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Toyota should have revealed '05 lawsuit: critics

By CBC News
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CBC News reported Monday that Karen Stekel is suing the company over injuries she sustained in April 2005 when she claims her car accelerated and slammed into a tree north of Miami.

The statement of claim, filed in Ontario Superior Court, reveals Toyota was scrambling at the time to upgrade software to fix mysterious accelerator problems including "lurching," "jerking" and "hesitation."

Stekel and her husband, Maurice, are suing Toyota Canada and Scarborough Lexus for more than \$1 million for the pain, friction burns, bruising and complications that continue to plague her. They claim the dealer and company refused to fix the problem, even after repeated complaints.

Toyota refused to comment on the lawsuit. But in its statement of defence, the company denied responsibility and suggested that Karen Stekel may have been at fault.

The Stekels blame the car, and their claim alleges that Toyota knew about problems involving other Lexus vehicles, and that it failed to warn customers or issue a recall. "It's just appalling," says George Iny, executive director of the Automobile Protection Association.

He said Toyota officials should have divulged the lawsuit during their appearance on March 16 before the committee of MPs investigating the Toyota recalls.

During his testimony, Stephen Beatty, managing director, Toyota Canada Inc., fended off criticism that his company was slow to alert Transport Canada about sticking gas pedals in many models, including the Highlander, Corolla, Matrix, RAV4 and Camry. Rejecting criticisms that the company had something to hide, Beatty suggested that it alerted Canadian authorities after verifying the complaint it received, and then finding a solution.

"Once we've identified the problem, once we think we have a solution in development, we still can't take that solution to Transport Canada until we're convinced that it's something we can deploy into the marketplace," he testified at the time.

"That's very, very strange," said Iny. "It puts the company into a very bad light. It makes the hearings look like an exercise in plausible denial."

One of the MPs questioning Toyota officials during those hearings was Joe Volpe, the Liberal transportation critic and vice-chairman of the committee. He also said the lawsuit comes as a shock.

"They should have come clean and told us right off the bat. Just like Transport Canada has been aware of the same thing for several years. There's no evidence yet that they were putting any pressure on Toyota to clean up their act and to fix the product."

NDP industry, automotive, and border critic Brian Masse has called for a criminal investigation.

Contact us

If you have more information or concerns, please feel free to contact David McKie at david_mckie@cbc.ca [david_mckie@cbc.ca]

"The inaction of this government in dealing with the Toyota vehicle recalls has left it to an individual Canadian's search for justice to uncover the truth. Toyota knew about accelerator problems going back at least five years," Masse said in a statement.

"This revelation appears to contradict all of the corporate executives' claims to date. Additional documents in the United States raises further questions of the veracity of Toyota in its assertions of complying with the law. Furthermore, these significant concerns challenge the corporation's pronouncements with regards to consumer safety. These facts mandate the need for a criminal investigation into Toyota, which is allowed under the Motor Vehicle Safety Act."

Complaints in 2 countries

Though the problems outlined in the 2004 lawsuit surprises some Canadian critics, there is evidence that regulatory officials on both sides of the border were aware of some complaints regarding a few of the models mentioned in the lawsuit.

A CBC News analysis of Transport Canada data uncovered several instances involving complaints of lurching and hesitation. For instance, in 2007, a car owner complained about the throttle's poor performance.

"The complainant advised that the throttle control system on his vehicle performs inconsistently, and occasionally exhibits a long hesitation upon throttle application. The problem has been present with the vehicle since the time of purchase in July 2006. The hesitation has been identified intermittently during aggressive acceleration from a stop, and during acceleration on freeway onramps.

"The vehicle has been returned to the dealership on at least three occasions in an attempt to rectify this condition, although the problem persists. The dealership ... advised the transmission control system may be attempting to adapt to each driver, contributing to the problem."

In a 2006 complaint involving a Sienna, Transport Canada noted that after a "call to the local dealership: they explained that they had several complaints for this vehicle and others with respect to the slight lag in acceleration.

Apparently, the vehicle controls are all computerized and nothing can be done about the slight hesitation."

There were similar concerns in the National Highway Traffic Safety Administration complaints database, which unlike Transport Canada's can be searched online.

There have been at least two deaths related to crashes involving acceleration problems: both instances involving Camrys, one in 2003 and 2004.

The conclusion of the 2004 incident reads: "When coming out of the parking lot (the) accelerator stuck, causing the vehicle to accelerate out of control. Vehicle grazed another vehicle, went across a street, grazed building and drove straight into another building. They found the driver with both feet still on the brake pedal... the police report stated the

crash was due to a mechanical error."

Need for reform

Volpe wants to strengthen the Motor Vehicle Safety Act.

His private members bill, which he plans to introduce on Wednesday, would make it mandatory for companies to report complaints to Transport Canada and give the department more legal muscle to recall vehicles.

During her testimony before the committee on March 18, the department's deputy minister, Yaprak Baltacioglu, testified that she'd be open to legislative changes.

Making the department responsible for handling more complaints and possibly issuing more recalls could require more staff at a time when critics say the department lacks the inspectors to do the job right now.

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