

Toyota problems surfaced in 2004: documents

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By Dave Seglins, David McKie and John Nicol, CBC News



Karen Stekel's Toyota Lexus sits idle after being badly damaged in a crash in 2005 in Florida. Stekel is suing Toyota Canada and Scarborough Lexus for more than \$1 million. (Stekel legal file)

A lawsuit against Toyota Canada has exposed new evidence the embattled carmaker was well aware of problems with automatic transmissions in Lexus, Camry, Sienna and Highlander vehicles as early as 2004, CBC News has learned.

The statement of claim, filed in Ontario Superior Court by a Toronto woman who was injured in an accelerator-related car crash in 2005, reveals Toyota was scrambling at the time to upgrade software to fix mysterious accelerator problems including "lurching," "jerking," and "hesitation."



Karen and Maurice Stekel of Toronto believe Toyota knew about problems with Lexus vehicles and failed to warn customers or issue a recall. (CBC)

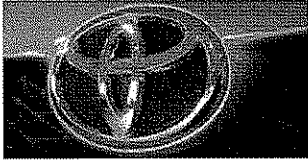
"It's to the point where he gets whiplash from the vehicle," states one customer complaint documented in the lawsuit, which heads to court Tuesday.

The lawsuit highlights complaints raised five years before Toyota's current woes. In August 2009, Toyota Motor Company of Japan recalled millions of Toyota and Lexus vehicles worldwide amidst growing complaints of mysterious cases of rapid-acceleration and sticking gas pedals.

The accident at the heart of the Toronto lawsuit landed Karen Stekel in hospital in April 2005. She 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.

"I don't know how it happened," said Karen Stekel, recalling the crash, which happened near her winter home in Aventura, Fla., north of Miami. "I put my foot on the accelerator, and I flew. I went into the tree, the car was totalled. I was extracted on a backboard, with a neck brace."

The Stekels claim Toyota knew about problems with their car — the 2004 Lexus ES 330 model — and problems involving other Lexus vehicles, and that it failed to warn customers or issue a recall.



Toyota lawsuit

Karen Stekel is suing Toyota Canada and Scarborough Lexus for more than \$1 million. Some significant case documents:

- [Complete Stekel court motion materials \(251 pages\)](#)
- [Excerpt: Execs warned of customer, dealer revolt](#)
- [Excerpt: Toyota Investigates May 2004](#)
- [Excerpt: Software fix not 100 per cent: Nov. 2004](#)
- [Excerpt: 2004 "Issues": Camry, \[Lexus\], Sienna, Highlander](#)
- [Stekel lawsuit claim](#)
- [Toyota Canada defence](#)

Maurice Stekel says he noticed problems with his car on the day he leased it, in June 2004.

"As I drove off the lot, I turned the corner and then I noticed that the car seemed to hesitate and then would lurch forward," he said.

Toyota service records show he returned the car four separate times to complain about "hesitation" and problems with the accelerator.

"They should have taken the car back," he said.

Trove of internal documents

The Stekels aren't alone in their complaints.

Toyota Canada has been forced to produce reams of internal documents in response to the Stekels' four-year court fight. Among the materials are more than a dozen complaints from 2004 from other owners of the same Lexus ES model who reported everything from "hesitation when accelerating" at low speeds to "whiplash," "lurching" and unexplained "jerking."

In May 2004, Toyota Canada's Lexus Division launched an investigation into what they termed "shift shock," flagging it as "one of [their] Top 10 concerns." Their [report](#) concludes they did not think "transmission shift quality on the ES 330 is acceptable for the Canadian market."

The next month, documents show, officials from Toyota Motor Corp. in Japan held a [series of technical meetings](#). They, too, identified as a "product issue" the shift quality of five-speed automatic transmissions not just in Lexus, but in Camry, Sienna and Highlander models as well.

Toyota Canada has refused the CBC's multiple requests for an interview. On Friday, a media-relations spokesperson sent a short email:

"We do not believe it is appropriate for us to comment on matters before the courts. We are defending this action vigorously and are confident this claim will be judged on its merits."

Toyota Canada has filed a [statement of defence](#), which rejects the Stekels' claims and instead blames Karen Stekel for either driver error, or being drunk or on drugs while behind the wheel.

Toyota attempted software fixes

Toyota documents show that in the summer of 2004, Lexus dealerships found themselves fending off growing numbers of angry customers demanding their money back over accelerator/transmission problems. High-level Toyota engineers and executives gathered for their "North American Technical Service Strategy Meetings" and reported it had become "franchise-threatening" for dealerships.

Tips

Send us your tips on the Toyota story by emailing dave.seglins@cbc.ca or david.mckie@cbc.ca.

"These dealers are shielding us from many complaints and buybacks with some hope that we are going to make an improvement soon," [the minutes](#) from those meetings state. "If they stop trying to take care of customers complaining, the numbers of complaints/buybacks will be astronomical."

Toyota tried multiple times to fix the accelerator/transmission issues with new software, but failed on several upgrades to find a way to permanently correct the problem, the documents show.

Toyota won't release report

"Toyota has never accepted what happened to her [Karen Stekel], and they're litigating this case quite vigorously," said Ted Charney, Karen Stekel's lawyer.



Lawyer Ted Charney says Toyota has never accepted what happened to his client, Karen Stekel. (CBC)

He hopes that in light of all the recent attention on Toyota's recalls over faulty floor mats and sticky accelerators, the company may reconsider its position.

"Karen is so outraged by all the new information that has come forward which, in her view, vindicates what she's always felt happened to her in this case."

Before Stekel's crash, Lexus mechanics in Toronto did find evidence of "shift shock" as they tried to fix the Stekels' car in early 2005.

Assured it had been dealt with, the Stekels drove the car to Florida just two months before the crash.

Toyota Canada hired an investigator to assess the transmission and computer of the Stekels' now-destroyed Lexus, but the company has refused to produce the findings.

The Stekels' lawyers will be in court Tuesday in Toronto, seeking to expand their claim to include the manufacturer, Toyota Japan, and to seek additional punitive damages.

The Stekels' lawyer has asked Toyota Canada directly why there was never a recall of the Lexus acknowledging countrywide complaints of hesitation and lurching.

"It's not a safety issue," Roger Ebanks, the 2004 national manager of technical operations for Toyota Canada, has replied, according to the documents.

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