

## Lawsuits grow against GM

**BY JOCELYN PARKER**

FREE PRESS BUSINESS WRITER

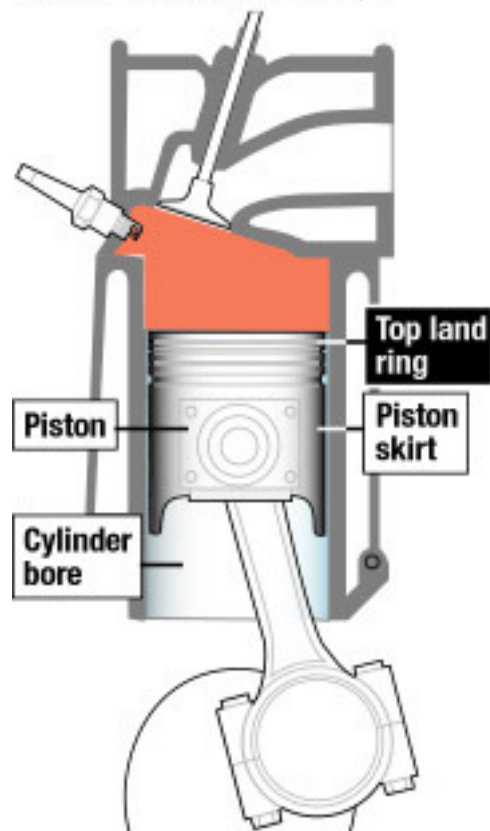
*February 21, 2004*

The number of class actions sought against **General Motors Corp.** over an alleged defect in some light truck engines has grown in recent months, a sign that the issue is gaining steam, legal experts say.

Since October, at least six suits have been filed in courts throughout the country, including one in Michigan and two in Oklahoma. The plaintiffs claim that loud, irritating knocking noises in engines have slashed the value of their vehicles and that GM refuses to fix the problem.

### **ENGINE NOISE**

A knocking sound could be caused when carbon deposits on the land ring make impact with the interior of the cylinder. Some 2002 and all 2003 GM small-block V8 engines have been redesigned with less space between the piston and the cylinder wall. This is done to minimize space for the piston to rock against the cylinder wall and to keep the land ring from making contact with the cylinder when there is carbon buildup.





Source: Free Press research

Detroit Free Press

Some owners also allege the defect causes the engines in some cases to use more than twice the amount of oil they should between oil changes, a problem they also say diminishes the value of the trucks.

GM has said it is aware of the knocking but contends the noises won't shorten the lives of the engines. The company plans to fight the lawsuits, which it says are baseless.

But the spread of lawsuits "could be indicative that there is an awareness of the problem throughout the country," said Larry Dubin, a law professor at the University of Detroit Mercy.

A lawyer representing one of the Oklahoma plaintiffs is petitioning a panel of federal district judges in Washington, D.C., to get the cases consolidated and sent to a court in Oklahoma. The panel could combine the cases for pretrial matters. It is expected to make a decision in late March. GM also requested the cases be consolidated and moved to the U.S. District Court for the Western District of Oklahoma.

If the cases are consolidated, there's a good chance they will be granted class action status, say lawyers involved in the cases. The Free Press reported in November that several owners of GM's most expensive light trucks, including the GMC Yukon and Chevrolet Silverado, were individually suing the company over the noise. Lawyers said thousands of vehicles, most from the 1999 to 2002 model years, have the problem. GM quietly bought back dozens of those vehicles, they say.

## **Suits claim GM misled public**

The first suit was filed in October in a state court in Oklahoma City but later was moved to federal court.

In November lawyers representing a Florida couple and a Michigan man filed a suit in U.S. District Court in Detroit. Cases seeking class action also exist in California, Georgia and Massachusetts, lawyers say.

The suits accuse GM of fraud, breach of contract and negligence. They claim that even though GM knew about the noise, the company didn't tell consumers about the problem before the vehicles were sold. And when consumers noticed the problem and tried to get it fixed, GM told them it was normal, the suits claim.

"GM knew, in the course of doing business, that they put out some bad product," said attorney William Federman, who filed the first class action on behalf of Oklahoma resident Troy Smith. "We're hoping that GM will stand by its product and make it right. We're not just going away."

Federman is petitioning the judicial panel to have all the cases consolidated and moved to Oklahoma. He said it makes the most sense for the cases to be consolidated there because that's where the first suit was filed.

The engine problem known as piston slap is caused when there's too much space between the piston and the cylinder wall. The extra clearance results in a greater amount of rocking in the cylinder, which causes the noise.

GM said the problem surfaced when it moved to a new family of engines, but said it does not affect engine performance and that it was corrected in mid-2002.

But customers argue that the problem lowers the value of their vehicle when they try to sell it. Charlie Vogelheim, executive editor for **Kelley Blue Book**, said a knocking engine could lower the value of a vehicle by \$4,000 to \$6,000 at trade-in.

GM stands by its claim and said it will fight the suits. "We are prepared to vigorously defend these allegations," said spokeswoman Debbie Frakes. "The subsequent lawsuits are copycat lawsuits that we view as baseless."

## **GM seen settling**

Even though GM says it's prepared to fight the cases, it's possible they won't make it to trial, legal experts say.

"A class action is not good publicity," said Peter Henning, a law professor at Wayne State University. "GM does want its customers to be happy. If the class is certified, it will probably be settled."

The suits still could pose a problem for GM because the automaker has been trying to improve its quality and image.

In May, GM kicked off an unusual advertising campaign, Road to Redemption, in which it acknowledged past quality issues as a way to show its improvements.

Contact *JOCELYN PARKER* at 313-222-5391 or at [parker@freepress.com](mailto:parker@freepress.com).

## Customers knock GM on noisy engines

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*November 14, 2003*

Owners of some of General Motors Corp.'s most expensive light trucks, including the GMC Yukon and Chevrolet Silverado, say the vehicles they paid more than \$30,000 for may be worthless now because of loud, irritating knocking noises in their engines, lawyers tell the Free Press.

Thousands of vehicles, most from the 1999 to 2002 model years, may be affected, say the lawyers, who specialize in lemon law. They say GM is quietly buying back some of the vehicles.

Some experts say the knocking, caused by contact between the engine's pistons and cylinders, may be damaging in the long run.

GM acknowledges the problem, which it said surfaced when it moved to a new family of engines, but says it does not affect engine performance and that it was corrected in later-model vehicles.

The problem is, there's no apparent fix for the earlier models, leaving buyers angry and worried. "I paid almost \$35,000 for this truck. The truck is almost worthless," said Greg MacNeil, who purchased his 2001 Chevrolet Silverado two years ago. "In good conscience, I couldn't sell this truck to someone else."

When MacNeil bought the truck, he dreamed it would take him on long trips to northern Michigan.

But when his engine started knocking just two months after he bought it, he barely trusted his black pickup to take him 30 miles to work.

"I've been afraid to drive the truck up north," said MacNeil, who lives in Brownstown Township. "I only take the truck back and forth to work."

Ron Martiny of Oshkosh, Wis., had just returned from Florida in February 2002 when his Silverado's engine started knocking. His dealer told him the sound was normal. But a month ago, GM bought back his \$40,000 truck, he said.

It's unclear exactly how many vehicles or how many kinds of GM vehicles have this noise, but

customers and several lemon law lawyers say the problem occurs within months after customers drive them off dealer lots.

Lemon law lawyers say they occasionally get calls about engine knock with other automakers' vehicles, but they report an unusually high incidence of this kind of problem with GM vehicles.

"In the last year, this problem became really obvious," said Brian Parker, a Michigan lemon law attorney.

According to dealer service bulletins obtained by the Free Press, vehicles with the engine knock problem include 1999 through 2002 Chevy and GMC pickups and sport-utility models with 4.8-, 5.3- and 6.0-liter V8 engines.

The bulletins say that the noises are not detrimental to the vehicles.

But experts say knocking is abnormal and can damage the engine.

## **What's all the racket?**

GM officials say carbon and the amount of clearance between the piston and the cylinder wall are the primary causes of the knocking.

Usually, when the piston moves up and down in the cylinder, a component called the ring land, which is near the top of the piston, does not come in contact with the cylinder wall. But when carbon forms on the ring land over time, the ring land gets wider and begins to hit the wall. When the two come in contact, the driver will hear the knocking noise, said Chris Meagher, assistant chief engineer for GM's small-block V8 engines.

Spacing is also an issue, because when there's too much room between the piston and the cylinder wall, a greater amount of rocking can occur and can cause more noise, experts say.

GM spokesman Tom Read said GM has addressed the issue by making design changes to the piston in some 2002 vehicles and all 2003 vehicles with the noise. GM has cut the amount of space between the piston and the cylinder so that the amount of rocking is reduced. The changes also keep the ring land from contacting the cylinder wall when carbon builds up, Meagher said.

Read said the knocking issue came about when GM started making a new family of truck engines in 1999. The company, however, promises that the knocking won't cause any damage to the engine because the carbon that has formed on the ring land isn't hard enough to damage the cylinder wall.

"Current analysis of 150,000-mile and 300,000-mile engines that have exhibited cold start noise show no

significant wear," Read said.

And despite the controversy, GM's trucks got high marks in J.D. Power and Associates' 2003 reliability and dependability surveys. The Silverado, for instance, ranked second in initial quality in the study's full-size pickup category.

The noise, nevertheless, is irritating to consumers who have spent so much to purchase the vehicles.

"It's embarrassing," said MacNeil, who is suing GM. "If you accelerate, you can hear this vehicle 100 feet away."

There's also a question of durability. While it remains unclear whether this knocking causes damage, lawyers and consumers say the piston's contact with the cylinder wall can't be good.

Knocking, for instance, has been known to cause damage to the piston, and in some cases it has resulted in premature engine wear.

## **Customers in an uproar**

Ron Martiny, who bought his Silverado in February 2002, said he took his truck to the dealer after he noticed the knock and the service manager told him the sound was normal.

Then, in July of that year, the dealer talked to a GM customer assistance manager about the problem and later that month, Martiny got a letter from GM's Chevrolet division offering him a 100,000-mile warranty.

But Martiny said he didn't want the warranty because he planned to drive his vehicle far beyond 100,000 miles. He sought legal help in early 2003, and shortly after the automaker came with a \$3,000 settlement. Martiny turned the money down.

According to Martiny and his attorney, Vince Megna, GM finally bought back the truck about a month ago. The company paid Martiny's \$20,000 loan balance, plus another \$20,000 and took care of his attorney fees.

Lemon law lawyers say this process is typical. GM usually offers consumers a 100,000-mile warranty to settle the matter. And when that's not good enough, the automaker offers consumers some sort of cash settlement for the noise, which can range anywhere from \$2,000 to \$5,000, according to consumers and lawyers involved in the cases.

When the cash doesn't resolve the matter, GM usually decides to buy the vehicle back, Megna said. Megna said the cases usually don't even make it to court.

"They know when these are filed, they aren't going to win these cases," said Megna, who practices law in Wisconsin.

Dan Powell, who lives near Orlando and owns a 2001 Yukon XL with an engine knock, was so incensed by the knocking that he created a Web site, [www.pistonslap.com](http://www.pistonslap.com), which discusses the engine problem and seeks feedback from others with the issue. Powell is also suing to get his money back for the vehicle.

## **Not without a fight**

GM's Read said the company is working with angry consumers on a "case-by-case basis." Read wouldn't comment on any litigation, but said the knocking only affects "a small percentage of vehicles."

Read also wouldn't confirm or deny that the company is offering warranties, cash offers or buybacks for the vehicles.

What a consumer gets for the problem really depends on how hard they're willing to fight, lawyers say.

A lawsuit is generally the only way GM will buy the cars and trucks back, Megna added.

"GM has always bought the vehicle back, but only after being pushed," Megna said.

## **GM's reaction deemed typical**

Clarence Ditlow, executive director for the Center for Auto Safety, said GM's stance on the issue is not surprising because repairing all those vehicles would cost millions of dollars. And if the defect doesn't cause a safety or emissions issue, it's tough to get a national recall.

The National Highway Traffic Safety Administration says it doesn't even track these sorts of problems because they aren't safety-related.

Consumers who have this problem should contact a lemon law attorney, Ditlow said.

"If you have a service bulletin, you're no longer arguing about whether (the vehicle) is defective," Ditlow said.

Meanwhile, consumers, many of whom are loyal GM customers, say they're disappointed that there isn't a fix for the problems.

"I would love to have it fixed if they have a fix," Powell said. "Except for the engine, it's a nice vehicle."

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Contact *JOCELYN PARKER* at 313-222-5391 or at [parker@freepress.com](mailto:parker@freepress.com).

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