

# CENTER FOR AUTO SAFETY

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August 19, 2010

## **HAND DELIVERED**

Deputy Administrator Ronald Medford  
National Highway Traffic Safety Administration (NHTSA)  
1200 New Jersey Ave. SE  
West Building  
Washington, DC 20590

## **MOTION TO QUASH SUBPOENA PURSUANT TO 49 C.F.R. PART 510.9**

Dear Mr. Medford:

I represent Mr. William Rosenbluth of Automotive Systems Analysis, Inc. On August 16, 2010, NHTSA Chief Counsel O. Kevin Vincent served a subpoena dated August 10, 2010, on Mr. Rosenbluth pursuant to 49 U.S.C. § 30166(g)(1)(B), ordering Mr. Rosenbluth to produce the following equipment:

**The Event Data Recorder (EDR), known as Electronic Control Unit (ECU) 8917-OC311, from the model year 2007 Toyota Tundra vehicle with Vehicle Identification Number (VIN) 5TBRT54197S453547.**

Mr. Rosenbluth hereby moves to quash the subpoena. 49 U.S.C. § 30166(g)(1)(B) allows NHTSA to “conduct hearings, administer oaths, take testimony, and require (by subpoena or otherwise) the appearance and testimony of witnesses and the production of *records* the Secretary considers advisable.” (emphasis added). This section does not authorize NHTSA to require the production of motor vehicle *equipment*. NHTSA’s authority to conduct motor vehicle equipment inspections is provided under a different provision, 49 U.S.C. § 30166(c)(3).

We think it is extraordinary that Mr. Rosenbluth was not contacted by NHTSA to ask for his cooperation before NHTSA took the heavy-handed measure of issuing a subpoena to him, especially since he is not the subject nor a party to the underlying NHTSA investigation.

Mr. Rosenbluth is willing to cooperate with NHTSA to have the EDR data downloaded by NHTSA staff so long as the EDR were to remain in Mr. Rosenbluth's possession while NHTSA downloads it. We want to avoid a situation where Toyota could later claim that the EDR unit was inadvertently or intentionally altered while it was out of Mr. Rosenbluth's possession.

Sincerely,

Michael Brooks  
Staff Attorney

Cc: O. Kevin Vincent