

Attachment C

DECLARATION OF MARK MATIAS

1
2 I, Mark Matias, have personal knowledge of the facts stated in this declaration and, if called
3 as a witness, I could and would testify competently thereto under oath. I declare as follows:

4 1. I am over 18 years of age, and I reside in San Jose, California.

5 2. I was employed as an Area Manager, at Enterprise Rent a Car of San Francisco, for 11
6 years, from 1994 until December 2004. As an Area Manager, I was in charge of the general
7 operations of seven Enterprise offices (including Capitola), located in northern California,
8 referred to as Region W.

9 3. As an Area Manager, my duties included: visiting each Enterprise office daily; reviewing
10 daily reports to ensure that inventory was accurate; reviewing billing records; and ensuring that
11 all aspects of the business operations were running properly.

12 4. I am familiar with the facts regarding this matter; specifically, that Rachel Houck rented
13 a recalled PT Cruiser from Enterprise's Capitola, California branch, on October 4, 2004, and was
14 subsequently involved in a fatal vehicle accident, involving the PT Cruiser, along with her sister,
15 Jacqueline Houck, on October 7, 2004; however, at no time during my employment, as an Area
16 Manager, at Enterprise, prior to this accident, was I aware that the PT Cruiser was a recalled
17 vehicle.

18 5. I was contacted by a legal representative, on behalf of Enterprise, regarding this matter,
19 and was asked not to speak with anyone about this case. But it is important to me to tell the
20 truth.

21 6. I have no specific knowledge of how the Enterprise offices, at the corporate level
22 (corporate, regional, or group headquarters), may have failed to prevent the rental of the recalled
23 PT Cruiser to Ms. Houck on October 4, 2004; however, at the branch level, managers and
24 employees intentionally rented recalled vehicles to the public.

25 7. I know that Enterprise Branch Managers, within Region W, authorized the rental of

Declarant initials: 

1 recalled vehicles, even with safety recalls. Safety recalls are referred to as priority recalls.
2 When the fleet was short, and there was demand for vehicles, these recalled vehicles would be
3 rented to the public.

4 8. As an Area Manager, I knew how operations were handled. When demand called, we
5 rented out recalled vehicles. It happened; I won't lie. If the only vehicle left on the lot was a
6 recalled vehicle, the branch would rent that vehicle to a customer.

7 9. I am aware of instances where employees knowingly rented recalled vehicles to
8 customers without a manager's approval, when there was a shortage of vehicles on the lot.

9 10. To my knowledge, the managers and/or employees who knowingly rented recalled
10 vehicles were never reprimanded by Enterprise executives; however, I am not sure whether
11 corporate headquarters had knowledge of these instances.

12 11. I am familiar with former Enterprise Branch Manager, Andrea Avecilla, who was
13 employed as a Branch Manager at Capitola's office location, in October 2004. Ms. Avecilla
14 reported directly to me. She had trouble running rental operations, because she ran a tight
15 operation; "tight," meaning that she would overbook rental cars; and as a result, there would be a
16 shortage of rental vehicles on the lot. I can guarantee that if any of those vehicles on the lot are
17 recalled, at least one is going to be rented out.

18 12. She also had trouble maintaining her accounts with dealerships, because of the constant
19 shortage of vehicles on the lot. Additionally, I would notice that Ms. Avecilla's billing invoices
20 did not always match up correctly, and she did not always properly document her billing
21 invoices.

22 13. Enterprise, at the corporate level, pressed the local offices to run a tight operation. Their
23 philosophy was that, 'You've got to keep booking, because you don't know when you are going
24 to get a car back.' But then of course, you run short on vehicles, and if all you have are recalled
25 vehicles on the lot, you rent them out. It was a given. The whole company did it. Enterprise's

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1 corporate offices looked the other way regarding this fact.

2 14. Many times the recall warning attached to a vehicle's unit number on the computer
3 screen, did not say safety recall or priority recall. Only when that vehicle was taken into the
4 dealership, and the dealership ran the VIN number, would specific information about the recall
5 become available.

6 15. I also have knowledge of instances where Enterprise employees rented recalled vehicles,
7 because they failed to pay attention to the recall warning attached to the vehicle's unit number on
8 the computer system, which registers when closing out a rental contract; however I cannot recall
9 any specific examples at this time.

10 16. When a recall warning does come up on the screen that says priority recall, the
11 respective employee is required to take the key of that vehicle, and place that key in an area
12 designated for non-rentals; however, here is where the procedure is too loose, and mistakes can
13 happen. An employee is only required to write the word "recall" on a post-it note, which is
14 placed on the keys. There is nothing in place that keeps an employee from renting that car. The
15 computer system doesn't lock up. There is nothing to prevent an employee from taking those
16 keys, and renting that vehicle out to the next customer.

17 17. Enterprise employees and management also had an opportunity to gain notice of a recall
18 through other resources, such as daily reports, the unit history report for each specific vehicle,
19 and the maintenance report; however, these reports were printed at the Branch Manager's
20 discretion. There was no specific policy requiring that these reports be printed out at specific
21 times.

22 I declare under the penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct.

24 Executed this 27th day of AUGUST 2002, in SAN JOSE, California.

25 

Mark Santos, Declarant

Declarant initials: MS