

# HOGAN & HARTSON

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**Via Federal Express**

Mr. Kevin Vincent  
Chief Counsel  
National Highway Traffic Safety Administration  
(NCC-111), Room W41-227  
1200 New Jersey Avenue, S.E.  
West Building  
Washington, D.C. 20590

**RE: Request for Confidentiality Concerning Mercedes-Benz's Brake Line Technical Report**

Dear Mr. Vincent:

This letter requests confidential treatment under 49 C.F.R. Part 512 for the brake line technical report dated September 28, 2009, submitted on behalf of Daimler AG and Mercedes-Benz USA, LLC ("Mercedes-Benz") to the National Highway Traffic Safety Administration's Office of Defects Investigation (ODI). Pursuant to 49 C.F.R. Part 512, this request attaches two complete versions of the submission, and a single public version of the submission with the confidential information redacted. These attachments are marked "CONFIDENTIAL BUSINESS INFORMATION" in accordance with 49 C.F.R. § 512.6(c).

The submission contains commercial information that has not been publicly disclosed and is voluntarily submitted to ODI in order to assist that office in better understanding the brake performance of certain Mercedes-Benz vehicles. The information contained in this submission is the kind of information that is customarily not released to the public by Mercedes-Benz. The submission therefore is entitled to confidential treatment under 49 C.F.R. § 512.15(d).

The information contained in the submission has not been publicly disclosed. Mercedes-Benz has taken measures to ensure that the information has not been disclosed or otherwise made available to any persons outside of Mercedes-Benz, its parents, suppliers, and affiliates. Insofar as is known by Mercedes-Benz, this information is not known outside Mercedes-Benz, except by

these related parties. The information has also been disclosed as necessary for the purpose of obtaining advice and assistance from counsel and other confidential advisers. Such disclosures do not compromise the confidential nature of the information because of the close business relationship between Mercedes-Benz and its parents and affiliates, nor does selective disclosure to advisers bound by obligations of confidentiality compromise such confidentiality.

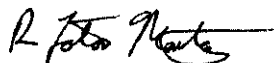
The submission is also entitled to confidential treatment under Critical Mass Energy Project v. Nuclear Regulatory Commission, 975 F.2d 871 (D.C. Cir. 1992), because it is voluntarily submitted and not customarily released to the public. The Critical Mass basis for confidential treatment has been incorporated into the agency's regulations at 49 C.F.R. § 512.3(c)(2)(ii). The submission includes brake design and performance data that are unique to Mercedes-Benz vehicles, and describes testing that utilized Mercedes-Benz's proprietary engineering expertise. As such, the submission represents proprietary and confidential business information and is entitled to confidential treatment.

In the event that NHTSA views the brake line technical report as a required submission pursuant to 49 C.F.R. § 512.3(c)(2)(i), the report is still entitled to confidential treatment under National Parks and Conservation Association v. Morton, 498 F.2d 765 (D.C. Cir. 1974), because it is propriety information the release of which is likely to cause competitive harm. Proprietary technological and performance data would provide competitors with important competitive information about Mercedes-Benz's products. With this information, competitors could adjust their own product plans and undercut Mercedes-Benz's market share, resulting in substantial competitive harm.

We request that confidentiality be granted indefinitely, or until such time as the information is no longer held confidential by the company. We would appreciate your notifying us of your decision regarding this confidentiality request.

Thank you for your consideration of this request. Please forward your response to this request to my attention.

Sincerely,



R. Latane Montague

Attachments:

- Two complete versions of submission
- One redacted version of submission
- Certificate in Support of Request for Confidentiality

