

# Arent Fox

April 20, 2011

The Honorable David L. Strickland  
Administrator  
National Highway Transportation Safety Administration  
1200 New Jersey Avenue, SE  
Washington DC 20590

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Re: Rental Car Industry Issues with Vehicle Manufacturer Recalls

Dear Administrator Strickland:

This firm represents The Hertz Corporation (“Hertz”). We are writing to thank you and your colleagues at NHTSA for taking the time to meet with us on April 11, 2011, to discuss rental car company concerns about reports regarding vehicle recall management. We truly appreciate the cooperative spirit of the meeting and the opportunity to discuss with all of you the recall management issues the rental car companies have been facing in light of the significantly increased number of notifications of safety-related issues (160% increase in the last year alone), and the often unclear guidance received from vehicle manufacturers as to the safety and drivability issues associated with the notifications.

We hope that, as a consequence of our meeting, and the information provided in responses to NHTSA Audit Queries, NHTSA recognizes that rental car companies, including meeting attendees Hertz and Avis Budget Group, Inc., carefully evaluate each safety-related recall notification, safety campaign bulletin, and service campaign bulletin received from vehicle manufacturers and make cautiously considered judgments to pull vehicles from their rental fleets when they determine that safety risks are present. As examples, in January 2010, Hertz voluntarily pulled over 50,000 Toyota vehicles from their rental fleet pending inspection and repair of vehicles, and many of these vehicles were not available for rental for many weeks. Similarly, Hertz pulled nearly 4,500 vehicles from its rental fleet on March 23, 2011, in response to the Mazda notification of NHTSA Campaign Number 11V134000, apparently prompted by concern that a certain type of spider may weave a web in the evaporative canister vent line that may cause a restriction in the line. As of today, over 20 percent of these Mazda vehicles have still not been remedied, and have remained unavailable for rental pending inspection and repair at Mazda dealerships and at Hertz locations authorized by Mazda to perform this recall repair work.

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The fact that rental car companies have been conscientiously segregating from their fleets designated “safety hold” vehicles awaiting safety recall repairs, most which take at least several weeks to obtain, is an important factor we believe NHTSA must consider when evaluating vehicle recall management by rental car companies. This fact was not reported by vehicle manufacturers in their responses to Audit Queries provided to NHTSA, which responses also included other significant deficiencies. These deficiencies include: (1) that the vehicle manufacturers overstated the number of vehicles in the rental car fleet, in some cases by more than 85%, because they relied on Polk vehicle registration data which often lags as much as two months or more in reporting change of vehicle ownership at the end of the relatively short term that vehicles remain in rental car fleets; and (2) that vehicle manufacturers reportedly used their own dealer claims records to determine date of recall repair, but many vehicles are repaired at rental car maintenance facilities, meaning that dealer recordkeeping and claims records are likely to be incomplete.

When the actual facts regarding recall management practices of rental car companies are understood, it is clear that the industry has an excellent safety record handling vehicle safety recalls, that there is only one lapse ever identified (albeit a significant one), and that lapse appears to have been remedied by institution of central management practices at the one rental car company involved. Given what is truly an excellent industry safety record, rental car companies do not deserve to be singled out as purportedly recalcitrant in accomplishing safety defect repairs among all other vehicle owners whose vehicles need these repairs, and certainly not among other commercial owners of vehicles, delivery companies, government and company employee fleets, and the rental industry’s direct competitors at taxi, limousine, car-sharing and other private car services.

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We appreciated your suggestion that we work with your technical team going forward, which we hope will allow us to develop strategies to alleviate the burden and uncertainty rental car companies face in evaluating notifications of safety-related recalls, safety campaigns, and service campaigns received from vehicle manufacturers to ensure that vehicles adjudged unsafe are not rented to an unknowing public.

Sincerely,



Marc L. Fleischaker



Deanne M Ottaviano

Cc: Mr. Daniel Carey Smith, Senior Associate Administrator for Vehicle Safety  
O. Kevin Vincent, Esquire, Chief Counsel  
Jennifer T. Timian, Esquire, Office of Chief Counsel  
Mr. Claude Harris, Director, Office of Vehicle Safety Compliance  
Mr. Frank Borris, Director, Office of Defect Investigations  
Senator Byron Dorgan, Arent Fox LLP