

November 14, 2022

Mr. Bernhard Kuhnt
CEO
BMW North America
300 Christrot Ridge Rd,
Woodcliff Lake, New Jersey 07677-7731

CERTIFIED MAIL

Mr. Stephen Pan
General Manager
New Century BMW
1139 W. Main Street
Alhambra, California 91801

Re: Claim for Negligent Service and BMW Design Defects

Gentlemen:

I am writing to report damages sustained by reason of the negligence of New Century BMW's service department. As a result of that negligence, two separate serious design deficiencies in the 2015 BMW X-3 were discovered. The incident that occurred as a result of these factors could have caused serious physical injurious or death as well as substantial property damage.

The relevant facts are:

BACKGROUND:

My wife and I purchased a new 2015 BMW X-3 in May 2014. For the first few years this SUV was primarily driven around the Pasadena California area. Beginning in 2018, we used the SUV to travel between Pasadena and Lake Tahoe. By the summer of 2022, the total miles on the car were approximately 60,000+, a relatively low mileage for a car of this age. The car was serviced by New Century BMW for the entire period of our ownership. Whenever designated for service by the X-3's computer or by New Century, we had the

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requested service performed. The last service by New Century before the "incident" was May 10, 2022. The car was brought in for service because of a problem with the rear axle ball bearings, however, the most significant component of the service was addressing issues relating to the cars oil system (a copy of that portion of the service report is attached). Included in the description from the May 10 service is the following: "...removed intake manifold to gain access to the oil filter housing, replaced faulty gasket and oil cooler gasket and reassembled the vehicle..." The repairs relating to the oil system totaled \$1,259.01 From that date until the incident in late July, there was never any warning on the car's dashboard, or from its entertainment screen, indicating a need to add oil. Nor was there ever any collection of oil on our garage floor or at any other location where the car was parked. Between May 10 and the end of July we drove back and forth to Tahoe 3 times. Each round trip is 900 miles. At no time was there ever a warning from the car's computer system that the engine was being oil starved, which issue has substantial and serious consequences. No sensor on the X-3 alerted us to an impending shutdown.

INCIDENT:

On Friday July 29, 2022 we packed the car for another drive to Tahoe. We left Pasadena around 11:30 AM. About noon we were transitioning from the west bound 210 to the 118. The transition is a very high overpass from right to left. As we reached the top of the overpass, and without any warning, the entertainment screen went from the navigation mode to a single large block letter word "MALFUNCTION" and simultaneously the car's computer shut the engine off and put the transmission into neutral. We were coasting without any power control. We were dangerously vulnerable to the road and traffic conditions. We coasted down the overpass and then had to cross the traffic entering the 118 from the southbound 210. There was continuous traffic and the cars and trucks coming onto the 118 were going at a high speed. The shoulder at that point was narrow with a significant slope to the hill on the right. On the left, there was little room to exit the driver's side door due to the close proximity of the cars entering the 118. We put the car in park and called the auto club for assistance. Before AAA arrived, a truck from Metro Express

arrived to provide assistance and help get us off the freeway. AAA arrived later with a flatbed tow truck and it was quickly determined that with the X-3 in park, the wheels were locked and the car could not be moved. The AAA driver and the Metro Express driver searched for over an hour for a way to change from park to neutral without success. We had to remove everything from the car and place it on the side of the road so that every inch of the SUV could be searched. When that exercise proved fruitless, the Metro Express driver agreed to use his equipment to get the car off the freeway. The X-3 was moved to a nearby "park and ride" lot under a freeway overpass. Fortunately, there was a private repair shop nearby and we enlisted that shop to help put the car "into neutral" so that it could be towed to a BMW dealer. To our shock, this required jacking up the car, having a mechanic slide under the car, undue 4 bolts to open a plate, and then manually put the car into neutral. This model X-3 had no mechanism to put the car in neutral from inside the car. Once in neutral, we were able to again engage AAA to tow the car to the BMW dealer in Glendale. By the time we arrived in Glendale it was near Friday closing time and service advised that the car could not be checked until the following week.

REPAIRS:

The following Tuesday we received a call from BMW service in Glendale indicating that repairs required buying a new engine (without explanation of the specific damage) and the car was not worth doing this. The advice: have the car towed to the junk yard. Not satisfied with this recommendation, we went to New Century BMW in Alhambra and met with our service representative, Sidney Chan. Mr. Chan has helped us with our BMW's for years and was always willing to go the extra mile. Mr. Chan called a service technician at Pacific BMW, who had previously worked at New Century. We could only hear Mr. Chan's side of the conversation. When the call ended Mr. Chan confirmed the advice we had been given by Pacific BMW that the engine needed to be replaced. Mr. Chan then proposed that he talk with his management to see if New Century would "share" in the cost of a new engine (either brand new or rebuilt). After a couple of days Mr. Chan advised that his management was unwilling to share in the costs of repair.

We then met, or discussed, with several private repair shops what was required in order to repair the car. We decided to go forward with repairs from a shop with an impeccable reputation.

We had the car transported to the repair shop and were later advised that the #2 piston was "fused" to the crank shaft and that it appeared to have been "oil starved" for enough time to initiate the complete shutdown we experienced. We authorized the necessary repairs. The X-3 was ready for pick up by the end of August.

LIABILITY:

The core legal issues are (1) negligent repairs by New Century BMW, and (2) significant design flaws in (a) triggering a complete shut down of the X-3 without warning and (b) by locking the wheels with no way to move the transmission to a neutral position. Only by fortuity was the potential for a horrendous accident and loss of human life avoided.

RECOMMENDATION:

We are willing to sit down and discuss a reasonable accommodation of the physical, mental, emotional, and economic damages we have sustained. Please let us know if you are interested in having such a discussion.

Please contact me at my email address: [REDACTED]

Very Truly Yours,

[REDACTED]

CC: National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington D.C. 20590

Customer Number [REDACTED]

Invoice No: [REDACTED]

INVOICE



New Century BM

1139 W. MAIN STREET
ALHAMBRA, CALIFORNIA

(626) 570-8444

(800) 286-4BMW

www.ncbmw.com

BAR# ARD 245119 EPA# CAL

Page 2 of 2

SAN MARINO, CA

Home: [REDACTED]

Bus: [REDACTED]

Cell: [REDACTED]

Email: [REDACTED]

other [REDACTED]

SERVICE ADVISOR: 3315 SIDNEY CHAN

COLOR		YEAR	MAKE/MODEL		VIN	LICENSE	MILEAGE IN / OUT	
GOLD		15	BMW X3/2.5		5UXWX9C58F0		58373 / 58373	
DEL. DATE	PROD. DATE	WARR. EXP.	PROMISED		PO NO.	RATE	PAYMENT	INV. D.
03JUL14	01MAY14	03JUL2018	17:00 10MAY22				COUP	10MA
R.O. OPENED		READY		OPTIONS: ENG:N20 TRN:A AXL:F25				
		17:28 10MAY22						

LINE	OPCODE	TECH	TYPE	HOURS	LIST	NET	TOTAL
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1199 REPLACED LEAKING OIL FILTER HOUSING GASKETS
AS AUTHORIZED BY CUSTOMER

6579 CR 4.50

1114.58 1114.58

1 11-42-8-637-821 GASKET:118523

55.73

55.73

55.73

1 11-42-8-637-820 GASKET:118523

55.73

55.73

55.73

3 5151 BRAKE WASH

7.97

7.97

23.91

1 11-42-8-683-168 O-RING:889520

9.06

9.06

9.06

58373 UPON INSPECTION FOUND OIL FILTER HOUSING TO BE LEAKING. AS OKAY BY CUSTOMER, CLEANED ENGINE SPLASH PANELS. REMOVED ENGINE COVER AND DRAINED AND RECOVERED ENGINE COOLANT AND REMOVED INTAKE MANIFOLD TO GAIN ACCESS TO THE OIL FILTER HOUSING. REPLACED FAULTY GASKET AND OIL COOLER GASKET AND REASSEMBLED THE VEHICLE, USED 1 CAN OF BMW PARTS CLEANER. PERFORMED BMW COOLANT BLEEDING AS PER REPAIR INSTRUCTIONS. TEST DROVE VEHICLE NO FURTHER LEAKS WERE FOUND AFTER REPAIR, FOUND VEHICLE TO BE FUNCTIONING AS DESIGNED.

EST: 2,555.09

09MAY22 15:59 SA: 3315

CONTACT: JUDITH

(626) 824-4075

AUTHORIZATION FOR RR WHEEL BEARING/OIL FILTER
HOUSING GASKETS

EST: 226.00

09MAY22 08:24 SA: 3315

CONTACT:

PA

MAY 11

CIN

Original Estimate (Parts & Labor)	Total Additional Cost Authorized	Approved By	Date & Time	Authorization Obtained By	*HAZARDOUS WASTE DISPOSAL COSTS: We have added this charge to cover costs associated with the handling, management and disposal of toxic wastes or hazardous substances under California and Federal Law.	DESCRIPTION	TOT
\$	\$			☐ In Person Approval ☐ Telephone ☐ Text ☐ Email/Fax (See Attached)	LABOR AMOUNT	\$	1
Revised Estimate	\$			☐ In Person Approval ☐ Telephone ☐ Text ☐ Email/Fax (See Attached)	PARTS AMOUNT	\$	
Customer declined tire pressure check/inflation service.					GAS, OIL, LUBE	\$	
By signing below, you acknowledge that you were notified of and authorized the Dealership to perform the services/repairs itemized in this invoice and that you received (or had the opportunity to inspect) any replaced parts as requested by you.					SUBLET AMOUNT	\$	
Initials					WASTE DISPOSAL COSTS *	\$	
ALL PARTS ARE NEW UNLESS OTHERWISE INDICATED.					TOTAL CHARGES	\$	
☐ Some Parts Not Returnable					LESS INSURANCE	\$	
AUTHORIZED DEALERSHIP REPRESENTATIVE SIGNATURE					SALES TAX	\$	
					PLEASE PAY		