

NOV 19 2009

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

David R. Bernier
Chrysler Group LLC
800 Chrysler Drive, CIMS 482-00-91
Auburn Hills, MI 48326

Re: Request for Confidential Treatment/RQ09-003

Dear Mr. Bernier:

This responds to your letters dated September 3, 2009 and September 9, 2009, both of which requested confidential treatment for Chrysler Group LLC's (Chrysler) materials submitted in response to an Office of Defects Investigation information request in the above investigation.

You requested that certain documents be afforded confidential treatment. The documents were contained on two copies of a CD-ROM disc enclosed with your September 3 letter, and two copies of a CD-ROM disc enclosed with your September 9 letter. You requested that the materials be afforded permanent confidential treatment.

I am granting your request in part and denying it in part.

Section 512.9 of Part 512 requires parties requesting confidential treatment for information obtained from a third party to provide all the information needed to comply with section 512.4 from that party, including the certification set out in Appendix A. The document contained in Enclosure 8E - SHAININ BLACKBELT STUDY appears to originate from Shainin, LLC. Materials or data generated by, or under the control of, parties other than the submitter must be accompanied by a certification from that entity. See 49 CFR 512.9. Chrysler did not submit a certification for the Shainin, LLC report in Enclosure 8E. Accordingly, your request for confidential treatment of the foregoing document is denied. In view of the absence of a certification, the substance of your claim relating to these materials was not reviewed.

Chrysler submitted the data in its submission in response to an agency information request. Since Chrysler was required to submit this information, your claim for confidential treatment was reviewed under the test set forth in *National Parks &*

Conservation Ass'n v. Morton, 498 F.2d 765 (D.C. Cir. 1974) and its progeny. Under the *National Parks* decision, information concerning a commercial or financial matter may be withheld under Exemption 4 of the Freedom of Information Act if disclosure of the information would be likely either to cause substantial competitive harm to the competitive position of the submitter, or to impair the Government's ability to obtain necessary information in the future. *Id.* at 770.

I am denying confidential treatment for the documents contained in Enclosure 8D - DCC CRASH SENSOR REVIEW and Enclosure 8G - WARRANTY STUDY. These documents contain raw numbers of warranty claims and repairs and basic analyses of the claims, along with other generic information. The methodology and tabulation used are common in the automotive industry. As Chrysler has not shown how release of these generic analyses would be likely to cause it to suffer substantial competitive harm, your request for confidential treatment for these files is denied.

I am granting Chrysler's request for confidentiality for the folders, files and pages not addressed above on the grounds that release of the information therein would be likely to cause Chrysler to suffer substantial competitive harm.

This partial grant of confidential treatment is subject to certain conditions. The information may be disclosed under 49 CFR § 512.22 based upon newly discovered or changed facts, and you must inform the agency of any changed circumstances that may affect the protection of the information. (49 CFR § 512.10). If necessary, you will be notified prior to the release of any information under the procedures established by our regulations. (49 CFR § 512.22(b)).

If you disagree with the partial denial of your request noted above, you may request reconsideration. If you seek reconsideration, your request must be addressed to the NHTSA's Chief Counsel and filed within 20 working days after the receipt of this letter. (49 CFR § 512.19(a)). Any such request should contain additional description and justification supporting your claims for confidential treatment consistent with 49 CFR Part 512 and applicable case law.

Sincerely,

Original Signed By

Otto G. Matheke, III
Senior Attorney

