

## Toyota Ordered to Download Air Bag Sensor Data, Produce Documents

Toyota Motor Corp. must download all data stored in the air bag sensor module of a crashed 1996 Lexus ES-300 and produce air bag design documents on all Toyota-designed vehicles from the 1991-2001 model years, according to a Texas judge. *Katona v. Toyota Motor Corp. et al.*, No. 00-08093-K, order filed (Tex. Dist. Ct., 192d Dist., Dallas County, Apr. 19, 2001).

The underlying case involves the death of a five-month-old boy who was in a rear-facing safety seat in the front seat of the Lexus when it struck a minivan. Despite the estimated impact force of 8 miles per hour, the Lexus air bag deployed, striking the child and fracturing his skull. Both vehicles were slightly damaged and the adult occupants were not injured.

The boy's family filed suit in Dallas County District Court alleging that the air bag's 8-mph "may-fire" threshold should have been set higher by Toyota, because air bags do more harm than good in low-speed collisions. Different padding materials and a more occupant-friendly interior design would effectively meet the federal occupant protection standards for such accidents, the plaintiffs said, and Toyota even increased the may-fire threshold to 12 mph for the 1999 model year.

Toyota refused to download the G-sensor and EEPROM (electronically erasable and programmable read-only memory) data stored in the air bag module, arguing that it would be inherently unreliable and irrelevant. Plaintiffs filed a motion to compel and also sought all Toyota Manuals, instructions and similar information necessary to permit the interpretation of the sensor data. In addition, the plaintiffs asked for all documents on air bag design for the 1991-2001 model years for vehicles manufactured for markets outside the United States.

Toyota claimed such information had no relevance, given the unique regulatory requirements of the U.S. government, and that the request was overly broad and burdensome. The automaker also argued that there was no way to ascertain whether the stored module data came from the accident at issue because the sensor can reset itself and store data from other decelerations. Toyota said it had never downloaded such information before and did not possess a device to do so.

The plaintiffs cited the necessity for the data and said Toyota would not have designed a module system without a way to access the data. The automaker was also asked how it could question relevancy without ever having downloaded the information. On the overseas-market information, the plaintiffs said the ultimate feasibility of alternative designs was a jury issue.

The trial judge agreed with the plaintiffs and granted the motions to compel.

The plaintiffs are represented by Jeffrey T. Embry of the Windle Turley Law Offices in Dallas.

Toyota is represented by Kurt Kern, Karl Viehman and Leigh Prichard of Hartline, Dacus, Dreyer & Kern in Dallas.