

Jordan Ziprin

January 5, 2006

Kathleen C. DeMeter, Director
Office of Defects Investigation
National Highway Traffic Safety Administration
400 Seventh Street, S.W.
Washington, D.C.

Re: DP05-002

Dear Ms. DeMeter:

I received a telephone call from an individual on Tuesday informing me that your agency dismissed my petition and that NHTSA rejected my argument that your hesitation in acceleration policy was not applicable to my defect petition. I have not received any notice of your dismissal of the petitions as of this date.

Frankly, I anticipated that decision from the very first time I was in contact with Mr. Scott Yon, the assigned investigator. He made statements during our first telephone conversation which tended to establish that the purpose of his inquiry was to establish a basis to dismiss the petition based upon NHTSA policy rather than to deal with and examine all of the facts and circumstances involved. When Mr. Yon subsequently visited Phoenix, he told me quite clearly and emphatically that it was NHTSA's firm policy not to investigate safety issues regarding hesitations in acceleration by vehicles. I responded that the facts and circumstances raised in my petition made that policy wholly inapplicable and explained the reasons to him. I made a note of Mr. Yon's statement. That statement and the NHTSA policy reflect an ostrich head-in-the-sand mentality, admitting of no exceptions regardless of the facts. I explained to Mr. Yon that the hesitation issue was integrally related to the out-of-control acceleration accidents which involved me and numerous other complainants who filed complaints with your agency. I believe that I provided information to Mr. Yon involving some 1,250 complaints related to the matters raised in my initial and amended complaint. I spent some two-to three months digging out evidence and information from NHTSA's own files. There is no way a meaningful evaluation of my submissions could have been conducted since the bulk of those submissions occurred during October, November, and December. Any claim that those issues were resolved in your July 2004 investigation of similar allegations would be sheer nonsense because that was a limited, perfunctory investigation of which you are well aware. I also submitted reference to articles by authorities on the problems raised in . . .

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my petition. It appears that your decision was a foregone conclusion the day I filed the petition. To have reached a different conclusion than the one reached in July 2004 based upon a virtually non-existent investigation would have been totally embarrassing to your agency. I would also suggest that if you and your staff are peeved at the comments made by me in this letter and other written communications that it would be wiser to do what is right for the general public rather than to base your decisions on your attitude towards me.

I would remind you that I also wrote you a letter dated November 17, 2005 pointing out quite clearly why your agency's refusal to consider the hesitation issue in conjunction with all of the other defects involving the Toyota/Lexus electronic throttles was inapplicable to the particular facts and circumstances involved in my petition. I never received a response from you. It would have been helpful if you explained why or in what manner my arguments were defective. I also requested you in that letter to investigate whether or not Toyota and Lexus dealers deliberately failed to include on their service reports the kinds of problems I raised in my petition, although such issues were raised by their customers. I also provided you information why such an inquiry should be undertaken.

I intend to file a motion for reconsideration of your dismissal of my petition. In order for me to make a comprehensive argument in support of my motion, I request that you provide me with certain documentation and information regarding NHTSA's acceleration/hesitation policy that it will not consider those issues as safety defects under any circumstances. Therefore, I respectfully request that you provide me the following: (1) The date when that policy was effected and any and all dates that such policy was amended and/or modified.; (2) The name and/or names of those individuals who issued the orders or directives for the implementation of that policy, as well as amendments and modifications thereto, as well as such documents, records and memoranda relating thereto, including the dates thereof; (3) All records, correspondence, memoranda and other documents as well as electronic communications referring to, describing, mentioning, and/or relating to the establishment of the policy; (4) Such records, correspondence, memoranda and other documents memoranda and electronic communications as will show where as well as the date and/or dates such policy was published, including, but not limited to, manuals utilized by your staff and/or investigators in conducting defect investigations; (5) Any and all records, correspondence, memoranda and other documents as well as electronic communications describing, mentioning, referring to NHTSA's reasons, explanations, as well as other facts and circumstances explaining why the policy was effectuated.

I hope that your agency will voluntarily provide me with the information requested. One of the reasons for my request is that I suspect that the policy was established with respect to mechanical throttles issues and circumstances relating thereto and that NHTSA made an erroneous decision which it decided not to repeat so as not to

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embarrass itself. The fact that electronic throttle issues are involved, which raises totally different issues than mechanical throttle systems, does not appear to make any difference in NHTSA'S application or reconsideration of the policy. Alternatively, if you refuse to provide me with the information requested voluntarily—and I know of no reason why such a refusal would serve the public interest since my petition raises life and death issues—you should consider this as a request made under the Freedom of Information Act.

Sincerely,


Jordan Zippin