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BWCP Butler Wooten
Cheeley & Peak LLP

March 5, 2015

***Via E-Mail: sarah.sorg@dot.gov
& First Class Mail***

Office of Chief Counsel
National Highway Traffic Safety Administration
c/o Sarah Sorg, Esq.
1200 New Jersey Ave SE
W-41-326
Washington DC 20590

Re: James Bryan Walden and Lindsay Walden, Individually and on Behalf of the Estate of Their Deceased Son, Remington Cole Walden v. Chrysler Group, L.L.C., and Bryan L. Harrell, Superior Court of Decatur County, Civil Action File No. 12-CV-472

Dear Ms. Sorg:

This responds to your March 3, 2015 letter, rejecting our effort to depose former NHTSA Administrator Mr. Strickland, which effort has been ongoing now since January 22. Pardon my delay in responding: we were in Court all day yesterday in the *Walden* case.

Your letter is, in a word, *outrageous*.

We reject your conclusions and your decision. We repeat our request to Mr. Strickland himself, to whom this letter is copied: *will you stand for a deposition, or not?*

First, the facts: On June 3, 2013 NHTSA's Office of Defects Investigation wrote to Chrysler, after an extensive investigation, and stated "ODI believes that the MY 1993-2004 Grand Cherokee and MY 2002-2007 Liberty contain defects related to motor vehicle safety." ODI requested a safety recall. ODI further stated,

"ODI's tentative assessment is that MY 1993 – 2004 Jeep Grand Cherokee (ZJ and WJ) and the MY 2002 – 2007 Jeep Liberty contain defects related to motor vehicle safety. In our tentative view, there is a performance defect and a design defect. The performance defect is that the fuel tanks installed on these vehicles are subject to failure when the vehicles are struck from the rear. Such failure can result in fuel leakage, which in the presence of external ignition sources, can result in fire. The design defect is the placement of the fuel tanks in the position behind the axle and how they were positioned, including their height above the

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706.322.1990 • 1.800.242.2962 • FAX 706.323.2962

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2719 Buford Highway • Atlanta, GA 30324
404.321.1700 • 1.800.242.2962 • FAX 404.321.1713

www.butlerwooten.com

roadway. The defects present an unreasonable risk to motor vehicle because people in the MY 1993 – 2004 Jeep Grand Cherokee (ZJ and WJ), the MY 2002 – 2007 Jeep Liberty and in striking vehicles have burned to death in rear impact crashes, there have been fires (without fatalities) in these vehicles from rear impact crashes that have, or could have, led to deaths and injuries, and there have been leaks from Grand Cherokee and Liberty gas tanks from rear impact crashes that could have led to fire and death or injury.”

Three days later Chrysler’s Senior Vice President for External Affairs contacted Mr. Strickland, then the Administrator of NHTSA – at the request of Chrysler Chairman Sergio Marchionne. That led to a series of emails between the two of them, culminating in Mr. Strickland himself setting up a private secret meeting on June 10, 2013 between himself, Chrysler Chairman Marchionne, and DOT Secretary LaHood, at the FAA offices near Chicago O’Hare airport. (That email “string” is attached.) No one from ODI was invited or allowed to attend. *At Marchionne’s request*, the meeting was limited to Strickland, LaHood, and Marchionne. No record was made of what was said. According to Marchionne’s sworn affidavit, he “wanted to meet with Mr. LaHood and Mr. Strickland to discuss the possibility of a resolution of the dispute *that had no finding of defect . . .*” When the press finally learned of the meeting, Secretary LaHood stated that the three of them “pretty much reached an agreement there,” at the meeting. Subsequently there was no finding of defect.

The day the final deal between NHTSA and Chrysler was announced publicly was Mr. Strickland’s last day as Administrator of NHTSA. He then went to work as a partner at Venable – a law firm that represents Chrysler for both law and lobbying work.

My clients, citizens of the United States, are entitled to cross examine Mr. Strickland to get his account of the meeting and the subsequent actions of NHTSA. They are entitled because their 4 ½ year old son burned alive in one of Chrysler’s Jeeps with rear gas tanks, and because they believe the subject vehicles are clearly defective – just as ODI found. In fact, Chrysler clearly does not dispute that belief: Chrysler admits it has been sued at least 24 times when American citizens were burned after rear impacts into the Jeeps with rear gas tanks – we believe the number is really over 40 – and Chrysler *has never taken any one of those cases to verdict*.

We dispute your conclusions. We dispute your presumption that you, or NHTSA, is somehow entitled to decide whether our clients ‘need’ the deposition of Mr. Strickland.

None of the “reasons” you enunciate for the “policy” against employee testimony apply. There is no need to ‘conserve’ the “time of employees” – Mr. Strickland is not an employee; this is a “controversial issue” completely “related” to the “mission” of NHTSA; the actions of “the Department” render its “impartiality” dubious; there will be

no need to ‘spend’ the “time and money of the United States” – and the “purpose” is not merely “private;” there is no “confidential, sensitive information” to be ‘protected;’ and whether the deal those three reached at the Chicago O’Hare meeting qualify to be called “deliberative processes” is open to debate.

We know of at least 28 Americans who have been burned in rear impact wrecks into Chrysler’s Jeeps with rear gas tanks *just since Remington Walden was killed* on March 6, 2012. Chrysler is actively defending this case, and can be counted upon to actively defend other cases, by contending that NHTSA’s final decision, orchestrated by Mr. Strickland, gave Chrysler’s Jeeps with rear gas tanks a “clean bill of health.” Just yesterday, in the *Walden* case, Chrysler told the Court that NHTSA had concluded that the subject 1999 Jeep Grand Cherokee was “not defective.” That is, of course, false. My clients are entitled to amass evidence that such statements are false, including from Mr. Strickland.

To obstruct the deposition of Mr. Strickland – which is what NHTSA is attempting to do – is calculated to cause a “miscarriage of justice” and is not in “the best interests of the United States” or of American citizens. My clients, citizens of the United States, and all American citizens, are entitled to know about the circumstances of the deal Mr. Strickland made with Chrysler’s Marchionne.

Neither you nor NHTSA are entitled to decide whether we do or do not really “need” what we seek. You do not represent my clients; your instructions about what their counsel should do rather than deposing Mr. Strickland are presumptuous.

Whether NHTSA has, or has not, ‘achieved’ its “safety mission” in the handling of the Jeep investigation is open to serious debate, but NHTSA has injected itself into this “private civil litigation.” We believe NHTSA has, through Mr. Strickland, done so purposefully. We note that when Mr. Strickland and Mr. Marchionne met at Chicago O’Hare on June 10, 2013, my clients’ case was pending. Chrysler had much to lose from a defect finding, and much to gain from the absence of such a finding.

Chrysler’s own crash test engineer has admitted that the rear gas tank on the Jeep Grand Cherokee “is vulnerable to rear impact” and that Chrysler knew in 1998 that the gas tank on the 1999 Grand Cherokee (the vehicle involved in our case) would be crushed in rear impact. It is a plastic tank. That gas tank is a mere 11 inches from the back of the car, and hangs down 6 inches below the bottom of the car. The gas tank has no protection in an underride rear impact – there is nothing to prevent the striking vehicle from hitting the tank directly. It has almost no protection from rear impact without underride – there is no bumper at all. Instead there is only a piece of plastic trim made to look like a bumper, and a strip of styrofoam, and the sheet metal across the back connecting the right and left side body panels. In fact, when Chrysler ran crash tests according to NHTSA’s 1970s vintage FMVSS 301 minimum ‘standard’ at a mere 30 mph, it had a rule against putting any instruments in the back 24 inches of the car because

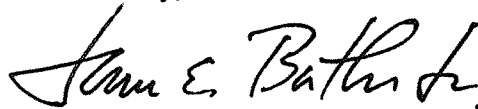
the instruments would be destroyed. Chrysler ran only one crash test into the rear of a Jeep with rear gas tank at more than 30 mph. That was in 1999, on a 1999 Grand Cherokee. But before Chrysler ran that so-called “developmental test”, it put a steel cage around the rear gas tank and a real steel bumper “beam” behind the tank, to protect it. Chrysler never put that protection on any Jeep it sold to the public. In 2005, Chrysler moved the gas tank on the Grand Cherokee away from the rear and to the midship location – which ODI later concluded all automakers knew was safer.

Although we did not intend to ask Mr. Strickland about this, you and NHTSA should know this about the deal NHTSA and Chrysler made to add trailer hitches to the rear of some of the Jeeps with rear gas tanks. Chrysler’s own former head of engineering, who had been intimately involved in the Jeeps with rear gas tanks, testified under oath in 2011 that a trailer hitch will not protect the gas tank. It is worth noting that NHTSA agreed with Chrysler’s decision not to do anything with regard to one category of the Jeeps with rear gas tanks – the 1999-2004 Grand Cherokees. That is the model in which Remington Walden burned alive on March 6, 2012.

It may be true that a deposition of Mr. Strickland is not in NHTSA’s “best interests,” but it is indisputably true that such a deposition is in the “best interests” of the United States and its citizens.

For the Record, we do not accept your statement of what we have, or have not “requested.”

Sincerely,



James E. Butler, Jr.

BUTLER WOOTEN CHEELEY & PEAK

JEB/sla
Enclosures

CC:
David L. Strickland (via email to dlstrickland@venable.com)
Hon. John Thune, United States Senator
Hon. Bill Nelson, United States Senator
Hon. Fred Upton, United States Representative
Hon. Marsha Blackburn, United States Representative
Hon. Johnny Isakson, United States Senator
Hon. Sanford Bishop, United States Representative

Correspondence to Ms. Sorg
Page 5

James E. Butler, III
David T. Rohwedder
George C. Floyd
L. Catharine Cox
Beth N. Glen
Kate Dondero
Beth Telgenhoff
Sarah L. Andrews

Jody Trapasso

From: david.strickland@dot.gov
Sent: Friday, June 07, 2013 4:45 PM
To: Jody Trapasso
Subject: RE: Phone Call

We are all set 4 pm Monday. We will meet at the FAA Regional office, it's about 1 mile from O'Hare. The address is:

2300 E Devon Ave, Des Plaines, Illinois 60018

Thanks for being so flexible to run this down. Looking forward to a productive meeting.

David Strickland
NHTSA Administrator
U.S. Dept. of Transportation
202-366-1836
(From iPhone)

-----Original Message-----

From: Jody Trapasso [jody.trapasso@chrysler.com]
Sent: Friday, June 07, 2013 04:14 PM Eastern Standard Time
To: Strickland, David (NHTSA)
Subject: RE: Phone Call

4:00 on Monday in Chicago works - could even do 3:30 if better for you. Please advise if that time works, and if so, the meeting location. Thanks.

From: david.strickland@dot.gov [mailto:david.strickland@dot.gov]
Sent: Friday, June 07, 2013 4:13 PM
To: Jody Trapasso
Subject: RE: Phone Call

Hey Jody, will be getting on a plane in less than an hour. I believe there is wifi, so I should not be blind. If I am, I will shoot you a note.

David Strickland
NHTSA Administrator
U.S. Dept. of Transportation
202-366-1836



(From iPhone)

-----Original Message-----

From: Jody Trapasso [jody.trapasso@chrysler.com]
Sent: Friday, June 07, 2013 03:59 PM Eastern Standard Time
To: Strickland, David (NHTSA)
Subject: RE: Phone Call

I'll work with these details, and get back to you. Thanks.

From: david.strickland@dot.gov [<mailto:david.strickland@dot.gov>]
Sent: Friday, June 07, 2013 3:42 PM
To: Jody Trapasso
Subject: RE: Phone Call

Chicago would be preferable, and later afternoon, say post 3:30 pm would be best. Can do as early as 2:30 pm but that would be tight in terms of my arrival. Let me know if that works.

David Strickland
NHTSA Administrator
U.S. Dept. of Transportation
202-366-1836
(From iPhone)

-----Original Message-----

From: Jody Trapasso [jody.trapasso@chrysler.com]
Sent: Friday, June 07, 2013 02:12 PM Eastern Standard Time
To: Strickland, David (NHTSA)
Subject: RE: Phone Call

It is shaping up that Monday works best. Do you have a preference for Chicago or Detroit?

From: david.strickland@dot.gov [<mailto:david.strickland@dot.gov>]
Sent: Friday, June 07, 2013 1:08 PM
To: Jody Trapasso
Subject: RE: Phone Call

I appreciate it.

David Strickland
NHTSA Administrator
U.S. Dept. of Transportation
202-366-1836

(From iPhone)

-----Original Message-----

From: Jody Trapasso [jody.trapasso@chrysler.com]
Sent: Friday, June 07, 2013 11:48 AM Eastern Standard Time
To: Strickland, David (NHTSA)
Subject: RE: Phone Call

Got it. I'll work with these options and get back to you. Thanks.

From: david.strickland@dot.gov [mailto:david.strickland@dot.gov]
Sent: Friday, June 07, 2013 11:47 AM
To: Jody Trapasso
Subject: RE: Phone Call

Hey Jody, just got word. Monday in Chicago or Detroit or Wednesday in Chicago would work for Si. He is not available on Sunday. Let me know.

David Strickland
NHTSA Administrator
U.S. Dept. of Transportation
202-366-1836
(From iPhone)

-----Original Message-----

From: Jody Trapasso [jody.trapasso@chrysler.com]
Sent: Friday, June 07, 2013 10:56 AM Eastern Standard Time
To: Strickland, David (NHTSA)
Subject: RE: Phone Call

I'm happy to check, if that turns out to be most convenient.

From: david.strickland@dot.gov [mailto:david.strickland@dot.gov]
Sent: Friday, June 07, 2013 10:54 AM
To: Jody Trapasso
Subject: RE: Phone Call

Also if he would be willing to fly direct into Washington next week, that would create flexibility on both ends, but as I indicated, we are willing to come to him if that works best.

-----Original Message-----

From: Strickland, David (NHTSA)
Sent: Friday, June 07, 2013 10:48 AM Eastern Standard Time
To: 'Jody Trapasso'
Subject: RE: Phone Call

If he wanted to do Monday, it's a short hop for the Secretary since he is in Chicago this weekend. I can check on other days as well.

David Strickland
NHTSA Administrator
U.S. Dept. of Transportation
202-366-1836
(From iPhone)

-----Original Message-----

From: Jody Trapasso [jody.trapasso@chrysler.com]
Sent: Friday, June 07, 2013 10:45 AM Eastern Standard Time
To: Strickland, David (NHTSA)
Subject: RE: Phone Call

Are their specific days next week that work best for you and Secretary LaHood? Thanks.

From: david.strickland@dot.gov [mailto:david.strickland@dot.gov]
Sent: Friday, June 07, 2013 10:31 AM
To: Jody Trapasso
Subject: RE: Phone Call

Ok. The Secretary will be in Illinois on Sunday. We are willing to come to Detroit next week with a time that works for everyone. The meeting would only be with the Secretary and I, no other staff, as Sergio wanted.

Let me know if that can be accommodated. Thanks Jody.

David Strickland
NHTSA Administrator
U.S. Dept. of Transportation
202-366-1836
(From iPhone)

-----Original Message-----

From: Jody Trapasso [jody.trapasso@chrysler.com]
Sent: Friday, June 07, 2013 09:48 AM Eastern Standard Time
To: Strickland, David (NHTSA)
Subject: RE: Phone Call

Got it. Thanks, and I'll stand by.

From: david.strickland@dot.gov [mailto:david.strickland@dot.gov]
Sent: Friday, June 07, 2013 9:48 AM
To: Jody Trapasso
Subject: RE: Phone Call

Thanks Jody. It works for me, but before we lock that in, the Secretary has indicated that he would like to sit in on the meeting as well. Let me see if I can coordinate with him on that time, and will get back to you.

David Strickland
NHTSA Administrator
U.S. Dept. of Transportation
202-366-1836
(From iPhone)

-----Original Message-----

From: Jody Trapasso [jody.trapasso@chrysler.com]
Sent: Friday, June 07, 2013 09:06 AM Eastern Standard Time
To: Strickland, David (NHTSA)
Subject: RE: Phone Call

David,

Thanks for taking time to speak last night, and for your willingness to meet this weekend.

If convenient for you, the best time for Sergio is 5:00 PM on Sunday. At your convenience, please advise if that time works.

All the best,

Jody

-----Original Message-----

From: david.strickland@dot.gov [mailto:david.strickland@dot.gov]
Sent: Thursday, June 06, 2013 7:01 PM
To: Jody Trapasso
Subject: Re: Phone Call

Calling now.

On 6/6/13 7:00 PM, "Jody Trapasso" <jody.trapasso@chrysler.com> wrote:

>Now is great. I'm at 202-425-6475. Thanks.

>----- Original Message -----

>**From:** david.strickland@dot.gov [mailto:david.strickland@dot.gov]
>**Sent:** Thursday, June 06, 2013 10:57 PM
>**To:** Jody Trapasso
>**Subject:** Re: Phone Call

>Jody, I have a window now, or I can call you later tonight or tomorrow
>am. Let me know what works.

>**From:** Jody Trapasso
><jody.trapasso@chrysler.com [mailto:jody.trapasso@chrysler.com]>

>Date: Thursday, June 6, 2013 1:18 PM
>To: "Strickland, David (NHTSA)"
>< david.strickland@dot.gov <mailto:david.strickland@dot.gov>>
>Subject: RE: Phone Call

>Perfect. Thank you.

>From: david.strickland@dot.gov <mailto:david.strickland@dot.gov>
>[mailto:david.strickland@dot.gov]
>Sent: Thursday, June 06, 2013 1:18 PM
>To: Jody Trapasso
>Subject: RE: Phone Call

>Got your earlier message, about to get on a plane. Will shoot you a
>note when I have a window to talk.

>David Strickland
>NHTSA Administrator
>U.S. Dept. of Transportation
>202-366-1836
>(From iPhone)

>-----Original Message-----

>From: Jody Trapasso
>[jody.trapasso@chrysler.com <mailto:jody.trapasso@chrysler.com>]
>Sent: Thursday, June 06, 2013 12:55 PM Eastern Standard Time
>To: Strickland, David (NHTSA)
>Subject: Phone Call

>David,

>I hope all is well with you.

>I was hoping to speak briefly with you sometime today. If you have
>time, can you please give me a call at 202-425-6475?

>Thanks in advance for your consideration.

>All the best,

>Jody

>Jody Trapasso
>Senior Vice President, External Affairs Chrysler Group LLC
>1401 H St., NW, Suite 700
>Washington, DC 20005
>Tel: 202-414-6756
>Cell: 202-425-6475
>email: jody.trapasso@chrysler.com <mailto:jody.trapasso@chrysler.com>



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue SE.
Washington, DC 20590

MAR 03 2015

VIA US Mail and Email

James E. Butler, Jr.
Butler Wooten Cheeley & Peake, LLP
105 13th Street
Columbus, GA 31901

Re: Decision Regarding Request to Take the Deposition of David L. Strickland in *James Bryan Walden and Lindsay Walden, Individually and on Behalf of the Estate of Their Deceased Son, Remington Cole Walden v. Chrysler, L.L.C., and Bryan L. Harrell*, Superior Court of Decatur County, Civil Action File No. 12-CV-472.

Dear Mr. Butler:

This letter is a formal response to your request to the National Highway Traffic Safety Administration (“NHTSA” or “Agency”) dated January 27, 2015. You request to take the deposition of David L. Strickland, the former Administrator of the Agency, between Thursday, February 26, 2015 and Monday, March 16, 2015. The Agency is denying your request.

Summary of Your Request Under 49 CFR Part 9

You state that the requested testimony is needed in the case *James Bryan Walden and Lindsay Walden, Individually and on Behalf of the Estate of Their Deceased Son, Remington Cole Walden v. Chrysler, L.L.C., and Bryan L. Harrell*, pending in the Superior Court of Decatur County, Civil Action File No. 12-CV-472. You describe this litigation as arising out of a fatal collision that occurred on March 6, 2012 involving a 1999 Grand Cherokee. The accident caused the death of one of the Jeep’s occupants, Remington Cole Walden. This is state court litigation between private parties. Neither NHTSA, DOT, nor any other agency of the federal government is a party to this state-court litigation.

Specifically, your request states that Mr. Strickland’s testimony would be limited to the following topics: (1) the June 10, 2013 meeting between Chairman Sergio Marchionne, Mr. David Strickland and former Secretary Ray LaHood, including all plans and arrangements therefor—*e.g.*, discussions, emails, etc. with anyone at Chrysler, Ms. Trapasso, Chairman Marchionne, and Secretary LaHood; what Chairman Marchionne, Mr. Strickland, and Secretary LaHood discussed during the June 10, 2013 meeting; and what happened as a result of the June 10, 2013 [sic]—including, but not limited to, the agreement Chairman Marchionne reached with NHTSA regarding the recall of the 1993-2004 Grand Cherokee and 2002-2007 Liberty vehicles;



and (2) Mr. Strickland's employment with the Venable LLP law firm, including the circumstances giving rise to Mr. Strickland's employment with Venable LLP, whether Mr. Strickland discussed his plans regarding his employment with Venable LLP with anyone at Chrysler Group or Fiat, and whether anyone at Venable LLP discussed its plans to hire Mr. Strickland with anyone at Chrysler Group. Additionally, via an e-mail dated March 2, 2015, you requested an additional topic to include in your request to depose Mr. Strickland: whether Mr. Strickland has been in contact with anyone employed by or representing Chrysler Group about your request for a deposition.

You state that this testimony is relevant to Plaintiffs' claims, *e.g.*, Chrysler failed to warn the public adequately of and failed to remedy the known defect in the 1999 Grand Cherokee, Chrysler's defenses in the lawsuit, and the credibility of Chairman Marchionne's testimony. You state that this information is not reasonably available from other sources, including Departmental documents.

Applicable Regulations

The Department has regulations governing the testimony of its employees "in legal proceedings between private litigants to requests or demands for testimony or records concerning information acquired in the course of an employee performing official duties or because of the employee's official status." 49 C.F.R. § 9.2. The legal foundation for Part 9 consists of federal records law and the Supreme Court's decision in *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951). In *Touhy*, the Supreme Court recognized the authority of agencies to restrict testimony of federal employees and the production of documents by regulation.

Regulations covering the testimony of Departmental employees in legal proceedings are found at 49 C.F.R. Part 9 ("Part 9"). These regulations apply to both "current or former officer[s] or employee[s] of the Department." 49 C.F.R. § 9.3. There is a general prohibition against employee testimony disclosing any information acquired as part of the performance of that employee's official duties or because of that employee's official status unless authorized by agency counsel. 49 C.F.R. § 9.5. The reasons for this policy include conserving the time of employees for conducting official business; minimizing the possibility of involving the agency in controversial issues not related to its mission; maintaining the impartiality of the Department among private litigants; avoiding spending the time and money of the United States for private purposes; and protecting confidential, sensitive information and the deliberative processes of the Department. *See* 49 C.F.R. § 9.1(b).

We deviate from this policy only under limited circumstances. Testimony is permitted only when the deviation will not interfere with matters of operational necessity and when agency counsel determines that: (1) it is necessary to prevent a miscarriage of justice; (2) the Department has an interest in the decision that may be rendered in the proceeding; or (3) the exception is in the best interests of the Department or United States. *See* 49 C.F.R. § 9.1(c).

Decision

In conformance with the Department's policy prohibiting employee testimony concerning information acquired in the course of an employee performing official duties or because of the employee's official status, especially in the context of private litigation where the United States is not a party, I am denying your request to take Mr. Strickland's deposition with respect to the matters relating to Mr. Strickland's performance of his official duties or official status as former NHTSA Administrator. NHTSA takes no position on your request for testimony from Mr. Strickland regarding his employment at Venable LLP and matters related thereto. These matters are outside the scope of Part 9 and thus not governed by its provisions.

First, I note that the United States is not a party to this action. Thus, the Department's decision denying your request conforms with the purposes of Part 9 to minimize the possibility of involving the Department in controversial issues not related to its mission, to maintain the impartiality of the Department among private litigants, and to avoid spending the time and money of the United States for private purposes. *See* 49 C.F.R. § 9.1(b).

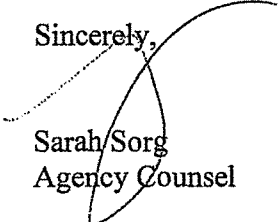
Furthermore, your request does not fall within any of the narrow exceptions to our general policy prohibiting employee testimony. Mr. Strickland's testimony is not necessary to prevent a miscarriage of justice. A "miscarriage of justice" has been defined as "a grossly unfair outcome in a judicial proceeding, as when a defendant is convicted despite a lack of evidence on an essential element of the crime." *Black's Law Dictionary* (9th ed., 2009). *See also Wright v. Hanna Steel Corp.*, 270 F.3d 1336, 1342 (11th Cir. 2001) ("A 'miscarriage of justice' is a '[d]ecision or outcome of [a] legal proceeding that is prejudicial or inconsistent with [the] substantial rights of [a] party.'" (quoting *Black's Law Dictionary*, 999 (6th ed.1990))). There is no discussion in your request about how the requested testimony is necessary to prevent a miscarriage of justice. Rather, it appears that Mr. Strickland's testimony is sought to confirm whether Chairman Marchionne's account of the June 10, 2013 meeting and events giving rise thereto is accurate. However, much of the information in your request should already be available from Chrysler. For example, Chrysler may have documents referring to plans and arrangements for the meeting. Furthermore, it appears that you have already received testimony from Mr. Marchionne regarding the meeting. If Mr. Marchionne's testimony was under oath, you should have had the opportunity to cross-examine him and test the truthfulness of his statement.

Furthermore, the Department does not have an interest in the decision that may be rendered in the legal proceeding, nor do I find that granting the exception is in the best interest of the Department or the United States. NHTSA achieves its safety mission through its own investigations and the issuance and enforcement of its regulations, not through involvement in private civil litigation. Further, NHTSA must consider the cumulative effect of such requests for testimony on the Agency and its employees. NHTSA receives numerous requests for the testimony of its employees and the cumulative effect of granting such requests would be a drain on the Agency's resources. These concerns remain even for former employees, as NHTSA counsel would need to be present for any testimony that is related to a former employee's official

duties or official status. Therefore, the testimony is not in the best interests of the Department or the United States.

After balancing your stated need for the testimony of Mr. Strickland against the purposes of Part 9, we have determined that the interests of the Department and the United States justify denying your request for Mr. Strickland's deposition testimony. This is our final decision. Should you have any questions, please contact me at (202) 366-4252 or Sarah.Sorg@dot.gov.

Sincerely,


Sarah Sorg
Agency Counsel