

October 31, 2013

Via Federal Express

D. Scott Yon, Chief
Vehicle Integrity Division
Office of Defects Investigation
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: EA13-003 – Engineering Analysis to Investigate Allegations of Fuel Leaks at or Near the Top of the Fuel Tank Assembly in MY 2003-2008 Mercedes-Benz E-Class Vehicles

Dear Mr. Yon:

This letter is submitted on behalf of Mercedes-Benz USA, LLC ("Mercedes") to the National Highway Traffic Safety Administration ("NHTSA" or "Agency") in response to the Office of Defects Investigation's request for information relating to Engineering Analysis (EA) 13-003 to investigate allegations of fuel leaks at or near the top of the fuel tank assembly in model year (MY) 2003-2008 Mercedes-Benz E-Class vehicles.

This letter provides Mercedes' responses to Requests 1-14. Responses to the remainder of the requests will be provided by November 7, 2013.

REQUEST NO. 1: *State, by model and model year, the number of **subject** vehicles MB has manufactured for sale or lease in the United States. Separately, for each subject vehicle manufactured to date by MB, state the following:*

- a. Vehicle identification number (VIN);*
- b. Model;*
- c. Model Year;*
- d. Date of manufacture;*
- e. Date warranty coverage commenced; and,*
- f. The State in the United States where the vehicle was originally sold or leased (or delivered for sale or lease).*

Provide this information in a table in Microsoft Excel entitled "EA13-003 PRODUCTION DATA SUBJECT VEHICLES." Provide the table in the same format as in response to PE12-001.

RESPONSE TO REQUEST NO. 1:

Mercedes has manufactured 281,727 subject vehicles for sale or lease in the United States. The information requested in Request No. 1a-f is provided in Attachment 1, Production Data Subject Vehicles.¹

REQUEST NO. 2: *State, by model and model year, the number of peer vehicles MB has manufactured for sale or lease in the United States. Separately, for each peer vehicle manufactured to date by MB, state the following:*

- a. *Vehicle identification number (VIN);*
- b. *Model;*
- c. *Model Year;*
- d. *Date of manufacture;*
- e. *Date warranty coverage commenced; and,*
- f. *The State in the United States where the vehicle was originally sold or leased (or delivered for sale or lease).*

Provide this information in a table in Microsoft Excel entitled "EA13-003 PRODUCTION DATA PEER VEHICLES." Provide the table in the same format as in response to PE12-001.

RESPONSE TO REQUEST NO. 2:

Mercedes has manufactured 43,941 peer vehicles for sale or lease in the United States. The information requested in Request No. 1a-g is provided in Attachment 2, Production Data Peer Vehicles.²

¹ Please note that the subject vehicle definition has changed since PE12-001, and now includes MY 2009 E-Class vehicles. MY 2009 vehicles were added for ODI's comparative purposes. In addition, the E63 model was not included in the PE12-001 response, since that vehicle is an AMG model introduced in MY 2007, and therefore was not among the 2003-2006 AMG models which were the focus of PE12-001. The E63 is included as a subject vehicle in this EA13-003 submission. With regard to MY 2005 production data, Mercedes has changed its data collection system since its response to PE12-001. When production data were collected for the EA13-003 submission, the total number of MY 2005 subject vehicles inadvertently increased by 58. Finally, this response does not include PZEV or diesel vehicles, since the fuel systems in these vehicles differ significantly from the fuel system associated with the alleged defect in the subject vehicles.

² Peer vehicles are defined by NHTSA to mean all other Mercedes vehicles that use the same subject component as the subject vehicles. Only the Mercedes CLS model uses the same subject component,

REQUEST NO. 3

State the number of each of the following, received by MB, or of which MB is otherwise aware, which relate to, or may relate to, the alleged defect in the **subject vehicles since MB's response to PE12-001**:

- a. Consumer complaints;
- b. Field reports, including dealer field reports;
- c. Reports involving a fire, crash, injury, or fatality, based on claims against the manufacturer involving a death or injury, notices received by the manufacturer alleging or proving that a death or injury was caused by the alleged defect in a subject vehicle, property damage claims, consumer complaints, or field reports;
- d. Third-party arbitration proceedings where MB is or was a party to the arbitration; and,
- e. Lawsuits, both pending and closed, in which MB is or was a defendant or codefendant.

For subparts "a" through "e," state the total number of each item (e.g., consumer complaints, reports from retailers, etc.) separately. Multiple incidents involving the same vehicles are to be counted separately. Multiple reports of the same incident are also to be counted separately (i.e., a consumer complaint and a field report involving the same incident in which a crash occurred are to be counted as a crash report, a field report and a consumer complaint).

In addition, for item "c" provide a summary description of the alleged problem and causal and contributing factors and MB's assessment of the problem, with a summary of the significant underlying facts and evidence. For items "d" and "e," identify the parties to the action, as well as the caption, court, docket number, and date on which the complaint or other document initiating the action was filed.

RESPONSE TO REQUEST NO. 3:

- a. Mercedes has received 218 consumer complaints in its Customer Assistance Center which relate to, or may relate to, the alleged defect in the subject vehicles since Mercedes' response to PE12-001.
- b. Mercedes has received no reports from field personnel which relate to, or may relate to, the alleged defect in the subject vehicles since Mercedes' response to PE12-001.

and some CLS vehicles were included in the response to PE12-001 because they were part of Recall 2008-02001. Specifically, MY 2006 CLS 55 AMG vehicles were included in the recall, and therefore were included in the response to PE12-001. The response to Request No. 2 provides information on all CLS models, MY 2006-2011; the remainder of the EA13-003 response provides information on all CLS models to the extent such information was not already provided in the response to PE12-001.

- c. Mercedes has received no reports involving a fire, crash, injury or fatality relating to the alleged defect in the subject vehicles since Mercedes' response to PE12-001.
- d. Mercedes is not aware of any third-party arbitration proceedings in which it is or was a party which relate to, or may relate to, the alleged defect in the subject vehicles since Mercedes' response to PE12-001.
- e. Mercedes is aware of one lawsuit in which it is or was a defendant which relates to, or may relate to, the alleged defect in the subject vehicles since Mercedes' response to PE12-001. The lawsuit, *McCabe et al. v. Mercedes-Benz USA LLC and Daimler AG*, is a putative class action asserted on behalf of all current and former owners and lessees of 2003-2009 E-Class (W211) vehicles in California, Georgia, Texas, and Virginia. Mercedes is also aware of one lemon law case involving a MY 2009 E-Class vehicle in which complaints about a gas smell and leak were included among a range of complaints that formed the request for relief. This case pre-dates Mercedes' PE12-001 response because it involves a vehicle which was not a subject vehicle for purposes of PE12-001, but which is a subject vehicle for purposes of EA13-003. The case was settled in July 2012. Both of these cases are included in the response to Request No. 4 below, as is the additional information requested for item e.

REQUEST NO. 4: *Separately, for each item (complaint, report, claim, notice, or matter) within the scope of your response to Request No. 3, state the following information:*

- a. *MB's file number or other identifier used;*
- b. *The category of the item, as identified in Request No. 3 (i.e., consumer complaint, report from retailer, etc.);*
- c. *Vehicle owner or fleet name (and fleet contact person), address, and telephone number;*
- d. *Vehicle identification number (VIN);*
- e. *Vehicles model and model year;*
- f. *Vehicles mileage at the time of the incident;*
- g. *Incident date;*
- h. *Report or claim date;*
- i. *Whether leakage of liquid fuel is alleged (yes/no);*
- j. *Whether leakage of liquid fuel inside vehicle is alleged (yes/no);*
- k. *Whether leakage of liquid fuel outside vehicle is alleged (yes/no);*
- l. *Whether the smell of fuel vapors is alleged (yes/no);*
- m. *Whether a fire is alleged;*
- n. *Whether property damage is alleged;*
- o. *Number of alleged injuries; and,*
- p. *Number of alleged fatalities.*

Provide this information in a table in Microsoft Excel entitled, "EA13-003 REQUEST NUMBER THREE DATA SUBJECT VEHICLES." Provide the table in the same format as in response to PE12-001.

RESPONSE TO REQUEST NO. 4:

The information requested in Request No. 4 is provided in Attachment 3, Request Number 3 Data Subject Vehicles. Please note that Mercedes' consumer complaints originate from two databases, the Fastracc database, which Mercedes utilized until recently, and the Customer 1 Connect ("C1C") database, which is Mercedes' current system. Consumer complaint information is provided separately for Fastracc and C1C data in Attachment 3. Lawsuit information also is provided in Attachment 3.

REQUEST NO. 5: *Produce copies of all documents related to each item within the scope of Request No. 3. Organize the documents separately by category (i.e., consumer complaints, reports from retailers, etc.) and describe the method MB used for organizing the documents.*

RESPONSE TO REQUEST NO. 5:

The information requested in Request No. 5 is incorporated into Attachment 3, Request Number 3 Data Subject Vehicles, for customer complaints. Lawsuit information is provided separately in Attachment 4, Subject Vehicle Lawsuit Documents.

REQUEST NO. 6: *State the number of each of the following, received by MB, or of which MB is otherwise aware, which relate to, or may relate to, the alleged defect in the peer vehicles:*

- a. *Consumer complaints;*
- b. *Field reports, including dealer field reports;*
- c. *Reports involving a fire, crash, injury, or fatality, based on claims against the manufacturer involving a death or injury, notices received by the manufacturer alleging or proving that a death or injury was caused by the alleged defect in a subject vehicle, property damage claims, consumer complaints, or field reports;*
- d. *Third-party arbitration proceedings where MB is or was a party to the arbitration; and,*
- e. *Lawsuits, both pending and closed, in which MB is or was a defendant or codefendant.*

For subparts "a" through "e," state the total number of each item (e.g., consumer complaints, reports from retailers, etc.) separately. Multiple incidents involving the same vehicles are to be counted separately. Multiple reports of the same incident are also to be counted separately (i.e., a consumer complaint and a field report involving the same incident in which a crash occurred are to be counted as a crash report, a field report and a consumer complaint).

In addition, for item "c" provide a summary description of the alleged problem and causal and contributing factors and MB's assessment of the problem, with a summary of the significant underlying facts and evidence. For items "d" and "e," identify the parties to the action, as well as the caption, court, docket number, and date on which the complaint or other document initiating the action was filed.

RESPONSE TO REQUEST NO. 6:

- a. Mercedes has received 89 consumer complaints in its Customer Assistance Center which relate to, or may relate to, the alleged defect in the peer vehicles.
- b. Mercedes has received 8 reports from field personnel which relate to, or may relate to, the alleged defect in the peer vehicles.
- c. Mercedes has received no reports involving a fire, crash, injury or fatality relating to the alleged defect in the peer vehicles.
- d. Mercedes is not aware of any third-party arbitration proceedings in which it is or was a party which relate to, or may relate to, the alleged defect in the peer vehicles.
- e. Mercedes is aware of one lawsuit in which it is or was a defendant which relates to, or may relate to, the subject defect in the peer vehicles. This lawsuit is a small-claims type case with very low damages sought, and was closed in April 2008. Mercedes is also aware of one lemon law case in which a complaint that may relate to the alleged defect was included among a range of complaints that formed the request for relief. This case was dismissed in July 2011. These two cases are included in the response to Request No. 7 below, as is the additional information requested for item e.

REQUEST NO. 7: *Separately, for each item (complaint, report, claim, notice, or matter) within the scope of your response to Request No. 6, state the following information*

- a. *MB's file number or other identifier used;*
- b. *The category of the item, as identified in Request No. 6 (i.e., consumer complaint, report from retailer, etc.);*
- c. *Vehicle owner or fleet name (and fleet contact person), address, and telephone number;*
- d. *Vehicle identification number (VIN);*
- e. *Vehicles model and model year;*
- f. *Vehicles mileage at the time of the incident;*
- g. *Incident date;*
- h. *Report or claim date;*
- i. *Whether leakage of liquid fuel is alleged (yes/no);*
- j. *Whether leakage of liquid fuel inside vehicle is alleged (yes/no);*
- k. *Whether leakage of liquid fuel outside vehicle is alleged (yes/no);*
- l. *Whether the smell of fuel vapors is alleged (yes/no);*
- m. *Whether a fire is alleged;*
- n. *Whether property damage is alleged;*

- o. Number of alleged injuries; and,
- p. Number of alleged fatalities.

Provide this information in a table in Microsoft Excel entitled, "EA13-003 REQUEST NUMBER SIX DATA PEER VEHICLES." Provide the table in the same format as in response to PE12-001.

RESPONSE TO REQUEST NO. 7:

The information requested in Request No. 7 is provided in Attachment 5, Request Number 6 Data Peer Vehicles. As noted in the response to Request No. 3, Mercedes' consumer complaints originate from two databases, the Fastracc database, which Mercedes utilized until recently, and the C1C database, which is Mercedes' current system. The Fastracc database includes two types of reports (summary notes and referrals). The peer vehicle consumer complaint information is provided separately for summary notes, referrals and C1C data in Attachment 5. Field report information from Dealer Technical Support ("DTS") cases, which are currently maintained in Mercedes' Product Technical Support System ("PTSS") database, also is provided in Attachment 5, as is lawsuit information

REQUEST NO. 8: *Produce copies of all documents related to each item within the scope of Request No. 6. Organize the documents separately by category (i.e., consumer complaints, reports from retailers, etc.) and describe the method MB used for organizing the documents.*

RESPONSE TO REQUEST NO. 8:

The information requested in Request No. 8 is incorporated into Attachment 5, Request Number 6 Data Peer Vehicles, for customer complaints and field reports. Lawsuit information is provided separately in Attachment 6, Peer Vehicle Lawsuit Documents

REQUEST NO. 9: *State a total count for all of the following categories of claims, collectively, that have been paid by MB that relate to, or may relate to, the alleged defect in the **subject** vehicles **since MB's response to PE12-001**: warranty claims; extended warranty claims; claims for good will services that were provided, or similar adjustments and reimbursements; and warranty claims or repairs made in accordance with a procedure specified in a technical service bulletin or customer satisfaction campaign.*

Separately, for each such claim, state the following information:

- a. MB's claim number;
- b. Vehicle owner or fleet name (and fleet contact person), address, and telephone number;

- c. Vehicle identification number (VIN);
- d. Vehicle model and model year;
- e. Repair date;
- f. Vehicle mileage at time of repair;
- g. Repairing facility's name, telephone number, city and state or ZIP code;
- h. Labor operation number;
- i. Problem code;
- j. Replacement part number(s) and description(s);
- k. Concern stated by customer; and,
- l. Comment, if any, by the technician or person(s) making the repair, and/or the person(s) processing the claim that relate to the claim and/or repair.

Provide this information in a table in Microsoft Excel entitled "EA13-003 WARRANTY DATA SUBJECT VEHICLES." Provide the table in the same format as in response to PE12-001, with the exception of adding a column for model year after VIN.

RESPONSE TO REQUEST NO. 9:

Mercedes has identified 1,234 warranty claims that relate to, or may relate to, the alleged defect in the subject vehicles since Mercedes' response to PE12-001. As noted in footnote 1, the subject vehicle definition has changed since PE12-001; in addition, the subject component definition has been broadened. Therefore, the warranty claims included in the response to Request No. 9 include claims that pre-date Mercedes' PE12-001 response.

The additional information requested in Request No. 9 is provided in Attachment 7, Warranty Data Subject Vehicles.

REQUEST NO. 10: *Describe in detail the search criteria used by MB to identify the claims identified in response to Request No. 9, including the labor operations, problem codes, part numbers and any other pertinent parameters used. Provide a list of all labor operations, labor operation descriptions, problem codes, and problem code descriptions applicable to the alleged defect in the subject vehicles. State the terms of the new vehicle warranty coverage offered by MB on the subject vehicles (i.e., the number of months for which coverage is provided and the vehicles systems that are covered). Describe any extended warranty coverage option(s) related to the alleged defect that MB offered for the subject vehicles and state by option, model, and model year, the number of vehicles that are covered under each such extended warranty.*

RESPONSE TO REQUEST NO. 10:

In order to identify the warranty claims reported in response to Request No. 10, Mercedes identified all warranty claims for subject vehicles that included the subject component part numbers, and the damage type 04 (leaking) and 65 (odor). In addition, dealer text was reviewed to confirm that claims relate to, or may relate to, the alleged defect.

The normal new vehicle warranty coverage period for Mercedes-Benz vehicles in the United States is four years/50,000 miles.

REQUEST NO. 11: *Produce copies of all service, warranty, and other documents that relate to, or may relate to, the alleged defect in the subject vehicles that MB has issued to any retailers or distributors, regional or zone offices, field offices, or other such entities since MB's response to PE12-001. This includes, but is not limited to, bulletins, advisories, informational documents, training documents, or other documents or communications, with the exception of standard shop manuals. Also include the latest draft copy of any communication that MB is planning to issue within the next 120 business days.*

RESPONSE TO REQUEST NO. 11:

Mercedes has not issued any documents that relate to, or may relate to, the alleged defect in the subject vehicles since its response to PE12-001.

REQUEST NO. 12: *State a total count for all of the following categories of claims, collectively, that have been paid by MB that relate to, or may relate to, the alleged defect in the peer vehicles: warranty claims; extended warranty claims; claims for good will services that were provided, or similar adjustments and reimbursements; and warranty claims or repairs made in accordance with a procedure specified in a technical service bulletin or customer satisfaction campaign.*

Separately, for each such claim, state the following information:

- a. MB's claim number;*
- b. Vehicle owner or fleet name (and fleet contact person), address, and telephone number;*
- c. Vehicle identification number (VIN);*
- d. Vehicle model and model year;*
- e. Repair date;*
- f. Vehicle mileage at time of repair;*
- g. Repairing facility's name, telephone number, city and state or ZIP code;*
- h. Labor operation number;*
- i. Problem code;*

- j. Replacement part number(s) and description(s);
- k. Concern stated by customer; and,
- l. Comment, if any, by the technician or person(s) making the repair, and/or the person(s) processing the claim that relate to the claim and/or repair

Provide this information in a table in Microsoft Excel entitled "EA13-003 WARRANTY DATA PEER VEHICLES." Provide the table in the same format as in response to PE12-001, with the exception of adding a column for model year after VIN.

RESPONSE TO REQUEST NO. 12:

Mercedes has identified 1,407 warranty claims that relate to, or may relate to, the alleged defect in the peer vehicles. The additional information requested in Request No. 12 is provided in Attachment 8, Warranty Data Peer Vehicles.

REQUEST NO. 13: *Describe in detail the search criteria used by MB to identify the claims identified in response to Request No. 12, including the labor operations, problem codes, part numbers and any other pertinent parameters used. Provide a list of all labor operations, labor operation descriptions, problem codes, and problem code descriptions applicable to the alleged defect in the subject vehicles. State the terms of the new vehicle warranty coverage offered by MB on the subject vehicles (i.e., the number of months for which coverage is provided and the vehicles systems that are covered). Describe any extended warranty coverage option(s) related to the alleged defect that MB offered for the subject vehicles and state by option, model, and model year, the number of vehicles that are covered under each such extended warranty.*

RESPONSE TO REQUEST NO. 13:

In order to identify the warranty claims reported in response to Request No. 12, Mercedes identified all warranty claims for peer vehicles that included the subject component part numbers, and the damage type 04 (leaking) and 65 (odor). In addition, dealer text was reviewed to confirm that claims relate to, or may relate to, the alleged defect.

The normal new vehicle warranty coverage period for Mercedes-Benz vehicles in the United States is four years/50,000 miles.

REQUEST NO. 14: *Produce copies of all service, warranty, and other documents that relate to, or may relate to, the alleged defect in the peer vehicles that MB has issued to any retailers or distributors, regional or zone offices, field offices, or other such entities. This includes, but is not limited to, bulletins, advisories, informational documents, training documents, or other documents or*

communications, with the exception of standard shop manuals. Also include the latest draft copy of any communication that MB is planning to issue within the next 120 business days.

RESPONSE TO REQUEST NO. 14:

Mercedes has not issued any service or warranty documents that relate to, or may relate to, the alleged defect in the peer vehicles beyond those provided in response to PE12-001.

Please feel free to contact me with any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Latane Montague". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

R. Latane Montague

Partner

latane.montague@hoganlovells.com

D 1-202-637-6567