

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CENTER FOR AUTO SAFETY)
 1825 Connecticut Ave. NW)
 Suite 330)
 Washington, DC 20009,)
)
 Plaintiff,)
)
 v.)
)
 ANTHONY FOXX,)
 Secretary, United States Department)
 of Transportation,)
 1200 New Jersey Ave. SE)
 Washington, DC 20590, and)
)
 UNITED STATES DEPARTMENT)
 OF TRANSPORTATION,)
 1200 New Jersey Ave. SE)
 Washington, DC 20590,)
)
 Defendants.)
 _____)

C.A. No. 16-192

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. This action challenges defendants’ failure to make certain documents about motor vehicle safety and defects available to the public online, as required by law. Specifically, it challenges defendants’ failure to make available on a publicly accessible website true or representative copies of communications from motor vehicle and motor vehicle equipment manufacturers “to the manufacturer’s dealers or to owners or purchasers of a motor vehicle or replacement equipment produced by the manufacturer about a defect or noncompliance with a motor vehicle safety standard prescribed under [chapter 301 of Title 49] in a vehicle or equipment that is sold or serviced,” as required by 49 U.S.C. § 30166(f)(1). It also challenges

defendants' failure to make an index to each such communication available to the public on the Internet in a searchable format, as required by 49 U.S.C. § 30166(f)(2)(C). Defendants' failure to make these communications and indexes publicly available online has deprived the Center for Auto Safety and its members of important information about motor vehicle safety and defects.

JURISDICTION

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331.

PARTIES

3. Plaintiff Center for Auto Safety (CAS) is a non-profit consumer advocacy organization headquartered in Washington, D.C. Founded in 1970, CAS advocates before the Department of Transportation, in testimony before Congress, and in the courts on issues concerning auto safety and vehicle quality. A key pillar of CAS's mission is to help consumers become better informed about motor vehicle safety issues. CAS brings this case on its own behalf and on behalf of its members who are denied access to the manufacturer communications and indexes that are required by law to be made publicly available online.

4. Defendant United States Department of Transportation (DOT) is the federal agency responsible for ensuring the safety of transportation systems in the United States.

5. Defendant Anthony Foxx is the Secretary of DOT and has responsibility for carrying out DOT's operations. Secretary Foxx is required by 49 U.S.C. §§ 30166(f)(1) & (f)(2)(C) to make certain manufacturer communications available on a publicly available website and to make an index of each such communication available to the public online in a searchable format.

STATUTORY AND FACTUAL BACKGROUND

6. In 2012, the Moving Ahead for Progress in the 21st Century Act, P.L. 112-141, § 31303, 126 Stat. 405, 764 (July 6, 2012) (MAP-21), amended 49 U.S.C. § 30166(f) to require the Secretary of Transportation to make copies of certain manufacturer communications publicly available online. 49 U.S.C. § 30166(f)(1) now dictates that motor vehicle and motor vehicle equipment manufacturers “shall give the Secretary of Transportation, and the Secretary shall make available on a publicly accessible Internet website, a true or representative copy of each communication to the manufacturer’s dealers or to owners or purchasers of a motor vehicle or replacement equipment produced by the manufacturer about a defect or noncompliance with a motor vehicle safety standard prescribed under this chapter in a vehicle or equipment that is sold or serviced.”

7. Despite this requirement, defendants do not make true or representative copies of all manufacturer communications described in 49 U.S.C. § 30166(f)(1) available on a publicly accessible website.

8. MAP-21 further dictates that communications required to be submitted under 49 U.S.C. § 30166(f)(1) “shall be accompanied by an index to each communication” that includes information about “the make, model, and model year of the affected vehicles” and “a concise summary of the subject matter of the communication,” 49 U.S.C. § 30166(f)(2)(A)-(B). Such indexes “shall be made available by the Secretary to the public on the Internet in a searchable format,” *id.* § 30166(f)(2)(C).

9. Despite the requirements of 49 U.S.C. § 30166(f)(2), defendants do not make indexes to each manufacturer communication described in 49 U.S.C. § 30166(f)(1) available to the public on the Internet in a searchable format.

CLAIM FOR RELIEF

10. Defendants' failure to make the manufacturer communications described in 49 U.S.C. § 30166(f)(1) available on a publicly accessible Internet website as required by that provision constitutes agency action unlawfully withheld or contrary to law in violation of the Administrative Procedure Act, 5 U.S.C. §§ 706(1)-(2).

11. Defendants' failure to make the indexes described in 49 U.S.C. § 30166(f)(2) available to the public on the Internet in a searchable format as required by that provision constitutes agency action unlawfully withheld or contrary to law in violation of the Administrative Procedure Act, 5 U.S.C. §§ 706(1)-(2).

WHEREFORE, plaintiffs request that this Court:

- A. Declare unlawful defendants' failure to make available on a publicly accessible Internet website true or representative copies of all manufacturer communications described in 49 U.S.C. § 30166(f)(1);
- B. Order the defendants to make available on a publicly accessible Internet website true or representative copies of all manufacturer communications described in 49 U.S.C. § 30166(f)(1);
- C. Declare unlawful the defendants' failure to make available to the public on the Internet in a searchable format the indexes described in 49 U.S.C. § 30166(f)(2);
- D. Order defendants to make available to the public on the Internet in a searchable format the indexes described in 49 U.S.C. § 30166(f)(2) ;
- E. Award plaintiff its reasonable costs and attorney's fees under 28 U.S.C. § 2412; and

F. Grant such other relief as this Court may deem just and proper.

Respectfully submitted,

/s/ Adina H. Rosenbaum

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