Unfortunately there is only one Hyundai dealer in my city and i'd like to continue to get my car serviced there, but just wanted to get any opinions about my situation so i know how best to proceed.

Thanks!

ANDTECH Search...

Start Now SUPERMICA Intel XEON

1 2 3 4 5 Next Previous Next

Nov 30, 2015

Diamond Member [redacted]

I own a 2011 Hyundai Sonata with ~40,000 miles. I was driving on a highway and suddenly there was no response from the engine (i could feel the car decelerating). Then the engine started responding again. A couple minutes later, again there was reduced response but this time i got a bunch of lights (oil pressure, abs and a few others). I pulled over and turned off the car. by this time only the oil pressure light was on.

I checked the oil which was near empty. I walked to a nearby gas station and bought oil and tried filled 2 quarts. Then i noticed that all oil drained right through.

I had the car towed to a nearby Hyundai dealer. The dealer diagnosis was that there is no drain plug which is probably because the last place the oil was changed (around 2-3 months back) did not install the plug properly. He also said that the engine is ruined and will have to be replace and asked me to contact my insurance company.

The last oil change was also done at a Hyundai dealer (a different one than the one that provided diagnosis).

What are my options. I don't have the thousands required for a new engine.

Last edited: Nov 30, 2015

H/K's explanations for the problem vary:

"Sometimes that just happens."

"[T]he previous tech (at the same dealer) over-tightened the drain bolt significantly causing the bolt threads to warp."

"The dealer diagnosis was that there is no drain plug which is probably because the last place the oil was changed (2-3 months back) did not install the plug properly."

"Dealer at first said it was a rod that pierced the block and oil pan, but then changed that theory and said that the oil pan plug was not secured and is trying to blame the engine on either the last service which was two months ago or 'vandalism.'"

That last explanation published in ANDTECH consumer forum in 2013 got a reboot on April 4, 2022, by Crain Hyundai of Conway, Arkansas. According to consumer [REDACTED], who owns a 2019 Hyundai Elantra, after first telling her in March that "the motor seized up because a piston had been expelled from the underside of the engine," Brian at Crain Hyundai later spun a grand tale:

He stated that the service needed for my vehicle was not under warranty. He stated that no piston came out of the engine block and that the damage was caused by a missing oil plug. On inquiry he further stated that this could have been the result of the oil plug not being property tightened at the last oil change. When I explained that the oil change was months ago and I have not had any fluid leaks or warning lights that would indicate an issue with the engine oil he stated that I had been the victim of a rash of vandalism that had been occurring frequently in AR, OK, MO, and LA. He stated that teenagers were loosening oil plugs as a prank to cause the engines to seize up. I explained this was not likely in my scenario as, again, I had no fluid loss at the residence where I stayed during my uncle's funeral for the 3 days preceding the breakdown. Brian became argumentative and asked me to recount the events of the day prior to the breakdown. I explained again that I had been driving from Rogers, AR and only stopped once in Van Buren, AR for a 10 minute fuel up prior to breaking down in Morilton, approximately 100 miles down the road. Brian said that my car had been vandalized while I was fueling up. I argued back that I was with the car almost the entire time and no one approached the vehicle. He stated "it only takes 30 seconds to reach up and loosen an oil plug." I stated that the vehicle sits very close to the ground and you could not crawl underneath it without it being jacked up, but he stated that the plug could be reached without jacking up the car. He could not explain how a person could do this without being seen at a busy gas station in broad daylight, nor could he explain how it could be done without injury while the engine was hot from running on the interstate. He concluded that their inspection determined that the cause of the breakdown was vandalism and that I must file a claim with my insurance company. (*See complete consumer timeline in Appendix C*)

Our case study shows these unprecedented mid-interval plug-outs happening nationwide and the suggestion someone could reach and unscrew an oil drain plug bare-handed on a hot engine in a matter of seconds is ridiculous, but one thing does appear certain from Crain Hyundai's story: it is safe to say H/K have reason to know better than anyone the significant number of consumers involved.

H/K's Failure to Notify NHTSA in a Timely Manner

A manufacturer of a motor vehicle that decides in good faith that the vehicle contains a defect related to motor vehicle safety or does not comply with an applicable federal motor vehicle safety standard ("FMVSS") must notify NHTSA by submitting a Defect and Noncompliance Information Report ("DIR"). 49 U.S.C. §30118(c); 49 C.F.R. §573.6. A manufacturer must submit the DIR not more than five working days after it knew or should have known of a safety-related defect or noncompliance in its vehicles. See 49 C.F.R. §573.6(b).

If ODI should conclude for whatever reason that the H/K painted oil drain pan assemblies are not a safety defect worthy of immediate investigation, the existence of this safety-related problem and its proper remedy should nevertheless have been made known to dealers via TSB or other manufacturer communication and, therefore, NHTSA as required by 49 CFR §579.5(a).

Each manufacturer shall furnish to NHTSA's Early Warning Division (NVS-217) a copy of all notices, bulletins, and other communications (including those transmitted by computer, telefax, or other electronic means and including warranty and policy extension communiqués and product improvement bulletins) other than those required to be submitted pursuant to §573.6(c)(10) of this chapter, sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, in the United States, regarding any defect in its vehicles or items of equipment (including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications), whether or not such defect is safety-related.


After extensive research of manufacturers communications provided by Hyundai and Kia to NHTSA, AOCA can find no evidence of any manufacturer's communication addressing the risks associated with having so many of their oil drain pan assemblies painted together. For instance, a logical TSB under these circumstances would direct dealers to replace both the oil drain plug and gasket prior to sale and, if not caught at that time, then at the first oil change as well as any time a vehicle arrives for service with a paint-fused oil drain plug and gasket. The TSB would also likely direct dealers to carefully search the oil drain pan to ensure the original gasket isn't painted onto it instead of the oil drain plug.

Stephen A. Ridella, Ph.D.
Director, NHTSA Office of Defects Investigation
June 13, 2022
Page 24 of 35

Conclusion

We thank you in advance for your consideration of this consumer safety issue. With the exception of publicly posted complaints, we have not provided identifying information about individual consumers impacted by the H/K oil drain pan assembly defects. We made this decision out of respect for them as well as state privacy laws. If you need additional information from us and we can provide it in a way that protects the confidentiality of our customers, we will do so.

Respectfully,



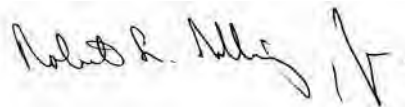
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Christina Bauders, Executive Director
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Roy Littlefield IV
Tire Industry Association
Service Station Dealers Association & Allied Trades
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Robert L. Redding, Jr.
Washington, D.C. Representative
Automotive Service Association
313 Massachusetts Avenue, N.E.
Washington, D.C. 20002
Ph. 202-543-1440
rlredding@reddingfirm.com

cc: Anne L. Collins, NHTSA Associate Administrator for Enforcement

APPENDIX A

2006 Hyundai Elantra Owner's Manual	2007 Hyundai Elantra Owner's Manual	2017 Hyundai Elantra Owner's Manual
<p>F010C01A-AAT Specified Scheduled Procedures These are the procedures such as inspections, adjustments and replacements that are listed in the maintenance charts starting on page 5-4. These procedures must be performed at the intervals shown in the maintenance schedule to assure that your warranty remains in effect. Although it is strongly recommended that they be performed by the trained technicians at your Hyundai dealer, these procedures may be performed at any qualified service facility. It is suggested that genuine Hyundai service parts be used for any required repairs or replacements. Other parts of equivalent quality such as engine oil, engine coolant, manual or auto transaxle oil, brake fluid and so on which are not supplied by Hyundai Motor Company or its distributor may be used without affecting your warranty coverage but you should always be sure these are equivalent to the quality of the original Hyundai parts. Your Owner's Handbook provides further information about your warranty coverage. (p. 191)</p>	<p>Changing the engine oil and filter: Have engine oil and filter changed by an authorized Hyundai dealer according to the Maintenance Schedule at the beginning of this section. (p. 7-13)</p>	<p>Checking the engine oil and filter: Have engine oil and filter changed by an authorized HYUNDAI dealer according to the Maintenance Schedule at the beginning of this Chapter. (Part 7 p. 489)</p>
<p>F010E01A-AAT Do-It-Yourself Maintenance If you are mechanically inclined, own a few tools that are required and want to take the time to do so, you can inspect and service a number of items. For more information about doing it yourself, see Section 6. (p. 191)</p>	<p>WARNING – Maintenance Work Performing maintenance work on a vehicle can be dangerous. You can be seriously injured while performing some maintenance procedures. If you lack sufficient knowledge and experience or the proper tools and equipment to do the work, have it done by an authorized Hyundai dealer. (Part 7 p. 159)</p>	<p>OWNER MAINTENANCE WARNING Performing maintenance work on a vehicle can be dangerous. If you lack sufficient knowledge and experience or the proper tools and equipment to do the work, have it done by an authorized Hyundai dealer. (Part 7 p. 465)</p>
<p>The engine oil quality should meet the following classification. API SJ, SL or ABOVE, ILSAC GF-3 or ABOVE Hyundai Recommends Quaker State (p. 202) Engine Oil Q'ty ... drain and refill with oil filter 4.2 US.QTS (3.5 imp.gts, 4.0 liter) (owner's manual Part 9 Vehicle Specifications) Note: There is no oil filter specification or part #</p>	<p>Engine oil (drain and refill) Recommends Quaker State API Service SJ, SL or above, ILSAC GF-3 or above (Part 9 p. 331) Note: There is no oil filter specification or part #</p>	<p>Engine oil (drain and refill) Recommends Quaker State API SM & ILSAC GF-4 (or above) ACEA A5*3 (or above) (Part 8 p. 567) Note: There is no oil filter specification or part #</p>
<p>When the oil has stopped draining, replace the drain plug using a new gasket and re-tighten by turning it clockwise. Drain plug tightening torque: 4.0 ~ 4.5 kgf.m ... Install a new oil filter in accordance with the instructions on the carton or on the filter itself. Do not over-tighten. Oil filter tightening torque: 1.2 ~ 1.6 kgf.m (Part 6 p. 204)</p>	<p>The following terms do not appear: Do-it-yourself Drain plug tightening torque Oil filter Oil filter tightening torque</p>	<p>The following terms do not appear: Do-it-yourself Drain plug tightening torque Oil filter Oil filter tightening torque</p>

APPENDIX B
Aftermarket Customers Reporting Outlier Mid-Interval Plug-Outs

Year/Make/Model/Eng/Oil Drain Pan Part	Time to Plug-Out	Submitter
2019 Hyundai Elantra GT 2.0L GDI Nu KMHH35LE4KU***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said dealer said drain plug fell out after 1,699 miles at 33,265.	64
2019 Hyundai Elantra 2.0L MPI Nu engine 5NPD74LF3KH***** Oil Drain Pan Assembly Part 21510-2E040	Customer reported dealer said dealer said drain plug fell out after 907 miles at 7,752.	65
2018 Hyundai Elantra 2.0L MPI Nu engine 5NPD84LFXJH***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said dealer said drain plug fell out after 366 miles at 37,858.	66
2018 Hyundai Elantra 2.0L MPI Nu engine 5NPD84LF4JH***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said dealer said drain plug fell out 38 days after service.	67
2018 Hyundai Elantra 2.0L MPI Nu engine 5NPD84LF4JH***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said dealer said drain plug fell out 27 days after service.	68
2018 Hyundai Elantra 2.0L MPI Nu engine 5NPD84LF1JH2***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said dealer said drain plug fell out after 1,533 miles at 81,000.	69
2017 Hyundai Elantra 2.0L Nu engine KMHD74LF6HU***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said dealer said drain plug fell out after 4439 miles at 30,001.	71
2017 Hyundai Elantra 2.0L Nu engine 5NPD74LF8HH***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said dealer said drain plug fell out after 3,237 miles at 42,848.	72
2017 Hyundai Elantra 2.0L Nu engine KMHD84LF7HU***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said dealer said drain plug fell out after 6,500 miles.	73
2017 Hyundai Elantra 2.0L Nu engine 5NPD74LF0HH***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said dealer said drain plug fell out after 1,386 miles at 81,728.	75
2016 Hyundai Elantra 1.8L Nu engine 5NPDH4AE8GH***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said dealer said drain plug fell out after 838 miles at 33,205.	78
2015 Hyundai Elantra 2.0L GDI Nu engine KMHDH4AHXFU***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said dealer said drain plug fell out after 3,064 miles at 48,362.	79

Year/Make/Model/Eng/Oil Drain Pan Part	Time to Plug-Out	Submitter
2015 Hyundai Elantra 1.8L Nu engine 5NPDH4AE0FH***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said dealer said drain plug fell out after 213 miles at 87,200.	80
2015 Hyundai Elantra 1.8L Nu engine KMHDH4AE8FU***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said dealer said drain plug fell out after 144 miles at 45,585.	81
2014 Hyundai Elantra 2.0L Nu engine KMHDH4AH3EU***** Oil Drain Pan Assembly Part 21510-2E022	Customer reported dealer said dealer said drain plug fell out after 607 miles at 34150.	83
2014 Hyundai Elantra 1.8L Nu engine 5NPDH4AE6EH***** Oil Drain Pan Assembly Part 21510-2E022	Customer reported dealer said dealer said drain plug fell out after 1,685 miles at 123,560.	85
2013 Hyundai Elantra 1.8L DOHC MPI Nu KMHDH4AE7DU***** Oil Drain Pan Assembly Part 21510-2E022	Customer reported dealer said drain plug fell out after 1,168 miles at 69,677.	89
2012 Hyundai Elantra 1.8L DOHC MPI Nu 5NPDH4AE6CH***** Oil Drain Pan Assembly Part 21510-2E022	Customer reported dealer said drain plug fell out after 604 miles at 98,017.	90
2020 Hyundai Kona 2.0L MPI Nu engine KM8K22AA2LU***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out at 183 miles at 17998.	101
2018 Hyundai Santa Fe Sport 2.4L Theta II 5NMZU3LB7JH***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 535 miles at 41,002.	31
2013 Hyundai Santa Fe Sport 2.4L Theta 5XYZU3LB9DG***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 1,948 miles at 92,579.	32
2013 Hyundai Santa Fe Sport 2.4L Theta 5XYZU3LB1DG***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 1,459 miles at 118,870.	33
2017 Hyundai Sonata Hybrid 2.0 L GDI Nu KMHE24L15HA***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out approx. 2 months after service in Sept. 2018.	2
2017 Hyundai Sonata 2.4L Theta II 5NPE24AF9HH***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said oil drain plug fell out after 2540 miles at 45,850.	3
2017 Hyundai Sonata 2.4L Theta II 5NPE24AF6HH***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 1,041 miles at 96,880.	4
2017 Hyundai Sonata 2.4L Theta II 5NPE24AF9HH***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 1,236 miles at 89,478.	5

Year/Make/Model/Eng/Oil Drain Pan Part	Time to Plug-Out	Submitter
2016 Hyundai Sonata Hybrid 2.0L GDI Nu KMHE24L18GA***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out after 437 miles at 35,267.	7
2016 Hyundai Sonata 2.4L Theta II 5NPE24AF4GH***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 744 miles at 129,424.	8
2015 Hyundai Sonata 2.4L Theta II 5NPE24AF4FH***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 1,324 miles at 70,562.	10
2015 Hyundai Sonata 2.4L Theta II 5NPE24AF8FH***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 613 miles at 96,524.	11
2014 Hyundai Sonata 1.6L Gamma 5NPEB4AC1EH***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 602 miles at 35,732.	12
2014 Hyundai Sonata 1.6L Gamma 5NPEB4ACXE***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 720 miles at 86,004.	13
2013 Hyundai Sonata 2.4L Theta II 5NPEC4AC0DH***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 3,683 miles at 55,931.	14
2013 Hyundai Sonata 2.4L Theta II 5NPEC4ACXDH***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 202 miles at 146,505.	15
2011 Hyundai Sonata 2.4L Theta II 5NPEB4AC9BH***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 7,321 miles at 117,962.	17
2011 Hyundai Sonata 2.4L Theta II 5NPEB4AC4BH***** Oil Drain Pan Assembly Part 21510-2G500	Repair shop reported dealer said vehicle towed with no drain plug. Customer had driven over 400 miles post-service on 1/20/17.	18
2011 Hyundai Sonata 2.4L Theta II 5NPEC4AC7BH***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 942 miles at 139,768.	20
2018 Hyundai Tucson 2.0L GDI Nu engine KM8J3CA44JU***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out after 4,137 miles.	42
2018 Hyundai Tucson 2.0L GDI Nu engine KM8J3CA45JU***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out after 2,400 miles.	45

Year/Make/Model/Eng/Oil Drain Pan Part	Time to Plug-Out	Submitter
2018 Hyundai Tucson 2.0L GDI Nu engine KM8J33A49JU***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out 2,790 miles after service.	46
2018 Hyundai Tucson 2.0L GDI Nu engine KM8J33A41JU***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out after 68 miles at 62042.	47
2016 Hyundai Tucson 2.0L GDI Nu engine KM8J33A49GU***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out after 3,106 miles at 37,066.	48
2016 Hyundai Tucson 2.0L GDI Nu engine KM8J33A42GU***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out after 149 miles at 86,359.	50
2016 Hyundai Tucson 2.0L GDI Nu engine KM8J33A44GU***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out after 822 miles at 48,237.	51
2015 Hyundai Tucson 2.4L Theta II KM8JU3AG2FU***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 1,651 miles at 51,677.	52
2014 Hyundai Tucson 2.4L Theta II KM8JU3AG9EU***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 585 miles at 35,657.	53
2012 Hyundai Tucson	Customer reported dealer said drain plug fell out after 4046 miles.	54
2019 Hyundai Veloster 2.0L Nu MPI KMHTG6AF0KU***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out after 2,203 miles at 6,610.	38
2017 Kia Forte 2.0L MPI Nu engine 3KPFL4A78HE***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out after 8,000 miles; 123 days.	55
2015 Kia Forte Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out 9,500 kilometers after service.	58
2015 Kia Forte 1.8L Nu engine KNAFX4A62F5***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out after 723 miles at 40,097.	59
2014 Kia Forte 2.0L Nu engine KNAFX4A8XE5***** Oil Drain Pan Assembly Part 21510-2E022	Customer reported dealer said drain plug fell out after 172 miles at 137,025.	60
2012 Kia Forte 2.0L Theta II KNAFU4A22C5***** Oil Drain Pan Assembly Part 21510-25001	Customer reported dealer said drain plug fell out after 694 miles at 165,937.	62

Year/Make/Model/Eng/Oil Drain Pan Part	Time to Plug-Out	Submitter
2010 Kia Forte 2.0L Theta II KNAFU4A24A5***** Oil Drain Pan Assembly Part 21510-25001	Customer reported dealer said drain plug fell out after 117 miles at 100,527.	63
2016 Kia Optima 2.4L Theta II 5XXGT4L32GG***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell off 39 days after service.	21
2016 Kia Optima 2.4L Theta II 5XXGT4L34GG***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug missing 2,833 miles after service.	22
2015 Kia Optima 2.4L Theta II 5XXGN4A70FG***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 1,786 miles at 53,149.	24
2014 Kia Rio 1.6L DOHC Gamma KNADM4A35E***** Oil Drain Pan Assembly Part 21510-2B040	Customer reported dealer said drain plug fell out after 1,799 miles at 95,004.	102
2021 Kia Seltos 2.0L MPI Nu engine KNDEPCAAXM7***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out 3,188 miles after vehicle's first oil change at 6,885.	100
2016 Kia Sorento 2.4L Theta II 5XYPG4A3XGG***** Oil Drain Pan Assembly Part 21510-2G500	Customer reported dealer said drain plug fell out after 2,086 miles at 37,769.	28
2011 Kia Sorento 2.4L Theta 5XYKT3A17BG***** Oil Drain Pan Assembly Part 21510-3C150	Customer reported dealer said drain plug fell out after 1,084 miles at 14,701.	29
2016 Kia Soul 2.0L DOHC GDI Nu Engine KNDJP3A55G7***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out after 349 miles at 17921.	92
2016 Kia Soul 2.0L DOHC GDI Nu engine KNDJP3A5XG7***** Oil Drain Pan Assembly Part 21510-2E023	Customer reported dealer said drain plug fell out 2,508 miles after service. Odometer was 106,476 at service.	93
2014 Kia Soul 2.0L DOHC GDI Nu engine KNDJP3A51E7***** Oil Drain Pan Assembly Part 21510-2E022	Customer reported dealer said drain plug fell out after 500 miles at 102,208	95
2012 Kia Soul 1.6L DOHC GDI Gamma (without turbo) KNDJT2A55C7***** Oil Drain Pan Assembly Part 21510-2B040	Customer reported dealer said drain plug fell out after 1,820 miles at 95,895.	97
2011 Kia Soul 2.0L Beta KNDJT2A23B7***** Oil Drain Pan Assembly Part 21520-23604	Customer reported dealer said drain plug fell out after 1,469 miles at 90,325.	98

APPENDIX C

Timeline of incidents relating to motor failure of my 2019 Hyundai Elantra, by [REDACTED] (email address & phone number available to NHTSA but not for publication)

- November 30, 2021—Oil Changed at Werner Hyundai, Tallahassee FL

- March 13, 2022
 - Approximately 10 am left Rogers, AR to return home to Pensacola, FL after a funeral. Travelled southbound on I-49 then eastbound on I-40
 - Approximately 11:15 am stopped for fuel at Casey’s General Store on Hwy 59 in Van Buren, AR
 - Approximately 11:25 am, finished fueling and resumed trip traveling eastbound on I-40
 - Approximately 12:50 pm car broke down on I-40 near mile marker 109 just east of Morilton, AR
 - 12:58 pm called Hyundai Roadside Assistance for towing
 - Approximately 2:30pm tow truck driver Chris of JT Towing arrived, loaded vehicle, and transported it to Crain Hyundai of Conway, AR. As it was Sunday, the dealership was closed and I was forced to get a room at a nearby hotel to await reopening.

- March 14, 2022
 - 8:53 am contacted Crain Hyundai of Conway, AR at 501-470-7300 to inquire about service needs and expectations. Was informed that there were several vehicles ahead of me awaiting processing and that they would get back with me in “a few days” once they were able to look at the vehicle. Explained that I was stranded out of town and was supposed to be back at work this morning. They said they might be able to have someone look at it at some time today, but could not guarantee this.
 - Approximately 10 am arrived at dealership to speak with a service manager in person to explain my plight. Requested assistance obtaining loaner vehicle or rental while my vehicle was awaiting service, however this was deferred pending diagnostics in order to ensure the repair was covered by warranty. Continued to wait for a technician to check diagnostic issues.
 - Approximately 12:30pm spoke with service technician who stated that the motor seized up because a piston had been expelled from the underside of the engine. He indicated that the engine would need to be replaced and that these engines are on backorder nationwide. He estimated 2-4 months time before service would be complete. Again Requested assistance obtaining loaner vehicle or rental while my vehicle was awaiting service, however this was refused by the service manager Larry Harris who stated he could not provide a rental or loaner because I live out of state. Explained that my vehicle’s coverage was not limited to one state or another but he continued to reject my requests

for assistance. They did contact a local rental agency they have a relationship with to request a good rate that I might be reimbursed for by Hyundai Corporate, however it was Spring Break and there was a car rental shortage, therefore the lowest priced vehicle available was over \$500/day rental, plus fees. I was told that the total cost would be over \$700/day with taxes and fees but that Hyundai would only reimburse up to \$40/day. I declined this.

- 1:46 pm contacted Hyundai Customer Care at corporate HQ 800-633-5151. Explained circumstances and needs. They opened a claim for me (Case ██████████) and also advised me to contact Roadside Assistance to invoke my Trip Interruption coverage.
- 2:16 pm contacted Hyundai Roadside Assistance to invoke my Trip Interruption coverage. Explained the situation and was told that I would be reimbursed for all expenses of my trip interruption including lodging, meals, transportation, incidental expenses, and travel home including airfare for myself and my passenger. This was added to the existing service ticket from my vehicle's tow, Case ██████████.
- Made arrangements for emergency travel back home to Pensacola, FL. A friend came to Conway from Little Rock, AR and brought me to his home where I was able to purchase airfare for myself and my daughter. I was not prepared for air travel and all my items were in tote bags so I had to purchase luggage and pay extra to have the bags checked on the airplane. My flight out of Little Rock was delayed and caused us to miss our connection home. We stayed the night in Atlanta and waited for our flight the next day.
- March 15, 2022 returned home to Pensacola. Utilized Uber for transportation from airport to home, as rental car prices were still well beyond the Hyundai's \$40 reimbursement limit.
- March 19, 2022 purchased short term car rental in order to transport my daughter from our home in Pensacola, FL back to her dorm at Florida State University in Tallahassee, FL
- March 21, 2022
 - Received email from Hyundai Consumer Affairs indicating that a "possible" rental reimbursement of up to \$40/day but can only be requested AFTER the vehicle has been fully repaired and returned to me. At this point I had been told to estimate up to months (120 days) which I would be expected to pay out of pocket for a rental car. Even if a rental was available at this cost, I would be on the hook for approximately \$4800 out of pocket in addition to taxes, fees, deposits, and my regular car payment for the vehicle in the shop. This was unfeasible for me financially. I explained this to the Consumer Affairs specialist Raven in a return email.
 - submitted receipts to request reimbursement of Trip Interruption expenses as previously directed.
- March 22, 2022 returned short term rental car
- March 28, 2022 spoke with Red at 800-243-7766 to verify Trip Interruption reimbursement request was received. She indicated it was being reviewed by TI Coordinator Che who would make a decision regarding expense reimbursement approval in 6-8 weeks (by May 21st). Explained that I was out of pocket a significant amount of money and was not told that trip

interruption reimbursement may not be fully reimbursed or that it would take such a long time to process. Red stated there was no way to expedite the claim, but there was a new case number [REDACTED].

- March 31, 2022 AAA printed check for \$300 Reference [REDACTED] with the comment “trip interruption.” The check was received in the mail 4/5/2022. There was no accompanying documentation to indicate what was being reimbursed and this amount is about 1/2 the cost of the airfare home, and does not take into account the other promised reimbursements of hotel, meals, and incidental expenses/travel (luggage, transportation to/from airport, etc).
- April 1, 2022 spoke to service manager Barry Boullion of Pensacola’s Allen Turner Hyundai (my local dealership) who has been communicating with me and the Conway dealership attempting to help obtain a long term rental while my car is awaiting service in Arkansas. He spoke with Larry Harris at Crain Hyundai and was told that the engine block needed was approved for order but is on backorder nationwide and it is unknown how long it will take them to get the part but we should expect additional delays due to labor shortages even once the part is received. He notified me that he coordinated with Mr. Harris and the local Enterprise rental dealership so that they could bill Crain Hyundai directly at Hyundai’s pre-approved reimbursement rate so that this expense is handled by the dealership as I do not have the resources to pay out of pocket for the long term rental while also paying my monthly payments on the Elantra while it is out of service. Barry stated that he & Mr. Harris would get the details settled on Monday, April 4, 2022 and once it is set up, Enterprise will bring me the vehicle.
- April 4, 2022
 - 8:56am received a phone call from Brian of Crain Hyundai. He stated that the service needed for my vehicle was not under warranty. He stated that no piston came out of the engine block and that the damage was caused by a missing oil plug. On inquiry he further stated that this could have been the result of the oil plug not being properly tightened at the last oil change. When I explained that the oil change was months ago and I have not had any fluid leaks or warning lights that would indicate an issue with the engine oil he stated that I had been the victim of a rash of vandalism that had been occurring frequently in AR, OK, MO, and LA. He stated that teenagers were loosening oil plugs as a prank to cause the engines to seize up. I explained this was not likely in my scenario as, again, I had no fluid loss at the residence where I stayed during my uncle’s funeral for the 3 days preceding the breakdown. Brian became argumentative and asked me to recount the events of the day prior to the breakdown. I explained again that I had been driving from Rogers, AR and only stopped once in Van Buren, AR for a 10 minute fuel up prior to breaking down in Morilton, approximately 100 miles down the road. Brian said that my car had been vandalized while I was fueling up. I argued back that I was with the car almost the entire time and no one approached the vehicle. He stated “it only takes 30 seconds to reach up and loosen an oil plug.” I stated that the vehicle sits very close to the ground and you could not crawl underneath it without it being jacked up, but he stated that the plug could be reached without jacking up the car. He could not explain how a

- person could do this without being seen at a busy gas station in broad daylight, nor could he explain how it could be done without injury while the engine was hot from running on the interstate. He concluded that their inspection determined that the cause of the breakdown was vandalism and that I must file a claim with my insurance company.
- Approximately 11 am filed claim [REDACTED] with Progressive Insurance
 - April 5, 2022 at 12:09 pm received follow up call from Barry at Allen Turner Hyundai of Pensacola to ensure that my rental situation had been resolved yesterday as previously planned. Explained that it had not because Crain Hyundai contacted me and said that the damage would not be covered under warranty. Barry stated that he believed this was an error or that I had misunderstood what I was told because he had just spoke to Larry Harris on Friday and that they were just waiting on the engine to come off back order. He stated that he would call Mr. Harris and get clarification as the situation I described about the vandalism did not seem accurate.
 - April 6, 2022
 - at 8:09am received follow up call from Barry at Allen Turner Hyundai of Pensacola. He states that he spoke to Mr. Harris and confirmed the situation was as I had described it to him. He stated that he had no way to continue to assist me if the other dealership is denying the warranty claim because the rental would not be covered unless the damage was covered under warranty. Barry stated that he did not understand why the story had changed about what happened with my car or why the missing oil plug was not noticed until the car had sat on the Crain lot for 3 weeks. He profusely apologized and said that he wished he could help but recommended that I continue to follow up with Hyundai Customer Care as something did not add up in this case.
 - Filed complaint [SR#: [REDACTED]] with FL DEPARTMENT OF FINANCIAL SERVICES DIVISION OF CONSUMER SERVICES REGARDING WARRANTY REFUSAL.
 - At 02:46 pm EDT Progressive Matthew a. Chalk (a128425) insured recorded interview. Claims rep initiated a transfer for mechanical investigation, engine seized up, no actual accident
 - April 7, 2022 at 07:56 PM EDT Progressive Claims Processor Laura Ibarra (A164400) took another recorded interview from insured.
 - April 12, 2022 Consult with attorney Winter Spires. She agreed to accept my case with a \$875 retainer, however despite multiple calls back to the attorney's office, I never received the retainer contract to complete payment. Therefore I began considering different legal representation.
 - April 15, 2022 Progressive Managed Repair Orlen D. Tatom (A058333) completed mechanical investigation. Provided statements from dealer service department. Concluded the dealership had not run diagnostics on the vehicle at any time. Further concluded: NO SIGNS OF OIL LEAKING DURING THE RECENT TRIP ALSO ACCESS ISSUES TO OIL PLUG MAKE THE THEFT OF PLUG SEEM UNLIKELY.
 - April 19, 2022 PD Suite 2019 HYUNDAI ELANTRA Progressive Robert Christopher Turner (RCT0004) 04/19/2022 09:13 AM EDT reviewed w/SDD. No evidence of vandalism or

collision. Does not appear to meet the def of a loss, all indications are the oil plug backed out which would be mech failure

- April 20, 2022 [SR#: ██████████] received email response from Diana Quinones with FL DEPARTMENT OF FINANCIAL SERVICES DIVISION OF CONSUMER SERVICES INDICATING THAT After reviewing your warranty thoroughly, this warranty seems to have been issued by the Hyundai dealership directly. We do not have jurisdiction to reach out to the dealership, there is a state agency that you can contact solely because the warranty was issued by the dealership itself. That state agency is: Florida Highway Safety and Motor Vehicles, 850-617-2000
- April 25, 2022 received email response from **Devin L. Joseph** at Florida Highway Safety and Motor Vehicles requesting additional information.
- May 5, 2022
 - Hyundai Motor America Case#: ██████████ submitted in attempt to dispute initial warranty denial now that the insurance investigation has concluded that the damage was caused by mechanical failure.
 - received email response from Seth Rubin to online complaint filed with FL Office of the Attorney General requesting additional information and a completed form.
- May 10, 2022 at 5:32pm received call from Brian Hicks at Werner Hyundai inquiring about when my vehicle would be removed from their lot. He indicated there was no rush and no charge to keep it there.



September 16, 2019

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue, NW
Suite CC-5610 (Annex B)
Washington, DC 20580

Re: FTC Call for Comments Related to *Nixing the Fix: A Workshop on Repair Restrictions*

Dear Acting Secretary Tabor:

This submission is on behalf of the Automotive Oil Change Association (AOCA) in response to the Federal Trade Commission (FTC)'s request for comments responsive to the July 16th workshop entitled "Nixing the Fix: A Workshop on Repair Restrictions." AOCA submitted initial research on April 30, 2019 to support FTC's workshop development process, and submits the following information to augment those findings and respond to issues raised at the workshop.

AOCA Background

Founded in 1987, AOCA is a non-profit trade organization representing 4,740 automotive maintenance centers throughout North America and around the world. The association is dedicated to enhancing the competency of fast lube owners, educating the public about the benefits of preventive automotive maintenance, and maintaining a healthy, competitive environment for the industry. AOCA members adhere to a Code of Ethics and a standard of service excellence. When it comes to changing oil, AOCA members have more collective experience than any other segment of the automotive maintenance and repair industry.

AOCA supports empowering consumers with (a) the ability to seek the services they want when they want them and (b) access to the important information they need to make prudent decisions to protect their safety, vehicle investment, and natural resources. Properly maintained vehicles function better, last longer, have fewer leaks, and emit less pollutants. Everybody wins.

Overview

Automobile manufacturer tactics used to restrict maintenance and repair to dealerships and automaker brand products have increased over the past twenty years. It is now clear that such behavior has the added consequence of delaying public discovery of vehicle defects that threaten consumer safety. This multiplies the importance of FTC enforcement against MMWA violations and supports an expansion of Right to Repair legislation to include telematics.

I. MMWA VIOLATIONS TO CREATE AN OEM-CLOSED LOOP SYSTEM

This type of deceptive restriction occurs when an automaker and/or its authorized dealers use commandments, threats, and defamation to divert consumers from seeking aftermarket automotive maintenance provider options and/or obtaining relief from engine defects.

A. ADVERTISEMENTS & OTHER PUBLIC STATEMENTS

Example—Ford Power Stroke Diesel 6.0 Liter Engine Advertisement

Ford Motor Company published a deceptive advertisement¹ promoting use of OEM brand oil filters for the 6.0L Power Stroke Diesel engine² that contains three falsehoods that disparage aftermarket competition and one conflation of an engine design problem to aftermarket oil filters.

Ford Falsehood #1: “Motorcraft filters are the only filters guaranteed to fit and function properly on your Power Stroke Diesel engine.”

FACT: Aftermarket oil filter manufacturers and distributors, including Mighty and Service Champ, guarantee their oil filters to fit and function properly on the Ford Power Stroke Diesel engine. The professional fast lube operators who use their products likewise guarantee the products to fit and function properly.

Ford Falsehood #2: “When oil change retailers install their aftermarket filter with an affixed filter-housing cap, they discard the OE filter and filter-housing cap.”

FACT: Some automotive service retailers somewhere may be using an oil filter with an affixed filter housing, but that is not the professional fast lube industry’s recommended practice. As far back as 2004, the Technical Tips section of *National Oil & Lube News* written by Dr. R. Scotti Lee, former AOCA President and NOLN Operator of the Year, provided detailed guidance on the proper method for changing oil on a Ford Power Stroke Diesel engine, which included explicit instructions for preserving the engine’s unusual OE filter-housing cap.³ Ford Motor Company, however, refers to “oil change retailers” doing the opposite to tarnish the entire fast lube industry⁴ and scare customers away. Moreover, Ford Motor Company has provided no evidence that an *on-spec* aftermarket oil filter with its

¹ See Appendix page 1-2.

² Affected vehicle models include 2003-07 Ford F-250, F-350, Excursion, F-Super Duty, F-650 and F-750, and 2003-09 Ford E-350 and E-450.

³ See Appendix page 3 for the complete NOLN Technical Tip by Dr. Lee from November 2004.

⁴ The phrase “oil change retailer” has long been synonymous with NAICS 811191, a/k/a “quick lube” and “fast lube,” which represents a unique sector dedicated to convenient, affordable preventative maintenance services.

own cap alters or disrupts the Power Stroke Diesel engine oil system in any way, let alone in a manner distinct from the symptoms associated with the engine's various established engine defects.

Ford Falsehood #3: “Motorcraft’s patented design has key advantages over the competition... Reduced maintenance costs when reusing the OE filter-housing cap.”

FACT: Aftermarket oil filter manufacturers make spec oil filters that fit the OE filter-housing cap. Ford Motor Company’s advertisement, however, sets up a false choice between OE oil filters that fit the filter-housing cap and aftermarket oil filters that come with their own affixed cap. A simple online retail survey of OE oil filter costs versus aftermarket spec oil filter costs conducted on August 6, 2019, showed aftermarket spec oil filters at 15-22% less cost.

Ford conflation of design problem with aftermarket parts: “Certain aftermarket oil filters have a permanently attached filter housing cap that can lead to some serious problems with your Power Stroke Diesel: ♦ Dirty oil entering the engine, which can cause fuel injector damage. ♦ Fit and filtration problems. ♦ Increased maintenance costs.”

FACT: The Power Stroke Diesel is well-known for experiencing those listed problems, which have nothing to do with OEM oil filters versus aftermarket spec oil filters.⁵ Among other defect factors like those documented in the class actions *Williams Ambulance v. Ford Motor Company*⁶ and *In re Navistar 6.0 L Diesel Engine Product Liability Litigation*,⁷ due to extreme pressure caused by the engine design, the oil filter needs to be changed far more often than the “normal” 7,500-mile oil change intervals recommended in the owner’s manual even if the owners’ driving habits don’t meet the listed “severe service” or “special” conditions.⁸ Failure to do so will lead to oil bypassing the filter; a/k/a “dirty oil entering the engine, which can cause fuel injector damage.”

Ford Motor Company, however, takes this advertisement opportunity to acknowledge known engine design problems and misdirect their cause to a particular alleged owner mistake—using the wrong oil filter—while simultaneously describing Ford dealerships’ top competition for that service business as an industry that always makes that same “mistake.” In doing so, the automaker (a) creates a backstory for the problems countless owners will experience; (b) makes owners experiencing related symptoms doubt and avoid the work of any service provider other than the dealership; and (c) sets up the owners to lose warranty coverage for known engine problems due to claimed failure to properly maintain⁹ the vehicle

⁵ See Appendix pages 17-64.

⁶ 2009 Settlement Information, Appendix page 70.

⁷ *In re: Navistar 6.0 L Diesel Engine Products Liability Litigation Federal Civil Lawsuit*, Case No. 1:11-cv-02496 (N.D. Ill. 2013).

⁸ Ford 6.0 L Power Stroke Engine Supplement Owner’s Manual at pages 39 and 53.

⁹ See *In re: Navistar 6.0 L Diesel Engine Products Liability Litigation Federal Civil Lawsuit*, Case No. 1:11-cv-02496 (N.D. Ill. 2013) (Complaint at page 28, paragraph 91) (“Ford Motor Company, notwithstanding its knowledge of the defects, has not conducted sufficient recalls, has not notified Plaintiffs of the extent of the engines’ inadequacies, has misrepresented to Plaintiffs that the 6.0L Engine problems were caused by factors other than an inherent defect (*including improper maintenance and the weather*), has misrepresented the supposed attributes of the 6.0L Engine, has failed to disclose

even where (1) Ford’s definition of “proper” maintenance violates the MMWA prohibition against tie-in sales of branded products, and (2) there are applicable technical service bulletins, manufacturer communications, recalls, and/or class action lawsuits.¹⁰

The following consumer complaint is an example of how that setup can be applied especially prior to critical mass being established to sustain a class action.

The contact stated that a turbo charger failure resulted in a blown head gasket. There have been no parts repaired or replaced at this time. The vehicle is currently at the dealer service waiting for repair. The problem is not covered under warranty. The vehicle started smoking and when inspecting the vehicle, the turbo charger problem was discovered. *AK The consumer was being denied repairs under warranty. He was told the reason he experienced problems with his truck was due to the aftermarket parts installed on the vehicle. Updated 12/07/05.
(NHTSA 567362/10141381 2004 Ford F-350 SD November 1, 2005)

It is also worth noting that later generation Ford Power Stroke engines also have significant functional challenges—if not outright defects—that dealers and other authorized OEM representatives may continue trying to blame on aftermarket maintenance as an excuse to deny warranty coverage.¹¹


In summary, since Ford has no factual basis to disparage an entire sector of the automotive service industry—“oil change retailers” a/k/a the fast lube industry—as using an insufficient non-specification oil filter or that only Motorcraft oil filters come with a guarantee to fit and function properly on a Power Stroke Diesel 6.0 L engine, its advertisement is deceptive according to FTC’s Policy Statement on Deception:

known defects in the engines, and has failed to effectively repair or replace the engines and/or parts, or to reimburse Plaintiffs for their damages.”) (emphasis added)

¹⁰ There are too many examples to list here. The following is a sample: Ford MC 18306 *Oil Leak at the Engine Oil Cooler/Oil Filter Housing - O-Ring Available For Service*; Ford MC Low Power - Cold Side Charge Air Cooler (CAC) Disconnected - Oil Leak at Cold Side CAC Connections - 6.0l Engine - Vehicles Built 12/15/2003 Through 4/1/2004; Ford MC 04115 *No Start or Constant Engine Misfire - Fuel Injection Control Module (FICM) Diagnosis - 6.0l Diesel*; Ford MC 17683 *Engine Oil Leaks At Lower Crankcase*; NHTSA Investigation Action Number DP05005; and the class action lawsuit, *In re: Navistar 6.0L Diesel Engine Products Liability Litigation*, settled in 2013.

¹¹ See class action, *Nunez et al. v. Ford Motor Company*, Case No. 1:18-cv-25211-UU (S.D. Fla.), claims the Bosch CP4 fuel injection pumps, which come standard in 2011-2017 For Super Duty diesel trucks equipped with a 6.7L Power Stroke engine, are incompatible with thinner, lighter American diesel fuel. “Specifically, the CP4 pump is not built to withstand the specifications for U.S. diesel fuel in terms of lubrication or water content, and it struggles to lift a volume of fuel sufficient to lubricate itself. As a result, the pump is forced to run dry and destroy itself as air bubbles allow metal to rub against metal. The pump secretly deposits metal shavings and debris throughout the fuel injection system and the engine until it suddenly and cataclysmically fails without warning, further contaminating the fuel delivery system with larger pieces of metal. Such catastrophic failure often causes the vehicle to shut-off while in motion and renders it unable to be restarted, because the vehicle’s fuel injection system and engine component parts have been completely contaminated and destroyed.” (Plaintiff’s Amended Complaint at 2; January 4, 2019)

The deception theory is based on the fact that most ads making objective claims imply, and many expressly state, that an advertiser has certain specific grounds for the claims. If the advertiser does not, the consumer is acting under a false impression. The consumer might have perceived the advertising differently had he or she known the advertiser had no basis for the claim.



It also violates the MMWA prohibition against tie-in sales of branded products and services, and unjustly disparages lawful competitors. Moreover, Ford/authorized dealers have relied upon this type of deception to avoid providing warranty coverage to consumers for engine defects/functional challenges and to shift the burden of repair and replacement expenses to consumers and aftermarket competitors.

Example—Honda Consumer Bulletin

A Honda Consumer Bulletin issued nationally on August 20, 2010, stated:

American Honda's new vehicle warranty and replacement parts warranty do not apply to any part which is not purchased from an authorized US Honda dealer. American Honda will not be responsible for any subsequent repair costs associated with vehicle or part failures caused by the use of parts other than Honda Genuine parts purchased from an authorized US Honda dealer."

Honda Manipulation #1: The first sentence gives the impression that the new vehicle warranty won't apply if a consumer uses non-OEM parts (because authorized US Honda dealers sell OEM parts).

FACT: Automaker "parts" include everything from alternators to brake rotors to fluids and filters. Nearly everything that can be replaced in a car has a part number. The manipulative sentence can be read as a threat to void the *entire* new vehicle warranty should the consumer use a non-OEM part anywhere on the vehicle; i.e., a defective or incompatible non-OEM brake rotor could void warranty coverage for the engine as well as the brakes. Automakers have a history of claiming statements like this merely refer to their refusal to warrant the performance of non-OEM parts, as in they would not pay to replace a defective or incompatible non-OEM part. However, if that's what they mean, then that's what they need to say. The average consumer is not in a position to parse the nuances of automaker statements with potential multiple meanings especially when those statements involve threats.

Honda Manipulation #2: The first sentence requires consumers to buy brand parts from an authorized Honda dealer.

FACT: The MMWA prohibition against tie-in sales prohibits Honda from requiring consumers to use OEM-brand parts let alone also requiring their purchase exclusively from an authorized dealer in order to maintain warranty coverage.

Honda Manipulation #3: The second sentence fails to inform the consumer about the standard for causation, which matters because the average consumer isn't an automotive repair technician.

FACT: Neither Honda nor any OEM or authorized dealer gets to make a unilateral declaration of absolution from warranty responsibility. They have the burden of proving that a non-OEM part caused specific damage found in a vehicle, a process that typically requires a tear-down when engine damage is involved. It is not enough for an OEM/authorized dealer to note the presence of a non-OEM part and then declare any vehicle malfunction or damage as caused by that part. For instance, the average consumer would not know that chronic engine knock is caused by malfunctions associated with pistons and rod bearings, not oil filters, but multiple automakers have made that claim and voided warranty coverage and their customers did not know how to defend themselves. Consumers need to know that OEMs and their authorized dealers must demonstrate the cause of damage with evidence not anecdotes and authoritarian edicts.

New car models generally begin rolling out in August, which is why Honda issued its bulletin in that month. *AOCA's 2010 Fast Lube Industry Survey* showed Honda new vehicle car counts dropped 70% at fast lubes nationwide after Honda issued the bulletin in question demonstrating that new car consumers are successfully diverted to automaker parts and services when automakers employ this kind of threatening manipulation. In 2010, AOCA, Auto Care, and Tire Industry of America petitioned FTC to take enforcement action against Honda. Instead, FTC issued an all-purpose bulletin on the MMWA prohibition against tie-in sales of branded products and services in the automotive services context.¹² Although AOCA appreciated FTC's step in the right direction, omitting direct enforcement encouraged other automakers to ignore MMWA.

Example—Mazda Press Release

A Mazda Press Release issued August 12, 2011, stated:

Only Genuine Mazda Parts purchased from an authorized Mazda dealer are specifically covered by the Mazda warranty. The original warranty could become invalid if aftermarket parts contribute to the damage of original parts.¹³

Mazda Manipulation #1: Like Honda, Mazda is conditioning warranty coverage on the use of OEM-brand parts.

FACT: Automaker “parts” include everything from alternators to brake rotors to fluids and filters. Nearly everything that can be replaced in a car has a part number. The manipulative sentence can be read as a threat to void the entire new vehicle warranty should the consumer use a non-OEM part anywhere on the vehicle; i.e., a defective or incompatible non-OEM brake rotor could void warranty coverage for the engine as well as the brakes. Automakers have a history of claiming statements like this merely refer to their refusal to warrant the performance of non-OEM parts, as in they would not pay

¹² FTC Alert entitled *Auto Warranties, Routine Maintenance, and Repairs: Is Using the Dealer a Must?* (December 2010). Appendix pages 74-75.

¹³ [Hill and Knowlton](#). Press Release Contact Information: Vice President, Hill and Knowlton, Inc., Eric Booth; eric.booth@hillandknowlton.com.

to replace a defective or incompatible non-OEM part. However, if that's what they mean, then that's what they need to say. The average consumer is not in a position to parse the nuances of automaker statements with potential multiple meanings especially when those statements involve threats.

Mazda Manipulation #2: Like Honda, Mazda is conditioning warranty coverage on the use of OEM-brand parts purchased only from an authorized Mazda dealer.

FACT: The MMWA prohibition against tie-in sales prohibits Mazda from requiring consumers to use OEM-brand parts let alone also requiring their purchase exclusively from an authorized dealer in order to maintain warranty coverage.

Mazda Manipulation #3: In the second sentence, Mazda reduces the MMWA burden of proof.

FACT: Mazda must prove a non-OEM part (or OEM-part purchased elsewhere) caused any alleged damage not that it merely "contributed" to alleged damage. Contribution is a lesser standard by language and effect; how does one prove contribution and how much contribution is necessary to void the consumer's warranty? One percent? Fifty percent? Seventy-five percent? No one knows because it isn't a legitimate standard. In addition, although MMWA doesn't require Mazda to guarantee another manufacturer's parts, neither does it give Mazda the authority to invalidate its entire original vehicle warranty due to the use of one.

New car models generally begin rolling out in August, which is why Mazda issued its press release in that month—a year after Honda issued similar statements and received no rebuke. On October 21, 2011, AOCA, Auto Care, and Tire Industry of America petitioned FTC to take enforcement action against Mazda.¹⁴ To AOCA's knowledge, FTC took no action. *AOCA's 2015 Florida Fast Lube Operator Survey* showed 87% of operators lost Mazda customers after the press release was issued.

B. OWNERS' MANUALS

Tied Brand Service Example—BMW

According to the 2012 BMW MINI Cooper owner's manual at page 147:

Only MINI dealers are to perform oil changes.

BMW provides no qualification or exception to this statement and, therefore, it violates MMWA's prohibition against tying arrangements on its face. The clear purpose of BMW's wording is to make

¹⁴ Appendix pages 76-78.

consumers believe that using MINI Cooper dealers is their only option and that failure to use only them will merit penalty.¹⁵

BMW took this approach with other models as well. The 2010 BMW Series 7 owner's manual (page 259), the 2013 BMW Coupe owner's manual (page 235), and the 2013 BMW 128i convertible owner's manual (page 235¹⁶) all state:

Oil changes should only be performed by a BMW Center.

AOCA filed complaints about these MMWA violations with FTC in 2013¹⁷ and two years later when FTC published a proposed enforcement consent decree in the Federal Register.¹⁸ The consent decree was finalized in October 2015 and applied only to MINI Cooper. The final documents proved helpful with regard to those customers' protection, but did not cover the customers who bought the other cited models despite the applicability of FTC's own arguments.

Consider the following section from FTC's complaint:

Respondent's MINI Division Conditions Warranty Coverage on the
Use of MINI Dealers and MINI Parts

11. In numerous instances, Respondent's MINI Division, through its Warranty Statements for MINI passenger cars, conditions warranty coverage on the consumer's use of genuine MINI parts and on the usage of MINI dealers to perform maintenance and repair work.

12. For instance, in the Warranty Statements for numerous models, including but not necessarily limited to the one attached as Exhibit A, Respondent's MINI Division directs consumers to "[h]ave maintenance and repair work performed by your MINI dealer" and to "[m]ake sure that the maintenance work is stamped in [the] Service and Warranty Information Statement" because "[t]hese entries are the evidence of regular maintenance of your vehicle and are a requirement for warranty claims." (Exhibit A at 2).

13. In addition, Respondent's MINI Division includes in Warranty Statements a disclaimer that, "[w]hile [the owner] may elect to use non-genuine MINI parts for maintenance or repair services, MINI USA is not obligated to pay for repairs that include non-genuine MINI parts . . ." (Exhibit A at 19). Thus, Respondent's MINI Division expressly states to consumers that its warranty will not cover repairs for parts that merely include "non-genuine" MINI parts.

¹⁵ The "Mobility" Chapter of the owner's manual, which applies to all MINI Cooper vehicles regardless of age, is not to be confused with BMW's limited "MINI Maintenance Program," which provides a subset of built-in maintenance services from authorized MINI dealers for 36 months/36,000 miles.

¹⁶ [REDACTED]

¹⁷ Joint complaint by AOCA, Auto Care, Tire Industry of America, and Service Station Dealers of America, dated March 14, 2013; supplemented by AOCA via email on May 20, 2013, and comments to FTC's proposed consent agreement with BMW from AOCA, Auto Care, Tire Industry of America, and Service Station Dealers of America; Appendix pages 79-82.

¹⁸ 80 Federal Register 16011-13 (March 26, 2015).

14. By conditioning its warranty on the use of MINI dealers and genuine MINI parts without providing such parts and services without charge during the fourth year of its warranty, Respondent has violated the tying prohibition in the Warranty Act, which prohibits companies from conditioning their warranties on the consumer's use of any article or service (other than an article or service provided without charge under the terms of the warranty) identified by brand, trade, or corporate name.

15. Moreover, the Commission has not waived this prohibition as to Respondent, and Respondent has never sought such a waiver under the procedure identified in the Warranty Act, 15 U.S.C. § 2302(c).¹⁹

In Paragraph 12 above, FTC recognizes that imperative tone is unacceptable direction, as in, it creates a mandate. AOCA agrees and very much appreciates FTC's efforts, but is baffled by the lack of similar action against (1) BMW for the same kind of unlawful infractions associated with the other cited models, and (2) the other automakers described herein for engaging in the same kind of infractions. With regard to the 2013 BMW 128i, AOCA found BMW's MMWA violation in 2015 through research rather than an operator report, because, apparently, no 2013 BMW 128i convertibles had visited AOCA member aftermarket facilities. This situation underscores the fact that BMW customers with these vehicles likely believe they can only use BMW Centers, which supports AOCA's contention that FTC's actions would have been more effective if applied to the entire BMW Company, not merely its MINI Division.

In Paragraph 13 above, FTC also recognizes that BMW violated MMWA by attempting to change the legal standard for voiding warranty coverage to repairs that "merely include 'non-genuine' MINI parts." Again, AOCA agrees and very much appreciates FTC's efforts, but is baffled by the lack of similar action against (1) Mazda for an equally unlawful attempt to change the legal standard for voiding warranty coverage by press release,²⁰ and (2) Kia and Hyundai for their equally unlawful attempts to change the legal standard for voiding warranty coverage via technical service bulletin.²¹

Tied Brand Product Examples—BMW Series 7, Ford Focus

The 2010 BMW Series 7 ties OEM brand engine oil to warranty coverage via commandments in both the owner's manual and engine stickers. The owner's manual states:

"Only use approved BMW High Performance oil."²²

¹⁹ *In the Matter of BMW of North America, LLC, a limited liability company*, Docket No. C-4555, FTC Complaint pages 2-3; Appendix pages 87-89.

²⁰ *Supra* pages 6-7

²¹ *Infra* pages 17-23.

²² 2010 BMW Series 7 Owner's Manual, digital version, at 235.

The engine sticker states: “Use only BMW High Performance Synthetic Oil.”²³ In 2010, all of BMW’s “High Performance” oils were synthetic, which means the commands were referring to the same brand product.



2010 BMW Series 7

It is noteworthy that an AOCA member didn’t see one of these vehicles for service until *after* the new car warranty coverage had expired during the 5th year after the model’s rollout; i.e., between 12 to 15 service opportunities later. Clearly BMW Series 7 owners understood that BMW intended to void their warranties if they didn’t use BMW brand engine oil.

Similarly, the Ford Focus owner’s manuals for model years 2012 through 2018 require brand transmission fluid.

TRANSMISSION FLUID

Checking 6-speed automatic transmission fluid

The automatic transmission does not have a transmission fluid dipstick. Refer to your scheduled maintenance information for scheduled intervals for fluid checks and changes. Your transmission does not consume fluid. However, the fluid level should be checked if the transmission is not working properly, (i.e., if the transmission slips or shifts slowly) or if you notice some sign of fluid leakage.

Transmission fluid should be checked by an authorized dealer. If required, fluid should be added by an authorized dealer.

Do not use supplemental transmission fluid additives, treatments or cleaning agents. The use of these materials may affect transmission operation and result in damage to internal transmission components.

(2012 version at 366) (bold in original text)

²³ As described in AOCA’s comments to FTC’s Proposed Consent Decree, an AOCA member operator discovered this sticker when servicing a 2010 BMW Series 7 in 2015.

MAINTENANCE PRODUCT SPECIFICATIONS AND CAPACITIES

ITEM	CAPACITY	Ford Part Name or Equivalent	Ford Part Number / Ford Specification
Manual transmission fluid	1.9quarts (1.8L) FN1	Motorcraft® Full Synthetic Manual Transmission Fluid FN2	BOT350-M3/ WSS-M2C200-D2

(at 371)
 FN 1

FN 2 Automatic transmissions that require Motorcraft Dual Clutch Transmission Fluid should only use Motorcraft Dual Clutch Transmission Fluid. Refer to scheduled maintenance to determine the correct service interval. Use of any fluid other than the recommended fluid may cause transmission damage.

(2012 version at 373; 2013 at 308; 2014 at 293) (bold added)

The mandatory impact of an automaker describing owner’s maintenance requirements in “imperative tone” has already been recognized by FTC in the BMW MINI Cooper case described above and in its 2015 Final Action Concerning Review of Interpretations of the Magnuson-Moss Warranty Act (80 Fed. Reg. 42710). There being no modifying language elsewhere in the Ford Focus owner’s manuals we are left with considering the average consumer’s understanding of the phrase “should.” The Webster’s Dictionary definition of “should” is the past tense of “shall” as well as “must; ought.” Its synonym is also “must” as in requirement, imperative, necessity, need, prerequisite, obligation, essential, exigency, fundamental (Roget’s Super Thesaurus, Second Ed.). Meanwhile, the definition of “only” is “without others or anything further; alone; solely; exclusively: *This information is for your eyes only.*”²⁴

Of course, for a mandate to have any practical impact, the issuer must have the ability to impose some form of penalty for its breach. If an automaker’s customers have already paid for the vehicles in question and have total control over them, what power does the automaker have to make pronouncements regarding the exclusive use of automaker service centers? Warranty coverage. It isn’t necessary to add the phrase “or else we’ll void your warranty coverage” to their printed mandate because voiding warranty coverage is their only enforcement option.

The 2015 Ford Focus owner’s manual²⁵ moves the transmission slippage and slow shifting concerns from a parenthetical into the primary description.

AUTOMATIC TRANSMISSION FLUID CHECK

The automatic transmission does not have a transmission fluid dipstick.
 Have an authorized dealer check and change the transmission fluid at the correct service interval. See **Scheduled Maintenance** (page 425). Your transmission does not consume fluid. *However, if the transmission slips, shifts slowly or if you notice a sign of leaking fluid, contact an authorized dealer.*

²⁴ Webster’s Encyclopedic Unabridged Dictionary of the English Language (1996) at 1354.

²⁵ [REDACTED]

Do not use supplemental transmission fluid additives, treatments or cleaning agents. The use of these materials may affect transmission operation and result in damage to internal transmission components.
(at 216) (emphasis added)

Ford also amended the capacities and specifications chart to read as follows:

Automatic transmission fluid (U.S. and Mexico): Motorcraft MERCON LV Automatic Transmission Fluid XT-10-QLVC	WSS-M2C938-A MERCON LV
Automatic transmission fluid (Canada): Motorcraft MERCON LV Automatic Transmission Fluid CXT-10-LV12	WSS-M2C938-A MERCON LV
Manual transmission fluid: Motorcraft Dual Clutch Transmission Fluid XT-11-QDC	WSS-M2C200-D2

(at 267)

At the end of the chart a new warning note appears in lieu of footnotes:

Note: Automatic transmissions that require MERCON LV transmission fluid *should only use* MERCON LV transmission fluid. The use of any other fluid may cause transmission damage. (at 269) (emphasis added)

The 2016 Ford Focus owner's manual²⁶ matches the 2015 version with regard to brand transmission fluid requirement language except the warning note above stands out as the only print on page 277.

The 2017 Ford Focus owner's manual²⁷ uses the same language as the 2015 and 2016 versions with regard to brand transmission fluid requirement language except some French translation is included and the warning note that only MERCON LV transmission fluid should be used appears directly under the chart on page 276.

The 2018 Ford Focus owner's manual²⁸ uses primarily the same brand transmission fluid language as the 2017 version except that it further demonstrates the distinction between its own recommendations versus mandates. On page 274, Ford emphasizes options via specification over brand.

26
27
28

Specifications

We recommend that you use Motorcraft oil and fluids for your vehicle. Only use fluid that meets Ford specifications. Using other fluids could result in damage not covered by the vehicle Warranty.

And yet two pages later, the mandatory brand transmission fluid note appears:

Note: Automatic transmissions that require MERCON® LV transmission fluid *should only use* MERCON® LV transmission fluid. (emphasis added)

The 2012 Ford Focus owner’s manual also makes the distinction between recommendations and mandates with regard to engine oil requirements:

To protect your engine and engine’s warranty, use Motorcraft® SAE 5W-20 or an equivalent SAE 5W-20 oil meeting Ford specification WSS-M2C945-A. (at 344)
FN 3 Use of synthetic or synthetic blend motor oil is not mandatory. Engine oil need only meet the requirements of Ford specification WSS-M2C945-A and the API certification mark. (at 373)

The engine oil recommendation presents legitimate options. The brand transmission fluid requirement is mandatory across the board with the 2012-2018 Ford Focus owner’s manuals.

In addition to the early Ford service bulletins demonstrating awareness of a significant transmission equipment problem, an investigation by the Detroit Free Press indicates Ford knew in advance of the 2012 Ford Focus product roll-out that the transmission was defective. Therefore, the above-mentioned owner’s manual references to the transmission “not working properly, (i.e., if the transmission slips or shifts slowly)” were citing conditions likely if not *expected* to occur. Given this recent information about Ford Motor Company and it being common knowledge that a significant percentage of consumers choose cost-effective maintenance options, this brand transmission fluid product tie was more than a violation of MMWA—it set consumers up to be at “fault” for an inadequate maintenance defense when anticipated equipment defect symptoms occurred.

The 2010 to the present Ford Fiesta owner’s manual states:

“Transmission fluid should be checked by an authorized dealer. If required, fluid should be added by an authorized dealer.”²⁹ (bold in original print)

This brand service tie-in sales mandate diverted Fiesta owners back to dealerships for transmission service where too many were told their defective, shuddering vehicles were “normal.” Moreover, as explained in detail above and below, Ford Motor Company knew in advance that customers would experience transmission slippage and leakage.

²⁹ 2012 Ford Fiesta Owner’s Manual at 316. Appendix page 91.

The 2017 Hyundai Elantra owner's manual also uses imperative tone to command performance at page 7-29.

Have engine oil and filter changed by an authorized HYUNDAI dealer according to the Maintenance Schedule at the beginning of this chapter.

Nowhere does Hyundai acknowledge the consumer's option to use any other service provider and that omission is no accident. The company's own history of owner's manual language demonstrates that it understands the distinction between commands and recommendations.

Specified Scheduled Procedures

These are the procedures such as inspections, adjustments and replacements that are listed in the maintenance charts starting on page 5-4. These procedures must be performed at the intervals shown in the maintenance schedule to assure that your warranty remains in effect.

Although it is strongly recommended that they be performed by the trained technicians at your Hyundai dealer, these procedures may be performed at any qualified service facility. It is suggested that genuine Hyundai service parts be used for any required repairs or replacements. Other parts of equivalent quality such as engine oil, engine coolant, manual or auto transaxle oil, brake fluid and so on which are not supplied by Hyundai Motor Company or its distributor may be used without affecting your warranty coverage but you should always be sure these are equivalent to the quality of the original Hyundai parts. Your Owner's Handbook provides further information about your warranty coverage.

(2004 Hyundai Elantra owner's manual at 177)

That description is perhaps the most consumer-friendly explanation AOCA has ever seen. By 2012, however, the same year Hyundai published TSB 12-EM-006 (claiming aftermarket oil filters are the cause of engine noise associated with engine defects—see discussion *infra* page 17), the 2012 Elantra owner's manual contains the authorized dealer command:

Have engine oil and filter changed by an authorized HYUNDAI dealer according to the Maintenance Schedule at the beginning of this chapter.

That drastic shift in owner's manual language from 2004 is not a mistranslation or a typo. It's a total rewrite, and it was done for a reason: to manipulate consumers into believing they must use authorized dealers or risk losing their warranty coverage.

Tied Brand Parts via Owner's Manual, TSBs & MCs Combo Example—General Motors

An automaker does not need to include an overt mandate in an owner's manual to create a tie-in sale of branded products. The General Motors 2016 GMC Sierra 1500 owner's manual³⁰ Maintenance Replacement Parts page is set up as follows:

³⁰ [REDACTED]

Maintenance Replacement Parts

Replacement parts identified below by name, part number, or specification can be obtained from your dealer.

If your vehicle has a diesel engine, see the Duramax diesel supplement for more information.

Part	GM Part Number	ACDelco Part Number
Engine Air Cleaner/Filter	22845992	A3181C
Oil Filter		
4.3L V6	89017525	PF63
5.3L V8; 6.2L V8	89017525	PF63
6.0L V8	19303975	PF48E

Here, General Motors takes the approach of providing one option—its own brand. In the past, aftermarket industry professionals generally viewed information presented this way as having an implied option—a non-ACDelco oil filter that meets the specifications of the applicable GM Part Number. Because those aftermarket oil filters worked well for customers for so many decades, there was no cause to challenge the way General Motors presented oil filter requirement language in its owner’s manuals.

More recently, however, General Motors has used blatant new tie-in sales of branded oil filter requirements through TSBs and other manufacturer communications. GM Bulletin No. 07-06-01-016C, dated April 2016, entitled, *Information on Internal Engine Noise or Damage After Oil Filter Replacement*,³¹ applies to 2017 and prior GM passenger cars and trucks (Including Saturn). The document is essentially an overview of problems alleged to be associated with non-ACDelco oil filters. Like Kia Motor Company’s TSB 114 from 2012 (discussion below), it creates an assumption that engine noise is caused by oil filters across its entire vehicle fleet. There are two problems with that: (1) for several reasons, including engine technology shifts and defects, many vehicles now exhibit engine noises; and (2) there are no publicly available documented cases where a specification non-ACDelco oil filter could be the only cause of engine noises or damage. If the latter exists, General Motors isn’t sharing the information to assist in market correction nor are consumers complaining about such evidence to AOCA members or in NHTSA complaints.

GM Bulletin No. 07-06-01-016C also states in its first sentence that “[e]ngine damage that is the result of an incorrect or improperly installed engine oil filter is not a warrantable claim.” If that statement were made by itself, it would seem reasonable especially with regard to improper installation. But it occurs within the framework of (1) a service bulletin describing the alleged dangers of non-OEM brand oil filters that creates an assumption of connection between engine noises and aftermarket oil filters, and (2) an owner’s manual that literally provides no option other than OEM brand oil filter. It has created a scheme of routine brand product tying as demonstrated in recent dealership correspondence.

³¹ Appendix page 90.

Federal Trade Commission

Office of the Secretary

Re: FTC Request for Comments on *Nixing the Fix: A Workshop on Repair Restrictions*

September 16, 2019

Page 16 of 57

From: [REDACTED]
Sent: Thursday, April 18, 2019 3:13 PM
To: [REDACTED]
Subject: Fw: OF2222 & OF2500 specifications

CAUTION: This email originated from outside of Highline. Do not click links or open attachments unless you recognize the sender and know that the content is safe.

[REDACTED]

----- Forwarded Message -----
From: [REDACTED]
To: [REDACTED]
Sent: Tuesday, April 16, 2019, 2:29:57 PM EDT
Subject: Re: OF2222 & OF2500 specifications

Hi [REDACTED]

This is [REDACTED] from Spitzer Autoworld in Amherst Ohio and I was told to give you an email regarding [REDACTED] truck. Per GM policy and the warranty claim policy any motor that is sent to them with an

aftermarket filter on a GM motor will not be paid as a warrantable claim and GM will not cover the expense of the motor.

please let me know if you have any further questions.

[REDACTED]

AOCA urges FTC to take enforcement action against each automaker that creates brand product tie-in sales requirements in their owner's manuals and related policies. The one action against BMW MINI Cooper in 2015 clearly wasn't enough to impress the manufacturing community about the importance of MMWA compliance. Ford perpetuated the Motorcraft® transmission fluid brand product tie in writing for at least another three years after the MINI Cooper settlement and may still be applying it at the authorized dealer level today. General Motors appears to have initiated its brand oil filter tying

arrangement *after* the BMW MINI Cooper enforcement action even though that case was also about oil change services. It is also possible they noticed Kia/Hyundai getting away with a similar, widely known tied brand oil filter scheme from 2012 to the present despite multiple complaints to FTC. There is a point at which non-action becomes approval.

C. THE TIES THAT HIDE DEFECTS

This tactic is exceptionally manipulative. It may involve an overt owner's manual/warranty documents violation of the MMWA prohibition against tie-in sales of branded products (ex. Ford Focus) or the owner's manual/warranty documents may be entirely silent about a tied product (ex. Hyundai/Kia oil filter). In both cases, however, the "ties that hide" tend to involve a combination of deceptive OEM technical service bulletins (TSBs) also sometimes referred to as manufacturer communications (MCs), authorized dealer diagnostic run-arounds, and the strictest possible interpretation of consumer maintenance obligations to prevent public discovery of vehicle defects and off-load responsibility for the costs involved onto consumers and the automotive aftermarket.

Example—Hyundai TSB 12-EM-006 (2012)

Another way to be sure Hyundai and Kia intended owner's manual commands to use authorized dealers as mandatory is that the owner's manuals say nothing about their vehicles having a special oil filter requirement let alone that it involves the use of an extremely high psi-rated oil filter like the Hyundai Part 26300-35504/Kia Part 26300-35505. Without such warning, no one would suspect that an engine of the size used in the most common Hyundai/Kia passenger cars would need such extraordinary burst pressure protection. "Normal" engines of the same sizes used by most Kia/Hyundai passenger vehicles operate with oil pressure at 20 – 40 psi with highs between 60 – 80 psi. Oil filters for those engines are made with what is considered a significant pressure padding to withstand approximately 250-260 psi. However, the Hyundai/Kia brand oil filter's psi-rating is 480 while the cannister is rated to 600—those are pressure ratings necessary for construction equipment. Yet, the owner's manuals are silent, which should be a violation of 15 U.S.C. 2310(c).³²

Hyundai TSB 12-EM-006 (2012) is applicable to *all* models and assumes the use of aftermarket oil filters as the cause of any engine knocking noise.³³ The manufacturer's directions override the normal diagnostic process necessary to reach an expert conclusion as to necessary maintenance and/or repairs for any covered vehicle, which is noteworthy for several reasons. One, repair facilities like dealerships generally charge a diagnostic fee, which presumably in every single one of these potentially thousands of cases nationwide could not have been charged given the TSB dictates causation and response.³⁴ Two,

³² According to FTC, this section "gives the Commission the authority to restrain a warrantor from making a deceptive warranty, which is defined as a warranty that 'fails to contain information which is necessary in light of all the circumstances, to make the warranty not misleading to a reasonable individual exercising due care.'" 80 Fed. Reg. at 42713 (July 20, 2015).

³³ Appendix page 4.

³⁴ To charge for a diagnostic process specifically overridden by a manufacturer's technical service bulletin would surely be considered a deceptive practice by the FTC and/or state attorneys general.

“engine knock” is a serious symptom of engine damage most often associated with “piston slap” and faulty “rod bearings.” An oil filter cannot cause that kind of damage. And therefore, three, no manufacturer-prescribed diagnostic process for engine knock could lead an expert mechanic to conclude that the mere use of an aftermarket oil filter was the cause of engine knock.

At the time Hyundai issued TSB 12-EM-006, the company also knew about at least two specific engine problems causing engine knocking noises with the Hyundai Elantra. One such class of problems is described in Hyundai TSB 14-20-002 (2014) entitled *ELANTRA SEDAN (UD) ENGINE KNOCKING NOISE*.³⁵ It describes Hyundai’s determination that the issue was “caused by defects in the piston skirt coating as well as improper finishing of the connecting rods.” As early as 2011, according to TSB 14-20-002, Hyundai had been addressing this manufacturing problem. And yet the all-models TSB 12-EM-006 against aftermarket oil filters was issued and remained active.

The current class action lawsuit, *Brown v. Hyundai*, No.: 2:18-cv-11249 (D.N.J. filed 2018), alleges Hyundai Elantra model years 2011-16 with the Nu 1.8-liter engine have a latent defect in the piston assembly that causes total and irreparable engine failures, the symptoms of which include a knocking noise, and about which plaintiffs’ various dealerships claimed any damage was caused by consumer neglect and/or use of aftermarket oil filters. That allegation tracks with the complaint filed by AOCA, Auto Care, and Tire Industry of America with FTC and NHTSA in April 2016, and the approximately 496 engine-related consumer complaints thus far filed with NHTSA. A sample of those complaints is included in the appendix to these comments; most of them describe the knocking and ticking noises also experienced by plaintiffs in *Brown v. Hyundai* prior to catastrophic engine failure, and include reports of warranty denials for a variety of illegitimate reasons including non-dealership maintenance.³⁶ Not one of the complaints reports Hyundai having *proven* that an aftermarket oil filter or non-dealership service caused the damage.

Hyundai and its authorized dealers are also notorious for denying warranty coverage for engine damage when consumers receive maintenance services elsewhere.

My fiancé' was driving my car on the highway and it just started to putter and started to make knocking noises and could no longer be driven. He pulled over to the side of the road and we had to have the car towed to the dealer. The dealer told me I needed a new engine (on my relatively new care that I, the original owner had for just over 2 years). They claimed that my engine was dirty and non-lubricated. I kept up with my oil changes and as a matter of fact; just had the oil changed (not by Hyundai) about a week prior to the incident. Since I had the engine replaced with a used engine (about \$5500); the car has seized on me three other times. I just found out that because I had a used engine put in by a Hyundai dealership; I am not covered under the 10 yr/100,000 mile warranty. This car has been a total nightmare; repair after repair for which I have to pay out of pocket for. Hyundai has "branded" my car; which is a real crack up considering its a faulty car that they sold me.

³⁵ Appendix page 5-6.

³⁶ Appendix page 7-12.

(NHTSA 10763117 2011 Hyundai Sonata September 11, 2015)

In the winter once; car wouldn't start and it took a few minutes to get it started. I brought it in and they said it was fine. In April it started making a terrible noise while idling and accelerating. I took it to the dealer and they changed the oil and the noise went away for a couple months. Noise came back and the engine light came on. Now they are stating there is sludge in the engine and unless I have proof of all my oil changes they are not going to honor my warranty. I have changed the oil every 3500-6,000 miles religiously. I am not sure how the engine fails at 50,000. I purchased this car specifically for the warranty and now they are backing out.

(NHTSA 10628347 2011 Hyundai Sonata August 26, 2014)

Purchased a brand new 2011 Hyundai Sonata. While we were driving down the road; we heard a knocking noise coming from the engine. While we were looking for a gas station to pull over; the check oil light came on; all within a matter of minutes. We immediately pulled over and checked the oil only to find that no oil was registering on the dip stick. We found that odd as we had our oil change just a couple months ago. Had the car towed to the dealership and was told that there was sludge in the engine and we needed to replace it. The cost to replace the engine was \$6100. Furthermore; the dealership went on and changed their story 5 times as to while the engine failed. They asked us to provide them with oil change receipts; which we did yet they still denied our claim. Our car had the oil changes done properly and within the time scheduled. Our car was still under warranty yet they denied our claim. We have filed a lawsuit against the dealership and Hyundai.

(NHTSA 10678427 2011 Hyundai Sonata January 22, 2015)

Case number [xxx]: hi my name is [xxx] I purchased a car on September of 2010 not even a year later started to hear knocking in the engine in 2012. Took the car to mid island- Hyundai in Centereach NY 11720 was told that it was due to "lack of maintenance" that the "short block; gaskets tensioners" needed to be replaced. Dealer didn't not give loaner car had to wait 3 months for repairs to be done in the amount of 3889.43. Then in oct of the same year while on a trip same knocking noise was heard then engine stopped running. Had the car towed to a dealer in Canada; dealer told us that it was engine failure. We told them that according to mid island Hyundai we got a "new engine". Repair were made on the car no charge; had to return to New York in a retail car that was paid out of pocket. Last month we receive a letter stating that car is being recalled do to the "short block" and other issues with the engine. Letter states that if knocking noise was hear coming form the engine to immediately take it to be serviced. I'm sending this compliant letter so I could be reimburse the full amount of the previous repair done in 2012 of 3889.43. Do to the fact that it wasn't my "lack of maintenance" but do to poor manufacturing of Hyundai. Spoke to a rep regarding this issue; she gave me this case number [xxx]. Please contact me at [xxx] or email me at [xxx] I'm also uploading all paper work regarding repairs and recall letter.

(NHTSA 10809779 2011 Hyundai Sonata December 11, 2015)

2013 Hyundai Tucson bought 10/30/17 with 31,000 miles on it. In 06/01/18 the engine threw a rod. My sister was driving on the way to work when the car started making a lot of noise and shaking rapidly she had to pull over to the side of the road and call the police. The cop told her the engine threw a rod. Only 46,000 something miles on it. *We change the oil ourselves because that was simple maintenance, and we do this with all our vehicles. But failure to show our oil change receipts has voided the warranty on the engine.* I have done research and found out that the engine Theta II has been recalled but on only certain types of Hyundai and Kia models. Even though the engines are the same, and the complaints are the same, and the failures are the same, the Tucson needs to be added. We towed the vehicle to Hyundai dealership in Lithonia Georgia and they took one look at the oil dipstick and said the reason for the engine failure was because there was no oil. Now we have the vehicle sitting in our garage and we did further investigation and found a big hole on the engine block itself, that explains why Hyundai's dealership diagnosis would report no oil because all the oil drained out through the gaping hole in the engine. Hyundai dealership wants to charge us another \$7,000 to replace the engine. Even though we have many members (Hyundai Theta II engine failure Facebook group) who have been waiting 6 months and ongoing for a replacement engine. They keep postponing because they have no engines because the engines have manufacturer defects causing a bearing to prematurely fail resulting in catastrophic engine failure. Now our 2013 Tucson sits in our garage while still making payments \$16,000! They recently added 2011-2013 Tucson to the recall. For some reason our 2013 is not.?!
(NHTSA 1556262/11196712 2013 Hyundai Tucson June 1, 2018) (emphasis added)

Example—Kia TSB 114

Kia Motor Company is the sister company to Hyundai, and it shows in their approach to creating tie-in sales requirements via TSB. In Kia's case, TSB 114³⁷, *Aftermarket Oil Filters*, published in 2012 and affecting "all" models, contains the most sweeping deceptive statements to date about aftermarket oil filters.

Some of the symptoms and concerns that may arise with aftermarket filters / wrong oil viscosities include but are not limited to:

- Valve Train Noise
- Low Oil Pressure With Warning Light On
- Engine Knocking Noise
- Cold Start Engine Noise
- Idle/Cruising Speed Noise
- Whistle Noises

Kia does not test or approve any aftermarket filters and only recommends the use of Kia genuine parts...

In fact, that list matches the defect symptoms reported by hundreds of customers and acknowledged in recall investigations. AOCA's study of NHTSA consumer complaints shows that 84.5% of 2011 Kia

³⁷ Appendix page 13.

Optima engine complaints include defect symptoms attributed by Kia TSB 114 to the use of aftermarket oil filters even where only OEM parts and serviced were used—79% of those complaints also include stalling while driving, 22% include at least one light coming on while driving, and 17% include engine smoke or fire.

Kia TSB 114 also directs its authorized dealers to treat aftermarket oil filters as the *de facto* cause of the problem engine symptoms caused by the model's various established engine defects—specifically bearing wear³⁸ and a faulty sensor knock detection system.³⁹

If the engine oil has been changed recently and a noise condition has developed, perform an inspection of the oil filter and or Customer oil change maintenance records to help you in determining if an aftermarket filter or the wrong oil viscosity was used. If the engine is equipped with an aftermarket oil filter, perform an oil change using the correct oil grade / viscosity and a replacement genuine Kia oil filter at the customer's expense.

The only diagnostic direction to solve the listed engine damage symptoms is to verify oil viscosity and determine whether or not an aftermarket oil filter is *or ever was* used on the engine for the now understood purpose of avoiding the cost of covering warranty repairs for engine defects.

It is important for FTC and the public to recognize that when this approach—silent owner's manual + brand product-tying TSB—is employed, the dealers rely on the TSB to forgo technical engine analysis and instead repeat the maintenance process for which the aftermarket part was employed this time using the automaker's brand part. The automaker and dealer have not proven the particular aftermarket part caused the problem engine symptom as required by MMWA, yet the consumer gets charged for the mandatory maintenance including when it doesn't solve the problem engine symptom. And with regard to the Kia Optima models 2011-2014, such maintenance certainly did not solve its defects.

Vehicle shot down while driving and accelerating pedal didn't respond. We had restart vehicle some day 3 or 4 times and after that was working for the week or two with no problem. when the same problem occurred we took the vehicle to Kia and told them that engine has a problem because while driving shot down. It was still under warranty. *Kia failed to fix the problem and said that is nothing wrong with the engine. Kia said that vehicle is fine with no problem.* After warranty expired engine blow out and Kia replaced the engine. They asked \$ 5900 for replace the engine. We refused to pay so much money because we feel that was the same problem before the warranty. They offered us the engine for free and we paid \$ 1875 for labor. We made a claim through Kia headquarter before the warranty expired. Nothing helps. We have to pay because Kia engines are not good and it has to be a recall the long time ago. When engine finally blows out it was the same scenario as always before ...restart engine; engine shot down while driving; restart again; driving; restart until we heard loud knock noise.
(NHTSA 10874268 2011 Kia Optima June 14, 2016) (emphasis added)

³⁸ NHTSA Recall Campaign 17V224000 (2011-2014 Kia Optimas).

³⁹ Kia TSB PI1803W/X (Rev. 1, 02/01/2019) (originally published in November 2018).

It is also important to know that Kia and its authorized dealers have refused to provide warranty coverage to consumers before *and after* the recalls⁴⁰ were issued when those consumers had non-authorized dealer services and/or challenged their service receipts. In at least one case, the authorized dealer denied warranty coverage by alleging the use of “cheap oil” before realizing the consumer had oil changes done by authorized Kia dealers.

While at a red light my car stalled without warning. Once off major street we thought it was the battery and after charging for a bit the car did start but made a horrible sound. Had it towed to dealership and they said there was no oil in engine and was due to faulty maintenance which is untrue. My last oil change was 2/2/15 and was due again 4/11/15. My car never gave a check engine or check oil light; I had no oil spills in my garage or where I park at work. There was no signs of trouble. When I asked what caused this to by all standards a new car all they want to say is that is faulty maintenance because Kia didn't do the work. *My car went from functioning perfectly well to needing a new engine to the tune of Kia's price of \$6400.00 they will not honor warranty unless I can produce receipts dating back three years. My car needs a new engine at 63,400 miles? Really...*
(NHTSA 10705242 2011 Kia Optima April 4, 2015) (emphasis added)

While driving my car for about 5 mins going about 40 miles I heard a loud noise and it wouldn't stop. Turned car around drove back home and come to find out I had total engine failure. There was no signs nothing to indicate something was wrong. About 3 years ago my turbo went out too. *My husband does our oil changes so when I took it to Kia dealership they wanted to see receipts which we don't have so my turbo replacement was not covered. Spent about \$4000 to replace. I'm so done with this car! I just finished paying for it last year 2018 and now this.*
(NHTSA 11193254 2011 Kia Optima April 1, 2019) (emphasis added)

At approximately 97,000 miles, my car began to burn an excessive amount of engine oil. Being that my car had a warranty up to 100k miles, I immediately reported the issue to Kia. They continuously reported that they would need to evaluate the oil consumption at 1,000 mile increments. I reported my concerns in regards to the process possibly extending beyond the 100k mile limits of my warranty. I was informed that the engine recall would be an option if I exceeded 100k miles. *Upon exceeding 100k miles, Kia reported that the oil consumption was the product of "cheap oil" and Kia would not be responsible for the excessive oil burn. After*

⁴⁰ Kia Safety Recall Campaign SC147 (Submitted March 31, 2017) “THETA II ENGINE INSPECTION AND/OR REPLACEMENT” applies to: All 2011-2013MY Optima (QF/TF) vehicles equipped with the 2.4L Gasoline Direct Injection (GDI) and 2.0L Turbocharged GDI (T-GDI) engines produced from August 12, 2010 through September 27, 2013; All 2014MY Optima (QF) vehicles equipped with the 2.4L Gasoline Direct Injection (GDI) and 2.0L Turbocharged GDI (T-GDI) engines produced at KMMG from August 28, 2013 through May 15, 2014; All 2012-2014 MY Sorento (XMa) vehicles equipped with the 2.4L Gasoline Direct Injection (GDI) engines produced from April 19, 2011 through February 10, 2014; and All 2011-2013MY Sportage (SL) vehicles equipped with the 2.0L Turbo Gasoline Direct Injection (T-GDI) engines produced from December 30, 2010 through August 30, 2013.

verifying that my most recent oil changes were performed by Kia, I was told that excessive oil consumption was no longer a provision of the recall.

(NHTSA 1588615 2011 Kia Optima May 1, 2019) (emphasis added)

Example—Ford Focus & Fiesta Transmission Fiasco: “An unusual driving experience”

The 2011-2016 Ford Fiesta and 2012-2016 Ford Focus vehicles are currently the subject of a \$4 billion class action lawsuit over the same defective transmission equipment. According to the Detroit Free Press, Ford Motor Company knew about the defects in advance and rolled the cars out anyway.⁴¹ The class action lawsuit over the defective transmission equipment, *Vargas v. Ford Motor Company*, C.D. Cal. Case No. [REDACTED]⁴² is now petitioning to reopen the settlement.⁴³

As described above, the owner’s manuals for the Ford Fiesta direct the owner to have transmission-related services done by “authorized” dealers, which is a violation of the MMWA prohibition against tie-in sales of branded products/services. The owner’s manual for the Focus also requires the use of Motorcraft® transmission fluid—yet another MMWA violation of the prohibition against tie-in sales of branded products. Absent effective enforcement against such violations, however, Ford and its authorized dealers were free to create a closed loop system that hid transmission defects by alternately claiming the defect symptoms were “normal” and scapegoating aftermarket products and services for performance problems consumers experienced.

From January 13, 2012 to June 14, 2016, Ford issued approximately twenty-five TSBs and Customer Satisfaction Program (CSP) documents aimed at addressing problems with the defective transmission; primarily excessive shudder, scraping/grinding noise when accelerating and fluid leakage, but also including intermittent power loss.

⁴¹ [REDACTED]

⁴² Original settlement details at [REDACTED]

⁴³ See [REDACTED]

SB-10043326-3097



Michael A. Berardi
Director
Service Engineering Operations
Ford Customer Service Division

Ford Motor Company
P. O. Box 1904
Dearborn, Michigan 48121

January 13, 2012

TO: All U.S. Ford and Lincoln Dealers

SUBJECT: **DEMONSTRATION / DELIVERY HOLD - Customer Satisfaction Program 11B31**
Certain 2012 Model Year Fiesta and Focus Equipped with a DPS6 Automatic
Transmission - Clutch Replacement

REF: **11T02 - DEMONSTRATION / DELIVERY HOLD - 2012 Model Year Fiesta and Focus**
Equipped with a DPS6 Automatic Transmission - Clutch Replacement Upgrade Prior to
Sale

As of August 2019, there were nearly 9,000 consumer complaints filed against the recalled Ford Focus and Fiesta models; 47% are powertrain complaints⁴⁴. Note that the CSP/TSB output from Ford to its authorized dealers begins well before these complaint incident dates.

“Shutters at 20 mph....jerking sometimes till it reaches 30mph.. Have brought it to the service department 4 times....**they said the car has to learn my driving habits**. Once they told me that my rim was dented....I fixed that at a tune of 200.000...it made no difference. Going back to the dealership again in two weeks.” (emphasis added) (NHTSA ID #10849900 VIN N/A April 4, 2012)

“I leased a 2012 Ford Fiesta in March 2012. Shortly after, I contacted my dealers service department about grinding/knocking noises when I accelerate. **They told me it was normal for the "new" transmission in the Fiestas**. The noises got louder and more frequent so I took it in. They heard noises and said there was nothing they could do. (emphasis added) (NHTSA ID #10679051 VIN N/A September 1, 2012)

“Transmission/shift vibrates and shakes when it shifts and on occasion dies at stops. Hesitates sometimes when accelerating from stop. **Taken to dealer multiple time, they apply software updates and deny anything is wrong. Dealer and Ford Motors say it is within guidelines and**

⁴⁴ The 2014 Ford Focus alone has 1669 NHTSA Complaints, 989 of which are powertrain. Because of the transmission defect, vehicles with that equipment are now generally considered worthless.

refuse to do anything further.” (emphasis added) (NHTSA ID Number: 10667205 VIN 3FADP4BJ2CM**** March 1, 2013)

“I bought a certified pre-owned 2012 Fiesta in late February 2014. I had serious issues over the next couple of weeks: lurched when accelerating, so severely thought it would hit cars in front; not shifting right between the lower gears, at times almost stalling; almost in accident when car wouldn't pick up speed or go into gear it seemed; not picking up or going into gear; very little pull up hills from a standstill or lost a great amount of momentum mid-hill (almost rear-ended as a result); revs hard from nowhere; airy, grinding, scraping sound. ***Spoke to Ford customer relationship center numerous times. They claimed the six-speed transmission provides "an unusual driving experience."*** I explained I didn't feel safe driving it. I requested an address for sending a complaint letter and the woman seemed to discourage that, stating that the documentation from my phone call would be sent up the chain of command in Ford and to the highway safety administration. The transmission was removed, the clutch replaced, and both input shaft seals replaced in March. The problems began again. Now I'm dealing with the same issues. I'm very concerned, especially when I look at my own experiences with the car coupled with the comments I have read here.” (emphasis added) (NHTSA ID #10621570 VIN 3FADP4EJ3CM**** March 19, 2014)

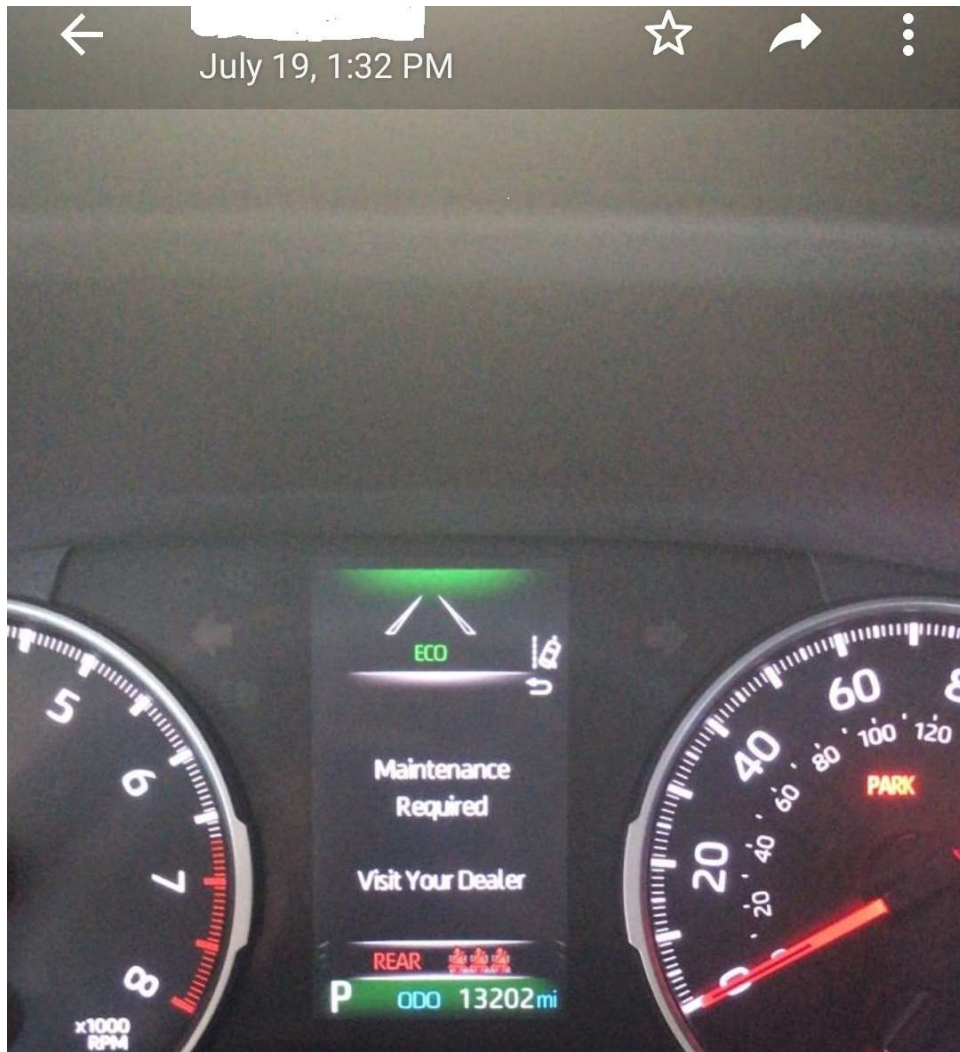
Overall, it can no longer be ignored that automobile manufacturer tactics to restrict maintenance and repair to dealerships and automaker brand products have the added consequence of delaying public discovery of vehicle defects that threaten consumer safety. This multiplies the importance of FTC enforcement against MMWA violations and underscores AOCA's frustration with FTC's lack of enforcement against Kia Motor Company and its sister company Hyundai despite detailed complaints filed in 2012 and 2016. See Section II *Gaslighting & Code-lighting* for a related discussion of additional authorized dealer/automaker deceptive tactics used to avoid recalls and warranty repairs.

D. TELEMATIC DIVERSIONS TO THE DEALERSHIP

Automakers/authorized dealers now communicate with car owners via owners' manuals, warranty documents, television advertisements, radio advertisements, websites, social media, product placement in movies and serial programs, postal mail, email, phone calls, texts, and even vehicle dashboard display systems. No other automotive services subsector competitor comes close to matching that level of heretofore unthinkable consumer access. A car can now tell a consumer when it needs service and where to get it, which is pretty amazing. Unfortunately, it is also another opportunity for automakers to violate MMWA's prohibition against tie-in sales of branded products and services.



2019 Mazda 3



2019 Toyota RAV4

Neither of the examples on page 26 come from vehicles under a “free” maintenance arrangement with the automaker or an authorized dealer.⁴⁵ Both use imperative tone, a/k/a command form, which is an order, not a suggestion or recommendation, and therefore unacceptable. Character limitation cannot be used as an excuse in this context. These displays have room to make the service notices MMWA-compliant; i.e., “Service required—We recommend visiting your dealer.” The same standard would apply if the displays referenced brand products. Recommendations are fair game—commands are not. It isn’t complicated, and no alleged hardship argument could overcome the combination of MMWA’s consumer protection intent and the fact that the overwhelming consumer contact advantage will remain with the automakers/authorized dealerships once they’re compliant.

It is also important to recognize that one step over the line tends to be a red flag that more violations are coming. The 2019 Mazda 3 owner’s manual contains the following impermissible commands:

NOTE

Changing the oil should be done by an authorized Mazda dealer.
(at 6-15)

NOTE

Changing the coolant should be done by an authorized Mazda dealer.
(at 6-17)

The 2019 Toyota RAV4 owner’s manual contains an intimidating command with regard to the use of non-Toyota brand maintenance products and services.

Repair and replacement

It is recommended that genuine Toyota parts be used for repairs to ensure performance of each system. If non-Toyota parts are used in replacement or if a repair shop other than a Toyota dealer performs repairs, confirm the warranty coverage.

■ Allow inspection and repairs to be performed by a Toyota dealer
(at 556, section 7-2 Maintenance)

Nowhere in the owner’s manual does it explain how exactly the consumer is supposed to “confirm the warranty coverage” or which warranty they’re talking about. Toyota’s new car warranty? The maintenance part manufacturer’s warranty? The non-Toyota service provider’s warranty? All three? Are consumers supposed to call the Toyota hotline? How do they prove receipt of confirmation? Do they need it in writing from Toyota? The fact that the command to confirm warranty coverage is immediately followed by a command to “[a]llow inspection and repairs to be performed by a Toyota dealer” (with the unavoidable implication of using Toyota brand parts) undercuts any argument that the automaker is actually providing an option. At best, it has the emotional impact of a dare.

⁴⁵ AOCA has the Vehicle Identification Numbers and servicing facility contact information should FTC be interested in exploring these situations.

Here's an example of how that kind of OEM command can be used against the consumer. The Toyota RAV4 has a history of brake issues. This March, Toyota issued T-SB-0025-19 entitled, *Brake Grind/Groan Noise*, which states:

Some 2009 – 2018 model year RAV4 and 2017 – 2018 model year iM vehicles may exhibit a grind/groan noise from the front brake pads. An updated pad kit is now available as a service part. Follow the Repair Procedure in this bulletin to address this condition.

APPLICABLE WARRANTY

- This repair is covered under the Toyota Basic Warranty. This warranty is in effect for 36 months or 36,000 miles, whichever occurs first, from the vehicle's in-service date.
- Warranty application is limited to occurrence of the specified condition described in this bulletin.

Meanwhile, this consumer recently filed a complaint about the 2019 Toyota RAV4's brakes:

The contact owns a 2019 Toyota RAV4. While driving and/or stopping the vehicle with the brake pedal depressed, the contact heard an abnormal scratching noise coming from the front of the vehicle. There were no warning indicators illuminated. The vehicle was taken to Orland Toyota (8505 W 159th St, Tinley park, IL 60487, (708) 336-7288) and Oak Lawn Toyota (4320 95th St, Oak Lawn, IL 60453, (708) 423-5200) to be diagnosed, but the failure was unable to be duplicated. The vehicle was not diagnosed or repaired. The manufacturer was not contacted. The failure mileage was 500.

(NHTSA 1587278 July 30, 2019 Chicago, IL)

One consumer's "abnormal scratch" noise may be another's "grind." It is also possible that Toyota remedied the brake pad problem from the 2018 to the 2019 model. However, the NHTSA complaint website indicates the 2019 Toyota RAV4 already has 3 recalls and 44 manufacturer communications, one of which may be the same or similar brake pad TSB.⁴⁶ Meanwhile, in the complaint cited above, the authorized dealer did not have to undertake a warranty repair due to inability to "duplicate" or "diagnose" the vehicle—an increasingly common, amorphous response to consumer concerns over vehicle malfunctions. Should the brake pads in the 2019 RAV4 turn out to be inherently problematic and the consumer has had the brakes inspected or maintained at some point by a non-Toyota authorized dealer without written "confirmation" of warranty coverage from Toyota, will that then be Toyota's excuse for not replacing the brake pads under warranty?

If FTC turns a blind-eye to automakers programming vehicle telematics to command consumers back to dealerships and non-coincidentally continuing to include brand product ties in owner's manuals, the above-described warranty loss run-around is what consumers will continue to experience.

⁴⁶ At the time of drafting these comments, the NHTSA website did not provide access to the 3 recalls, 48 complaints or 44 manufacturer communications listed in its search results.

II. GASLIGHTING & “CODE-LIGHTING”

After studying thousands of Kia, Hyundai, and Ford Power Stroke, Focus, and Fiesta complaints, AOCA detected a pattern of behavior that indicates when an automaker has a defective vehicle or one they at least expect to be much higher maintenance than as advertised. In light of the MMWA’s prohibition against tie-in sales, every one of the following factors should be considered a red flag regarding the existence and/or cover-up of a vehicle defect:

- An owner’s manual commanding use of an automaker brand maintenance product;
- An owner’s manual commanding use of authorized dealer service.
- Vehicle telematics commanding use of an authorized dealer and/or brand product.
- A TSB or other Manufacturer Communication requiring use of an automaker brand maintenance product or ascribing an engine or transmission problem to aftermarket maintenance products in general.
- An advertisement or other public statement claiming only the automaker brand maintenance part or service can properly support a vehicle.
- Automakers and their authorized dealers telling consumers that engine and transmission problems—including substantial impairments like stalling, shuddering, and knocking—are “normal” or “nothing’s wrong” and/or it’s the customer’s fault (i.e., bad driving).
- Automakers and their authorized dealers telling consumers they “cannot diagnose” a vehicle problem, especially when claiming “no codes.”
- When all else fails, automakers and their authorized dealers claiming inadequate consumer maintenance, especially with DIYers, and even when recall-specific problems are at issue.

Since most if not all of those factors were present for recalled defective vehicles from Kia, Hyundai and Ford, AOCA decided to test the red flag theory on a sample of the most recent NHTSA consumer complaints⁴⁷ by searching for variations on the terms “normal,” “cannot diagnose,” “no code,” “nothing wrong,” “maintenance records,” and “receipts” without specifying any make or model. This will be an ongoing project with additional search terms as new patterns of common language usage emerge, but the initial results are already compelling. See attached AOCA Research Round 1 Chart.

Two-hundred and forty cases pulled up in the first round. Of those, 156 of the cases involved automakers and/or their authorized dealers claiming a vehicle problem was “normal” and/or “not a problem,” and/or if there was a problem, it was the consumer’s fault, etc. There were another 76 cases of automakers and/or their authorized dealers claiming they could not or would not diagnose the claimed problem, which may also include a finding of “no codes” and/or “no fix” available at the time. Another 8 complaints described denial of warranty coverage over alleged maintenance failures like DIYers not creating their own oil change receipts. When those cases are charted to include other known applicable

⁴⁷ NHTSA’s master complaint file can be downloaded at [REDACTED] The file is under “complaints” and named “FLAT_CMPL.zip.” AOCA surveyed from complaint number 1550000 to the most recent complaint, which reflected the time period of March 26, 2019 through August 9, 2019.

tie-in sales red flags and defects investigations, a pattern of problem vehicles and MMWA violations emerges.⁴⁸

Given recent national news on the Focus/Fiesta recalls, it may not come as a surprise that Ford shows up with 48% of the “it’s normal” category red flags and 41% of the “cannot diagnose” category red flags. But the problems aren’t limited to those high-profile recall models—25 other Ford models showed up as well. Overall, 95% of total vehicle makes/models caught by the survey search have recalls, including 33% late model cars (2017-2019), as well as hundreds of TSBs/MCs. One model, GMC Sierra 1500, has thousands of TSBs/MCs. Of the 5% that have no recalls at this time, 83% have significant numbers of TSBs/MCs and 17% are under NHTSA investigation.

Only six of the 130 identified vehicle models don’t have a readily accessible example of tie-in brand sales within owner’s manuals, TSBs and/or plausible unfair consumer warranty denial complaints. That’s a 95% MMWA violation rate from a sample collected without reference to any make or model and without a complete TSB/MC search. So far, the red flags theory is proving valid—one anti-consumer behavior does seem to beget another...and another.

III. THE AVERAGE CONSUMER’S DILEMMA

A. The average consumer has no background in vehicle maintenance.

In the 1980s, as full-service gas stations and high school auto shop classes phased out and convenient, cost-effective do-it-for-me preventative maintenance options phased in, average consumers became more comfortable having less practical knowledge about combustion engines and passenger vehicles in general. By the late 1990s, automakers were emphasizing lower-maintenance new vehicles that—when driven “normally”—could have extended service intervals. The former pride car owners took in maintaining their engines switched to pride in not having to worry about it because someone else could do the work. Both ways have upsides. However, one downside for the expanding majority of do-it-for-me consumers became the warranty “gotcha” arguments over maintenance obligations.

Despite advertisements emphasizing the need for less care with new cars, automakers never stopped requiring basic car owner maintenance responsibilities like routine checks on vital fluids and tire pressure. Checking fluids at every or every other fuel stop remains one of the most common owner’s manual requirements, but how often does anyone spot a motorist popping their hood at a gas station to do it? One sees it rarely because most people don’t realize such requirements exist or that failure to

⁴⁸ See Chart attached below.

complete them can be a form of contract breach. If car owners don't keep up their end of the bargain,⁴⁹ automaker don't have to either and they will make the argument that even in the face of manufacturing defects, whether latent or known before the cars rolled out.

Given that alleged failure to obtain necessary oil changes has been used extensively by defective vehicle automakers highlighted in these comments, we'll use oil change intervals as our example of how easy it is to misunderstand maintenance requirements and what can happen to consumers who do.

In the fast lube industry, service interval recommendations come from the interval ranges in automakers' owner's manuals. However, several points must be clarified about automakers' schedules:

- Service intervals represent a range, not a goal mileage to attain;
- The longest service interval is not applicable under the most common driving habits; and
- The car owner "home" maintenance obligations, such as checking the oil level at fuel stops, are designed to catch problems with excessive consumption and leakage between oil change services that could indicate either repairs are necessary or the particular vehicle needs to follow the "severe" interval recommendation or even shorter than that.

For now, let's say the vehicle engine isn't malfunctioning and the choice is simply between "normal" service, the highest listed mileage recommendation, and "severe" service, the lower listed mileage recommendation. A high mileage number on service intervals looks great and feels like a promise, but it isn't. In the context of warranty coverage, an automaker's oil change interval indicates *the maximum mileage* after which the automaker can void the warranty for failure to uphold necessary maintenance obligations. In order to determine how much service is necessary to maintain the engine in proper working order, the consumer or his/her service provider must make the normal-to-severe service interval range calculation whether or not that range is listed only in one place or provided in pieces throughout the owner's manual and subsequent technical service bulletins.

According to the Filter Manufacturers Council:

"Trips of less than four miles (six km) is the key factor in keeping most motorists in the average or "severe" category. In many owner's manuals the following are considered "severe" or average conditions:

- Frequent idling for long periods of time, such as stop-and-go driving in heavy traffic. Many vehicles are subjected to this condition twice a day in commuting to major cities.
- Sustained highway driving in hot weather, such as vacation travel.
- Towing a boat or trailer, carrying heavy objects on a rooftop rack.
- Driving in dusty conditions, such as dirt or gravel roads.
- Prolonged operation at sub-zero temperatures.
- Driving on steep hills or mountains on a regular basis.

Bear in mind that any one of the above conditions can make it mandatory to change oil and filter at 3,000 mile (5,000 km) or three-month intervals."

⁴⁹ That bargain is often expressed in a combination of purchase/lease documents, an owner's manual, and separate warranty and scheduled maintenance explanations that can be updated by automaker notice throughout the life of the vehicle.

After the normal-to-severe service interval range calculation, consumers and their service providers must also consider the actual condition of the engines (age, prior maintenance schedule, recalls, technical service bulletins), choice of oil (conventional or synthetic), type of gasoline used (pure gasoline, diesel or an ethanol blend) and whether the consumers adhere to owner's manual "home" maintenance obligations. Automakers have practical reasons for those requirements currently including that car engines are physically smaller and running hotter, and recommended licensed engine oil is often thinner and missing classic anti-wear additives for the sake of Clean Air Act compliance, which leads to consuming more oil as an ordinary function rather than failure. The prevalence of ethanol in gasoline also increases the risk of white sludge (a/k/a engine oil "mayonnaise"), rust, freezing water, and water-diluted fuel in the fuel tank⁵⁰ with a resulting drop in octane.

There are serious risks associated with extending oil change service intervals. Consumers cannot afford to blindly follow the longest service interval listed without regard for the many balancing factors and requirements factored into the automakers' comprehensive interval recommendation scheme. The risks associated with extending oil change service intervals too far include excessive oil consumption, oil leaks, increased fuel consumption, emission systems premature failure, engine sludge, engine failure, loss of warranty coverage, and serious personal injury.

One straightforward explanation of the punishment for failure to maintain minimum oil levels at all times comes from General Motors:

"Operating your vehicle with an oil level that is below the minimum level indicated on the engine oil dipstick can result in severe engine damage. Repairs resulting from operating an engine with insufficient oil are not covered under the terms of the New Vehicle Warranty."

Who pays when a consumer who, like most modern consumers, drives under severe conditions, doesn't check the oil every time they fill up and then follows the longest listed drain interval with a sludge result? The consumer. Replacing a sludge-wrecked engine ranges in cost from \$3,500 to over \$55,000 depending on the make and model; \$10,000 is the average. The pivotal concern is not whether during the life of their car a consumer might get one or two mandatory services early, but whether they're going to have a car for its normal life without having to pay for major engine repairs or causing the pollution of their property and neighborhood with oil leaks and excessive oil burning.

To add further complexity to making service interval recommendations, no recommendation can guarantee exact results in vehicle performance, which is why even automakers make no such claims. They routinely create addenda for their owner's manuals as problems associated with original service interval recommendations arise. General Motors' outreach to its customers with the 2011 model year GMC Terrain (2.4 Liter engine) is a perfect example. Those customers were asked to bring their cars to a dealer for the purpose of having their oil life monitors reset to shorter oil change intervals. It is not a coincidence that the oil change interval "trouble" recommendations and resets *always go shorter*.⁵¹ And

⁵⁰ Generally known as "phase separation."

⁵¹ See NHTSA complaints NHTSA 1581364 & 1590999.

although the official recalls ultimately come from automakers, many consumers find out about them and other engine problems long before from their local fast lube professionals and other independent service facilities.

Many consumers also struggle with discerning symptoms of engine damage versus maintenance indicators and “normal” engine and powertrain behavior. From reviewing NHTSA consumer complaints, one of the biggest reasons for that must be authorized dealer and automaker claims that substantial impairments like stalling and shudder associated with defective systems are “normal.” Several automakers, most notably Hyundai and Kia, have gone so far as to issue TSBs and MCs declaring “knock” and other engine damage-related noises to be caused by using non-OEM brand oil filters. In fact, “piston slap” and rod bearing issues are the common cause of “knock,” and both can lead to catastrophic engine failure. ASE’s sample test⁵² on the symptoms of engine damage is instructive.

#2 An engine noise sounds like a knock at the side of the engine that is louder when the engine is cold and goes away or is reduced when the engine reaches operating temperature. Which of the following is the MOST likely cause?

- a. Cam bearing
- b. Main bearing
- c. Piston slap (correct answer)
- d. Wrist pin

#9 A technician hears a knock or thumping at the side of the engine block that is louder when the engine is hot and goes away when the affected cylinder is shorted out. Which of the following could be the cause?

- a. Main bearing
- b. Wrist pin
- c. Rod bearing (correct answer)
- d. Piston slap

#10 An engine is making a knocking sound that changes with RPM, and the noise disappears while a cylinder is being tested during the cylinder balance test. Which of the following could be the cause?

- a. Rod bearing (correct answer)
- b. Main bearing
- c. Piston Slap
- d. Burnt valve

Notice that the ASE sample test questions include plausible options, none of which are the presence of non-OEM brand oil filters.

⁵² [REDACTED]

Vehicles can make many different malfunction and damage-related noises that have nothing to do with oil filters, such as belt noises,⁵³ damaged spark plug ticking/tapping,⁵⁴ VCT solenoid rattle,⁵⁵ and moan/drone with tactile vibration.⁵⁶ Moreover, unless consumers happen to work in the automotive services field, they're unlikely to know that trained automotive preventative maintenance professionals do not service vehicles that arrive making damage-related sounds. Instead, they direct affected consumers to visit their preferred repair facility as soon as possible. If the customer insists on receiving service anyway, it is customary industry practice to require the customer to sign an acknowledgment regarding the condition of their vehicle upon arrival. That's because symptoms like knock indicate engine damage and/or defects.

B. The average consumer doesn't know about their MMWA rights.

In order to recognize the existence and effects of repair restrictions, consumers first need to know they have a right to avoid some of them. Otherwise, they will view repair restrictions not as restrictions but simply as the way business operates. To that end, AOCA members have conducted several operator and customer surveys to determine whether consumers know about their MMWA rights and whether they have encountered any violations of them. The results have been compelling.

According to *AOCA's 2015 Florida Fast Lube Operator Survey*, in the past twelve years, 89% of Florida fast lube operators have received customer complaints that a dealership denied warranty coverage simply because the customer used a fast lube service and/or non-automaker-branded part. None of the dealerships ever proved the fast lube service or non-automaker-branded part caused a problem, but that didn't prevent the customers from paying unnecessary costs to get their cars back. They didn't know their rights or couldn't afford the time and money necessary to enforce them.

The northeast hasn't fared any better. *AOCA's 2016 New Jersey Customer Warranty Rights Survey* results showed a whopping 91% of New Jersey fast lube customers didn't know about their rights under MMWA. Even when consumers receive information about MMWA, the fact that so many authorized dealers and automakers continue to get away with requiring brand products and services must make it difficult to believe the law matters.

⁵³ Example: Ford MC 17716 applicable to Ford Excursion 2003-2004, Ford F-250 2004, Ford F-250 SD 2003, Ford F-350 2004, Ford F-350 SD 2003, Ford F-450 SD 2003-2004 & Ford F-550 SD 2003-2004.

⁵⁴ Example: Ford TSB 07-21-2 applicable to Ford Crown Victoria 1997-2008, Ford E Series 1997-2003, Ford E-Series 1997-2008, Ford Excursion 2001-2005, Ford Expedition 1997-2004, Ford Explorer 2002-2006, Ford F Super Duty 1998-2004, Ford F-150 1997-2008, Ford F-250 1997-1999, Ford F-53 2004, Ford F53 1998-2003, Ford Mustang 1997-2004, Ford Thunderbird 1997, Lincoln Navigator 1998-1999, Lincoln Town Car 1997-2007, Mercury Cougar 1997, Mercury Grand Marquis 1997-2008 & Mercury Mountaineer 2002-2006.

⁵⁵ Example: Ford TSB 14-0114 applicable to Ford Expedition 2005-2013, Ford F-150 2004-2010, Ford F-250 SD 2005-2010, Ford F-350 SD 2005-2010, Lincoln Mark LT 2005-2008 & Lincoln Navigator 2005-2013.

⁵⁶ Example: Ford MC 17566 & 17530 applicable to Ford Excursion 2003-2004, Ford F-250 2004, Ford F-250 SD 2003, Ford F-350 2004, Ford F-350 SD 2003, Ford F-450 SD 2003-2004 & Ford F-550 SD 2003-2004.

C. The average consumer isn't receiving timely help for a defective vehicle

Based on a thorough study of consumer complaints filed with the National Traffic Highway Safety Administration (NHTSA), it is fair to conclude consumers aren't receiving timely support for defective vehicle situations. One of the complaint segments AOCA studied was the most recent segment of consumer complaints filed with NHTSA from the end of March 2019 through early August. Within those complaints, consumers asked—often begged—NHTSA to “please” “help” over a thousand times. Many described outrageous behavior on behalf of authorized dealers/automakers with some situations dragging out for months, far beyond typical state Lemon Law requirements let alone any reasonable trigger for the Better Business Bureau (BBB) Auto Line dispute resolution mechanism in which the majority of automakers participate—yet only 15 of those complaints to NHTSA mention “BBB.”

The following complaint is a prime example of outrageous authorized dealer/automaker behavior:

Driving my 2014 Kia Soul on July 4th on the highway at 75 miles per hour, engine revved up to 5 RPM's for no apparent reason, and engine light came on. Went back down to proper RPM's after about 10 seconds, then about 15 seconds later revved up to 7 RPM's, battery light came on and car stalled in the middle of the highway. Called Kia corporate on July 8th, they created a case for me, I had a contact there that was working my case, and they had it towed to Midwest Kia in Wichita, KS., because there was an active recall on the car. They had it for 2 weeks, refused to fix it because they couldn't get the car to start to throw the code for the recall, but they repeatedly told me they would do nothing to get it to throw the code because they might pay to fix something they shouldn't. A man at corporate told me on July 22nd that they were not going to honor the recall nor the warranty that is still on my car, and I had my car towed back to my house. When I got it back, I looked under the hood and the service center had torn my engine apart and left it in pieces under my hood, where it sits now awaiting permission on what I can do so I do not ruin any chances I have of them fixing what they should anyway.
(NHTSA 1586791 2014 Kia Soul July 29, 2019 89,000)

On the day this consumer filed the NHTSA complaint, the vehicle had been out of service due to repairs for a substantial impairment—stalling—for 21 days. According to BBB Auto Line's description of Kansas Lemon Law,⁵⁷ 9 days later that consumer, whose vehicle was still under warranty, was eligible to use BBB Auto Line. Given that (1) a Kia corporate representative informed the consumer that the automaker would not honor the warranty or applicable recall to get the vehicle back in service, and (2) the authorized Kia dealer sent the consumer's vehicle back to the consumer with the engine disassembled, it's highly unlikely Kia Motors got the vehicle back in service before the 30-day out-of-service BBB Auto Line trigger. However, if Kia Motors did not then inform the consumer about BBB Auto Line, there's a good chance he/she never discovered that option.

NHTSA's complaint process does not include a mandatory question to answer or box to check regarding the consumer's awareness of BBB Auto Line nor does it provide information about BBB Auto Line after

submission of the complaint form. Given the U.S. Department of Transportation Inspector General's July 2018 Report No. ST2018062 entitled, *NHTSA's Management of Light Passenger Vehicle Recalls Lacks Adequate Processes and Oversight*, it is also highly unlikely NHTSA followed up with the consumer to explain NHTSA's process in terms of (1) the amount of evidence required before any action could be taken against the automaker, (2) the length of time involved in NHTSA taking any action; and (3) the length of time commonly involved before an automaker is ultimately forced to do anything should NHTSA take action.

The FTC Complaint Assistant website category for submitting complaints about deceptive practices involving automobile parts and services includes an upfront paragraph to make consumers aware that it will not be handling individual cases:

How we handle your information:

The FTC cannot resolve individual complaints, but can provide information about what steps to take to protect yourself.

Keep in mind while reporting:

How much information you give is up to you.

We share your report with local, state, federal and foreign law enforcement partners.

Your report might be used to investigate cases in a legal proceeding.

If your report can be used for an investigation, it helps us to have your contact information so that we can learn more about your experience.

You can download or print a copy of your complaint at the end of this process for your records.

However, like NHTSA, FTC's complaint form process does not provide any notice of BBB Auto Line even when the filing consumer checks the box that says: "The company failed to honor its warranty." This is another missed opportunity to help educate the public.

Ironically, most of the available information on automakers and their authorized dealers' denial of warranty coverage comes from consumer complaints filed with NHTSA—an organization that is not going to take enforcement action on that specific aspect of the consumer's problem. However, if consumers didn't provide that information to NHTSA, we might not have access to any significant quantity of warranty denial complaints given FTC apparently does not require automakers' dispute resolution mechanisms to publish an index of each warrantor's disputes grouped under brand name and sub-grouped under product model per 16 CFR 703.6(b).⁵⁸

⁵⁸ Correspondence with Juan Herrera, Vice President, Dispute Resolution Programs, BBB Auto Line®, dated September 13, 2019, states that BBB Auto Line does not "not track vehicle defect allegations by make or model. However, participation in BBB AUTO LINE does not relieve manufacturers from existing NHTSA reporting obligations." Appendix page 111. This response seems to contradict FTC's own statement and rules on required reporting: "Rule 703.6 requires the Mechanism to prepare indices and statistical compilations on a variety of issues, including warrantor performance, brands at issues, all disputes delayed beyond 40 days, and the number and percentage of disputes that were resolved, decided, or pending. FN 131 The Commission requires the compilation of indices and statistics in part so any person can review a Mechanism's files. 80 Fed. Reg. 42710, at 42720 (July 20, 2015) (emphasis added). That publication's FN 131 states "See generally 16 CFR

Another source of confusion for consumers is the sheer volume of their potentially applicable vehicle documents. For example, let's consider the vehicle from the complaint provided above. The 2014 Kia Soul owner's manual does not mention BBB Auto Line. Instead, it refers consumers generally to Kia's Warranty and Customer Information Manual, which does contain information about BBB Auto Line on pages 39-43.⁵⁹ However, we do not know whether any consumer in this situation receives a copy of that manual, a link to that manual or a link to a website where the manual could be found if one knew to look for it, and then unlike the vast majority of consumers makes it past the pile of purchase/lease-related fine print-laden documentation to ultimately review that manual assuming they knew about it and could find it. Otherwise, the consumer would be facing the warranty obstacle course while under the duress of having experienced a vehicle suddenly stall in highway traffic, ongoing loss of reliable transportation, and then a combination of bizarre authorized dealer responses and a corporate automaker representative's denial of both warranty and recall coverage.

Typically, humans don't do their best thinking after life-threatening trauma immediately followed by a major threat to their household economic viability. Therefore, it would seem logical that BBB Auto Line-participating automakers would inform consumers of the program when the automaker denies warranty coverage rather than sitting back and watching consumers lose their transportation by default, as if the matter of selling safe automobiles were a game. BBB Auto Line's auditor agrees. The BBB Auto Line 2018 audit submitted to FTC at page 4 notes Kia Motors' ongoing deficiency in this regard.

For the Federal audit, noteworthy (and previously highlighted) concerns involve FTC Rule 703.2(e), which requires manufacturers, when deciding matters submitted for their review, to provide consumers with information about BBB AUTO LINE. [FN 5] BMW, Ferrari, Kia, Maserati, and Mercedes didn't submit materials showing compliance with the rule.

FN 5 Among the reasons the auditor has particularly highlighted s Rule 703.2(e), previously and in the current audit, are the provision's potential utility, the ongoing nature of the problem, and his specific mandate under FTC Rule 703.7(b)(1). Rule 703.7(b)(1) expressly requires the auditor to examine compliance with Rule 703.2(d) (*informing consumer about BBB AUTO LINE when "consumers experience warranty disputes"*), and, as explained below, the auditor treats compliance with subsection 703.2(e) as one aspect of compliance with subsection (d). (emphasis added)

In summary, the average consumer doesn't know the full extent of their options to solve the problems associated with denial of vehicle warranty coverage, which leads to unnecessary stress and financial duress. FTC and NHTSA consumer complaint systems are not currently helpful in this regard but could be easily updated to include educational information about BBB Auto Line. FTC can and should require dispute resolution mechanisms to publish the make/model/year and alleged problems associated with

703.6(b)-(e)." Moreover, the suggestion that automakers will self-report on these matters to NHTSA deserves a targeted audit.

⁵⁹ [REDACTED]

every complaint against an automaker. It is AOCA’s understanding that a contractual prohibition against such publication currently exists between BBB Auto Line and participating automakers. However, if FTC enforced 16 CFR 703.6(b) going forward, then automakers could not contractually avoid it.

D. Dispute Resolution Options

1. The Better Business Bureau Auto Line

Whether consumers know it or not, most vehicle sales and lease arrangements have for years included a requirement that owners seek dispute assistance through the Better Business Bureau (BBB)’s Auto Line as a “prior resort”⁶⁰ to litigation; i.e., the consumer must try BBB Auto Line first before seeking other assistance with vehicle problems the automaker has allegedly not satisfied. FTC has upheld this process as acceptable under MMWA and requires an audit of the program every year.

Typically, BBB’s Auto Line involves a forty-day process. They permit attorney involvement but do not require it, which is good news for consumers who are no longer able to write-off attorney’s fees due to the Tax Cuts and Jobs Act of 2017.⁶¹ If all of the parties involved in the Auto Line dispute resolution proceed in good faith, it’s a reasonable consumer protection solution for warranty disputes.

When all parties do not act in good faith from beginning to end, however, consumers can find themselves stuck in a quagmire of debt and anxiety. The problem often begins when a consumer buys a car with a defect and doesn’t know about the MMWA’s prohibition against an automaker/authorized dealer requiring the use of OEM brand products and services. If that consumer’s owner’s manual and/or dealership salesperson commands the car owner to have service and repairs done at an authorized dealership, that’s where they’ll take the car at the first sign of trouble. If the authorized dealership technician reports zero findings, as in the vehicle is fine, the consumer is likely to accept the news and hope for the best. If the trouble happens again, the consumer will return to the authorized dealer. If that dealer and its authorizing automaker do not want to admit the trouble is or could be connected to a defect, they will deny the trouble exists, claim the trouble is actually normal, and/or challenge the consumer’s maintenance habits as the cause. The back and forth may go on for weeks, months or years. The consumer may never get a second opinion from an outside expert even when the trouble they’re experiencing is severe shuddering or stalling while driving in traffic at highway speeds.

⁶⁰ “Under the Magnuson-Moss Act, if a “mechanism” like BBB AUTO LINE meets standards set out in the statute and its implementing regulation, FTC Rule 703 [16 C.F.R. §703] manufacturers can insist on ‘prior resort’ – in other words, they can insist that consumers use the mechanism before they pursue other remedies under the Act. [15 U.S.C. § 2310(a)(3)]. The Magnuson-Moss Act does not require prior resort; rather, it allows manufacturers to do so.” 2017 Audit of BBB Auto Line Submitted to The Federal Trade Commission, The State of Florida, and The State of Ohio by Marc Winerman mwinerman@gmail.com (703) 569-3297, at page 4.)

⁶¹ The Act suspended deductions for miscellaneous itemized deductions through December 31, 2025, which results in most individuals no longer being able to deduct the costs and attorneys’ fees associated with non-business-related litigation.

Imagine following this pattern with a medical problem. One day in the middle of rush hour traffic, Consumer Carrie starts shaking so hard that she needs to pull over until it stops. She gets a doctor's appointment at the clinic where she was born because she believes from her medical warranty documents that she must take herself there or risk losing all medical benefit coverage. The doctor examines her and says there's nothing wrong. She's relieved to hear it. The next day the shaking hits her again, and she must take an expensive taxi ride to work in order to make an important meeting. She goes back to the doctor, who insists nothing is wrong. The next week she falls down the subway stairs. She goes back to the doctor's office, still shaking, ankle sprained. The doctor examines her and says the shaking is within normal parameters for her particular constitution. *You'll get used to it*, claims the doctor with a knowing smile as the nurse hands her a set of crutches.

Can anyone imagine not getting an independent second opinion at that point?

From a basic safety and mobility standpoint, it makes no more sense to forego an independent second opinion in terms of a malfunctioning car than a malfunctioning human body. However, according to consumer complaints lodged with NHTSA and BBB, it happens all the time. When consumers believe they must use an authorized dealer, they literally risk their lives driving malfunctioning cars to avoid losing warranty coverage and having to pay for expensive repairs out-of-pocket.

That kind of behavior—driving with officially denied malfunctions—is both irrational and totally understandable. A car still represents either the first, second or third biggest investment the average consumer makes. Meanwhile, 84.5% of consumers finance their vehicle purchase,⁶² and 60% of them can't afford a \$1,000 emergency.⁶³ The cost to replace a non-luxury car engine ranges from approximately \$3,000 to \$10,000 depending on the age of the vehicle. Moreover, once the average consumer invests their hard-earned money in a car, they don't have funds left over to pay monthly vehicle financing, auto insurance *and* alternative moderate to long-term means of commuting to work, running necessary household errands, and caretaking for children and other dependents.

The problem of a non-good-faith authorized dealer/automaker requiring consumers to use BBB Auto Line as a prior resort is further exacerbated by consumers' lack of knowledge about it and, if discovered, confusion as to the trigger for using it. Based on a review of annual BBB Auto Line audits, it is fair to say no uniform consumer notification procedure or program trigger exists across the automobile manufacturing industry. And again, the high incident rate of consumers going back and forth repeatedly to authorized dealerships for dangerous substantial impairment issues without relief indicates a strong need for this clarification. Their NHTSA and BBB (non-Auto Line) complaint language too often speaks of fear, desperation, and outrage. It's unacceptable.

⁶² *Share of new vehicles with financing in the United States from 1st quarter 2017 to 1st quarter 2019*

⁶³ *Survey: Most Americans wouldn't cover a \$1K emergency with savings*

emergency expense ; *40% of Americans can't cover a \$400 emergency expense* ; *Why 4*

That back and forth syndrome also means that by the time such consumers start the 40-day BBB Auto Line process, they will likely have already missed work and paid for extra maintenance as a recommended attempt to solve malfunctions, attempted repairs, towing charges, taxis, bus/subway fare (where systems are available) and rental cars, and/or risked their lives driving an unrepaired vehicle.⁶⁴ The costs add up fast, and auto insurance might not cover any of it unless an accident occurred. Another month plus ten days to a potential resolution in the consumer's favor might be too late for many of them to avoid financial disaster. That factor may also explain why so many NHTSA complaints report malfunctioning vehicles not ultimately getting repaired.

2. Individual Litigation

As mentioned above, because of "prior resort" requirements, individual litigation against authorized dealers has decreased. It will likely further decrease now that individuals generally won't be able to write-off their attorney's fees.

3. Class Actions

Class action lawsuits will continue to be an option for aggrieved consumers, but the evidence collection and potential plaintiff outreach requirements make it impractical for anything other than preventing the future manufacture of the subject defective vehicle part or parts and providing a measure of reimbursement to impacted consumers well after the fact.

RECOMMENDATIONS

It is not practical for average consumers to rely on litigation to get pending needs met. BBB Auto Line can serve as a critical, cost-effective dispute resolution tool for consumers if they get access to it upon discovery of a warranty denial or refusal of an automaker to refund or replace a vehicle after demonstrated inability to effect repairs, not months or years later.

- To ensure ready access, consumers need to receive multiple forms of notice that they have the right to (1) use aftermarket parts and that the mere existence of such parts cannot be an authorized dealer's/automaker's automatic excuse for vehicle problems or to deny warranty coverage, (2) use aftermarket service providers, especially in a second opinion scenario when a vehicle is malfunctioning but the authorized dealer/automaker claims it's normal, and (3) seek assistance through BBB Auto Line after their first disagreement with an authorized dealer/automaker.
- Adding notice of BBB Auto Line to the NHTSA and FTC complaint forms is highly recommended.

⁶⁴ See NHTSA complaints 1580227, 1580534, 1581664, 1582560, 1582746, 1583005, 1583153, 1583324, 1583756, 1584188, 1584472, 1586243, 1586349, 1586402, 1586725, 1586791, 1586902, 1586959, 1587027, 1587109, 1587265, 1587419, 1587790, 1587793, 1588360, 1588784, 1588838, 1588916, 1589227 & 1589401.

- AOCA also urges FTC to require the annual audit of BBB’s Auto Line to include a review of participating automakers’ owner’s manuals and warranty documents to prevent future violations of MMWA’s prohibition against tie-in sales of branded products and services. The auditor already reviews automakers’ submissions of these documents to ensure adequate compliance with other MMWA-related factors such as the federal disclosure provisions.⁶⁵ It would not impose a significant new burden on either participating automakers or the auditor to also review the predictably at-risk tie-in sales subject matter. AOCA would be happy to support FTC and related auditors in their efforts to do so.

IV. QUESTIONS RAISED DURING THE JULY 16th WORKSHOP

Regarding manufacturer representatives’ suggestion that MMWA-violating repair restrictions limiting consumers’ service options to manufacturer-authorized repair dealers should be acceptable because (a) those dealers provide superior services, and (b) certain consumer goods, like electronics and passenger vehicles, are too complex for non-authorized service providers, FTC posed the following questions:

1. *Is there evidence to show “authorized dealers” provide superior services?*

In terms of automotive repair and maintenance (R&M) by “authorized dealers,” the answer is no. In addition to the copious evidence provided above regarding rampant defect-avoidance behavior, the combination of Better Business Bureau annual complaint statistics (Chart 1 on page 42) and U.S. Census information (Chart 2 on page 42) underscore the fact that car dealers have not performed in a manner justifying increased control over consumers’ R&M needs.

- New car dealers represent only 10% of the industry but cause 28% of the consumer complaints.
- New and used car dealers combined represent 22% of the industry but cause 46% of consumer complaints.

There are nearly twice as many general auto repair shops and they generate 20% *fewer* complaints—a truly striking statistic in light of the fact that generalists service all makes and models while authorized dealers only handle their own brand.

⁶⁵ 2018 Audit Of BBB Auto Line Submitted to The Federal Trade Commission, The State of Florida, and The State of Ohio, by Marc Winerman mwinerman@gmail.com, at 37-74.

BBB Complaint Statistics Sorted by Industry & Translated into NAICS Sectors	2018	2017	2016
811111 - Auto repair shops	8,980	8,730	6,609
811112 - Automotive Exhaust System Repair	149	168	152
811113 - Auto transmission repair shops	1,160	1,136	863
811118 - Other Automotive Mechanical and Electrical Repair and Maintenance	39	33	27
811121 - Automotive Body, Paint, and Interior Repair and Maintenance	2,737	2,643	1,940
811122 – Automotive Glass Replacement Shops	1,036	913	804
811191 – Automotive Oil Change and Lubrication Shop	748	853	504
811198 - All Other Automotive Repair and Maintenance	3,110	2,529	1,860
441110 - New car dealers	9,663	8,870	6,743
441120 - Used car dealers	6,035	5,586	4,104
441320 - Tire Dealers	640	557	427
2018 TOTAL COMPLAINTS	34,297		

Chart 1

U.S. Census Data on Automotive R&M by NAICS Sectors	Facilities	Industry %	2018 BBB Complaints
811111 - Auto repair shops	80,842	38%	26%
811112 - Automotive Exhaust System Repair	1,788	0.8%	0.4%
811113 - Auto transmission repair shops	4,547	2%	3.4%
811118 - Other Automotive Mechanical and Electrical R&M	3,777	2%	0.1%
811121 - Automotive Body, Paint, and Interior R&M	33,950	16%	8%
811122 – Automotive Glass Replacement Shops	6,160	3%	3%
811191 – Automotive Oil Change and Lubrication Shop	8,395	4%	2.2%
811198 - All Other Automotive Repair and Maintenance	4,257	2%	9%
441110 - New car dealers	21,427	10%	28%
441120 - Used car dealers	25,363	12%	18%
441320 - Tire Dealers	20,463	9.7%	2%
TOTAL FACILITIES	210,969		

Chart 2

It is also relevant to consider the number of cars serviced per year versus the number of consumer complaints filed. AOCA cannot speak to all of the other sectors, but the fast lube industry—represented by NAICS 811191—had approximately 81,000,000 service visits in 2018.⁶⁶ Eighty-one million service visits generated only 748 BBB complaints. That’s a rate of 0.0009%. Moreover, the fast lube industry represents another generalist subsector, which means operators must maintain the technical capacity to service all makes and models. Obviously, regardless of the increasing telematic complexity of modern passenger vehicles, the fast lube industry does an excellent job of managing consumers’ preventative automotive maintenance needs. The only major roadblocks to maintaining their competitiveness are automakers and their authorized dealers violating MMWA and Right to Repair.

⁶⁶ Based on the average 31 cars-per-day serviced as reported in *2018 NOLN Fast Lube Operator Survey Results, Part One*.


2. *Is there a consumer benefit to increasing automaker authorization of service providers?*

No. In fact, consumer complaint evidence indicates that increasing the number of service providers acting in privity with automakers would pose a threat to consumers safety, as well as their ability to get a fair deal. With authorized dealers telling consumers that known defects are “normal” and using telematics for an all-purpose digital shrug (“no codes”) at consumer concerns, the need for independent service professionals to provide second opinions and cost-effective competition has never been greater. Moreover, the need for independent service professionals specializing in preventative maintenance has never been greater. Those operators thrive only when their customers’ vehicles run well. For them, engine failure is an expensive problem, not an opportunity to sell another engine or vehicle.

Conclusion

AOCA very much appreciates this opportunity to provide information and comments. If you have any questions or concerns, please contact AOCA’s Policy Advisor, Joanna Johnson, at (515) 991-4971.

Sincerely,

A handwritten signature in black ink that reads "Kristy Babb". The signature is written in a cursive, flowing style.

Kristy Babb
Executive Director

Attached below: AOCA Research 03/26/19 – 08/09/19 NHTSA Complaints Round 1
Appendix: uploaded separately

AOCA Research March 26, 2019 – August 9, 2019 NHTSA Master Complaint List with Key Terms not including Make or Model—ROUND 1

Vehicle Model	Dealer/OEM says problem is "normal," consumer fault, etc.	Dealer can't or won't diagnose, no codes, no "fix"	Tie-in sales, inadequate maintenance claims, etc.	TSBs & MCs / Recalls
Ford Focus 2012	NHTSA 1581625, 1582615, 1583110, 1584278, 1585430, 1586207 & 1586917		Owner's Manual commands brand TF.	117 / 09
Ford Focus 2013	NHTSA 1580846, 1581053, 1581085, 1582518, 1582534, 1582834, 1582969, 1583584, 1584341 & 1586351		Owner's Manual commands brand TF.	126 / 09
Ford Focus 2014	NHTSA 1562547, 1581045, 1581930, 1582193, 1582240, 1582499, 1582521, 1582523, 1582548, 1582559, 1582877, 1582956, 1583011, 1583213, 1583661, 1584643, 1584869, 1586885, 1587152, 1587723 & 1588948	NHTSA 1585868, 1584987 & 1581156	Owner's Manual commands brand TF.	131 / 11
Ford Focus 2015	NHTSA 1568384, 1581026, 1581351, 1585530, 1586280 & 1586399	NHTSA 1582021, 1581428 & 1581351	Owner's Manual commands brand TF.	101 / 07
Ford Focus 2016	NHTSA 1580376, 1580833, 1582892, 1584968, 1587720 & 1580376		Owner's Manual commands brand TF.	161 / 06
Ford Focus 2017	NHTSA 1552789, 1556343 & 1581163	NHTSA 1584909	Owner's Manual commands brand TF.	130 / 05
Ford Focus 2018	NHTSA 1562705		Owner's Manual commands brand TF.	056 / 02
Ford Fiesta 2011	NHTSA 1582644 & 1590769	NHTSA 1585789	Owner's Manual commands brand TF service.	072 / 02

AOCA Research March 26, 2019 – August 9, 2019 NHTSA Master Complaint List with Key Terms not including Make or Model—ROUND 1

Vehicle Model	Dealer/OEM says problem is "normal," consumer fault, etc.	Dealer can't or won't diagnose, no codes, no "fix"	Tie-in sales, inadequate maintenance claims, etc.	TSBs & MCs / Recalls
Ford Fiesta 2012	NHTSA 1585448 & 1585996		Owner's Manual commands brand TF service.	072 / 02
Ford Fiesta 2014	NHTSA 1561196 & 1582506		Owner's Manual commands brand TF service.	089 / 05
Ford Fiesta 2015	NHTSA 1582562		Owner's Manual commands brand TF service.	070 / 02
Ford Fiesta 2016	NHTSA 1582871 & 1585393		Owner's Manual commands brand TF service.	072 / 00
Ford F-150 2011*****		NHTSA 1551733	Owner's Manual claims non-OEM oil filters cause startup noises and knock; commands brand TF.	097 / 06
Ford F-150 2012*****	NHTSA 1558652	NHTSA 1563926 & 1565982	Owner's Manual claims non-OEM oil filters cause startup noises and knock; commands brand TF & brand TF service.	091 / 04
Ford F-150 2013 *****	NHTSA 1560011 & 1561280	NHTSA 1550882, 1555781 & 1567793	Owner's Manual commands brand TF & tire service ("always") & brand TF.	111 / 03
Ford F-150 2015**		NHTSA 1550603, 1555358 & 1566005	Owner's Manual commands brand TF & tire service ("always") & brand TF.	156 / 10
Ford F-150 2016***		NHTSA 1588387 & 1551009	Owner's Manual commands brand TF & tire service ("always") & brand TF.	180 / 09

AOCA Research March 26, 2019 – August 9, 2019 NHTSA Master Complaint List with Key Terms not including Make or Model—ROUND 1

Vehicle Model	Dealer/OEM says problem is "normal," consumer fault, etc.	Dealer can't or won't diagnose, no codes, no "fix"	Tie-in sales, inadequate maintenance claims, etc.	TSBs & MCs / Recalls
Ford F-150 2017	NHTSA 1558158	NHTSA 1558461	Owner's Manual commands brand TF & tire service ("always") & brand TF.	170 / 12
Ford F-150 2018*	NHTSA 1566760 & 15550446	NHTSA 1551614	Owner's Manual commands brand TF & tire service ("always") & brand TF.	181 / 10
Ford F-150 2019		NHTSA 1583182	Owner's Manual commands brand TF & tire service ("always") & brand TF.	080 / 03
Ford F-250 SD 2014 ¹	NHTSA 1583266	NHTSA 1583266	Owner's Manual commands brand TF & tire service ("always") & brand TF.	124 / 00
Ford F-350 2012	NHTSA 1590372		Owner's Manual claims non-OEM oil filters cause startup noises and knock; commands brand TF and & tire service ("always").	109 / 13-16
Ford Explorer 2017	NHTSA 1557906		Owner's Manual commands brand TF & tire service ("always") & brand TF.	135 / 07
Ford Mustang 2016	NHTSA 1550193		Owner's Manual commands brand TF & tire service ("always") & brand TF.	109 / 02

¹ According to NHTSA ODI's current investigation RQ14005, entitled *Vehicle Commanded Engine Shut Down*, "Ford acknowledges the defect condition in the subject vehicles but argues that an unreasonable risk to motor vehicle safety is limited to "Ambulance Package" and "Fire Engine Prep Package" vehicles where commanded shutdown could impact emergency response and patient care."

AOCA Research March 26, 2019 – August 9, 2019 NHTSA Master Complaint List with Key Terms not including Make or Model—ROUND 1

Vehicle Model	Dealer/OEM says problem is "normal," consumer fault, etc.	Dealer can't or won't diagnose, no codes, no "fix"	Tie-in sales, inadequate maintenance claims, etc.	TSBs & MCs / Recalls
Ford Mustang 2019		NHTSA 1583074	Owner's Manual commands brand TF & tire service ("always") & brand TF.	047 / 01
Ford Windstar 2001	NHTSA 1589487		Not available	180 / 016
Ford Windstar 2002	NHTSA 1590125		Owner's Manual claims non-OEM oil filters cause startup noises and knock.	144 / 09
Ford Escape 2009	NHTSA 1583932		Owner's Manual claims non-OEM oil filters cause startup noises and knock.	041 / 04
Ford Escape 2013		NHTSA 1585710	Owner's Manual commands "only use" brand oil filter; commands brand TF & tire service ("always") & brand TF.	126 / 15
Ford Escape 2017		NHTSA 1583214 & 1578449	Owner's Manual commands brand TF & tire service ("always") & brand TF.	176 / 01
Ford Explorer 2016		NHTSA 1587034	Owner's Manual commands brand TF & tire service ("always") & brand TF.	128 / 07
Ford Lincoln 2014		NHTSA 1586806	Owner's Manual commands brand TF; commands brand tire service ("always").	39-103 / 1-9
Ford Lincoln 2017		NHTSA 1580284	Owner's Manual commands brand TF; commands brand tire service ("always").	56-99 / 0-1

AOCA Research March 26, 2019 – August 9, 2019 NHTSA Master Complaint List with Key Terms not including Make or Model—ROUND 1

Vehicle Model	Dealer/OEM says problem is "normal," consumer fault, etc.	Dealer can't or won't diagnose, no codes, no "fix"	Tie-in sales, inadequate maintenance claims, etc.	TSBs & MCs / Recalls
Ford Fusion 2016		NHTSA 1586179	Owner's Manual commands brand TF & tire service ("always") & brand TF.	111 / 07
Ford Edge 2013		NHTSA 1584294	Owner's Manual commands brand TF; commands brand tire service ("always").	065 / 02
Chrysler Jeep Compass 2012		NHTSA 1580766	Owner's Manual commands "use only" brand CVT.	052 / 04
Chrysler Jeep Compass 2016	NHTSA 1577915	NHTSA 1577915	Owner's Manual commands "use only" brand ATF for manual transmission.	037 / 01
Chrysler Jeep Compass 2018	NHTSA 1550887, 1564870 & 1565418		Owner's Manual commands "use only" brand ATF for manual transmission.	009 / 06
Chrysler Jeep Cherokee 2014		NHTSA 1584206		294 / 15
Chrysler Jeep Cherokee 2019	NHTSA 1580990 & 1582325			0-3 / 0-8
Chrysler Jeep Wrangler 2012	NHTSA 1579907			113 / 09
Chrysler Jeep Wrangler 2018	NHTSA 1559262 & 1560005		Owner's Manual commands "use only" brand ATF for manual transmission.	010 / 08
Chrysler Jeep Wrangler 2019	NHTSA 1589974	NHTSA 1589956	Owner's Manual commands "use only" brand ATF.	010 / 02
Chrysler Jeep Renegade 2017	NHTSA1552536 & 1553245	NHTSA 1579195	Owner's Manual commands "use only"	026 / 03

AOCA Research March 26, 2019 – August 9, 2019 NHTSA Master Complaint List with Key Terms not including Make or Model—ROUND 1

Vehicle Model	Dealer/OEM says problem is "normal," consumer fault, etc.	Dealer can't or won't diagnose, no codes, no "fix"	Tie-in sales, inadequate maintenance claims, etc.	TSBs & MCs / Recalls
			brand ATF for manual transmission.	
Chrysler Jeep Renegade 2018	NHTSA 1590547	NHTSA 1585925	Owner's Manual commands "use only" brand ATF for manual transmission.	010 / 02
Chrysler Dodge Journey 2010	NHTSA 1589382		Owner's Manual commands "use only" brand ATF.	014 / 04
Chrysler Dodge Journey 2017		NHTSA 1586135	Owner's Manual commands "use only" brand ATF.	019 / 01
Chrysler Dodge Journey 2018	NHTSA 1568210		Owner's Manual commands "use only" brand ATF.	003 / 05
Chrysler Dodge Charger 2016	NHTSA 1577438			068 / 06
Chrysler RAM 1500 2015		NHTSA 1589596	Owner's Manual commands "use only" brand ATF.	279 / 13
Chrysler RAM 1500 2016	NHTSA 1578253 & 1579728	NHTSA 1583610	Owner's Manual commands "use only" brand ATF.	268 / 11
Chrysler RAM 2500 2015			NHTSA 1588332; Owner's Manual commands "use only" brand ATF.	248 / 14
Chrysler RAM 3500 2017		NHTSA 1589672	Owner's Manual commands "use only" brand ATF.	158 / 10
Chrysler Pacifica 2017	NHTSA 1569916	NHTSA 1579682, 1579226, 1577849 & 1569916		100 / 08
Chrysler 200 2015		NHTSA 1580022		188 / 08

AOCA Research March 26, 2019 – August 9, 2019 NHTSA Master Complaint List with Key Terms not including Make or Model—ROUND 1

Vehicle Model	Dealer/OEM says problem is "normal," consumer fault, etc.	Dealer can't or won't diagnose, no codes, no "fix"	Tie-in sales, inadequate maintenance claims, etc.	TSBs & MCs / Recalls
Chrysler 200 2016		NHTSA 1583705		082 / 02
Chrysler Dodge Dart 2016		NHTSA 1580946	Owner's Manual commands "use only" brand ATF for manual transmission.	044 / 04
Honda CR-V 2010			NHTSA 1577319; Owner's Manual requires brand transmission fluid.	105 / 14
Honda CR-V 2014	NHTSA 1550954		Owner's Manual requires brand transmission fluid.	105 / 00
Honda CR-V 2015 [FN]		NHTSA 1589442 & 1589442	Owner's Manual requires brand transmission fluid.	124 / 02
Honda CR-V 2017 [FN] p 164 oil recommend; TF <i>specified</i>	NHTSA 1550336, 1551599 & 1559002		Owner's Manual requires brand transmission fluid.	135 / 03 (779 complaints)
Honda CR-V 2018	NHTSA 1556015, 1568803 & 1583474	NHTSA 1586801 & 1564446	Owner's Manual requires brand transmission fluid & commands dealer use.	091 / 01
Honda CR-V 2019	NHTSA 1550795		Owner's Manual requires brand transmission fluid & commands dealer use.	023 / 02
Honda Accord 2015	NHTSA 1566912		Owner's Manual requires brand transmission fluid & commands dealer use.	144 / 03
Honda Accord 2018	NHTSA 1553617		Owner's Manual requires brand transmission fluid & commands dealer use.	038 / 01
Honda Acura RDX 2017	NHTSA 1586709		Owner's Manual requires brand transmission fluid.	053 / 01
Honda Acura RDX 2019	NHTSA 1579409	NHTSA 1579409	Owner's Manual requires brand transmission fluid.	057 / 00
Honda Odyssey 2008		NHTSA 1578386	Owner's Manual requires brand transmission fluid.	050 / 05

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Vehicle Model	Dealer/OEM says problem is "normal," consumer fault, etc.	Dealer can't or won't diagnose, no codes, no "fix"	Tie-in sales, inadequate maintenance claims, etc.	TSBs & MCs / Recalls
Honda Odyssey 2012	NHTSA 1558855		Owner's Manual requires brand transmission fluid.	113 / 05
Honda Odyssey 2018		NHTSA 1584616	Owner's Manual requires brand transmission fluid.	120 / 05
Honda Civic 2016		NHTSA 1579030	Owner's Manual requires brand transmission fluid & commands dealer use.	187 / 03
GM GMC Sierra 1500 2015	NHTSA 1577873		GM Bulletin No. 07-06-01-016C	1998 / 16
GM GMC Sierra 1500 2016	NHTSA 1558918 & 1579227		GM Bulletin No. 07-06-01-016C	1245 / 06
GM GMC Sierra 1500 2019	NHTSA 1558858		GM Bulletin No. 07-06-01-016C	301 / 01
GM GMC Sierra 2500 2018	NHTSA 1559369		GM Bulletin No. 07-06-01-016C	357 / 01
GM GMC Terrain 2012	NHTSA 1587494		GM Bulletin No. 07-06-01-016C; NHTSA 1587494	1228 / 01
GM Cadillac XT5 2018	NHTSA 1585159		GM Bulletin No. 07-06-01-016C	328 / 00
GM Cadillac XT5 2019	NHTSA 1588548		GM Bulletin No. 07-06-01-016C	101 / 00
GM GMC Yukon 2016	NHTSA 1589265		GM Bulletin No. 07-06-01-016C	951 / 04
GM Chevy Colorado 2018	NHTSA 1590552		GM Bulletin No. 07-06-01-016C	403 / 01
GM Chevy Volt 2018	NHTSA 15531		GM Bulletin No. 07-06-01-016C	309 / 02
GM Corvette 2006	NHTSA 1555999		GM Bulletin No. 07-06-01-016C	601 / 05
GM Buick Encore 2017		NHTSA 1590097	GM Bulletin No. 07-06-01-016C	523 / 02
GM Chevy Suburban 2015		NHTSA 1589420	GM Bulletin No. 07-06-01-016C	1671 / 09

AOCA Research March 26, 2019 – August 9, 2019 NHTSA Master Complaint List with Key Terms not including Make or Model—ROUND 1

Vehicle Model	Dealer/OEM says problem is "normal," consumer fault, etc.	Dealer can't or won't diagnose, no codes, no "fix"	Tie-in sales, inadequate maintenance claims, etc.	TSBs & MCs / Recalls
Kia Sorento 2012	NHTSA 1590093		Kia TSB 114; owner's manual commands brand service.	1661 / 03
Kia Sorento 2013	NHTSA 1566925		Kia TSB 114; owner's manual commands brand service.	1591 / 03
Kia Sorento 2019	NHTSA 1583672 & 1589139	NHTSA 1583672	Kia TSB 114; owner's manual commands brand service.	016 / 00
Kia Soul 2013	NHTSA 1552424		Kia TSB 114; owner's manual commands brand service.	073 / 02
Kia Soul 2016	NHTSA 1552585		Kia TSB 114; owner's manual commands brand service.	058 / 02
Kia Cadenza 2014	NHTSA 1579745		Kia TSB 114; owner's manual commands brand service.	072 / 01
Kia Optima 2011			NHTSA 1551974 & 1588615; Kia TSB 114.	158 / 04
Kia Optima 2016		NHTSA 1581152	Kia TSB 114; owner's manual commands brand service.	102 / 04
VW Jetta 2019	NHTSA 1556215, 1588626 & 1559347		Not publicly available	193 / 05
VW Audi Q7 2014		NHTSA 1582748	Not publicly available	556 / 01
VW Audi S3 2015	NHTSA 1578627		Not publicly available	201 / 01
VW Audi Q5 2018	NHTSA 1590419		Not publicly available	274 / 04
VW Tiguan 2018	NHTSA 1554069	NHTSA 1588908	Not publicly available	280 / 09
VW Tiguan 2019		NHTSA 1589777 & 1582282	Not publicly available	154 / 03
Nissan Titan 2017	NHTSA 1577378		Owner's Manual commands brand TF.	137 / 03

AOCA Research March 26, 2019 – August 9, 2019 NHTSA Master Complaint List with Key Terms not including Make or Model—ROUND 1

Vehicle Model	Dealer/OEM says problem is "normal," consumer fault, etc.	Dealer can't or won't diagnose, no codes, no "fix"	Tie-in sales, inadequate maintenance claims, etc.	TSBs & MCs / Recalls
Nissan Rogue 2013	NHTSA 1577454		Owner's Manual commands brand TF and dealer service for maintenance.	032 / 01
Nissan Altima 2014		NHTSA 1585859	Owner's Manual commands brand CVT.	108 / 07
Nissan Altima 2015	NHTSA 1584415	NHTSA 1577766	Owner's Manual commands brand CVT.	116 / 09
Nissan Maxima 2017	NHTSA 1579106		Owner's Manual commands brand CVT.	095 / 03
Nissan NV 3500 2018	NHTSA 1582593		Owner's Manual commands brand TF for 7-speed.	014 / 00
Nissan Infiniti QX60 2018	NHTSA 1586267		Owner's Manual commands brand CVT.	073 / 00
Toyota Tacoma 2017	NHTSA 1567288		Owner's Manual requires brand TF (at 577). If consumer wants to use non-Toyota parts or non-dealer service, must "confirm the warranty coverage" (at 444). Commands inspection & repairs be done by Toyota dealer (at 445).	144 / 04
Toyota Tacoma 2018		NHTSA 1580636	Owner's Manual requires brand TF (at 631). If consumer wants to use non-Toyota parts or non-dealer service, must "confirm the warranty coverage" (at 497). Commands inspection &	119 / 01

AOCA Research March 26, 2019 – August 9, 2019 NHTSA Master Complaint List with Key Terms not including Make or Model—ROUND 1

Vehicle Model	Dealer/OEM says problem is "normal," consumer fault, etc.	Dealer can't or won't diagnose, no codes, no "fix"	Tie-in sales, inadequate maintenance claims, etc.	TSBs & MCs / Recalls
			repairs be done by Toyota dealer (at 498).	
Toyota Tacoma 2019	NHTSA 1579318		Owner's Manual requires brand TF (at 635). If consumer wants to use non-Toyota parts or non-dealer service, must "confirm the warranty coverage" (at 499). Commands inspection & repairs be done by Toyota dealer (at 500).	056 / 02
Toyota Camry 2018	NHTSA 1568554	NHTSA 1580906	Owner's Manual requires brand TF (at 546). If consumer wants to use non-Toyota parts or non-dealer service, must "confirm the warranty coverage" (at 421). Commands inspection & repairs be done by Toyota dealer (at 421).	170 / 04
Toyota Camry 2019	NHTSA 1569945		Same as 2018 model.	040 / 03
Toyota Scion FRS 2013	NHTSA 1568723		NHTSA 1556679 & 1579191; Owner's Manual requires brand TF (at 347-8). If consumer wants to use non-Toyota parts or non-dealer service, must "confirm the warranty coverage" (at 228). Commands inspection & repairs be	003 / 00

AOCA Research March 26, 2019 – August 9, 2019 NHTSA Master Complaint List with Key Terms not including Make or Model—ROUND 1

Vehicle Model	Dealer/OEM says problem is "normal," consumer fault, etc.	Dealer can't or won't diagnose, no codes, no "fix"	Tie-in sales, inadequate maintenance claims, etc.	TSBs & MCs / Recalls
			done by Toyota dealer (at 229).	
Toyota Sienna 2019		NHTSA 1584967	Owner's Manual requires brand TF (at 521). If consumer wants to use non-Toyota parts or non-dealer service, must "confirm the warranty coverage" (at 399). Commands inspection & repairs be done by Toyota dealer (at 399).	042 / 05
Toyota Tundra 2019	NHTSA 1585251		Owner's Manual requires brand TF (at 604-5). If consumer wants to use non-Toyota parts or non-dealer service, must "confirm the warranty coverage" (at 476). Commands inspection & repairs be done by Toyota dealer (at 477).	049 / 04
Toyota RAV4 2019		NHTSA 1581818	Owner's Manual & Telematics commands brand service.	044 / 03
Hyundai Veracruz 2010	NHTSA 1554680		Hyundai TSB 12-EM-006; owner's manual commands brand service	009 / 03
Hyundai Accent 2012		NHTSA 1585767	Hyundai TSB 12-EM-006; owner's manual commands brand service	050 / 00
Hyundai Tucson 2013	NHTSA 1588243		Hyundai TSB 12-EM-006; NHTSA 1556262; owner's	030 / 02

AOCA Research March 26, 2019 – August 9, 2019 NHTSA Master Complaint List with Key Terms not including Make or Model—ROUND 1

Vehicle Model	Dealer/OEM says problem is “normal,” consumer fault, etc.	Dealer can’t or won’t diagnose, no codes, no “fix”	Tie-in sales, inadequate maintenance claims, etc.	TSBs & MCs / Recalls
			manual commands brand service.	
Hyundai Tucson 2017	NHTSA 1566207	NHTSA 1581724	Hyundai TSB 12-EM-006; owner’s manual commands brand service	045 / 01
Hyundai Sonata 2011		NHTSA 1583239	Hyundai TSB 12-EM-006; owner’s manual commands brand service	127 / 14
Hyundai Sonata 2013	NHTSA 1553903		Hyundai TSB 12-EM-006; owner’s manual commands brand service	075 / 07
Hyundai Sonata Hybrid 2013			NHTSA 1550487; Hyundai TSB 12-EM-006; owner’s manual commands brand service.	031 / 02
Hyundai Sonata 2015			NHTSA 1590174; Hyundai TSB 12-EM-006; owner’s manual commands brand service.	104 / 08
Hyundai Elantra 2011		NHTSA 1581664	Hyundai TSB 12-EM-006; owner’s manual commands brand service.	062 / 05
Hyundai Elantra 2018	NHTSA 1552802		Hyundai TSB 12-EM-006; owner’s manual commands brand service.	023 / 01
BMW X6 2012	NHTSA 1585970		Owner’s Manual commands dealer oil change only (at 285, at 6). Only brand engine oil approved (at 284).	182 / 05
BMW X3 2019	NHTSA 1590761		Not publicly available	052 / 04
BMW Mini Cooper Countryman 2013	NHTSA 1559549		FTC BMW MINI Cooper 2015 Settlement	145 / 00

AOCA Research March 26, 2019 – August 9, 2019 NHTSA Master Complaint List with Key Terms not including Make or Model—ROUND 1

Vehicle Model	Dealer/OEM says problem is "normal," consumer fault, etc.	Dealer can't or won't diagnose, no codes, no "fix"	Tie-in sales, inadequate maintenance claims, etc.	TSBs & MCs / Recalls
BMW Mini Cooper Countryman 2014		NHTSA 1581543	FTC BMW MINI Cooper 2015 Settlement	386 / 07
BMW 328i 2014		NHTSA 1581397	Not publicly available; 2011 model Owner's Manual commands oil change at dealer only (at 275).	450 / 04
Mercedes Benz C250 2015	NHTSA 1580155		Owner's Manual directs consumer to only use approved engine oil and filter according to Mercedes Benz Service Center (at 326).	Not listed w/NHTSA