

# CENTER FOR AUTO SAFETY

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March 12, 2014

Mary T. Barra  
Chief Executive Officer  
General Motor Company  
PO Box 33170  
Detroit MI 48232-5170

Dear Ms Barra:

As recognized by your action of appointing an independent investigator, General Motors failure to recall the 2005-07 Chevrolet Cobalt<sup>1</sup> ranks up with the Ford Pinto in the history of auto safety scandals. However the Cobalt recall ends, consumers who were killed or injured in these vehicles from when they first hit the road in 2002 (Saturn Ion) and 2004 (Chevrolet Cobalt) are double victims.

If their injury occurred before GM's bankruptcy on July 10, 2009, then General Motors LLC (the successor to General Motors Corp.) can move to block their claim under § 2.3(a)(ix) of the Master Sales and Purchase Agreement between new General Motors and old General Motors. Even if their injuries occurred in crashes after July 10, 2009, many claims are barred by Statutes of Repose or Statutes of Limitations. By concealing the ignition key defect for at least 10 years, GM created more victims and then robbed them of their legal rights through the passage of time. Justice delayed is justice denied.

While GM has said it knows of 13 deaths in 31 crashes with injury, this is just the tip of the iceberg. The 13 deaths don't even include Brooke Melton who died in March 2010 and whose family's lawsuit broke the cloak of secrecy this past month. Under the Early Warning Reporting System mandated by Congress in the TREAD Act in 2000, GM reported 400 death and injury claims on Chevrolet Cobalts in 2010 alone to the National Highway Traffic Safety Administration (NHTSA). GM reported 58 death claims to NHTSA on the recalled Cobalt and Ion on defects linked to ignition key failure from 2004 to 2013. (NHTSA has no component code for ignition key and GM has reported known ignition key death claims under airbags, steering and unknown.) Only GM knows which of the death and injury claims on the Cobalt and other recalled vehicles are due to the ignition key defect. But it's far more than 13 deaths and 18 injuries.

Although one cannot place a value on a human life, NHTSA uses \$9.2 million per death in quantifying the loss to society of vehicle crashes. A teenager who is rendered a quadriplegic in a crash because the airbag fails to deploy can face lifetime medical costs of \$30 million or more. What will the Cobalt recall cost - perhaps a \$100/vehicle and total recall costs of no more \$100 million in the US. Present known fatal victim costs will exceed the cost of the recall.

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<sup>1</sup>The full range of models in Recall 14V-047 is 2005-07 Chevrolet Cobalt, 2006-07 Chevrolet HHR & Pontiac Solstice, 2003-07 Saturn Ion, 2007 Pontiac G5 & Saturn Sky,

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If GM uses the bankruptcy and statutes of limitation and repose as defenses, the victims and the taxpayers will have to pay the cost. GM received \$49 billion in taxpayer funds to resurrect itself through the bankruptcy process. Don't you think in your heart of hearts that it is cruel and unfair to use those defenses to escape liability for a defect GM concealed and failed to remedy for 10 years? And what about all the other safety defects with delayed recalls and closed investigations.

During the past 10 years, NHTSA has closed 22 GM defect investigations on pre-bankruptcy vehicles without a recall. In addition, GM has conducted 25 safety recalls since the bankruptcy that cover vehicles made before the bankruptcy. Just as it is unfair for victims and families of the Cobalt ignition key defect to be barred from recovering for their losses, it is also unfair for victims of other GM defects to be barred by the bankruptcy from recovering for their losses.

We call on the new General Motors which received \$49 billion in funding from the taxpayer to establish a \$1 billion Safety Victims Trust Fund to cover losses of victims and families of safety defects whose claims have been extinguished by the bankruptcy or barred by statutes of repose or limitations. With its return to profitability last year, this is the least General Motors can do to help people killed or injured by General Motors safety defects.

Sincerely,



Clarence Ditlow  
Executive Director  
Center for Auto Safety



Joan Claybrook  
President Emeritus  
Public Citizen

