

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Action No. 94 0917

TOYOTA MOTOR CORPORATION,
and TOYOTA MOTOR
CORPORATE SERVICES OF NORTH
AMERICA, Inc.,

Defendants. /

CONSENT DECREE

This Consent Decree is entered into between plaintiff, the United States of America ("UNITED STATES"), and defendants, Toyota Motor Corporation and Toyota Motor Corporate Services of North America, Inc. (collectively referred to as "TOYOTA"), through their respective undersigned counsel for the purpose of fully resolving all issues raised by this action.

The UNITED STATES has filed a complaint initiating this action under the National Traffic and Motor Vehicle Safety Act of 1966, as amended, 15 U.S.C. § 1381, et seq. ("the Safety Act"), for declaratory relief and for civil penalties.

This action is based, in part, upon TOYOTA's failure to timely notify the Secretary of Transportation and the owners of Toyota Land Cruisers manufactured between 1981 and 1989 of a safety-related defect in such vehicles and to provide a remedy without charge, in violation of sections 108(a)(1)(D) and 151 of the Safety Act, 15 U.S.C. §§ 1327(a)(1)(D) and 1411.

This action is further based upon the UNITED STATES' contention that TOYOTA failed to provide accurate and completed

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information in seven instances to the National Highway Traffic Safety Administration ("NHTSA") in response to various requests for information made by NHTSA between 1990 and 1992 in connection with its investigations of the defect in the Land Cruisers and of TOYOTA's actions relating to that defect, as required under section 112 of the Safety Act, 15 U.S.C. § 1401, in violation of sections 108(a)(1)(B) and (E); of the Safety Act, 15 U.S.C. §§ 1397(a)(1)(B) & (E). The UNITED STATES also contends that TOYOTA failed to provide accurate and complete information in a Defect Information Report submitted to NHTSA pursuant to 49 C.F.R. Part 573, also in violation of section 108(a)(1)(B) of the Safety Act, 15 U.S.C. § 1397(a)(1)(B).

The preceding paragraph represents the government's charges. Because TOYOTA has agreed to settle this case, it has not had an opportunity to respond fully to these allegations. The allegations in the preceding paragraph are denied, and TOYOTA does not concede and would contest their validity at any trial on the merits. TOYOTA has, however, agreed to enter into this Consent Decree in order to avoid protracted and expensive litigation.

WHEREAS, it is the mutual desire of the UNITED STATES and TOYOTA to resolve all matters related to, or in any way arising out of, the facts alleged in the complaint herein, without the need for further litigation.

NOW THEREFORE, based on the agreement of the parties, by their respective undersigned counsel, it is ORDERED, ADJUDGED and

DECREED as follows:

1. TOYOTA is, and at all times relevant to this action has been, a manufacturer of motor vehicles within the meaning of section 102(5) of the Safety Act, 15 U.S.C. § 1391(5).

2. As a result of customer complaints, field reports and warranty claims received, TOYOTA determined, or in good faith should have determined, before June 1991, that the Toyota Land Cruisers for model years 1981 through 1989 contained a defect related to motor vehicle safety, in that the fuel tank separator tended to separate from the vertical interior wall of the tank, under certain circumstances, resulting in fuel leakage.

3. By failing to provide timely notification to the Secretary of Transportation and the owners of Land Cruisers of this defect and to provide a timely remedy, TOYOTA violated sections 108(a)(1)(D) and 151 of the Act, 15 U.S.C. §§ 1397(a)(1)(D), 1411. TOYOTA, did, however, conduct a full safety recall of the subject vehicles beginning in June, 1991. The UNITED STATES makes no claim that a safety-related defect continues to exist with respect to those Land Cruisers repaired pursuant to this recall.

4. Based on the agreed violations (untimely notification and remedy) set forth in paragraph 3, SUPRA, and the UNITED STATES' allegations that TOYOTA supplied NHTSA with inaccurate and incomplete information during the course of NHTSA's investigations, TOYOTA shall pay to the UNITED STATES a civil penalty in the sum of \$250,000 pursuant to section 109(a) of the

Safety Act, 15 U.S.C. § 1398(a). TOYOTA shall pay this penalty no later than thirty days after the execution of this decree. Payment shall be made by wire transfer of the funds to the U.S. Treasury through the Treasury Financial-Communications System.

5. Upon receipt of the payment set forth in paragraph 4, supra, but in any event not later than ten (10) days thereafter, the UNITED STATES, by its counsel, shall execute and file with the United States District Court for the District of Columbia, a notice indicating that the agreed payment of \$250,000 has been made and satisfied.

6. Also upon receipt of the aforesaid payment, the UNITED STATES agrees to release TOYOTA, its subsidiaries, affiliates, officers, directors, and employees, from any further civil liability arising out of TOYOTA's actions as alleged in the complaint filed herein for violations of the Safety Act and any other applicable federal law.

7. The Court's execution and entry of this Consent Decree shall constitute full settlement of the complaint against TOYOTA and a release of all claims by the UNITED STATES referred to in the complaint.

8. This Consent Decree represents the entire understanding and agreement of the parties. There are no oral or other understandings between the parties with respect to any matter or claim that is the subject of this lawsuit or of this Consent Decree.

9. The parties enter into this Consent Decree freely and

voluntarily, and all defendants hereby agree and promise that they shall not seek to rescind this Consent Decree on the grounds of coercion, duress, mistake or any other basis after execution of this Consent Decree.

10. The parties to this action have the legal authority to enter into this Consent Decree, and each party has authorized its undersigned counsel to execute this Consent Decree on its behalf.

FOR THE UNITED STATES:

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Date: 4/25/94

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Date: _____

SO ORDERED, this 3d day of May, 1994:

Stanley S. Harris
UNITED STATES DISTRICT COURT JUDGE