

00-904-CD  
IN RE: DAKOTA DAVID CLARK

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE:  
② DAKOTA DAVID CLARK, :  
By His Natural Guardian and :  
Parent, Cari Lynn Clark :  
: No. 00-904-CD  
: Type of Case: CIVIL  
: Type of Pleading:  
PETITION FOR CHANGE OF NAME  
: Filed on Behalf of:  
DAKOTA DAVID CLARK  
: Counsel of Record for this Party:  
: Mark S. Weaver, Esq.  
PA Supreme Court No. 63044  
: P.O. Box 170  
211 ½ East Locust Street  
Clearfield, PA 16830  
: (814) 768-9696

**FILED**

AUG 02 2000

William A. Shaw  
Prothonotary

**FILED**

OCT - 9 2000

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE:

DAKOTA DAVID CLARK, : No. 00-904-CD  
By His Natural Guardian and :  
Parent, Cari Lynn Clark :  
:

**RULE**

AND NOW, this 7th day of August, 2000, upon consideration of the foregoing Petition For Change of Name, it is hereby ORDERED and DIRECTED that a rule be issued to show cause why said Petition should not be granted.

Rule returnable with a hearing thereon the 9th day of October, 2000,  
at 2:30 P M. in Courtroom 1 of the Clearfield County Courthouse.

By the Court:

J.

**FILED**

AUG 08 2000

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE:

DAKOTA DAVID CLARK, : No. -CD  
By His Natural Guardian and :  
Parent, Cari Lynn Clark :  
:

**PETITION FOR CHANGE OF NAME**

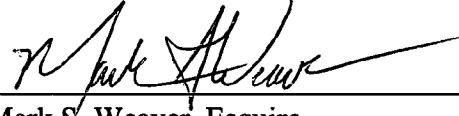
COMES NOW, Petitioner, Dakota David Clark, by his natural guardian and parent, Cari Lynn Clark, and by her attorney, Mark S. Weaver, who requests this Honorable Court to Order a change of his name pursuant to 54 Pa. C.S.A. §701, et seq., and in support thereof, represents:

1. Petitioner's full name is Dakota David Clark. He resides at R.D. 2, Box 211B, Curwensville, Pennsylvania 16833.
2. Petitioner was born October 5, 1999 and is a minor who currently lives with his natural mother, Cari Lynn Clark.
3. There are no judgments or decrees of like nature recorded against the Petitioner.
4. Petitioner's mother used her maiden name at the time of Petitioner's birth.
5. Petitioner's natural father is Mark E. Bloom, who currently resides with Petitioner.
6. Petitioner requests his name be changed from Dakota David Clark to Dakota David Bloom.
7. Petitioner requests this change of name to reflect his natural father's last name.

WHEREFORE, Petitioner, by his natural guardian and parent, Cari Lynn Clark, respectfully requests this Honorable Court to enter an Order changing his name from Dakota David Clark to DAKOTA DAVID BLOOM.

Respectfully submitted,

Date: 8-2-00

  
\_\_\_\_\_  
Mark S. Weaver, Esquire  
Attorney for Petitioner

AFFIDAVIT

STATE OF PENNSYLVANIA :  
: ss  
COUNTY OF CLEARFIELD :

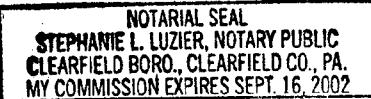
CARI LYN CLARK, being duly sworn according to law deposes and says that she is the natural guardian and parent of the Petitioner in the within Petition, and further that the statements contained in said Petition For Change of Name are true, correct and complete to the best of her information, knowledge and belief.

*Cari Lynn Clark*  
Cari Lynn Clark

SWORN TO AND SUBSCRIBED  
before me this 1<sup>st</sup> day of  
August, 2000.

*Stephanie L. Luzier*

Notary Public



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE:

DAKOTA DAVID CLARK, : No. -CD  
By His Natural Guardian and :  
Parent, Cari Lynn Clark :  
:

**ORDER**

AND NOW, this 9 day of Oct, 2000, upon consideration of the Petition For Change of Name, together with proof that there are no judgments or decrees of like nature of record against the Petitioner, and there appearing to be no lawful objections, it is:

ORDERED that the name of the Petitioner, Dakota David Clark, is hereby changed to and shall hereinafter be known as **DAKOTA DAVID BLOOM**.

By the Court:



**FILED**

OCT - 9 2000  
12:25 PM *EW*  
William A. Shaw  
Prothonotary  
5 C.R.A.T. TO *WAT*

END OF THE PAGE

MARK S. WEAVER

ATTORNEY AT LAW

211 EAST 56TH STREET

P. O. BOX 170

CHESTERFIELD, MO 63130

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

CERTIFIED LIEN SEARCH

IN RE: DAKOTA DAVID CLARK

NO.00-904-CD

STATE OF PENNSYLVANIA

ss:

CLEARFIELD COUNTY,

I, William A. Shaw, Prothonotary of the Court of Common Pleas of County and State aforesaid, do hereby certify that I have examined the indices and there is no lien or judgment entered against DAKOTA DAVID CLARK within the last five years past or remaining unsatisfied in this office since 1975.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal of said Court, at Clearfield, this 9th day of OCTOBER A.D. 2000.

  
\_\_\_\_\_  
William A. Shaw, Prothonotary

**PETITIONER'S  
EXHIBIT**

A 10/10/00  
CP

00-905-CD-  
ROBERT D. HOLLAND -vs- FRED DIETL MOTORS INC. et al.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

81 ROBERT D. HOLLAND,  
Plaintiff

: NO. 00- 905 -CD

vs.

13 FRED DIEHL MOTORS, INC.; and  
GENERAL MOTORS CORPORATION,  
Defendants

: COMPLAINT

: Filed on Behalf of: Plaintiff

: Counsel of Record for This Party:

: JOSEPH COLAVECCHI, Esquire  
: Pa. I. D. #06810

: Colavecchi, Ryan & Colavecchi  
: 221 East Market Street  
: P. O. Box 131  
: Clearfield, PA 16830

: 814/765-1566

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

**FILED**

AUG 03 2000

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,	:	
Plaintiff	:	NO. 00-
	:	-CD
vs.	:	
	:	
FRED DIEHL MOTORS, INC.; and	:	JURY TRIAL DEMANDED
GENERAL MOTORS CORPORATION,	:	
Defendants	:	

**N O T I C E**

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
230 East Market Street  
Clearfield, PA 16830  
Phone: 814/765-2641, Ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, :  
Plaintiff : NO. 00- : -CD  
vs. :  
FRED DIEHL MOTORS, INC.; and : JURY TRIAL DEMANDED  
GENERAL MOTORS CORPORATION, :  
Defendants :  
:

**COMPLAINT**

AND NOW, comes the Plaintiff, ROBERT D. HOLLAND, by and through his attorney, JOSEPH COLAVECCHI, ESQUIRE, who files this Complaint and respectfully avers as follows:

1. Plaintiff is Robert D. Holland, an individual residing at R. R. 3, Box 566-H, Curwensville, Pennsylvania 16833.

2. Defendants are:

(a). Fred Diehl Motors, Inc., a corporation authorized to do business under the laws of the Commonwealth of Pennsylvania, having its principal place of business at Clearfield-Curwensville Highway, Route 879 West, Clearfield, Pennsylvania;

(b). General Motors Corporation, a corporation authorized to do business under the laws of the Commonwealth of Pennsylvania, having its principal place of business at 3044 West Grand Boulevard, Detroit, Michigan 48202.

3. On April 10, 1999 at approximately 1:30 a.m., Plaintiff was a passenger in a 1997 Chevrolet K1500 pick-up truck being

operated by Steven O'Gara.

4. Steven O'Gara was operating the vehicle on S.R. 4005 situated in Bloom Township, Clearfield County, Pennsylvania and was driving in a careful and prudent manner.

5. The motor vehicle being operated by Steven O'Gara was proceeding north on S.R. 4005 which is an asphalt two-lane highway approximately 18½ feet in width. At that time and place, the Chevrolet K1500 pick-up truck malfunctioned with respect to its steering system and components so that Steven O'Gara, despite his best efforts, was unable to control the vehicle.

6. As a result of the steering system malfunction, the vehicle, despite the best efforts of Steven O'Gara, went out of control, spun approximately 105 degrees in a clockwise direction, left the road surface sliding sideways, and traveled approximately 80 feet. The vehicle rolled onto its left side and impacted a tree with the roof area and came to a final rest against a tree on its left side facing southeast.

COUNT I:

ROBERT D. HOLLAND vs. FRED DIEHL MOTORS, INC.

7. Paragraphs 1 through 6 are incorporated herein by reference thereto.

8. Near the time and prior to the accident, the vehicle had

been taken on at least two separate occasions to Fred Diehl Motors, Inc. to have the steering repaired. After the first attempt, the steering failed again and it was taken back to Fred Diehl Motors, Inc. The condition of the steering system remained substantially unchanged from the time of the second alleged repair by Fred Diehl Motors, Inc. to the time of the accident.

9. At the time of the accident, the steering system was in defective condition and unreasonably dangerous to the Plaintiff in that Fred Diehl Motors, Inc. failed to properly repair it.

10. In addition, General Motors Corporation had sent out a service bulletin to all of the General Motors dealers advising them that the vehicle which was being operated by Steven O'Gara had a defective steering system and advised its dealers to remove the bearing assembly and sensor from the steering column and to install a new system. Fred Diehl Motors, Inc. failed to comply with the service bulletin and to correct this problem.

11. The injuries and damages hereinafter set forth were caused solely by and were the direct and proximate result of the negligence of Fred Diehl Motors, Inc. in any or all of the following respects:

a. In failing to follow the instruction from General Motors Corporation in its service bulletin which specifically warned Fred Diehl Motors, Inc. of problems with the steering on the type of vehicle that was being operated by Steven

O'Gara and which was occupied by Plaintiff;

(b). By failing to repair the steering in the motor vehicle, it having been taken to Fred Diehl Motors, Inc. on two separate occasions prior to the accident specifically for steering problems;

(c). By failing to keep the vehicle in its possession until the defective condition of the steering had been fixed by Fred Diehl Motors, Inc.;

(d). In failing to properly inspect the truck and particularly the steering apparatus for functional defects;

(e). In failing to use due care to service the truck in a manner to permit its safe operation, and in particular, the safe operation of the steering mechanism for use of the truck on the highway;

(f). In failing to replace the steering sensor when it was brought in for repair, said Defendant having been made aware by General Motors Corporation through its technical service bulletin that there was a defective steering sensor.

12. Solely as a result of the negligence of the Defendant as aforesaid, Plaintiff sustained various injuries which are of a serious and permanent nature, including injuries to the bones, muscles, tissues, and ligaments of Plaintiff and including internal injuries, shock and injury to the nerves and nervous system, and

other severe and serious injuries.

13. As a result of the injuries as aforesaid, Plaintiff has sustained the following damages:

(a). Said Plaintiff has been and will be required to receive and undergo medical attention and care;

(b). Said Plaintiff has suffered and will suffer great pain, suffering, inconvenience, embarrassment, and mental anguish;

(c). Said Plaintiff has been or will be required to expend large sums of money for surgical and medical attention, hospitalization, medical supplies, surgical appliances, medicines, and attendant services;

(d). Said Plaintiff has been and will be deprived of earnings;

(e). Said Plaintiff's earning capacity has been reduced and permanently impaired;

(f). Said Plaintiff has been disfigured;

(g). Said Plaintiff's general health, strength, and vitality have been impaired.

WHEREFORE, Plaintiff brings this action against Defendant to recover damages in excess of the jurisdiction of the Board of Arbitrators of this Court and in excess of \$20,000.

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

COUNT II:

ROBERT D. HOLLAND vs. GENERAL MOTORS CORPORATION

14. Paragraphs 1 through 6 are incorporated herein by reference thereto.

15. General Motors Corporation is a domestic corporation authorized to do business under the laws of the Commonwealth of Pennsylvania and engaged in the business of selling and servicing automobiles and trucks manufactured by Defendant.

16. Plaintiff was a passenger in a motor vehicle manufactured by Defendant and which had been purchased from Fred Diehl Motors, Inc., one of the dealers acting for General Motors Corporation.

17. As set out above, on April 10, 1999, at approximately 1:30 a.m., while Plaintiff was a passenger in the truck being carefully driven by Steven O'Gara, the steering apparatus of the truck suddenly ceased to function properly, as a result of which Steven O'Gara was unable to control the movements of the truck which, by the force of gravity, went out of control, spun approximately 105 degrees in a clockwise direction, left the road surface sliding sideways, and traveled approximately 80 feet. The vehicle rolled onto its left side and impacted a tree with the roof area and came to a final rest against the tree on its left side facing southeast.

18. The failure of the steering apparatus of the truck and the

accident incident to that failure as described above were not caused in any way by Steven O'Gara's fault, carelessness, or negligence.

19. Defendant, General Motors Corporation, was negligent and reckless in the following respects:

(a). In failing to use due care in the manufacture of the truck;

(b). In failing to use proper materials reasonably suited to the manufacture of a steering mechanism reasonably safe for operation of the truck;

(c). In failing to use due care to test and inspect the steering apparatus of the truck or its durability and functionality for the purpose for which it was intended;

(d). In failing to properly communicate to its dealers the fact that there was a defective steering sensor mechanism installed on the vehicle prior to placing it in the stream of commerce.

20. Solely as a result of the negligence of the Defendant as aforesaid, Plaintiff sustained various injuries which are of a serious and permanent nature, including injuries to the bones, muscles, tissues, and ligaments of Plaintiff and including internal injuries, shock and injury to the nerves and nervous system, and other severe and serious injuries.

21. As a result of the injuries as aforesaid, Plaintiff has

sustained the following damages:

- (a). Said Plaintiff has been and will be required to receive and undergo medical attention and care;
- (b). Said Plaintiff has suffered and will suffer great pain, suffering, inconvenience, embarrassment, and mental anguish;
- (c). Said Plaintiff has been or will be required to expend large sums of money for surgical and medical attention, hospitalization, medical supplies, surgical appliances, medicines, and attendant services;
- (d). Said Plaintiff has been and will be deprived of earnings;
- (e). Said Plaintiff's earning capacity has been reduced and permanently impaired;
- (f). Said Plaintiff has been disfigured;
- (g). Said Plaintiff's general health, strength, and vitality have been impaired.

WHEREFORE, Plaintiff brings this action against Defendant to recover damages in excess of the jurisdiction of the Board of Arbitrators of this Court and in excess of \$20,000.

COUNT III:

ROBERT D. HOLLAND vs. GENERAL MOTORS CORPORATION—BREACH OF WARRANTY

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

22. Plaintiff incorporates Paragraphs 1 through 21 herein and makes the same a part of this cause of action.

23. When the truck was purchased, Defendant warranted that the truck was of good and merchantable quality; that it was fit for use in traveling on the highways at various speeds; and that the various components of the truck and in particular, the steering mechanism or apparatus, were manufactured of good and merchantable materials; that it was properly assembled, inspected, and tested; and that it was not made of defective parts or materials.

24. Defendant breached the warranties alleged above in the following respects:

(a). The truck was not fit for the purpose for which it was sold or purchased;

(b). The truck was not made of good and merchantable materials;

(c). The truck contained defective and improperly manufactured and assembled parts;

(d). The truck contained a defective and dangerously malfunctioning steering mechanism or apparatus;

(e). The truck was not suitable or capable of performing the function for which it was intended;

(f). The truck was not properly inspected, tested, or serviced;

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

(g). The truck and its various parts were not as represented to the purchaser;

(h). Defendant manufactured the vehicle with a defective steering sensor mechanism.

25. As a direct result of the breaches of warranty by the Defendant as alleged above, Plaintiff was injured in the motor vehicle accident as described above and in the future will continue to suffer great physical pain and mental anguish by reason of these injuries and the treatment of them, all to his damage.

26. Notice was given to Defendant of the breach of the warranties by taking the vehicle to its agent, Fred Diehl Motors, Inc., on at least two occasions to have the steering repaired and/or replaced and the agent of General Motors Corporation, Fred Diehl Motors, Inc., failed to do so.

WHEREFORE, Plaintiff brings this action against Defendant to recover damages in excess of the jurisdiction of the Board of Arbitrators of this Court and in excess of \$20,000.



JOSEPH COLAVECCHI, ESQUIRE  
Attorney for Plaintiff

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

VERIFICATION

I, Plaintiff, verify that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
Robert D. Holland

Lap over margin

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
NO. 00-  
-CD

ROBERT D. HOLLAND, Plaintiff

vs.

FRED DIEHL MOTORS, INC.; and  
GENERAL MOTORS CORPORATION,  
Defendants

COMPLAINT

NOTICE TO DEFENDANTS:

YOU are hereby notified  
that you are required to file  
an answer to the within  
Complaint within twenty (20)  
days after service upon you  
or judgment may be entered  
against you.

*John Colavecchi*  
JOSEPH COLAVECCHI, ESQUIRE  
Attorney for Plaintiff

*John Colavecchi*  
RYAN & COLAVECCHI  
ATTORNEYS AT LAW  
221 EAST MARKET STREET  
(ACROSS FROM COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA 16830

FILED

AUG 03 2000

of 10-101-1  
William A. Shaw  
Prothonotary

BY ATTY  
7 CANT TO ATTY

JOSEPH COLAVECCHI

(2)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HOLLAND, ROBERT D.

00-905-CD

VS

FRED DIEHL MOTORS, INC.

COMPLAINT

SHERIFF RETURNS

NOW AUGUST 4, 2000 MAILED THE WITHIN COMPLAINT TO GENERAL MOTORS CORPORATION, DEFENDANT BY CERTIFIED MAIL # 7000 0600 0023 2701 1984 AT 3044 WEST GRAND BLVD., DETROIT, MICHIGAN 48202 BEING THEIR LAST KNOWN ADDRESS. THE RETURN RECEIPT IS HERETO ATTACHED AND MADE A PART OF THIS RETURN ENDORSED BY AGENT FOR DEFENDANT.

NOW AUGUST 15, 2000 AT 10:45 AM DST SERVED THE WITHIN COMPLAINT ON FRED DIEHL MOTORS INC., DEFENDANT AT KEN LONG MOTORS, RT. 53, CHESTER HILL, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO FRED DIEHL JR. A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.  
SERVED BY: DAVIS/MORGILLO.

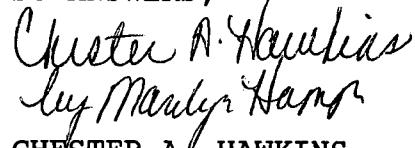
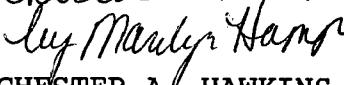
38.59 SHFF. HAWKINS PAID BY: ATTY.  
20.00 SURCHARGE PAID BY: ATTY.

SWORN TO BEFORE ME THIS

29th DAY OF August 2000  


WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2002  
Clearfield Co., Clearfield, PA.

SO ANSWERS,

  
by 

CHESTER A. HAWKINS  
SHERIFF

FILED

AUG 29 2000  
112:21 pm  
William A. Shaw  
Prothonotary 

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**1. Article Addressed to:**

GENERAL MOTORS CORPORATION  
3044 West Grand Blvd.  
Detroit, Michigan 48202

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly)  B. Date of Delivery

**C. Signature**

  Agent  Addressee

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:   No

**3. Service Type**

Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

**4. Restricted Delivery? (Extra Fee)**

Yes

2. Article Number (Copy from service label)  
7000 0600 0023 2701 1984

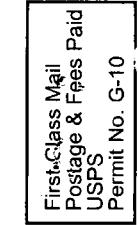
Domestic Return Receipt

102595-99-M-1789

4

PS Form 3811, July 1999

UNITED STATES POSTAL SERVICE



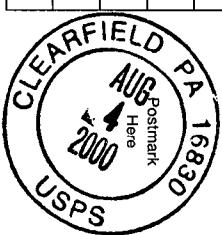
- **Sender:** Please print your name, address, and ZIP+4 in this box •

CHESTER A. HAWKINS  
Sheriff of Clearfield County  
11 N. 2nd St. Suite 116  
Clearfield, Pa. 16830

C-10012

20

7000 0600 0023 2701 1984											
Article Sent To:											
<table border="1"> <tr> <td>Postage</td> <td>\$</td> </tr> <tr> <td>Certified Fee</td> <td></td> </tr> <tr> <td>Return Recipient Fee (Endorsement Required)</td> <td></td> </tr> <tr> <td>Restricted Delivery Fee (Endorsement Required)</td> <td></td> </tr> <tr> <td><b>Total Postage &amp; Fees</b></td> <td><b>\$ 34</b></td> </tr> </table>		Postage	\$	Certified Fee		Return Recipient Fee (Endorsement Required)		Restricted Delivery Fee (Endorsement Required)		<b>Total Postage &amp; Fees</b>	<b>\$ 34</b>
Postage	\$										
Certified Fee											
Return Recipient Fee (Endorsement Required)											
Restricted Delivery Fee (Endorsement Required)											
<b>Total Postage &amp; Fees</b>	<b>\$ 34</b>										
<p>Name (Please Print Clearly) (to be completed by mailer)  <b>GENERAL MOTORS CORPORATION</b></p> <p>Street, Apt. No., or P.O. Box No.  <b>3044 West Grand Blvd.</b></p> <p>City, State, ZIP/4  <b>Detroit, Michigan 48202</b></p>											
<small>PS Form 3800, July 1999</small>											
<small>See Reverse for Instructions</small>											



**Certified Mail Provides:**

- A mailing receipt
- A unique identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

**Important Reminders:**

- Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- Certified Mail is *not* available for any class of International mail.
- ~~NO INSURANCE COVERAGE IS PROVIDED~~ with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a *Return Receipt* may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

**IMPORTANT: Save this receipt and present it when making an inquiry.**

PS Form 3800, July 1999 (Reverse) C. 10012  
102595-99-M-2087

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 - CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

PRAECIPE FOR APPEARANCE

Defendants.

Filed on behalf of:  
DEFENDANT,  
FRED DIEHL MOTORS, INC.

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**FILED**

SEP 11 2000

William A. Shaw  
Prothonotary

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219

(412) 281-8000

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 - CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

**PRAECIPE FOR APPEARANCE**

TO: THE PROTHONOTARY OF CLEARFIELD COUNTY

Kindly enter my appearance on behalf of the DEFENDANT, FRED DIEHL  
MOTORS, INC. in the civil action listed above.

Respectfully submitted,

ZIMMER KUNZ  
PROFESSIONAL CORPORATION

By \_\_\_\_\_  
JEFFREY A. RAMALEY, ESQUIRE  
Attorney for Defendant,  
Fred Diehl Motors, Inc.

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within PRAECIPE FOR APPEARANCE was forwarded to counsel below named by United States Mail on the 8th day of September, 2000:

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

General Motors Corporation  
3031 West Grand Boulevard  
M.C. 482-207-722  
Detroit, MI 48202  
(Defendants)

ZIMMER KUNZ  
PROFESSIONAL CORPORATION

By

JEFFREY A. RAMALEY, ESQUIRE

JOSEPH COLAVECCHI

(4)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HOLLAND, ROBERT D.

00-905-CD

VS

FRED DIEHL MOTORS, INC.

COMPLAINT

SHERIFF RETURNS

NOW AUGUST 31, 2000 MAILED THE WITHIN COMPLAINT TO JOHN S. SMITH JR., PRESIDENT GENERAL MOTORS CORPORATION, DEFENDANT BY CERT. MAIL # 7000 0600 0023 2701 1878 AT 100 RENAISSANCE CENTER, DETROIT, MICHIGAN 48243 BEING THEIR LAST KNOWN ADDRESS. THE RETURN RECEIPT IS HERETO ATTACHED AND MADE A PART OF THIS RETURN ENDORSED BY TYRONE SETTER.

12.75 SHFF. HAWKINS PAID BY: *Getty*  
SWORN TO BEFORE ME THIS

18 / DAY OF SEP 2000  
*Chester A. Hawkins*

SO ANSWERS,

*Chester A. Hawkins*  
*by Marilyn Harr*

CHESTER A. HAWKINS  
SHERIFF

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2002  
Clearfield Co., Clearfield, PA.

FILED

SEP 18 2000  
4:00 PM  
William A. Shaw  
Prothonotary

*WAS*

CHESTER A. HAWKINS

SHERIFF

\*COURTHOUSE

1 NORTH SECOND STREET - SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830



PLACE STICKER AT TOP OF ENVELOPE  
TO THE RIGHT OF RETURN ADDRESS.  
FOLD AT DOTTED LINE

**CERTIFIED MAIL**



7000 0600 0023 2701 1984

48202-3000

GENERAL MOTORS CORPORATION  
3044 West Grand Blvd.  
Detroit, Michigan 48202  
UNKNOWN

WE ARE RETURNING THIS CO  
DUE TO THE FOLLOWING  
 TO WHOSE ATTEN  
 TO WHICH DEPAR  
 NO MAIL CODE

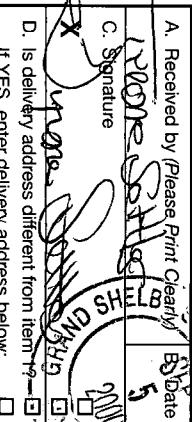
**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**1. Article Addressed to:**

JOHN S. SMITH JR., President  
General Motors Corporation  
100 Renaissance Center  
Detroit, Michigan 48243

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly)	B. Date of Delivery
12/01/99	5
C. Signature	
	
D. Is delivery address different from item 1?	
If YES, enter delivery address below:	
<input type="checkbox"/> Yes	<input type="checkbox"/> No

**3. Service Type**

Certified Mail    Express Mail  
 Registered    Return Receipt for Merchandise  
 Insured Mail    C.O.D.

**4. Restricted Delivery? (Extra Fee)**

Yes

**2. Article Number (Copy from service label)**

7000 0600 0023 2701 1878

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

UNITED STATES POSTAL SERVICE



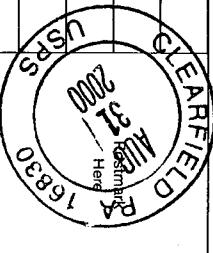
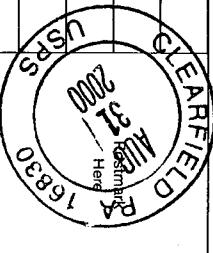
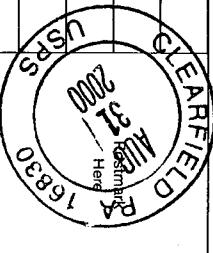
First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

- Sender: Please print your name, address, and ZIP+4 in this box •

CHESTER A. HAWKINS  
Sheriff of Clearfield County  
1 N. 2nd St. Suite 116  
Clearfield, Pa. 16830

C-10012

02  
00000000000000000000000000000000

7000 0600 0023 2701 1878										
U.S. Postal Service <b>CERTIFIED MAIL RECEIPT</b> <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>										
Article Sent To:										
<table border="1"> <tr> <td>Postage</td> <td>\$</td> <td rowspan="4" style="text-align: center;">  </td> </tr> <tr> <td>Certified Fee</td> <td></td> </tr> <tr> <td>Return Receipt Fee (Endorsement Required)</td> <td></td> </tr> <tr> <td>Restricted Delivery Fee (Endorsement Required)</td> <td></td> </tr> </table>		Postage	\$		Certified Fee		Return Receipt Fee (Endorsement Required)		Restricted Delivery Fee (Endorsement Required)	
Postage	\$									
Certified Fee										
Return Receipt Fee (Endorsement Required)										
Restricted Delivery Fee (Endorsement Required)										
<b>Total Postage &amp; Fees</b> <b>\$3.42</b>										
<small>Name (Please Print Clearly) (to be completed by mailer)</small> JOHN S. SMITH JR., President General Motors Corporation 100 Renaissance Center City, State, ZIP-4 Detroit, Michigan 48243										
<small>PS Form 3800, July 1999</small>										
<small>See Reverse for Instructions</small>										

**Certified Mail Provides:**

- A mailing receipt
- A unique identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

**Important Reminders:**

- Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- Certified Mail is not available for any class of international mail.
- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a Return Receipt may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Enclose mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

**IMPORTANT: Save this receipt and present it when making an inquiry.**

PS Form 3800, July 1999 (Reverse)  
102595-99-M-2087

5  
IN THE COURT OF COMMON PLEASE OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,

Plaintiff,

v.

CIVIL ACTION NO. 00-905-CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION

Defendants.

PRAECIPE FOR ENTRY OF APPEARANCE

To: William A. Shaw, Clerk of Courts & Prothonotary

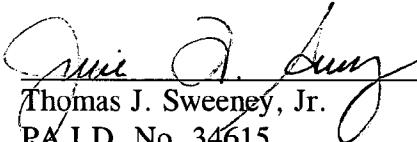
Kindly enter our appearance as counsel of record for Defendant General Motors  
Corporation in the within-captioned action.

ECKERT SEAMANS CHERIN & MELLOTT, LLC

**FILED**

SEP 28 2000

William A. Shaw  
Prothonotary

  
Thomas J. Sweeney, Jr.

PA I.D. No. 34615

Julie F. Sweeney

PA I.D. No. 47040

Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(412) 566-6000

Attorneys for Defendant  
General Motors, a corporation

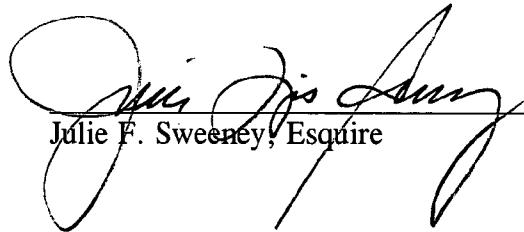
Dated: September 26, 2000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Praeclipe for Entry of Appearance was forwarded by first class, postage prepaid U.S. mail addressed to the following counsel of record on this 26<sup>th</sup> day of September, 2000.

Joseph Colavecchi, Esq.  
Colavecchi & Ryan  
221 East Market Street  
Clearfield, PA 16830

Jeff Ramaley, Esq.  
Zimmer Kunz  
3300 USX Tower  
600 Grant Street  
Pittsburgh, PA 15219

  
Julie F. Sweeney, Esquire

(6)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

**PRAECLPICE FOR AN ISSUANCE OF  
A WRIT OF SUMMONS TO JOIN  
ADDITIONAL DEFENDANT**

Filed on behalf of:  
DEFENDANT,  
FRED DIEHL MOTOR, INC.

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219

(412) 281-8000

**FILED**

OCT 02 2000

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

PRAECIPE FOR THE ISSUANCE OF  
A WRIT OF SUMMONS TO JOIN ADDITIONAL DEFENDANT

TO: THE PROTHONOTARY OF CLEARFIELD COUNTY

Kindly issue a Writ of Summons joining Steven Gerard O'Gara as an Additional Defendant to the litigation listed above.

Respectfully submitted,

ZIMMER KUNZ  
PROFESSIONAL CORPORATION

By \_\_\_\_\_  
JEFFREY A. RAMALEY, ESQUIRE  
Attorney for Additional Defendant,  
Fred Diehl Motors, Inc.

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within ANSWER, NEW MATTER AND NEW MATTER 2252(D) was forwarded to counsel below named by United States Mail on the 22nd day of Sept., 2000:

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

General Motors Corporation  
3031 West Grand Boulevard  
M.C. 482-207-722  
Detroit, MI 48202  
(Defendants)

ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY

By

  
\_\_\_\_\_  
JEFFREY A. RAMALEY, ESQUIRE

FILED

OCT 02 2000  
324 A.M. Remmey  
William A. Shaw  
Prothonotary

pd \$80.00

Writ of Summons  
to Show D

Ex

**COPY**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA  
CIVIL DIVISION

**WRIT TO JOIN ADDITIONAL DEFENDANT**

ROBERT D. HOLLAND

Plaintiff

vs.

NO. 00-905-CD

FRED DIEHL MOTORS, INC. and

GENERAL MOTORS CORPORATION

Defendant

vs.

STEPHEN GERARD O'GARA

Additonal Defendant

To STEVEN GERARD O'GARA :

You are notified that Fred Diehl Motors, Inc.

has joined you as an additional defendant in this action, which you are required to defend.

Dated: October 6, 2000

\_\_\_\_\_  
Prothonotary

Jeffrey A. Ramaley, Esquire  
Attorney

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

Filed on behalf of:  
DEFENDANT,  
FRED DIEHL MOTOR, INC.

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ZIMMER KUNZ**  
**PROFESSIONAL LIMITED**  
**LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219

(412) 281-8000

**FILED**

OCT 06 2000

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

**ANSWER, NEW MATTER AND NEW MATTER UNDER RULE 2252(D)**

Defendant, FRED DIEHL MOTORS, INC., by its attorneys, ZIMMER KUNZ, P.L.L.C. files the following Answer, New Matter and New Matter Under Rule 2252(d) and, in support thereof, avers as follows:

1. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraphs 1, 2(b), 3, 4 and 13 of Plaintiff's Complaint and, as such, same are deemed to be denied and strict proof thereof is demanded.

2. The averments contained in paragraph 2(a) of Plaintiff's Complaint are admitted in part and denied in part. It is admitted that Fred Diehl Motors, Inc. was a corporation authorized to do business in the Commonwealth of Pennsylvania at the address listed in Plaintiff's Complaint; however, said corporation is no longer doing business.

3. In response to paragraphs 5 and 6 of Plaintiff's Complaint, it is specifically denied that the pickup truck malfunctioned with respect to its steering system and/or components. In support of said denial, it is averred that said vehicle's steering system and components were in good working condition. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in the aforementioned paragraphs of Plaintiff's Complaint and, as such, same are deemed to be denied and strict proof thereof is demanded.

4. In response to paragraph 7 of Plaintiff's Complaint, which incorporates the preceding paragraphs of said Complaint, Defendant, in response thereto, incorporates herein by reference as if set forth at length the averments contained in this pleading.

5. The allegations contained in paragraph 8 of Plaintiff's Complaint are admitted in part and denied in part. It is admitted that in December of 1998 that this Defendant removed and replaced a steering box on a 1997 Chevrolet truck, model K10, owned by a David L. Holland, Sr. and bearing vehicle number 2GCEK19R3V1237343. All other averments contained in paragraph 8 of Plaintiff's Complaint are specifically denied.

6. The allegations contained in paragraphs 9 and 11 of Plaintiff's Complaint are denied.

7. The averments contained in paragraph 10 of Plaintiff's Complaint are admitted in part and denied in part. It is admitted that the General Motors Corporation issued a service bulletin bearing bulletin number 86-32-06. Said bulletin speaks for itself. It is further admitted that Defendant received a copy of said bulletin. The remaining averments contained in paragraph 10 of Plaintiff's Complaint are denied.

8. The allegations of negligence contained in paragraph 12 of Plaintiff's Complaint are denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in the aforementioned paragraph of Plaintiff's Complaint and, as such, same are deemed to be denied and strict proof thereof is demanded.

9. Paragraphs 14 through 26 of Plaintiff's Complaint are directed to a party other than this Defendant and, as such, a response is not required on behalf of this Defendant. In the event it is determined that a response is required on behalf of this Defendant, Defendant, in response thereto, incorporates herein by reference as if set forth at length the averments contained in the preceding paragraphs of this Complaint.

WHEREFORE, Defendant requests that judgment be entered in its behalf and against the Plaintiff.

**NEW MATTER**

10. If it is determined through discovery in this matter that the Plaintiff elected and/or is deemed to have elected the limited tort option under §1705 of the Pennsylvania Motor Vehicle Financial Responsibility Law, then Defendant reserve the right to plead that the Plaintiff is barred from making any claims other than for "economic damages" as that term is defined under §1705.

11. Plaintiff is barred from pleading, proving and/or recovering the amount of any benefits paid or payable as set forth in §§1719 and 1722 of the Pennsylvania Motor Vehicle Financial Responsibility Law.

12. In the event that it is determined that Plaintiff suffered injuries and damages, which is specifically denied by this Defendant, then same were a sole and proximate result of the negligence conduct of Steven Gerard O'Gara for his negligent operation of the motor vehicle in question.

WHEREFORE, Defendant requests that judgment be entered in its behalf and against the Plaintiff.

**NEW MATTER UNDER RULE 2252(d)**

13. In the event that it is determined that Plaintiff suffered injuries and damages, then Defendant sets forth herein its claim for contribution, indemnity, sole liability and/or liability over as to the Co-defendant. Further, attached hereto and marked as Exhibit "A" is a true and correct copy of an excerpt of a written agreement between the Defendants whereunder General Motors Corporation agreed to indemnify this Defendant and assume its defense.

WHEREFORE, Defendant requests that judgment be entered in its behalf and against all other parties to this action.

Respectfully submitted,

ZIMMER KUNZ, P.L.L.C.

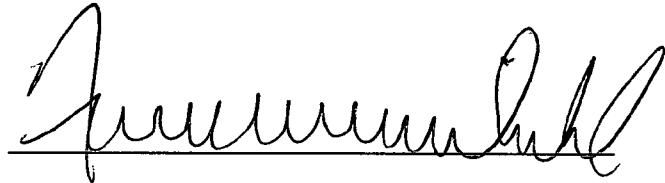
  
By \_\_\_\_\_  
JEFFREY A. RAMALEY, ESQUIRE  
Attorney for Defendant,  
FRED DIEHL MOTORS, INC

**VERIFICATION**

I, FRED DIEHL, in his capacity as PRESIDENT for FRED DIEHL MOTORS, INC., have read the foregoing ANSWER, NEW MATTER AND NEW MATTER 2252(d). The statements contained therein are true and correct to the best of my personal knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.

DATE: 9/28/00

A handwritten signature in black ink, appearing to read "Fred Diehl". The signature is fluid and cursive, with a large, stylized 'F' at the beginning.

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within ANSWER, NEW MATTER AND NEW MATTER 2252(D) was forwarded to counsel below named by United States Mail on the 4th day of Oct., 2000:

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY

By

JEFFREY A. RAMALEY, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

**PRAECIPE FOR ISSUANCE OF  
A WRIT TO JOIN ADDITIONAL  
DEFENDANT**

Filed on behalf of:  
DEFENDANT,  
FRED DIEHL MOTOR, INC.

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219

(412) 281-8000

**FILED**

OCT 09 2000

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

PRAECIPE FOR ISSUANCE OF  
A WRIT TO JOIN ADDITIONAL DEFENDANT

TO: THE PROTHONOTARY OF CLEARFIELD COUNTY

Kindly issue a Writ joining Steven Gerard O'Gara as an Additional Defendant to the civil action listed above.

Respectfully submitted,

ZIMMER KUNZ  
PROFESSIONAL CORPORATION

  
By

JEFFREY A. RAMALEY, ESQUIRE  
Attorney for Defendant,  
Fred Diehl Motors, Inc.

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within PRAECIPE FOR  
ISSUANCE OF A WRIT TO JOIN ADDITONAL DEFENDANT was forwarded to counsel  
below named by United States Mail on the 6th day of October, 2000:

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Thomas J. Sweeney, Jr., Esquire  
Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY

  
By

JEFFREY A. RAMALEY, ESQUIRE

COPIED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA  
CIVIL DIVISION

WRIT TO JOIN ADDITIONAL DEFENDANT

ROBERT D. HOLLAND

Plaintiff

vs.

NO. 00-905-CD

FRED DIEHL MOTORS, INC. and

GENERAL MOTORS CORPORATION

Defendant

vs.

STEPHEN GERARD O'GARA

Additonal Defendant

To STEVEN GERARD O'GARA :

You are notified that Fred Diehl Motors, Inc.,  
has joined you as an additional defendant in this action, which you are  
required to defend.

Dated: October 9, 2000

\_\_\_\_\_  
Prothonotary

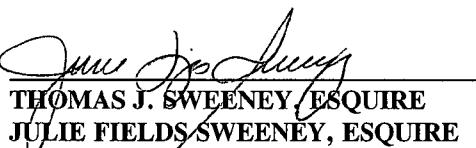
Jeffrey A. Ramaley, Esquire  
Attorney

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, )  
Plaintiff, ) No. 00-905-CD  
vs. ) ANSWER, NEW MATTER AND  
FRED DIEHL MOTORS, INC.; and ) NEW MATTER PURSUANT TO  
GENERAL MOTORS CORPORATION ) 2252(D) IN RESPONSE TO  
Defendants, ) PLAINTIFF'S COMPLAINT  
 ) Filed on behalf of Defendant  
 ) GENERAL MOTORS CORPORATION  
 ) Counsel of Record for this Party:  
 ) Thomas J. Sweeney  
 ) Pa. I.D. # 34615  
 ) Julie F. Sweeney  
 ) Pa. I.D. # 47040  
 ) Eckert Seamans Cherin & Mellott  
 ) 600 Grant Street, 44<sup>th</sup> Floor  
 ) Pittsburgh, PA 15219  
 ) (412) 566-6000

## TO ALL PARTIES:

**YOU ARE HEREBY NOTIFIED TO PLEAD TO THE  
WITHIN ANSWER, NEW MATTER AND NEW MATTER  
PURSUANT TO 2252(D) WITHIN TWENTY (20) DAYS  
AFTER SERVICE OR A DEFAULT JUDGMENT MAY BE  
ENTERED AGAINST YOU.**

  
THOMAS J. SWEENEY, ESQUIRE  
JULIE FIELDS SWEENEY, ESQUIRE

**FILED**

OCT 16 2000

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA,  
CIVIL ACTION

ROBERT D. HOLLAND,	)	
	)	
Plaintiff,	)	No. 00-905-CD
	)	
vs.	)	
	)	
FRED DIEHL MOTORS, INC.; and,	)	
GENERAL MOTORS CORPORATION	)	
	)	
Defendants,	)	

**ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO 2252(D)**  
**IN RESPONSE TO PLAINTIFF'S COMPLAINT**

AND NOW, comes the defendant GENERAL MOTORS CORPORATION, by its attorneys, Thomas J. Sweeney, Esquire, Julie Fields Sweeney, Esquire and Eckert Seamans Cherin & Mellott, LLC, and files the within Answer, New Matter and New Matter Pursuant to 2252(d) in response to plaintiff's Complaint, averring as follows:

**ANSWER**

1. After reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 of plaintiff's Complaint, the same being denied and strict proof thereof is demanded at the time of trial.

2. The allegations set forth in paragraph 2, subparagraph (b) are denied as stated. Rather, it is averred that General Motors Corporation is incorporated under the laws of the State of Delaware and has its principal place of business at 300 Renaissance Center Detroit, Michigan 48265-300. General Motors is authorized to conduct business in the

Commonwealth of Pennsylvania. With respect to the remaining allegations set forth in paragraph 2, subparagraph (a), said allegations are directed to a defendant other than General Motors Corporation and thus, require no response by this answering defendant.

3. After reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 of plaintiff's Complaint, the same being denied and strict proof thereof is demanded at the time of trial. Further, based upon information and belief, it is averred that the plaintiff or Steven O'Gara may have been operating the subject 1997 Chevrolet K1500 pick-up truck ("subject vehicle") at the time of the subject accident.

4. After reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 4 of plaintiff's Complaint, the same being denied and strict proof thereof is demanded at the time of trial.

5. After reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of plaintiff's Complaint, the same being denied and strict proof thereof is demanded at the time of trial. Further, the allegations set forth in paragraph 5 of plaintiff's Complaint that an alleged malfunction of the steering system and/or components of the subject vehicle caused any accident as set forth in plaintiff's Complaint are denied and strict proof thereof is demanded at the time of trial. Rather, it is averred that the alleged accident and allegedly resultant injuries and damages were caused solely and proximately by the negligence of the operator of the vehicle and/or by the plaintiff's own negligent maintenance and operation of the subject vehicle prior to and at the time of this alleged incident.

6. After reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 of plaintiff's Complaint, the same being denied and strict proof thereof is demanded at the time of trial. Further, the allegations set forth in paragraph 6 of plaintiff's Complaint that an alleged malfunction of the steering system and/or components of the subject vehicle caused any accident as set forth in plaintiff's Complaint are denied and strict proof thereof is demanded at the time of trial. Rather, it is averred that the alleged accident and allegedly resultant injuries and damages were caused solely and proximately by the negligence of the operator of the vehicle and/or by the plaintiff's own negligent maintenance and operation of the subject vehicle prior to and at the time of this alleged incident.

COUNT I

ROBERT D. HOLLAND vs. FRED DIEHL MOTORS, INC

7. Defendant, General Motors Corporation, incorporates by reference its answers to paragraphs 1 through 6 of plaintiff's Complaint as though more fully set forth at length herein.

8. After reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8 of plaintiff's Complaint, the same being denied and strict proof thereof is demanded at the time of trial.

9. After reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 9 of plaintiff's Complaint, the same being denied and strict proof thereof is demanded at the time of trial. Further, the allegations set forth in paragraph 9 of plaintiff's Complaint that an alleged malfunction of the steering system and/or components of the subject vehicle caused any accident

as set forth in plaintiff's Complaint are denied and strict proof thereof is demanded at the time of trial.

10. After reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 10, of plaintiff's Complaint, as the plaintiff fails to allege sufficient facts for General Motors to identify the alleged service bulletin allegedly sent to all General Motors Dealers. Therefore, said allegations are denied and strict proof thereof is demanded at the time of trial. Further, it is denied that defendant General Motors sent any service bulletin to any General Motors Dealer dealing specifically with the vehicle identified in plaintiff's Complaint.

11. The allegations set forth in paragraph 11 and subparagraphs thereunder of plaintiff's Complaint are directed to a defendant other than General Motors Corporation and thus, require no response from this answering defendant. To the extent that a response is deemed to be required, after reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11 of plaintiff's Complaint, the same being denied and strict proof thereof is demanded at the time of trial.

12. The allegations set forth in paragraph 12 and subparagraphs thereunder of plaintiff's Complaint are directed to a defendant other than General Motors Corporation and thus, require no response from this answering defendant. To the extent that a response is deemed to be required, after reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph

12 of plaintiff's Complaint, the same being denied and strict proof thereof is demanded at the time of trial.

13. The allegations set forth in paragraph 13 and subparagraphs thereunder of plaintiff's Complaint are directed to a defendant other than General Motors Corporation and thus, require no response from this answering defendant. To the extent that a response is deemed to be required, after reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 13 of plaintiff's Complaint, the same being denied and strict proof thereof is demanded at the time of trial.

WHEREFORE, defendant, GENERAL MOTORS CORPORATION, denies any and all liability to the plaintiff and demands that judgment be entered in its favor with costs sustained.

**JURY TRIAL DEMANDED**

COUNT II

ROBERT D. HOLLAND vs. GENERAL MOTORS CORPORATION

14. Defendant, General Motors Corporation, incorporates by reference its answers to paragraphs 1 through 13 of plaintiff's Complaint as though more fully set forth at length herein.

15. Paragraph 15 of plaintiff's Complaint is denied as stated. It is averred that General Motors Corporation is a domestic corporation authorized to do business in the Commonwealth of Pennsylvania and is engaged in the business of, among other things, designing, manufacturing in part, and selling motor vehicles, including in Chevrolet K1500 pick-up trucks. Any allegation to the contrary is specifically denied and strict proof thereof is demanded at the time of trial.

16. After reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 16 of plaintiff's Complaint regarding whether the plaintiff was a passenger in the subject vehicle allegedly manufactured by General Motors Corporation and allegedly purchased from Fried Diehl Motors, Inc., the same being denied and strict proof thereof is demanded at the time of trial. Based upon information and belief, it is averred that the plaintiff or Steven O'Gara may have been operating the subject vehicle at the time of the subject accident. Further, it is denied as stated that Fred Diehl Motors was allegedly one of the dealers acting for General Motors Corporation. Rather, it is averred that Fred Diehl Motors is a dealer authorized to sell and service certain of General Motors Corporation automobiles and trucks.

17. After reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations as to the time, place, and date of the accident as set forth in paragraph 17 of plaintiff's Complaint, the same being denied and strict proof thereof is demanded at the time of trial. Further, the allegations set forth in paragraph 17 of plaintiff's Complaint that an alleged malfunction of the steering system and/or components of the subject vehicle caused any accident as set forth in plaintiff's Complaint are specifically denied and strict proof thereof is demanded at the time of trial. Rather, it is averred that the alleged accident and allegedly resultant injuries and damages were caused solely and proximately by the negligence of the operator of the vehicle and/or by the plaintiff's own negligent maintenance and operation of the subject vehicle prior to and at the time of this alleged incident.

18. The allegations set forth in paragraph 18 of plaintiff's Complaint are specifically denied and strict proof thereof is demanded at the time of trial. By way of further response,

this defendant incorporates by reference its answers to paragraphs 16 and 17 of plaintiff's Complaint as though more fully set forth at length herein.

19. The allegations set forth in paragraph 19 and subparagraphs thereunder of plaintiff's Complaint are specifically denied and strict proof thereof is demanded at the time of trial. On the contrary, it is averred that at all times relevant hereto, General Motors Corporation exercised reasonable care in the manner in which it manufactured, tested, and/or inspected the subject vehicle and/or communicated to its authorized dealers. Further, it is averred that the subject vehicle was designed, manufactured and sold in a condition fit for its intended and foreseeable use. By way of further response, General Motors Corporation incorporates by reference its answers to paragraphs 16 and 17 of plaintiff's Complaint as though more fully set forth at length herein.

20. After reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 20 of plaintiff's Complaint as to the alleged injuries sustained by the plaintiff, the same being denied and strict proof thereof is demanded at the time of trial. Further, it is specifically denied that any alleged injuries were caused by any alleged negligence of this defendant and strict proof thereof is demanded at the time of trial. By way of further response, General Motors Corporation incorporates by reference its answers to paragraphs 16, 17 and 19 of plaintiff's Complaint as though more fully set forth at length herein.

21. After reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 21 of plaintiff's Complaint as to the alleged damages sustained by the plaintiff, the same being denied and strict

proof thereof is demanded at the time of trial. Further, it is specifically denied that any alleged damages were caused by any alleged negligence of this defendant and strict proof thereof is demanded at the time of trial. By way of further response, General Motors Corporation incorporates by reference its answers to paragraphs 16, 17 and 19 of plaintiff's Complaint as though more fully set forth at length herein.

WHEREFORE, defendant, GENERAL MOTORS CORPORATION, denies any and all liability to the plaintiff and demands that judgment be entered in its favor with costs sustained.

**JURY TRIAL DEMANDED**

COUNT III

ROBERT D. HOLLAND vs. GENERAL MOTORS CORPORATION –  
BREACH OF WARRANTY

22. Defendant, General Motors Corporation, incorporates by reference its answers to paragraphs 1 through 21 of plaintiff's Complaint as though more fully set forth at length herein.

23. The allegations set forth in paragraph 23 of plaintiff's Complaint state conclusions of law to which no response is required. To the extent that a response is deemed to be required, said allegations are specifically denied and strict proof thereof is demanded at the time of trial. To the contrary, it is averred that any vehicle designed, manufactured and/or sold by General Motors Corporation was of good, merchantable quality and fit for its intended and foreseeable purpose and use. Further, the express warranties contained in the New Vehicle Warranty Booklet are exclusive and were given in lieu of all other warranties, either express or implied. It is specifically denied that General Motors Corporation breached any warranties whatsoever. To the contrary, General Motors Corporation complied with the terms and conditions of any and all warranties applicable to this claim.

24. The allegations set forth in paragraph 24 and subparagraphs thereunder of plaintiff's Complaint are specifically denied and strict proof thereof is demanded at the time of trial. By way of further response, General Motors Corporation incorporates by reference its answer to paragraph 23 of plaintiff's Complaint as though more fully set forth at length herein.

25. After reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 25 of plaintiff's Complaint as to the alleged injuries sustained by the plaintiff, the same being denied and strict proof thereof is demanded at the time of trial. Further, it is specifically denied that any alleged injuries were caused by any alleged breach of warranty by this defendant and strict proof thereof is demanded at the time of trial. By way of further response, General Motors Corporation incorporates by reference its answer to paragraph 23 of plaintiff's Complaint as though more fully set forth at length herein.

26. The allegations set forth in paragraph 26 of plaintiff's Complaint state conclusions of law to which no response is required. The extent that a response is deemed to be required, after reasonable investigation, this defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 26 of plaintiff's Complaint, the same being denied and strict proof thereof is demanded at the time of trial.

WHEREFORE, defendant, GENERAL MOTORS CORPORATION, denies any and all liability to the plaintiff and demands that judgment be entered in its favor with costs sustained.

**JURY TRIAL DEMANDED**

NEW MATTER

27. The allegations in plaintiff's Complaint fail to state a cause of action for which relief may be granted. Therefore, the plaintiff is not entitled to recover against General Motors Corporation in this action.

28. The allegations and/or claims contained in plaintiff's Complaint are barred in whole or in part by the applicable statute of limitations. Therefore, plaintiff is not entitled to recover against General Motors Corporation in this action.

29. The injuries and/or damages allegedly sustained by the plaintiff as alleged in his Complaint are due to the misuse and/or abuse of the subject vehicle by the plaintiff and/or others whom this defendant does not control and/or over whom this defendant has no right to control. Therefore, the plaintiff is not entitled to recover against General Motors Corporation in this action.

30. The injuries and/or damages allegedly sustained by the plaintiff as alleged in his Complaint are due to the subsequent modification of the vehicle by the plaintiff and/or others whom this defendant does not control and/or over whom this defendant has no right to control. Therefore, the plaintiff is not entitled to recover against General Motors Corporation in this action.

31. The injuries and/or damages allegedly sustained by the plaintiff as alleged in his Complaint are due to the intervening or superseding conduct of persons and/or entities that may or may not be parties to this suit and whom this defendant does not control and/or over whom this defendant has no right to control. Therefore, the plaintiff is not entitled to recover against General Motors Corporation in this action.

32. The injuries and/or damages allegedly sustained by the plaintiff as alleged in his Complaint are due to the assumption of risk by the plaintiff. Therefore, the plaintiff is not entitled to recover against General Motors Corporation in this action.

33. The injuries and/or damages allegedly sustained by the plaintiff as alleged in his Complaint are due to the negligence of the operator of the vehicle at the time of the accident and not as the result of any alleged negligence and/or breach of warranty by General Motors Corporation. Therefore, the plaintiff is not entitled to recover against General Motors Corporation in this action.

34. Based upon information and belief, General Motors Corporation avers that the driver of the subject vehicle at the time of the accident may have been the plaintiff, Robert Holland and not Steven O'Gara as alleged in plaintiff's Complaint.

35. The injuries and/or damages allegedly sustained by the plaintiff as alleged in his Complaint are due to the intoxication of the driver of the subject vehicle and not as a result of any alleged negligence and/or breach of warranty by General Motors Corporation. Therefore, the plaintiff is not entitled to recover against General Motors Corporation in this action.

36. At all times relevant hereto, defendant, General Motors Corporation, acted properly and with due care in the manufacture, testing and inspecting of the subject vehicle. Therefore, the plaintiff is not entitled to recover against General Motors Corporation in this action.

37. At all times relevant hereto, any vehicle designed, manufactured and/or sold by General Motors Corporation was of good merchantable quality and safe for its intended use.

Therefore, the plaintiff is not entitled to recover against General Motors Corporation in this action.

38. The sole cause of this accident and all of the injuries and damages allegedly sustained by the plaintiff, was the plaintiff's negligent maintenance and/or operation of the vehicle, generally and in the following particulars:

- (a) In failing to properly maintain the subject vehicle;
- (b) In riding in the subject vehicle with Steven O'Gara when he was visibly intoxicated;
- (c) In permitting Steven O'Gara to drive the subject vehicle when he was visible intoxicated;
- (d) In driving the subject vehicle when the plaintiff was visibly intoxicated;
- (e) In being inattentive to the conditions which existed at the time of the alleged accident;

Therefore, General Motors Corporation raises the Comparative Negligence Act as a complete defense to some or all of the plaintiff's claims for injuries and damages.

39. There exists no proximate cause between any of the alleged injuries or damages suffered by the plaintiff and any alleged act or omission on the part of General Motors Corporation, in that the plaintiff's alleged injuries and damages were solely the result of the acts, omissions and/or conduct of other persons or entities over which General Motors Corporation exercised no control and/or right of control.

40. Either the plaintiff or Steven O'Gara operated the subject vehicle while legally intoxicated or after having consumed sufficient quantities of alcohol so as to have impaired his ability to safely operate the subject vehicle at the time of the alleged incident. The negligent

operation of the subject vehicle while impaired was the sole cause of the accident and the sole cause of, or a substantial contributing factor in causing, the injuries and damages which allegedly led to plaintiff's alleged injuries and damages, thereby barring or proportionately reducing the amount of plaintiff's recovery, if any, against General Motors Corporation.

41. The subject vehicle complied with all applicable Federal Motor Vehicle Safety Standards which existed at the time it was originally designed, manufactured and distributed by General Motors Corporation. Therefore, the plaintiff is not entitled to recover against General Motors Corporation in this action

42. On November 7, 1988, the Pennsylvania Supreme Court amended Pennsylvania Rule of Civil Procedure No. 238 ("Rule 238") with an immediate effective date. Rule 238, on its face and as implied, is violative of the Due Process and Equal Protection clauses of the Fourteenth Amendment of the United States Constitution; 42 U.S.C.A. §1983 of the Civil Rights Acts; Article I, Section 1,6,11, 26; and Article IV, Section 10c of the Pennsylvania Constitution, and imposes a chilling factor on the answering defendant's exercise of its constitutional rights. If there is a judicial determination that Rule 238 is constitutional, then liability for an interest imposed by the Rule must be suspended during the period of time that plaintiffs failed to convey to defendant a settlement demand figure; delays in responding to interrogatories; delays in responding to requests for production of documents; delays in producing the plaintiff for a physical exam; delays in responding to any other discovery request made by defendant, and as a result of any delay, plaintiffs should be estopped from obtaining interest because of any violation of the discovery rules.

WHEREFORE, defendant, GENERAL MOTORS CORPORATION, denies any and all liability to the plaintiff and demands that judgment be entered in its favor with costs sustained.

**JURY TRIAL DEMANDED**

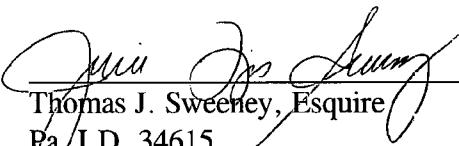
**NEW MATTER PURSUANT TO 2252(D)**

43. General Motors denies that the plaintiff is entitled to recover for any of the claims asserted in his Complaint. However, to the extent that the plaintiff is found to be entitled to recover for any of his alleged injuries and damages, the same being denied, General Motors asserts that defendant, Fred Diehl Motors, Inc., is solely liable to the plaintiff and/or liable to General Motors for indemnification and/or contribution for said alleged injuries and damages.

WHEREFORE, defendant, GENERAL MOTORS CORPORATION, denies any and all liability to the plaintiff and demands that judgment be entered in its favor with costs sustained.

**JURY TRIAL DEMANDED**

Respectfully Submitted,



\_\_\_\_\_  
Thomas J. Sweeney, Esquire  
Pa. I.D. 34615  
Julie Fields Sweeney, Esquire  
Pa. I.D. 47040

ECKERT SEAMANS CHERIN & MELLOTT, LLC  
600 Grant Street, 44<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(412) 566-6000

Counsel for Defendant  
General Motors Corporation

**VERIFICATION**

**STATE OF MICHIGAN )**  
                          ) SS.  
**COUNTY OF WAYNE )**

SUSAN MOSS says that she is authorized by General Motors Corporation under applicable law and rules to verify and does verify these ***ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT*** on behalf of General Motors Corporation.

Susan Moss  
Susan Moss  
Authorized Agent

Sworn to and subscribed before  
me this 5<sup>th</sup> day of October, 2000

Mary L. Yancy  
Notary Public

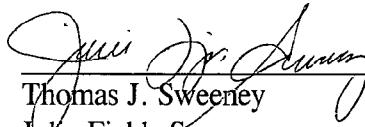
MARY L. YANCY  
Notary Public, Wayne County  
My Commission Expires 2/3/2003

CERTIFICATE OF SERVICE

The undersigned counsel does hereby certify that a true and correct copy of the within Answer and New Matter to Plaintiff's Complaint was forwarded to counsel of record, by first class mail, postage pre-paid, this 10<sup>th</sup> day of October, 2000 as follows:

Joseph Colavecchi, Esquire  
Colavecchi Ryan & Colavecchi  
221 E. Market Street  
P.O. Box 131  
Clearfield, PA 16830  
Counsel for plaintiff, Robert D. Holland

Jeff Ramaley, Esquire  
Zimmer Kunz  
3300 USX Tower  
600 Grant Street  
Pittsburgh, PA 15219  
Counsel for defendant, Fred Diehl Motor, Inc.

  
\_\_\_\_\_  
Thomas J. Sweeney  
Julie Fields Sweeney

10  
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

**EXHIBIT "A" TO DEFENDANT'S  
ANSWER, NEW MATTER AND NEW  
MATTER 2252(D)**

Filed on behalf of:  
DEFENDANT,  
FRED DIEHL MOTOR, INC.

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219

(412) 281-8000

**FILED**

OCT 16 2000

William A. Shaw  
Prothonotary

#### **17.4 Indemnification by General Motors**

General Motors will assume the defense of Dealer and indemnify Dealer against any judgment for monetary damages or rescission of contract, less any offset recovered by Dealer, in any lawsuit naming Dealer as a defendant relating to any Product that has not been altered when the lawsuit concerns:

**17.4.1** Breach of the General Motors warranty related to the Product, bodily injury or property damage claimed to have been caused solely by a defect in the design, manufacture, or assembly of a Product by General Motors (other than a defect which should have been detected by Dealer in a reasonable inspection of the Product);

**17.4.2** Failure of the Product to conform to the description set forth in advertisements or product brochures distributed by General Motors because of changes in standard equipment or material component parts unless Dealer received notice of the changes prior to retail delivery of the affected Product by Dealer; or

**17.4.3** Any substantial damage to a Product purchased by Dealer from General Motors which has been repaired by General Motors unless Dealer has been notified of the repair prior to retail delivery of the affected Product.

If General Motors reasonably concludes that allegations other than those set forth in 17.4.1, 17.4.2, or 17.4.3 above are being pursued in the lawsuit, General Motors shall have the right to decline to accept the defense or indemnify dealer or, after accepting the defense, to transfer the defense back to Dealer and withdraw its agreement to indemnify Dealer.

Procedures for requesting indemnification, administrative details, and limitations are contained in the Service Policies and Procedures Manual under "Indem-

nification." The obligations assumed by General Motors are limited to those specifically described in this Article and in the Service Policies and Procedures Manual and are conditioned upon compliance by Dealer with the procedures described in the Manual. This Article shall not affect any right either party may have to seek indemnification or contribution under any other contract or by law and such rights are hereby expressly preserved.

#### **17.5 Trademarks and Service Marks**

General Motors or affiliated companies are the exclusive owners or licensees of the various trademarks, service marks, names and designs (Marks) used in connection with Products and services.

Dealer is granted the non-exclusive right to display Marks in the form and manner approved by Division in the conduct of its dealership business. Dealer agrees to permit any designated representative of Division upon the Premises during regular business hours to inspect Products or services in connection with Marks.

Dealer will not apply to register any Marks either alone or as part of another mark, and will not take any action which may adversely affect the validity of the Marks or the goodwill associated with them.

Dealer agrees to purchase and sell goods bearing Marks only from parties authorized or licensed by Division or General Motors.

Marks may be used as part of the Dealer's name with Division's written approval.

Dealer agrees to change or discontinue the use of any Marks upon Division's request.

Dealer agrees that no company owned by or affiliated with Dealer or any of its owners may use any Mark to identify a business without Division's written permission.

Upon termination of this Agreement, Dealer agrees to immediately discontinue, at its expense, all use of Marks. Thereafter, Dealer will not use, either directly or indirectly, any Marks or any other confusingly similar

**EXHIBIT**

"A"

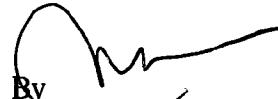
**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within **EXHIBIT "A" TO DEFENDANT'S ANSWER, NEW MATTER AND NEW MATTER 2252(D)** was forwarded to counsel below named by United States Mail on the 13th day of October, 2000:

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Thomas J. Sweeney, Jr., Esquire  
Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY



JEFFREY A. RAMALEY, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, )  
vs. )  
Plaintiff, ) No. 00-905-CD  
vs. )  
FRED DIEHL MOTORS, INC.; and ) REPLY TO NEW MATTER  
GENERAL MOTORS CORPORATION ) UNDER PA. R. CIV. P. 2252(D)  
vs. ) Filed on behalf of Defendant  
Defendants, )  
vs. ) GENERAL MOTORS CORPORATION  
vs. )  
vs. ) Counsel of Record for this Party:  
vs. ) Thomas J. Sweeney  
vs. ) Pa. I.D. # 34615  
vs. ) Julie F. Sweeney  
vs. ) Pa. I.D. # 47040  
vs. ) Eckert Seamans Cherin & Mellott  
vs. ) 600 Grant Street, 44<sup>th</sup> Floor  
vs. ) Pittsburgh, PA 15219  
vs. ) (412) 566-6000

**FILED**

OCT 19 2000

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

ROBERT D. HOLLAND, )  
Plaintiff, ) No. 00-905-CD  
vs. )  
FRED DIEHL MOTORS, INC.; and, )  
GENERAL MOTORS CORPORATION )  
Defendants, )

**REPLY TO NEW MATTER UNDER PA. R. CIV. P. 2252(D)**

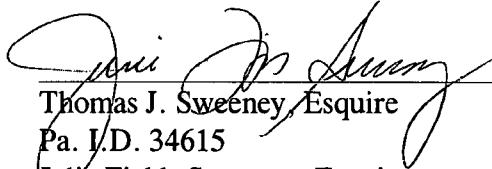
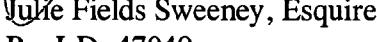
AND NOW, comes the defendant GENERAL MOTORS CORPORATION, (hereinafter "General Motors") by its attorneys, Thomas J. Sweeney, Esquire, Julie Fields Sweeney, Esquire and Eckert Seamans Cherin & Mellott, LLC, and files the within Reply to New Matter under Pa. R. Civ. P. 2252(d), averring as follows:

1. Paragraph 13 of co-defendant, Fred Diehl Motors, Inc.'s New Matter under Rule 2252(d) is specifically denied and strict proof thereof is demanded at the time of trial. By way of further response, General Motors incorporates by reference its Answer and New Matter previously filed with this Court.

WHEREFORE, defendant, General Motors Corporation, denies any and all liability to the plaintiff and denies that it is liable to the co-defendant, Fred Diehl Motors, Inc. for contribution and/or indemnity and demands that judgment be entered in its favor with costs sustained.

## JURY TRIAL DEMANDED

Respectfully Submitted,

  
Thomas J. Sweeney, Esquire  
Pa. I.D. 34615  
  
Julie Fields Sweeney, Esquire  
Pa. I.D. 47040

ECKERT SEAMANS CHERIN & MELLOTT, LLC  
600 Grant Street, 44<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(412) 566-6000

Counsel for Defendant  
General Motors Corporation

**VERIFICATION**

**STATE OF MICHIGAN )**  
                          ) SS.  
**COUNTY OF WAYNE )**

**MICHELE M. DUROCHER says that she is authorized by General Motors Corporation  
under applicable law and rules to verify and does verify REPLY TO NEW MATTER  
UNDER PA. R. CIV. P. 2252(D) on behalf of General Motors Corporation.**

Michele M. Durocher  
Michele M. Durocher  
Authorized Agent

Sworn to and subscribed before  
me this 12<sup>TH</sup> day of October, 2000

Mary L. Yancy  
Notary Public

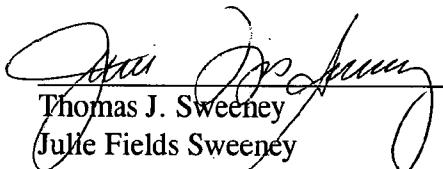
MARY L. YANCY  
Notary Public, Wayne County, MI  
My Commission Expires Feb. 3, 2003

CERTIFICATE OF SERVICE

The undersigned counsel does hereby certify that a true and correct copy of the within Reply to New Matter under Pa. R. Civ. P. 2252(d) was forwarded to counsel of record, by first class mail, postage pre-paid, this 17<sup>th</sup> day of October, 2000 as follows:

Joseph Colavecchi, Esquire  
Colavecchi Ryan & Colavecchi  
221 E. Market Street  
P.O. Box 131  
Clearfield, PA 16830  
Counsel for plaintiff, Robert D. Holland

Jeff Ramaley, Esquire  
Zimmer Kunz  
3300 USX Tower  
600 Grant Street  
Pittsburgh, PA 15219  
Counsel for defendant, Fred Diehl Motor, Inc.

  
Thomas J. Sweeney  
Julie Fields Sweeney

12

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

Sheriff Docket # 10271

HOLLAND, ROBERT D.

00-905-CD

VS.

FRED DIEHL MOTORS, INC. AI

**WRIT TO JOIN ADDITIONAL DEFENDANT**

**SHERIFF RETURNS**

**NOW OCTOBER 18, 2000 AT 9:27 AM DST SERVED THE WITHIN WRIT TO JOIN ADDITIONAL DEFENDANT ON STEPHEN GERARD O'GARA, DEFENDANT AT SHERIFF'S OFFICE , MARKET ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO STEPHEN GERARD O'GARA A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT TO JOIN ADDITIONAL DEFENDANT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.**

**SERVED BY: MORGILLO/DAVIS**

---

**Return Costs**

Cost	Description
28.24	SHFF. HAWKINS PAID BY: ATTY
10.00	SURCHARGE PAID BY: ATTY

**FILED**

OCT 25 2000  
014.0d  
William A. Shaw  
Prothonotary

**Sworn to Before Me This**

25th Day Of October, 2000

William A. Shaw  
WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2002  
Clearfield Co., Clearfield, PA.

**So Answers,**

Chester A. Hawkins  
by Marilyn Harris  
Chester A. Hawkins  
Sheriff

**COPY**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA  
CIVIL DIVISION

**WRIT TO JOIN ADDITIONAL DEFENDANT**

ROBERT D. HOLLAND

Plaintiff

vs.

NO. 00-905-CD

FRED DIEHL MOTORS, INC. and

GENERAL MOTORS CORPORATION

Defendant

vs.

STEPHEN GERARD O'GARA

Additonal Defendant

To STEVEN GERARD O'GARA :

You are notified that Fred Diehl Motors, Inc.

has joined you as an additional defendant in this action, which you are required to defend.

Dated: October 9, 2000



Prothonotary

Jeffrey A. Ramaley, Esquire  
Attorney

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

**COPY**

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

**PRAECEIPE FOR ISSUANCE OF  
A WRIT TO JOIN ADDITONAL  
DEFENDANT**

Filed on behalf of:  
DEFENDANT,  
FRED DIEHL MOTOR, INC.

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219

(412) 281-8000

I hereby certify that this is a true  
and attested copy of the original  
statement filed in this case.

**OCT 09 2000**

Attest.

*William L. Shan*  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

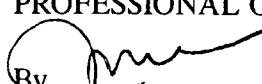
**PRAECIPE FOR ISSUANCE OF**  
**A WRIT TO JOIN ADDITIONAL DEFENDANT**

TO: THE PROTHONOTARY OF CLEARFIELD COUNTY

Kindly issue a Writ joining Steven Gerard O'Gara as an Additional Defendant to the civil action listed above.

Respectfully submitted,

ZIMMER KUNZ  
PROFESSIONAL CORPORATION

By 

JEFFREY A. RAMALEY, ESQUIRE  
Attorney for Defendant,  
Fred Diehl Motors, Inc.

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within PRAECIPE FOR  
ISSUANCE OF A WRIT TO JOIN ADDITONAL DEFENDANT was forwarded to counsel  
below named by United States Mail on the 6th day of October, 2000:

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Thomas J. Sweeney, Jr., Esquire  
Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY

By 

JEFFREY A. RAMALEY, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff  
Vs.

FRED DIEHL MOTORS, INC.,  
And GENERAL MOTORS  
CORPORATION,  
Defendants

CIVIL DIVISION  
No. 00 - 905 - CD

REPLY TO NEW MATTER and REPLY TO  
NEW MATTER UNDER RULE 2252(d)

Filed on Behalf of:

Plaintiff, ROBERT D. HOLLAND

Counsel of Record for This  
Party:

JOSEPH COLAVECCHI, ESQUIRE  
Pa. I.D. #06810

COLAVECCHI RYAN & COLAVECCHI  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

**FILED**

NOV 02 2000

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, :  
Plaintiff : No. 00 - 905 - CD  
:  
Vs. :  
:  
FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants:

**REPLY TO NEW MATTER**

NOW COMES, Robert D. Holland, who, through his attorney, Joseph Colavecchi, Esquire, files his Reply to the New Matter of Fred Diehl Motors, Inc., and respectfully avers as follows:

10. This is a statement of the law and does not require a reply.

11. This is a statement of the law and does not require a reply.

12. Denied for the reasons as set forth in the Complaint.

WHEREFORE, Plaintiff asks that the New Matter of Fred Diehl Motors, Inc., be dismissed and that judgment be entered in favor of Plaintiff, together with interest and costs.

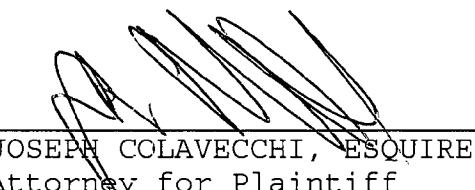
**REPLY TO NEW MATTER  
UNDER RULE 2252(d)**

13. This does not require a reply. To the extent that it does, Plaintiff is looking to Fred Diehl Motors, Inc., for

liability and damages as set forth in their Complaint.

WHEREFORE, Plaintiff asks that the New Matter be dismissed and that judgment be entered in favor of Plaintiff, together with interest and costs.

Respectfully submitted,

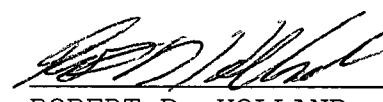


JOSEPH COLAVECCHI, ESQUIRE  
Attorney for Plaintiff

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

VERIFICATION

I verify that the statements made in this Reply to New Matter are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



ROBERT D. HOLLAND

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.

CIVIL DIVISION  
No. 00 - 905 - CD

ROBERT D. HOLLAND, Plaintiff

vs.

FRED DIEHL MOTORS, INC. and  
GENERAL MOTORS CORPORATION,  
Defendants

REPLY TO NEW MATTER and REPLY  
TO NEW MATTER UNDER RULE 2252(d)

**FILED**  
10/4/2000  
NOV 02 2000  
William A. Shaw  
Prothonotary

**COLAVECCHI & RYAN**

ATTORNEYS AT LAW  
221 E. MARKET STREET  
(ACROSS FROM COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA. 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff  
Vs.

CIVIL DIVISION  
No. 00 - 905 - CD

FRED DIEHL MOTORS, INC.,  
And GENERAL MOTORS  
CORPORATION,  
Defendants

REPLY TO NEW MATTER and REPLY TO  
NEW MATTER UNDER RULE 2252(d)

Filed on Behalf of:

Plaintiff, ROBERT D. HOLLAND

Counsel of Record for This  
Party:

JOSEPH COLAVECCHI, ESQUIRE  
Pa. I.D. #06810

COLAVECCHI RYAN & COLAVECCHI  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

FILED

NOV 02 2000

William A. Shaw  
Prothonotary  
Attn: J. J. J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, :  
Plaintiff : No. 00 - 905 - CD  
:  
Vs. :  
:  
FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants:

***REPLY TO NEW MATTER***

NOW COMES, Robert D. Holland, Plaintiff, who, through his attorney, Joseph Colavecchi, Esquire, files his Reply to the New Matter of General Motors Corporation and respectfully avers as follows:

27. Denied for the reasons as set forth in the Complaint.
28. Denied. The Statute of Limitations has not run against this claim.
29. Denied for the reasons as set forth in the Complaint.
30. Denied for the reasons as set forth in the Complaint.
31. Denied for the reasons as set forth in the Complaint.
32. Denied for the reasons as set forth in the Complaint.
33. Denied for the reasons as set forth in the Complaint.
34. Denied. The operator of the vehicle at the time of the accident was Steve O'Gara.
35. Denied. Strict proof of this allegation is demanded at the trial of this case.

36. Denied for the reasons as set forth in the Complaint.
37. Denied for the reasons as set forth in the Complaint.
38. Denied as follows:
  - a. The vehicle was maintained and taken to Fred Diehl Motors as detailed in the Complaint;
  - b. It is denied that Steven O'Gara was visibly intoxicated;
  - c. Denied for the reasons as set forth above;
  - d. Denied for the reasons as set forth above; and,
  - e. Denied for the reasons as set forth above.
39. Denied for the reasons as set forth in the Complaint.
40. It is denied that O'Gara was intoxicated at the time of the accident.
41. Denied for the reasons as set forth in the Complaint.
42. This is a statement of the law and does not require a reply.

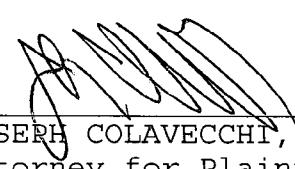
WHEREFORE, Plaintiff requests that the Answer and New Matter of the Defendant be dismissed and that judgment be entered in favor of Plaintiff together with interest and costs.

**REPLY TO NEW MATTER  
PURSUANT TO 2252(D)**

43. This is a statement of the law and does not require a Reply.

WHEREFORE, Plaintiff asks that the Answer and New Mater of the Defendant be dismissed and that judgment be entered in favor of Plaintiff, together with interest and costs.

Respectfully submitted,

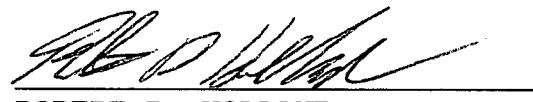


JOSEPH COLAVECCHI, ESQUIRE  
Attorney for Plaintiff

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

VERIFICATION

I verify that the statements made in this Reply to New Matter are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



ROBERT D. HOLLAND

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

~~Leave over margin~~

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
CIVIL DIVISION  
No. 00 - 905 - CD

ROBERT D. HOLLAND, Plaintiff

vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants

REPLY TO NEW MATTER

REPL

NOV 02 2000  
10/34/mcc  
William A. Shaw  
Prothonotary

**COLAVECCHI & RYAN**

ATTORNEYS AT LAW  
221 E. MARKET STREET  
(ACROSS FROM COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA. 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

**REPLY TO NEW MATTER**

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants,

and

Filed on behalf of:  
DEFENDANT,  
FRED DIEHL MOTOR, INC.

STEVEN GERALD O'GARA,

Additional Defendant.

Counsel of Record for this party:  
JEFFREY A. RAMALEY, ESQUIRE  
Pa. I.D. #41559

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219

(412) 281-8000

**FILED**

NOV 13 2000

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

and

STEVEN GERALD O'GARA,

Additional Defendant.

**REPLY TO NEW MATTER**

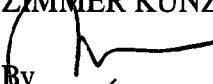
Defendant, FRED DIEHL MOTORS, INC ., by its attorneys, ZIMMER KUNZ, P.C. files the following Reply to General Motors Corporation's New Matter pursuant to 2252(d) and, in support thereof, avers as follows:

1. The allegations contained in paragraph 43 of Co-Defendant's New Matter are specifically denied. In support of said denial, Defendant incorporates herein by reference as if set forth at length the averments set forth in the pleading previously filed on its behalf.

WHEREFORE, Defendant requests that judgment be entered in its behalf and against all other parties to this action.

Respectfully submitted,

ZIMMER KUNZ, P.L.L.C.

By 

JEFFREY A. RAMALEY, ESQUIRE  
Attorney for Defendant,  
Fred Diehl Motors, Inc.

**VERIFICATION**

I, JEFFREY A. RAMALEY, verify that the statements of fact made in the foregoing REPLY are true and correct to the best of my knowledge, information and belief; that I am making this verification on the basis of information provided to me by others which I believe to be true and correct; that this verification is being made because the defendants' affidavits cannot be obtained within the time allowed for the filing of this pleading; that I am authorized to execute this verification as attorney for defendants; and that I understand that any false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Date: 1-10-00



JEFFREY A. RAMALEY

**CERTIFICATE OF SERVICE**

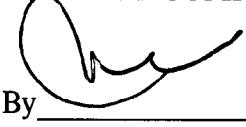
This is to certify that a true and correct copy of the within REPLY TO NEW MATTER was forwarded to counsel below named by United States Mail on the 10<sup>th</sup> day of November, 2000:

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Thomas J. Sweeney, Jr., Esquire  
Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

Steven Gerald O'Gara  
R.D. #1, Box 566-H  
Curwensville, PA 16833  
(Additional Defendant)

ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY

By 

\_\_\_\_\_  
JEFFREY A. RAMALEY, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

v.

No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

**COMPLAINT TO JOIN  
ADDITIONAL DEFENDANT**

Defendants,

and

STEVEN GERALD O'GARA,

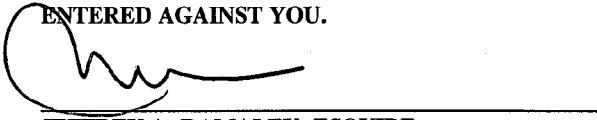
Additional Defendant.

Filed on behalf of:  
DEFENDANT,  
FRED DIEHL MOTOR, INC.

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219

(412) 281-8000

  
JEFFREY A. RAMALEY, ESQUIRE  
ATTORNEY FOR DEFENDANT

**JURY TRIAL DEMANDED**

**FILED**

JAN 16 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,  
v.  
No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants,  
and

STEVEN GERALD O'GARA,

Additional Defendant.

**NOTICE TO DEFEND**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE  
THE COURT ADMINISTRATOR OF CLEARFIELD COUNTY  
2<sup>ND</sup> FLOOR, CLEARFIELD COUNTY COURTHOUSE  
CLEARFIELD, PA 16830  
TELEPHONE: (814) 765-2641

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,  
v.  
No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants,  
and

STEVEN GERALD O'GARA,

Additional Defendant.

**COMPLAINT TO JOIN ADDITIONAL DEFENDANT**

Defendant, FRED DIEHL MOTORS, INC ., by its attorneys, ZIMMER KUNZ, P.C. files the following Complaint to Join Steven Gerald O'Gara as an Additional Defendant to this Civil Action listed above and, in support thereof, avers as follows:

1. Plaintiff filed a Complaint in Civil Action against the Defendants, a copy of which is attached hereto and marked as Exhibit "A".
2. This Defendant filed an Answer, New Matter and New Matter under Rule 2252(d) denying liability for the accident in question and asserting, inter alia, that if Plaintiff was injured in the accident, that same was the sole and proximate result of the negligence of Additional Defendant. A copy of said pleading is attached hereto and marked as Exhibit "B".
3. Additional Defendant, Steven Gerald O'Gara is an adult individual residing in Clearfield County, Pennsylvania.

4. On April 10, 1999, at approximately 1:30 a.m., Additional Defendant was operating a 1997 Chevrolet K-1500 on State Route 4005.

5. Defendant lost control of the motor vehicle, left the roadway and struck a tree.

6. In the event it is determined that the Plaintiff suffered injuries and damages, which is denied by this Defendant, then same were the sole and proximate result of the negligence of Additional Defendant in any and/or all of the following respects:

- a. In operating the vehicle at a high, dangerous and reckless speed under the circumstances;
- b. In failing to have the vehicle under proper control;
- c. In that the driver was inattentive and failed to maintain a sharp lookout of the road and the surrounding traffic conditions;
- d. In failing to operate the brakes in such a manner so that the vehicle could be stopped in time to avoid hitting the tree;
- e. In violating the various statutes and municipal ordinances pertaining to the operation of motor vehicles on public thoroughfares under the circumstances, including a violation of Pennsylvania Motor Vehicle Code, Section 3361, by driving the vehicle at an unsafe speed;
- f. In that the driver was not in proper physical condition to drive the vehicle; and
- g. In failing to maintain proper control of the vehicle.

WHEREFORE, Defendant sets forth a claim for sole liability, liability over, contribution and/or indemnification as to the Additional Defendant.

Respectfully submitted,

ZIMMER KUNZ, P.L.L.C.

By

JEFFREY A. RAMALEY, ESQUIRE  
Attorney for Defendant,  
Fred Diehl Motors, Inc.

## IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff  
Vs.

STEVEN GERARD O'GARA,  
Defendant

CIVIL DIVISION  
No. 99-1103 - CD

COMPLAINT  
Filed on Behalf of:

Plaintiff, ROBERT D. HOLLAND

Counsel of Record for This  
Party:

JOSEPH COLAVECCHI, ESQUIRE  
Pa. I.D. #06810

COLAVECCHI RYAN & COLAVECCHI  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830

814/765-1566

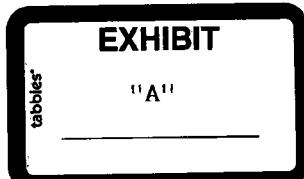
I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

SEP 29 1999

Attest:

*William J. Ryan*  
Prothonotary

LAW OFFICES OF  
COLAVECCHI & RYAN  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA.



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, :  
Plaintiff : No. 99 - - CD  
:  
Vs. : JURY TRIAL DEMANDED  
:  
STEVEN GERARD O'GARA, :  
Defendant :

## NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAW OFFICES OF  
COLAVECCHI & RYAN  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA.

COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
2nd & Market Streets  
Clearfield, PA 16830  
814/765-2641 Ex 50-51

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,

Plaintiff : No. 99 - - CD

Vs.

: JURY TRIAL DEMANDED

STEVEN GERARD O'GARA,

Defendant :

## COMPLAINT

1. Plaintiff is Robert D. Holland an individual residing at R.D. #1, Box 566H, Curwensville, Pennsylvania 16833.

2. Defendant is Steven Gerard O'Gara an individual whose mailing address is P.O. Box 127, Curwensville, Pennsylvania 16833.

3. On April 10, 1999, at approximately 1:30 a.m., Defendant was operating a 1997 Chevrolet K-1500 on SR 4005. Present in the vehicle with him was Plaintiff.

4. Defendant lost control of the motor vehicle which was traveling north on SR 4005. The vehicle spun approximately 105 degrees in a clockwise direction, traveled approximately 80 feet, rolled onto its left side and impacted a tree with the roof area coming to a final rest against a tree on its left side facing southeast.

LAW OFFICES OF  
COLAVECCHI & RYAN  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA.

5. The injuries and damages hereinafter set forth were caused solely by and were the direct and proximate result of the negligence of the Defendant in any or all of the following respects:

- a. In operating the vehicle at a high, dangerous and reckless speed under the circumstances;
- b. In failing to have the vehicle under proper control;
- c. In that the driver was inattentive and failed to maintain a sharp lookout of the road and the surrounding traffic conditions;
- d. In failing to operate the brakes in such a manner so that the vehicle could be stopped in time to avoid hitting the tree;
- e. In violating the various statutes and municipal ordinances pertaining to the operation of motor vehicles on public thoroughfares under the circumstances, including a violation of Pennsylvania Motor Vehicle Code, Section 3361, by driving the vehicle at an unsafe speed.
- f. In that the driver was not in proper physical condition to drive the vehicle; and,
- g. In failing to maintain proper control of the vehicle.

LAW OFFICES OF  
COLAVECCHI & RYAN  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA.

6. Solely as a result of the negligence of the Defendant as aforesaid, Plaintiff sustained various injuries, including fractured vertebrae, a fractured hip, a fractured leg and serious internal injuries, all of which are or may be of a serious or permanent nature, including shock and injury to the nerves and nervous system.

7. As a result of the injuries as aforesaid, Plaintiff has sustained the following damages:

a. Said Plaintiff has suffered and will suffer great pain, suffering, inconvenience, embarrassment and mental anguish;

b. Said Plaintiff has been and will be required to expend large sums of money for surgical and medical attention, hospitalization, medical supplies, surgical appliances, medicines and attendant services;

c. Said Plaintiff has been and will be deprived of earnings;

d. Said Plaintiff's earning capacity has been reduced and permanently impaired;

e. Said Plaintiff has been disfigured; and,

f. Said Plaintiff's general health, strength and vitality have been impaired.

LAW OFFICES OF  
COLAYECCHI & RYAN  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA.

WHEREFORE, Plaintiff brings this action against Defendant to recover damages in excess of the jurisdiction of the Board of Arbitrators of this Court and in excess of Twenty Thousand Dollars (\$20,000.00).



JOSEPH COLAVECCHI, ESQUIRE  
Attorney for Plaintiff

LAW OFFICES OF  
COLAVECCHI & RYAN  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA.

VERIFICATION

I verify that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.



ROBERT D. HOLLAND

LAW OFFICES OF  
COLAVECCHI & RYAN  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

v.

No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

Filed on behalf of:  
DEFENDANT,  
FRED DIEHL MOTOR, INC.

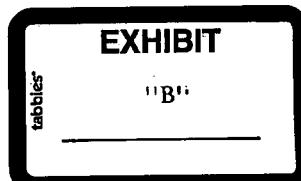
Counsel of Record for this party:  
JEFFREY A. RAMALEY, ESQUIRE  
Pa. I.D. #41559

ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219

(412) 281-8000

**FILED**  
OCT 06 2000  
11:20pm  
William A. Shaw  
Prothonotary

Document #: 191235  
7350.0093



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

v.

No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

**ANSWER, NEW MATTER AND NEW MATTER UNDER RULE 2252(D)**

Defendant, FRED DIEHL MOTORS, INC., by its attorneys, ZIMMER KUNZ, P.L.L.C. files the following Answer, New Matter and New Matter Under Rule 2252(d) and, in support thereof, avers as follows:

1. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraphs 1, 2(b), 3, 4 and 13 of Plaintiff's Complaint and, as such, same are deemed to be denied and strict proof thereof is demanded.

2. The averments contained in paragraph 2(a) of Plaintiff's Complaint are admitted in part and denied in part. It is admitted that Fred Diehl Motors, Inc. was a corporation authorized to do business in the Commonwealth of Pennsylvania at the address listed in Plaintiff's Complaint; however, said corporation is no longer doing business.

3. In response to paragraphs 5 and 6 of Plaintiff's Complaint, it is specifically denied that the pickup truck malfunctioned with respect to its steering system and/or components. In support of said denial, it is averred that said vehicle's steering system and components were in good working condition. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in the aforementioned paragraphs of Plaintiff's Complaint and, as such, same are deemed to be denied and strict proof thereof is demanded.

4. In response to paragraph 7 of Plaintiff's Complaint, which incorporates the preceding paragraphs of said Complaint, Defendant, in response thereto, incorporates herein by reference as if set forth at length the averments contained in this pleading.

5. The allegations contained in paragraph 8 of Plaintiff's Complaint are admitted in part and denied in part. It is admitted that in December of 1998 that this Defendant removed and replaced a steering box on a 1997 Chevrolet truck, model K10, owned by a David L. Holland, Sr. and bearing vehicle number 2GCEK19R3V1237343. All other averments contained in paragraph 8 of Plaintiff's Complaint are specifically denied.

6. The allegations contained in paragraphs 9 and 11 of Plaintiff's Complaint are denied.

7. The averments contained in paragraph 10 of Plaintiff's Complaint are admitted in part and denied in part. It is admitted that the General Motors Corporation issued a service bulletin bearing bulletin number 86-32-06. Said bulletin speaks for itself. It is further admitted that Defendant received a copy of said bulletin. The remaining averments contained in paragraph 10 of Plaintiff's Complaint are denied.

8. The allegations of negligence contained in paragraph 12 of Plaintiff's Complaint are denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in the aforementioned paragraph of Plaintiff's Complaint and, as such, same are deemed to be denied and strict proof thereof is demanded.

9. Paragraphs 14 through 26 of Plaintiff's Complaint are directed to a party other than this Defendant and, as such, a response is not required on behalf of this Defendant. In the event it is determined that a response is required on behalf of this Defendant, Defendant, in response thereto, incorporates herein by reference as if set forth at length the averments contained in the preceding paragraphs of this Complaint.

WHEREFORE, Defendant requests that judgment be entered in its behalf and against the Plaintiff.

NEW MATTER

10. If it is determined through discovery in this matter that the Plaintiff elected and/or is deemed to have elected the limited tort option under §1705 of the Pennsylvania Motor Vehicle Financial Responsibility Law, then Defendant reserve the right to plead that the Plaintiff is barred from making any claims other than for "economic damages" as that term is defined under §1705.

11. Plaintiff is barred from pleading, proving and/or recovering the amount of any benefits paid or payable as set forth in §§1719 and 1722 of the Pennsylvania Motor Vehicle Financial Responsibility Law.

12. In the event that it is determined that Plaintiff suffered injuries and damages, which is specifically denied by this Defendant, then same were a sole and proximate result of the negligence conduct of Steven Gerard O'Gara for his negligent operation of the motor vehicle in question.

WHEREFORE, Defendant requests that judgment be entered in its behalf and against the Plaintiff.

**NEW MATTER UNDER RULE 2252(d)**

13. In the event that it is determined that Plaintiff suffered injuries and damages, then Defendant sets forth herein its claim for contribution, indemnity, sole liability and/or liability over as to the Co-defendant. Further, attached hereto and marked as Exhibit "A" is a true and correct copy of an excerpt of a written agreement between the Defendants whereunder General Motors Corporation agreed to indemnify this Defendant and assume its defense.

WHEREFORE, Defendant requests that judgment be entered in its behalf and against all other parties to this action.

Respectfully submitted,

ZIMMER KUNZ, P.L.L.C.

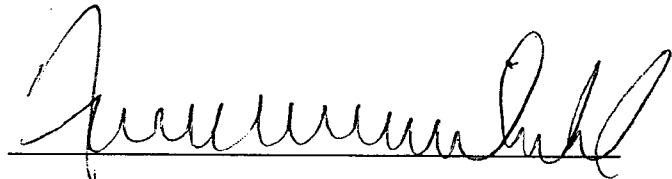
  
By \_\_\_\_\_  
JEFFREY A. RAMALEY, ESQUIRE  
Attorney for Defendant,  
FRED DIEHL MOTORS, INC

VERIFICATION

I, FRED DIEHL, in his capacity as PRESIDENT for FRED DIEHL MOTORS, INC., have read the foregoing ANSWER, NEW MATTER AND NEW MATTER 2252(d). The statements contained therein are true and correct to the best of my personal knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.

DATE: 9/28/00



**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within ANSWER, NEW MATTER AND NEW MATTER 2252(D) was forwarded to counsel below named by United States Mail on the 4<sup>th</sup> day of Oct., 2000:

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY

By

 JEFFREY A. RAMALEY, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

**EXHIBIT "A" TO DEFENDANT'S  
ANSWER, NEW MATTER AND NEW  
MATTER 2252(D)**

Defendants.

Filed on behalf of:  
DEFENDANT,  
FRED DIEHL MOTOR, INC.

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219

(412) 281-8000

FILED  
06/23/2000  
11:23 pm  
William A. Shaw  
Prothonotary

#### **17.4 Indemnification by General Motors**

General Motors will assume the defense of Dealer and indemnify Dealer against any judgment for monetary damages or rescission of contract, less any offset recovered by Dealer, in any lawsuit naming Dealer as a defendant relating to any Product that has not been altered when the lawsuit concerns:

**17.4.1** Breach of the General Motors warranty related to the Product, bodily injury or property damage claimed to have been caused solely by a defect in the design, manufacture, or assembly of a Product by General Motors (other than a defect which should have been detected by Dealer in a reasonable inspection of the Product);

**17.4.2** Failure of the Product to conform to the description set forth in advertisements or product brochures distributed by General Motors because of changes in standard equipment or material component parts unless Dealer received notice of the changes prior to retail delivery of the affected Product by Dealer; or

**17.4.3** Any substantial damage to a Product purchased by Dealer from General Motors which has been repaired by General Motors unless Dealer has been notified of the repair prior to retail delivery of the affected Product.

If General Motors reasonably concludes that allegations other than those set forth in 17.4.1, 17.4.2, or 17.4.3 above are being pursued in the lawsuit, General Motors shall have the right to decline to accept the defense or indemnify dealer or, after accepting the defense, to transfer the defense back to Dealer and withdraw its agreement to indemnify Dealer.

Procedures for requesting indemnification, administrative details, and limitations are contained in the Service Policies and Procedures Manual under "Indem-

nification." The obligations assumed by General Motors are limited to those specifically described in this Article and in the Service Policies and Procedures Manual and are conditioned upon compliance by Dealer with the procedures described in the Manual. This Article shall not affect any right either party may have to seek indemnification or contribution under any other contract or by law and such rights are hereby expressly preserved.

#### **17.5 Trademarks and Service Marks**

General Motors or affiliated companies are the exclusive owners or licensees of the various trademarks, service marks, names and designs (Marks) used in connection with Products and services.

Dealer is granted the non-exclusive right to display Marks in the form and manner approved by Division in the conduct of its dealership business. Dealer agrees to permit any designated representative of Division upon the Premises during regular business hours to inspect Products or services in connection with Marks.

Dealer will not apply to register any Marks either alone or as part of another mark, and will not take any action which may adversely affect the validity of the Marks or the goodwill associated with them.

Dealer agrees to purchase and sell goods bearing Marks only from parties authorized or licensed by Division or General Motors.

Marks may be used as part of the Dealer's name with Division's written approval.

Dealer agrees to change or discontinue the use of any Marks upon Division's request.

Dealer agrees that no company owned by or affiliated with Dealer or any of its owners may use any Mark to identify a business without Division's written permission.

Upon termination of this Agreement, Dealer agrees to immediately discontinue, at its expense, all use of Marks. Thereafter, Dealer will not use, either directly or indirectly, any Marks or any other confusingly similar

**EXHIBIT**

"A"

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within **EXHIBIT "A" TO DEFENDANT'S ANSWER, NEW MATTER AND NEW MATTER 2252(D)** was forwarded to counsel below named by United States Mail on the 13th day of October, 2000:

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Thomas J. Sweeney, Jr., Esquire  
Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY

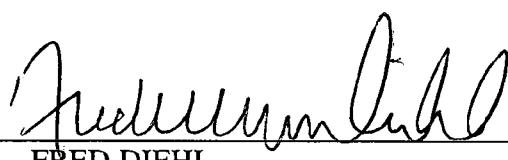
  
By \_\_\_\_\_  
JEFFREY A. RAMALEY, ESQUIRE

**VERIFICATION**

I, FRED DIEHL of FRED DIEHL MOTORS, INC., have read the foregoing COMPLANT TO JOIN ADDITIONAL DEFENDANT. The statements contained therein are true and correct to the best of my personal knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.

DATE: 12-21-00



FRED DIEHL

**CERTIFICATE OF SERVICE**

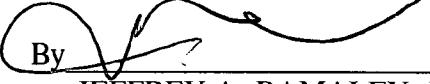
This is to certify that a true and correct copy of the within COMPLAINT TO  
JOIN ADDITIONAL DEFENDANT was forwarded to counsel below named by United States  
Mail on the 11<sup>th</sup> day of Jan., 2001:

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Thomas J. Sweeney, Jr., Esquire  
Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

Robert A. Seiferth, Esquire  
33 West Third Street  
Suite 200  
Williamsport, PA 17701  
(Attorney for Additional Defendant, Steven Gerald O'Gara)

ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY

  
By \_\_\_\_\_  
JEFFREY A. RAMALEY, ESQUIRE

ROBERT D. HOLLAND,  
Plaintiff

v.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION,

Defendants

v.

STEVEN GERARD O'GARA,  
Additional Defendant

**ENTRY OF APPEARANCE**

**FILED**

JAN 17 2001

William A. Shaw  
Prothonotary

TO THE PROTHONOTARY:

Kindly enter my appearance for the Additional Defendant, **Steven Gerard O'Gara**, in the  
above-captioned matter.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

DATE: 1/16/01

BY: Robert A. Seiferth

Robert A. Seiferth  
Attorney for Additional Defendant  
I.D. NO. 20481  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
Telephone (570)326-9094

cc: Jeff Ramaley, Esquire  
Julie Sweeney, Esquire  
Joseph Colavecchi, Esquire

ROBERT D. HOLLAND,  
Plaintiff

v.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION,

Defendants

v.

STEVEN GERARD O'GARA,  
Addition Defendant

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW  
NO. 00-905-CD

**NOTICE OF SERVING DISCOVERY RESPONSES**

TO THE PROTHONOTARY:

Please take notice that Additional Defendant has served Responses to Defendant Fred Diehl Motors, Inc.'s Request for Production of Documents pursuant to the Pennsylvania Rules of Civil Procedure, by mail, postage prepaid, this 16<sup>th</sup> day of January, 2001.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

**FILED**

JAN 17 2001  
m 11:27 nocc  
William A. Shaw  
Prothonotary  
KBS

BY: Robert A. Seiferth  
Robert A. Seiferth, Esquire  
Attorney I.D. # 20481  
Attorney for Additional Defendant O'Gara  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
Telephone (570) 326-9094

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

Sheriff Docket # 10549

HOLLAND, ROBERT D.

00-905-CD

VS.

FRED DIEHL MOTORS INC al

**SUBPOENA TO PRODUCE DOCUMENTS**

**SHERIFF RETURNS**

---

**NOW JANUARY 3, 2001 PETER DEFAZIO, SHERIFF OF ALLEGHENY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUBPOENA TO PRODUCE DOCUMENTS ON UPMC PRESBYTERIAN, RECORDS CUSTODIAN, DEFENDANT.**

**NOW JANUARY 8, 2001 SERVED THE WITHIN SUBPOENA TO PRODUCE DOCUMENTS ON UPMC PRESBYTERIAN, RECORDS CUSTODIAN, DEFENDANT BY DEPUTIZING THE SHERIFF OF ALLEGHENY COUNTY. THE RETURN OF SHERIFF DEFAZIO IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED CINDY KUFFER, COPY TECH.**

---

**Return Costs**

Cost	Description
27.67	SHFF. HAWKINS PAID BY: ATTY.
34.00	SHFF. DEFAZIO PAID BY: ATTY.
3.00	NOTARY PAID BY: ATTY.

**Sworn to Before Me This**

23 Day Of January 2001  
William A. Shaw  
WAS

WILLIAM A. SHAW,  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2002  
Clearfield Co. Clearfield, PA.

**So Answers,**

Chester A. Hawkins  
by Maury Harris  
Chester A. Hawkins  
Sheriff

PETER R. DEFAZIO  
Sheriff

**ALLEGHENY COUNTY SHERIFF'S DEPARTMENT**  
436 GRANT STREET  
PITTSBURGH, PA 15219-2496  
PHONE (412) 350-4700

*JK*  
DENNIS SKOSNIK  
Chief Deputy

PLAINTIFF ROBERT D. HOLLAND

VS.  
DEFT. Fred Diehl Motors al

ADD. DEFT. SERVE: UPMC PRESBYTERIAN

ADD. DEFT. Records Custodian

GARNIShee PO Box 632007 Pittsburgh, Pa.  
ADDRESS 200 SOTHROP ST  
6TH PA 15213

MUNICIPALITY or CITY WARD ATTY.

DATE: 19

ATTY'S Phone 814-765-1566

INDICATE TYPE OF SERVICE:  PERSONAL  PERSON IN CHARGE  DEPUTIZE  CERT. MAIL  POSTED  OTHER  LEVY  SEIZED & STORE  
Now. January 3 2001, SHERIFF OF ALLEGHENY COUNTY, PA do hereby deputize the Sheriff of

ALLEGHENY County to execute this Writ and make return thereof according to law

NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person or attachment without liability on the part of such deputy herein for any loss, destruction or removal of any property before sheriff's sale thereof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at: \_\_\_\_\_

MAKE	MODEL	MOTOR NUMBER	SERIAL NUMBER	LICENSE NUMBER

**SHERIFF'S OFFICE USE ONLY**

I hereby CERTIFY AND RETURN that on the 8<sup>th</sup> day of January 2001, 19   at 11:40 o'clock A.M. Address Above/Address Below. County of Allegheny, Pennsylvania

I have served in the manner described below:

- Defendant(s) personally served.
- Adult family member with whom said Defendant(s) reside(s). Name & Relationship \_\_\_\_\_
- Adult in charge of Defendant's residence who refused to give name or relationship.
- Manager/Clerk of place of lodging in which Defendant(s) reside(s).
- Agent or person in charge of Defendant(s) office or usual place of business. X Cindy Ruffer - copy tech
- Other \_\_\_\_\_
- Property Posted \_\_\_\_\_

Defendant not found because:  Moved  Unknown  No Answer  Vacant  Other \_\_\_\_\_

Certified Mail  Receipt \_\_\_\_\_  Envelope Returned \_\_\_\_\_  Neither receipt or envelope returned: writ expired \_\_\_\_\_

Regular Mail Why \_\_\_\_\_

You are hereby notified that on \_\_\_\_\_, 19 \_\_\_\_\_, levy was made in the case of \_\_\_\_\_  
Possession/Sale has been set for \_\_\_\_\_, 19 \_\_\_\_\_ at \_\_\_\_\_ o'clock.

**YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.**

ATTEMPTS \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

*Sheila R. O'Brien*  
**JAN 12 2001**

**PETER R. DEFAZIO, Sheriff**

Additional Costs Due \$ \_\_\_\_\_, This is placed  
on writ when returned to Prothonotary. Please check before  
satisfying case.

**Notarial Seal**  
Sheila R. O'Brien, Notary Public  
Pittsburgh, Allegheny County  
My Commission Expires June 10, 2004

*St. James W. S.*  
**3-# Deputy**

ROBERT D. HOLLAND,  
Plaintiff  
v.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION,

Defendants  
v.

STEVEN GERARD O'GARA,  
Additional Defendant

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

: CIVIL ACTION - LAW  
: NO. 00-905-CD

: JURY TRIAL DEMANDED

**ANSWER OF  
- ADDITIONAL DEFENDANT STEVEN GERARD O'GARA  
TO COMPLAINT TO JOIN**

1-3. Admitted.

4-5. After reasonable investigation, Additional Defendant Steven Gerard O'Gara is without knowledge or information sufficient to form a belief as to the truth of these averments as a result of the injuries he sustained in the accident and specific proof thereof is demanded.

6. Denied in accordance with Pa.R.C.P. §1029(e). By way of further answer, see answer to ¶4-¶5.

WHEREFORE, Additional Defendant Steven Gerard O'Gara demands judgment in his favor.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

BY Robert A. Seiferth  
Robert A. Seiferth  
Attorney for Additional Defendant  
I.D. #20481  
33 W. Third Street, Suite 200  
Williamsport, PA 17701  
(570)326-9094

**FILED**

FEb 01 2001  
01/30/01 CC  
William A. Shaw  
Prothonotary *gsp*

VERIFICATION

I, Robert A. Seiferth, Esquire, verify that I am the attorney for Defendant and that the facts, admissions and denials contained in the foregoing Answer are true to the best of my knowledge, information and belief. I understand that this statement is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

Robert A. Seiferth  
Robert A. Seiferth  
Attorney for Additional Defendant

**CERTIFICATE OF SERVICE**

I, Robert A. Seiferth, Esquire, hereby certify that I have served a true and correct copy of the foregoing **Answer of Additional Defendant Steven Gerard O'Gara to Complaint to Join** upon all parties:

**VIA UNITED STATES REGULAR MAIL:**

Joseph Colavecchi, Esquire  
Colavecchi, Ryan & Colavecchi  
P.O. Box 131  
Clearfield, PA 16830

Jeff Ramaley, Esquire  
ZIMMER KUNZ, P.C.  
3300 USX Tower  
Pittsburgh, PA 15219

Julie Sweeney, Esquire  
Eckert Seamans Cherin & Mellott  
600 Grant St., 44th Floor  
Pittsburgh, PA 15219

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

BY Robert A. Seiferth  
Robert A. Seiferth  
Attorney for Additional Defendant  
I.D. #20481  
33 W. Third Street, Suite 200  
Williamsport, PA 17701  
(570)326-9094

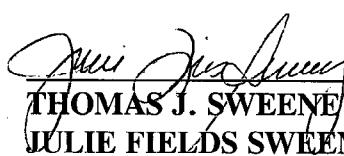
Date: 1/30/01

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, )  
vs. Plaintiff, ) No. 00-905-CD  
vs. )  
FRED DIEHL MOTORS, INC.; and ) NEW MATTER PURSUANT TO  
GENERAL MOTORS CORPORATION ) 2252(D) DIRECTED TO  
Defendants, ) ADDITIONAL DEFENDANT  
vs. )  
STEVEN GERALD O'GARA ) Filed on behalf of Defendant  
Additional Defendant. ) GENERAL MOTORS CORPORATION  
vs. )  
Counsel of Record for this Party:  
Thomas J. Sweeney  
Pa. I.D. # 34615  
Julie F. Sweeney  
Pa. I.D. # 47040  
Eckert Seamans Cherin & Mellott  
600 Grant Street, 44<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(412) 566-6000

**TO ADDITIONAL DEFENDANT:**

**YOU ARE HEREBY NOTIFIED TO PLEAD TO THE  
WITHIN NEW MATTER PURSUANT TO 2252(D)  
WITHIN TWENTY (20) DAYS AFTER SERVICE OR A  
DEFAULT JUDGMENT MAY BE ENTERED AGAINST YOU.**

  
\_\_\_\_\_  
THOMAS J. SWEENEY, ESQUIRE  
JULIE FIELDS SWEENEY, ESQUIRE

**FILED**

FEB 09 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA,  
CIVIL ACTION

ROBERT D. HOLLAND,	)	
	)	
Plaintiff,	)	No. 00-905-CD
	)	
vs.	)	
	)	
FRED DIEHL MOTORS, INC.; and,	)	
GENERAL MOTORS CORPORATION	)	
	)	
Defendants,	)	
	)	
vs.	)	
	)	
STEVEN GERALD O'GARA	)	

**NEW MATTER PURSUANT TO 2252(D)**

AND NOW, comes the defendant GENERAL MOTORS CORPORATION, by its attorneys, Thomas J. Sweeney, Esquire, Julie Fields Sweeney, Esquire and Eckert Seamans Cherin & Mellott, LLC, and files the within New Matter Pursuant to 2252(d) directed to Additional Defendant, Steven Gerald O'Gara, averring as follows:

**NEW MATTER PURSUANT TO 2252(D)**

1. General Motors denies that the plaintiff is entitled to recover for any of the claims asserted in his Complaint and has filed an Answer and New Matter denying the same. However, to the extent that the plaintiff is found to be entitled to recover for any of his alleged injuries and damages, the same being denied, General Motors asserts that the additional defendant, Steven Gerald O'Gara, is solely liable to the plaintiff and/or liable to General Motors for indemnification and/or contribution for said alleged injuries and damages.

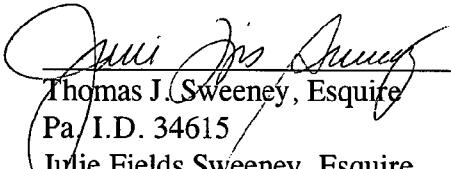
2. The sole cause of this accident and all of the injuries and damages allegedly sustained by the plaintiff, was the additional defendant's negligent operation of the vehicle which is the subject of plaintiff's Complaint in any and/or all of the following particulars:

- (a) In failing to properly maintain proper control of the subject vehicle;
- (b) In operating the subject vehicle while intoxicated;
- (c) In operating the vehicle at a high, dangerous and reckless speed under the circumstances;
- (d) In failing to maintain a sharp lookout of the road and the surrounding traffic conditions;
- (e) In being inattentive to the conditions which existed at the time of the accident;
- (f) In failing to operate the brakes in such a manner so that the vehicle could be stopped in time to avoid hitting a tree;
- (g) In driving without a valid driver's license; and
- (h) In violating the various statutes and municipal ordinances pertaining to the safe operation of a motor vehicle on a public thoroughfare under the circumstances, including a violation of Pennsylvania Motor Vehicle Code Section 3361, by driving the vehicle at an unsafe speed.

WHEREFORE, defendant, GENERAL MOTORS CORPORATION, denies any and all liability to the plaintiff and sets forth a claim for sole liability, liability over and/or indemnification as to the Additional Defendant.

**JURY TRIAL DEMANDED**

Respectfully Submitted,



Thomas J. Sweeney, Esquire  
Pa. I.D. 34615  
Julie Fields Sweeney, Esquire  
Pa. I.D. 47040

ECKERT SEAMANS CHERIN & MELLOTT, LLC  
600 Grant Street, 44<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(412) 566-6000

Counsel for Defendant  
General Motors Corporation

**VERIFICATION**

**STATE OF MICHIGAN )**  
                          ) SS.  
**COUNTY OF WAYNE )**

SUSAN MOSS says that she is authorized by General Motors Corporation under applicable law and rules to verify and does verify these ***NEW MATTER PURSUANT TO 2252(D)*** on behalf of General Motors Corporation.



Susan Moss  
Authorized Agent

Sworn to and subscribed before  
me this 26<sup>th</sup> day of January, 2001



\_\_\_\_\_  
Notary Public

MARY L. YANCY  
Notary Public, Wayne County, MI  
My Commission Expires: 01-01-2002

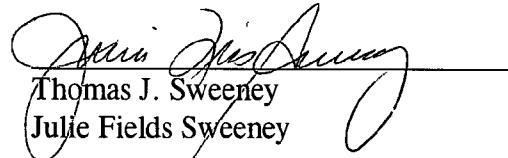
CERTIFICATE OF SERVICE

The undersigned counsel does hereby certify that a true and correct copy of the within NEW MATTER PURSUANT TO 2252(D) was forwarded to counsel of record, by first class mail, postage pre-paid, this 6<sup>th</sup> day of February, 2001 as follows:

Joseph Colavecchi, Esquire  
Colavecchi Ryan & Colavecchi  
221 E. Market Street  
P.O. Box 131  
Clearfield, PA 16830  
Counsel for Plaintiff, Robert D. Holland

Jeff Ramaley, Esquire  
Zimmer Kunz  
3300 USX Tower  
600 Grant Street  
Pittsburgh, PA 15219  
Counsel for Defendant, Fred Diehl Motor, Inc.

Robert A. Seiferth, Esquire  
33 West Third Street  
Suite 200  
Williamsport, PA 17701  
Counsel for Additional Defendant, Steven Gerald O'Gara

  
Thomas J. Sweeney  
Julie Fields Sweeney

ROBERT D. HOLLAND,  
Plaintiff

v.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION,

Defendants

v.

STEVEN GERARD O'GARA,  
Additional Defendant

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSYLVANIA

:  
: CIVIL ACTION - LAW  
: NO. 00-905-CD

:

:

:

:

:

:

**ANSWER OF STEVEN GERARD O'GARA TO  
NEW MATTER PURSUANT TO 2252(D) OF  
GENERAL MOTORS CORPORATION**

1. Denied that Additional Defendant, Steven Gerard O'Gara, is solely liable to the Plaintiff and/or liable to General Motors for indemnification and/or contribution on Plaintiff's claims.
2. Denied that the sole cause of the accident and Plaintiff's injuries was Additional Defendant's negligent operation of a motor vehicle. By way of further answer, subparagraphs (a) - (h) are denied in accordance with Pa.R.C.P. §1029(e).

WHEREFORE, Additional Defendant, Steven Gerard O'Gara, demands judgment in his favor.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

**FILED**

FEB 13 2001

William A. Shaw  
Prothonotary

BY Robert A. Seiferth  
Robert A. Seiferth  
Attorney for Additional Defendant  
I.D. #20481  
33 W. Third Street, Suite 200  
Williamsport, PA 17701  
(570)326-9094

Date: 2/12/01

VERIFICATION

I, Robert A. Seiferth, Esquire, verify that I am the attorney for Defendant and that the facts, admissions and denials contained in the foregoing Answer are true to the best of my knowledge, information and belief. I understand that this statement is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

Robert A. Seiferth  
Robert A. Seiferth  
Attorney for Additional Defendant

**CERTIFICATE OF SERVICE**

I, Robert A. Seiferth, Esquire, hereby certify that I have served a true and correct copy of the foregoing **Answer of Additional Defendant Steven O'Gara to New Matter Pursuant to 2252(d) of General Motors Corporation** upon all parties:

**VIA UNITED STATES REGULAR MAIL:**

Joseph Colavecchi, Esquire  
Colavecchi, Ryan & Colavecchi  
P.O. Box 131  
Clearfield, PA 16830

Jeff Ramaley, Esquire  
ZIMMER KUNZ, P.C.  
3300 USX Tower  
Pittsburgh, PA 15219

Julie Sweeney, Esquire  
Eckert Seamans Cherin & Mellott  
600 Grant St., 44th Floor  
Pittsburgh, PA 15219

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

BY Robert A. Seiferth  
Robert A. Seiferth  
Attorney for Additional Defendant  
I.D. #20481  
33 W. Third Street, Suite 200  
Williamsport, PA 17701  
(570)326-9094

Date: 2/12/01

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

CIVIL ACTION - LAW

No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,  
v.

CIVIL ACTION - LAW

No.: 01 - 81 - CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

**NOTICE OF INTENT TO SERVE  
SUBPOENA TO PRODUCE DOCUMENTS  
AND THINGS PURSUANT TO RULE  
4009.21 ON NON-PARTY**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**

APR 16 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,

and

STEVEN GERALD O'GARA,  
Additional Defendant.

CIVIL ACTION - LAW

No.: 00 - 905 CD

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 01 - 81 - CD

**NOTICE OF INTENT TO SERVE A SUBPOENA  
TO PRODUCE DOCUMENTS AND  
THINGS PURSUANT TO RULE 4009.21 ON NON-PARTY**

Kindly take notice that Defendant, FRED DIEHL MOTORS, INC., by its attorneys, ZIMMER KUNZ, P.L.L.C. intends to serve a Subpoena identical to the one that is attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and serve upon designee an objection to the Subpoena. If no objections are made, the Subpoena may be served.

Respectfully submitted,

ZIMMER KUNZ, P.L.L.C.

By

JEFFREY A. RAMALEY, ESQUIRE  
Attorney for Defendant,  
FRED DIEHL MOTORS, INC

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the NOTICE OF INTENT TO  
SERVE SUBPOENA TO PRODUCE DOCUMENTS AND THINGS PURSUANT TO RULE  
4009.21 ON NON-PARTY was forwarded to counsel below named by United States Mail on the

12<sup>th</sup> day of April, 2001:

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Robert A. Seiferth, Esquire  
33 West Third Street  
Suite 200  
Williamsport, PA 17701  
(Attorney for Additional Defendant, Steven Gerald O'Gara)

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY

By

JEFFREY A. RAMALEY, ESQUIRE

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Robert D. Holland

\*

Plaintiff(s)

\*

No. 2000-00905-CD

Fred Diehl Motors, Inc.

\*

General Motors Corporation

Steven Gerard O'Gara

Defendant(s)

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE  
4009.22

Commissioner Paul J. Evanko

TO: \_\_\_\_\_  
(Name of Person or Entity)

Custodian of Records Pennsylvania State Police

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

All Photographs from Incident #C4-0598065

(Address) 1800 Elmerton Avenue  
Harrisburg, PA 17110

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Jeff Ramaley, Esquire/Zimmer Kunz PLLC

ADDRESS: 3300 USX Tower  
Pittsburgh, PA 15219-2702

TELEPHONE: 412-281-8000

SUPREME COURT ID # 41559

ATTORNEY FOR: Fred Diehl Motors, Inc.

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Friday, April 06, 2001

Seal of the Court

  
\_\_\_\_\_  
Deputy

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

CIVIL ACTION - LAW

No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,  
v.

CIVIL ACTION - LAW

No.: 01 - 81 - CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

**MOTION TO CONSOLIDATE**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**JOSEPH F. BUTCHER, ESQUIRE**  
Pa. I.D. #86464

**ZIMMER KUNZ**  
**PROFESSIONAL LIMITED**  
**LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**

APR 25 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

CIVIL ACTION - LAW  
No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,  
v.

CIVIL ACTION - LAW  
No.: 01 - 81 - CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

**MOTION TO CONSOLIDATE**

Defendant, FRED DIEHL MOTORS, INC., by its attorneys, ZIMMER KUNZ, P.L.L.C. files the following MOTION TO CONSOLIDATE the two Civil Actions listed above for purposes of discovery and trial pursuant to Pa. R.C.P. 213 (a) and, in support thereof, avers as follows:

1. The Plaintiffs, at the two docket numbers listed above, filed Complaints in Civil Action against, inter alia, this Defendant for injuries and damages they allege they received as a result of a motor vehicle accident which occurred on April 10, 1999. At the time of the aforementioned accident, the Plaintiffs in the two docket numbers listed above were in the same motor vehicle which left the roadway and was involved in an accident.

2. Defendant submits that the two civil actions listed above involve common questions of law and fact and arise from the same transaction or occurrence. Defendant further submits that a consolidation of the two civil actions listed above would avoid unnecessary cost and/or delay.

3. Consolidation of these two cases is permitted by Pennsylvania Rule of Civil Procedure 213(a).

WHEREFORE, for the reasons set forth above, Defendant requests that the Court enter an Order consolidating the two civil actions listed above for purposes of discovery and trial.

Respectfully submitted,

ZIMMER KUNZ, P.L.L.C.

By

JEFFREY A. RAMALEY, ESQUIRE  
JOSEPH F. BUTCHER  
Attorneys for Defendant,  
FRED DIEHL MOTORS, INC

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within MOTION TO  
CONSOLIDATE was forwarded to counsel below named by United States Mail on the 16<sup>th</sup>  
day of April, 2001:

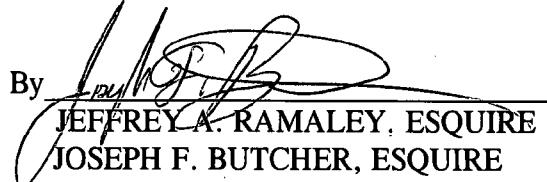
Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Robert A. Seiferth, Esquire  
33 West Third Street  
Suite 200  
Williamsport, PA 17701  
(Attorney for Additional Defendant, Steven Gerald O'Gara)

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY

By   
JEFFREY A. RAMALEY, ESQUIRE  
JOSEPH F. BUTCHER, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

CIVIL ACTION - LAW

No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,

Plaintiff,

v.

CIVIL ACTION - LAW

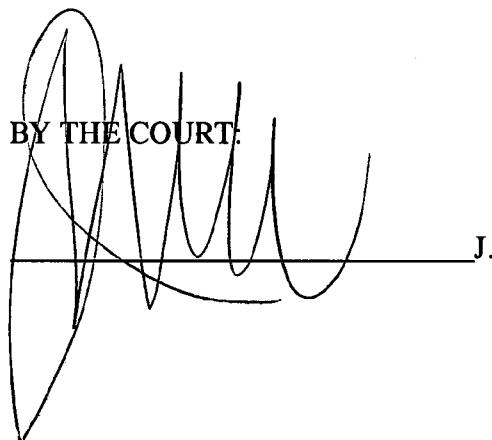
No.: 01 - 81 - CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

ORDER OF COURT

AND NOW this 26<sup>th</sup> day of April, 2001, IT IS

HEREBY ORDERED that the two civil actions listed above are hereby consolidated for the  
purposes of discovery and trial.

BY THE COURT:  
  
J.

Consolidated  
to 00-905-CD?

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

CIVIL ACTION - LAW  
No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

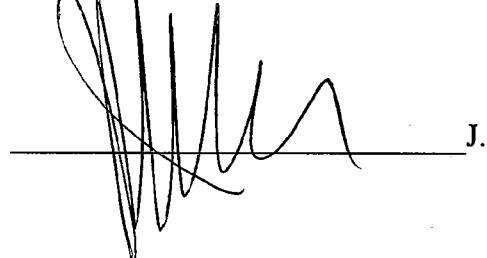
\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

**SCHEDULING ORDER**

AND NOW, on this 18<sup>th</sup> day of May, 2001, upon consideration  
of Defendant, Fred Diehl Motors, Inc.'s Motion to Compel, oral argument is scheduled for the  
6<sup>th</sup> day of July, 2001 at 2:30 o'clock P.m. in Courtroom No.  
1.

BY THE COURT,



ATTEST:

*Prothonotary*

**FILED**  
3:29  
MAY 18 2001

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**MOTION TO COMPEL DIRECTED TO  
ROBERT D. HOLLAND**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**

MAY 17 2001  
m 11:58 (no cc)  
William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

CIVIL ACTION - LAW

No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

**MOTION TO COMPEL**

AND NOW, comes the Defendant, FRED DIEHL MOTORS, INC., by and through their attorneys, ZIMMER KUNZ, PROFESSIONAL LIMITED LIABILITY COMPANY and ROBERT W. GALBRAITH, ESQUIRE, and files the following Motion to Compel, and in support thereof avers as follow:

1. The Plaintiff, ROBERT D. HOLLAND, initiated a Civil Action against this Defendant on or about August 3, 2000 alleging *inter alia* that the defendant's negligent repair of an automobile's steering system was a contributing factor in causing an automobile accident in which the Plaintiff was injured.

2. On December 15, 2000 this Defendant forwarded Interrogatories and Request for the Production of Documents to the Plaintiff, ROBERT D. HOLLAND.

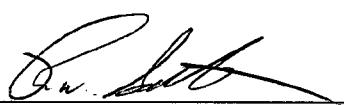
3. On January 24, 2001, Plaintiff, ROBERT D. HOLLAND delivered to this Defendant responses to the Request for Production of Documents mentioned heretofore.

4. To date, Defendant has not received responses to its interrogatories.

5. Defendant submits that in order to properly defend itself, that it must receive discovery responses from Plaintiff.

WHEREFORE, this Defendant requests that this Honorable Court compel the Plaintiff, ROBERT D. HOLLAND, to provide complete and comprehensive responses to this Defendant's interrogatories within twenty (20) days or suffer further sanctions.

ZIMMER KUNZ  
Professional Limited Liability Company

By:   
ROBERT W. GALBRAITH, ESQUIRE

**CERTIFICATE OF SERVICE**

I hereby certify that the within DEFENDANT'S MOTION TO COMPEL was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 14 day of May, 2001, addressed as follows:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Robert A. Seiferth, Esquire  
33 West Third Street  
Suite 200  
Williamsport, PA 17701  
(Attorney for Additional Defendant, Steven Gerald O'Gara)

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By   
ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

CIVIL ACTION - LAW

No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,

And

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

**ORDER OF COURT**

AND NOW, to-wit, this \_\_\_\_\_ day of \_\_\_\_\_, 2001, it is hereby  
ORDERED that Plaintiff, ROBERT D. HOLLAND, shall respond to the Defendant's  
Interrogatories within twenty (20) days or suffer further sanctions.

\_\_\_\_\_, J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

CIVIL ACTION - LAW  
No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,  
v.

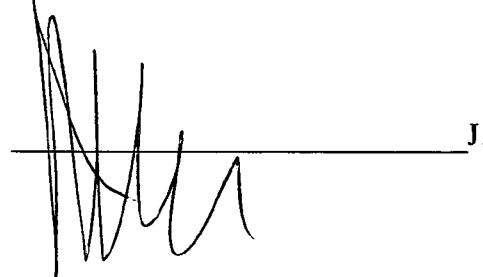
FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

**SCHEDULING ORDER**

AND NOW, on this 18<sup>th</sup> day of May, 2001, upon consideration  
of Defendant, Fred Diehl Motors, Inc.'s Motion to Compel, oral argument is scheduled for the

26<sup>th</sup> day of July, 2001 at 2:00 o'clock P.m. in Courtroom No.  
1.

BY THE COURT,



ATTEST:

Prothonotary

**FILED**  
3:29  
MAY 18 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**MOTION TO COMPEL DIRECTED TO  
STEVEN G. O'GARA**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**

MAY 17 2001  
mhs/nocc  
William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

CIVIL ACTION - LAW  
No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

**MOTION TO COMPEL**

AND NOW, comes the Defendant, FRED DIEHL MOTORS, INC., by and through their attorneys, ZIMMER KUNZ, PROFESSIONAL LIMITED LIABILITY CORPORATION and ROBERT W. GALBRAITH, ESQUIRE, and files the following Motion to Compel, and in support thereof avers as follow:

1. The Plaintiff, ROBERT D. HOLLAND, initiated a Civil Action against this Defendant on or about August 3, 2000 alleging *inter alia* that the defendant's negligent repair of an automobile's steering system was a contributing factor in causing an automobile accident in which the Plaintiff was injured.

2. On or about January 17, 2001, Plaintiff, STEVEN G. O'GARA, the operator of the automobile in which Plaintiff, ROBERT D. HOLLAND was injured initiated a Civil Action against this Defendant alleging *inter alia* that the defendant's negligent repair of the automobile's steering system was a contributing factor in causing the aforesaid automobile accident.

3. On April 26, 2001, by Motion of this Defendant, these two cases were consolidated for the purposes of discovery and trial.

4. On February 6, 2001, this Defendant forwarded Interrogatories and Request for the Production of Documents to Plaintiff, STEVEN G. O'GARA.

3. To date, Defendant has not received discovery responses.

4. Defendant submits that in order to properly defend itself, that it must receive discovery responses from Plaintiff, STEVEN G. O'GARA.

WHEREFORE, this Defendant requests that this Honorable Court compel the Plaintiff, STEVEN G. O'GARA, to provide complete and comprehensive discovery responses within twenty (20) days or suffer further sanctions

ZIMMER KUNZ  
Professional Limited Liability Company

By:   
ROBERT W. GALBRAITH, ESQUIRE

**CERTIFICATE OF SERVICE**

I hereby certify that the within DEFENDANT'S MOTION TO COMPEL was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 14 day of May, 2001, addressed as follows:

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Robert A. Seiferth, Esquire  
33 West Third Street  
Suite 200  
Williamsport, PA 17701  
(Attorney for Additional Defendant, Steven Gerald O'Gara)

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By   
ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

CIVIL ACTION - LAW  
No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

**ORDER OF COURT**

AND NOW, to-wit, this \_\_\_\_ day of \_\_\_\_\_, 2001, it is hereby  
ORDERED that Plaintiff, STEVEN G. O'GARA, shall respond to the Defendant's  
Interrogatories and Request for the Production of Documents within twenty (20) days or suffer  
further sanctions.

\_\_\_\_\_, J.

(A)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**PRAECLYPE TO WITHDRAW MOTION  
TO COMPEL**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**

JUN 11 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

CIVIL ACTION - LAW  
No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

**PRAECIPE TO WITHDRAW MOTION TO COMPEL**

TO: PROTHONOTARY

Please withdraw the Motion to Compel Plaintiff Robert D. Holland to complete  
Interrogatories scheduled for July 6, 2001 at 2:00 p.m. before the Honorable John K. Reilly, Jr.,  
in the above-captioned matter per attached Scheduling Order.

ZIMMER KUNZ  
Professional Limited Liability Company

By:   
JEFFREY A. RAMALEY, ESQUIRE  
ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

CIVIL ACTION - LAW  
No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

SCHEDULING ORDER

AND NOW, on this 18<sup>th</sup> day of May, 2001, upon consideration  
of Defendant, Fred Diehl Motors, Inc.'s Motion to Compel, oral argument is scheduled for the  
6<sup>th</sup> day of July, 2001 at 2:30 o'clock P.m. in Courtroom No.  
1.

BY THE COURT:

/s/ JOHN K. REILLY, JR.

ATTEST:

P.J.

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

Prothonotary

MAY 18 2001

Attest.

William J. Reilly  
Prothonotary

**CERTIFICATE OF SERVICE**

I hereby certify that the within PRAECIPE TO WITHDRAW MOTION TO COMPEL was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 8 day of June, 2001, addressed as follows:

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Robert A. Seiferth, Esquire  
33 West Third Street  
Suite 200  
Williamsport, PA 17701  
(Attorney for Additional Defendant, Steven Gerald O'Gara)

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By   
JEFFREY A. RAMALEY, ESQUIRE  
ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

CIVIL ACTION - LAW

No.: 01 - 81 - CD

REPLY TO CO-DEFENDANT'S NEW  
MATTER PURSUANT TO Pa.  
R.C.P.2252(d)

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
JEFFREY A. RAMALEY, ESQUIRE  
Pa. I.D. #41559

ROBERT W. GALBRAITH, ESQUIRE  
Pa. I.D. #86473

ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**

JUN 13 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

CIVIL ACTION - LAW

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.  
\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,  
v.

No.: 00 - 905 CD

CIVIL ACTION - LAW

No.: 01 - 81 - CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

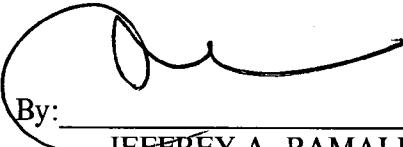
**REPLY TO CO-DEFENDANT'S NEW MATTER PURSUANT TO Pa. R.C.P.2252(d)**

AND NOW, comes the Defendant, FRED DIEHL MOTORS, INC., by and through their attorneys, ZIMMER KUNZ, PROFESSIONAL LIMITED LIABILITY COMPANY, files the following Reply to General Motors Corporation New Matter Pursuant to Pa. R.C.P. 2252(d), and in support thereof avers as follow:

1. The averments contained in paragraph 43 of Co-Defendant's New Matter are specifically denied. In support of said denial, Defendant incorporates herein by reference as if set forth at length the averments contained in the Answer and New Matter previously filed on its behalf.

WHEREFORE, Defendant request that judgement be entered in its behalf and against all other parties to this civil action.

ZIMMER KUNZ, P.L.L.C.

By: 

JEFFREY A. RAMALEY, ESQUIRE

**VERIFICATION**

I, JEFFREY A. RAMALEY, verify that the statements of fact made in the foregoing REPLY are true and correct to the best of my knowledge, information and belief; that I am making this verification on the basis of information provided to me by others which I believe to be true and correct; that this verification is being made because the defendants' affidavits cannot be obtained within the time allowed for the filing of this REPLY; that I am authorized to execute this verification as attorney for defendants; and that I understand that any false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Date: 6/11/01



JEFFREY A. RAMALEY

**CERTIFICATE OF SERVICE**

I hereby certify that the within **REPLY TO CO-DEFENDANT'S NEW MATTER PURSUANT TO Pa. R.C.P.2252(d)** was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 11<sup>th</sup> day of June, 2001, addressed as follows:

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Robert A. Seiferth, Esquire  
33 West Third Street  
Suite 200  
Williamsport, PA 17701  
(Attorney for Additional Defendant, Steven Gerald O'Gara)

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ, P.L.L.C.

By \_\_\_\_\_

JEFFREY A. RAMALEY, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

CIVIL ACTION - LAW

No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

FILED

JUL 31 2001

William A. Shaw  
Prothonotary

CONSENT ORDER

AND NOW, to-wit, this 31<sup>st</sup> day of July, 2001, upon

consent of counsel for the parties, it is hereby ORDERED that Plaintiff, STEVEN G. O'GARA, shall respond to the Defendant's Interrogatories and Request for the Production of Documents within thirty (30) days or suffer further sanctions.

  
ATTORNEY FOR DEFENDANT

  
ATTORNEY FOR PLAINTIFF

J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**MOTION FOR SANCTIONS**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ**  
**PROFESSIONAL LIMITED**  
**LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**

DEC 24 2001

William A. Shaw  
Prothonotary

**MOTION FOR SANCTIONS**

AND NOW, comes the Defendant, FRED DIEHL MOTORS, INC., by and through their attorneys, ZIMMER KUNZ, PROFESSIONAL LIMITED LIABILITY CORPORATION and ROBERT W. GALBRAITH, ESQUIRE, and files the following Motion for Sanctions, and in support thereof avers as follow:

1. The Plaintiff, STEVEN O'GARA, initiated this action as a result of an automobile accident.
2. On or about February 6, 2001, Defendants forwarded Interrogatories and Request for Production of Documents to the Plaintiff.
3. As of July 17, 2001 the Defendants had received no responses to their discovery requests.
4. The attorneys for the Plaintiff and the undersigned counsel entered into a Consent Order requiring that the Plaintiff respond to the Defendants' Interrogatories and Request for the Production of Documents within thirty days or suffer further sanctions.
5. The Honorable John K. Riley, Jr. signed the Consent Order on July 31, 2001. See Consent Order attached hereto and marked as Exhibit "A".
6. On July 26, 2001, ten days after undersigned counsel had forwarded the Consent Order to the court, Plaintiff served inaccurate Answers to Interrogatories upon the Defendants.
7. Defendants' Interrogatories Nos. 8, 9, 10, 11, 12, and 13 all request information regarding the Plaintiff's medical history, the amount of medical bills that the

Plaintiff is claiming he has incurred as a result of this accident, and the identification of medical providers that have treated the Plaintiff and/or hospitalized him. See Defendants' Interrogatories attached hereto and marked as Exhibit "B".

8. In response to all the aforesaid Interrogatories, Plaintiff responded that this information was either in the possession of the undersigned counsel or the Plaintiffs' attorney. See Plaintiffs' Answers to Interrogatories attached hereto and marked as Exhibit "C".

9. Additionally, Requests 4 and 5 of Defendants' Request for Production of Documents request all medical information and reports from physicians or providers that relate to the Plaintiff's injuries and damages allegedly resulting from this lawsuit and all information and reports that relate to the Plaintiff's claim for lost wages.

10. The Defendant has none of the Plaintiff's medical records, bills or any information identifying any medical provider that has ever treated the Plaintiff.

11. On August 15, 2001 undersigned counsel requested that the Plaintiff respond more fully and completely to the Request for Production of Documents and Answers to Interrogatories. See Defendants' correspondence dated August 15, 2001 attached hereto and marked as Exhibit "D".

12. Plaintiff responded on August 22, 2001 that the medical records were inadvertently omitted and would be sent and that there was no wage information as the Plaintiff was paid under the table. See Plaintiff's correspondence dated August 22, 2001 attached hereto and marked as Exhibit "E".

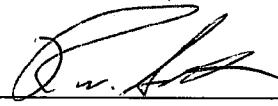
13. Plaintiff subsequently delivered signed authorizations allowing us to retrieve Plaintiff's medical records and bills but, despite repeated requests, has failed to deliver the names

and/or addresses of the medical providers that have treated the Plaintiffs so that these authorizations may be utilized.

14. Defendant submits that in order to properly defend itself it must be able to conduct discovery as to the Plaintiff's medical history.

WHEREFORE, as the Plaintiff is now in violation of the Consent Order that was signed on July 31, 2001 by Judge Riley, and the Defendant now moves for Sanctions.

ZIMMER KUNZ  
Professional Limited Liability Company

By:   
ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

CIVIL ACTION - LAW  
No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CONSENT ORDER

AND NOW, to-wit, this 31<sup>st</sup> day of July, 2001, upon  
consent of counsel for the parties, it is hereby ORDERED that Plaintiff, STEVEN G. O'GARA,  
shall respond to the Defendant's Interrogatories and Request for the Production of Documents  
within thirty (30) days or suffer further sanctions.

  
ATTORNEY FOR DEFENDANT

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

JUL 31 2001

  
ATTORNEY FOR PLAINTIFF

/s/ JOHN K. REILLY, JR.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

STEVEN G. O'GARA,

CIVIL ACTION - LAW

Plaintiff,

No.: 01 - 81 - CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

**INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS**

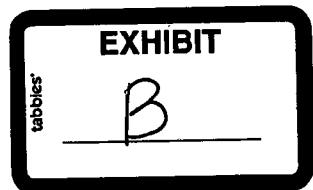
Defendants.

Filed on behalf of:  
DEFENDANT,  
FRED DIEHL MOTORS, INC.

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219

(412) 281-8000



8. Kindly set forth the names and office addresses of any and all physicians, psychiatrists, chiropractors, physical therapists, or other licensed medical practitioners, who have examined or treated the Plaintiff for any of said injuries, stating, for each health care provider:

- (a) The number of occasions on which such treatment was given or examination performed;
- (b) The specific dates on which such treatment was given or examination performed; and
- (c) The date or dates on which the Plaintiff was discharged from the care of each of the respective health care providers.
- (d) If the Plaintiff have not been discharged by any one or more of the said health care providers, set forth the date on which the Plaintiff was last seen, treated or examined by any of the said health care providers who have not as yet discharged the Plaintiff.

ANSWER:

9. Kindly list separately for each of the health care providers involved:
  - (a) The exact amount of the medical bills incurred by the Plaintiff, or paid on behalf of the Plaintiff, as a result of the treatment rendered, or examination made, by each of the health care providers.
  - (b) Please indicate who paid these bills. If you do not have this information, kindly make reasonable inquiry of each health care provider involved in order to obtain the same in accordance with the applicable Rules of Discovery in civil cases.

ANSWER:

10. Was the Plaintiff hospitalized as a result of the accident which is the basis of this suit? Did the Plaintiff receive any emergency room treatment, out-patient or first-aid treatment at any hospital for such injuries? If the answer to any part of this question is in the affirmative, kindly list separately for each hospital:

- (a) The name and address of each of the hospitals involved;
- (b) The dates and type of treatment received by the Plaintiff at each of the said hospitals;
- (c) Set forth the exact amount of the bills incurred or rendered as a result of such hospital care or treatment; and
- (d) Please indicate who paid these bills. If you do not have this information, kindly make reasonable inquiry of the hospital or hospitals involved in order to obtain the same in accordance with the applicable Rules of Discovery in civil case.

ANSWER:

11. Were any x-rays taken of any part of the defendant's body as a result of this accident? If the answer to this question is in the affirmative:

- (a) Kindly indicate when such x-rays were taken;
- (b) Where they were taken;
- (c) By whom;
- (d) Indicate the specific part of the Plaintiff's body which was x-rayed; and
- (e) Indicate further the exact cost of the said x-rays, stating, if appropriate, the exact cost of each separate set of x-rays.

ANSWER:

12. Were any x-rays taken of any part of the Plaintiff's body prior to this accident, or, in addition to the x-rays listed in the answers to Interrogatory No. 11 above, subsequent to this accident? If the answer to any part of this question is in the affirmative, kindly indicate:

- (a) When such x-rays were taken;
- (b) Where they were taken;
- (c) By whom; and
- (d) Indicate further the specific part of the Plaintiff's body which was x-rayed.

ANSWER:

13. Please list:

- (a) All medication purchased or used by you in connection with the treatment of the injuries complained of;
- (b) The cost thereof; and
- (c) The store from which purchased.

ANSWER:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

STEVEN G. O'GARA :  
Plaintiff :  
vs. : No. 01-81-CD  
FRED DIEHL MOTORS, INC. and :  
GENERAL MOTORS CORPORATION, :  
Defendants :

CASE NUMBER: 01-81-CD  
TYPE OF CASE: Civil  
TYPE OF PLEADING: Answers to Interrogatories  
FILED ON BEHALF OF: Plaintiff  
COUNSEL OF RECORD  
FOR THIS PARTY: R. DENNING GEARHART, ESQ.  
Supreme Court I.D. #26540  
215 East Locust Street  
Clearfield, PA 16830  
(814) 765-1581

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

JUL 26 2001

Attest.

*William L. Shaw*  
Prothonotary

EXHIBIT

tabbed

1

7. All of the medical records have either been sent to Attorney for Defendant and/or are in the possession of my Attorney.
8. All of the medical records have either been sent to Attorney for Defendant and/or are in the possession of my Attorney.
9. I do not remember the detailed medical treatment. All of the medical records have either been sent to Attorney for Defendant and/or are in the possession of my Attorney.
10. All of the medical records have either been sent to Attorney for Defendant and/or are in the possession of my Attorney.
11. All of the medical records have either been sent to Attorney for Defendant and/or are in the possession of my Attorney.
12. All of the medical records have either been sent to Attorney for Defendant and/or are in the possession of my Attorney.
13. All of the medical records have either been sent to Attorney for Defendant and/or are in the possession of my Attorney.
14.
  - A. 5'9" - 175 lbs.
  - B. 5'9" - 175 lbs.
  - C. 5'9" - 160 lbs.
15. No.
16. N/A.
17. Unknown.
18. Unknown; my memory loss includes two to four weeks before the accident.
19. I was self-employed in the timber business.
20. No.
21. N/A.
22. I cannot answer the above question.
23. I cannot answer the above question.
24. I cannot answer the above question; I was self-employed.

**VERIFICATION**

I, STEVEN G. O'GARA, have read the foregoing Interrogatories. The statements contained therein are true and correct to the best of my personal knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.

DATE: 2/21/01

Steve G O'Gara  
STEVEN G. O'GARA

**ZIMMER KUNZ**  
PROFESSIONAL LIMITED LIABILITY COMPANY  
ATTORNEYS AT LAW

HARRY J. ZIMMER

JOHNE KUNZ

RAYMOND H. CONAWAY (PA & WV)

GEORGE N. STEWART (PA & WV)

JONIM. MANGINO (PA & WV)

JOSEPH W. SELEP (PA & WV)

RAYMOND J. CONLON

EDWARD K. DIXON

MARK R. HAMILTON

ALEXANDER P. BICKET (PA & WV)

JOHN W. ZOTTER (PA & OH)

JEFFREY A. RAMALEY (PA & OH)

THOMAS P. MCGINNIS (PA & WV)

DARA A. DeCOURCY (PA & WV)

DANIEL E. KRAUTH

ROBERT W. MURDOCH

ANTHONY C. CARONE (PA & WV)

MEGHAN F. WISE

GEORGE R. FARNEHILL

JOHN K. BRYAN

MARK T. CALOYER

CHRISTOPHER T. YOSKOSKY

CARMEN A. MARTUCCI

JOHN W. BRUNI (PA & OH)

MACEL E. RHODES (WV ONLY)

CLAIRE A. CONAWAY

REBECCA A. SEMBER

JEFFREY S. TARKER

HILARY C. BONENBERGER (PA & WV)

ALAN G. STAHL (PA & TX)

JOSEPH F. BUTCHER

ROBERT W. GALBRAITH

OF COUNSEL

ANDREW J. BANYAS, III

THOMAS A. LAZAROFF

3300 USX TOWER

PITTSBURGH, PA 15219-2702

(412) 281-8000

FAX (412) 281-1765

MORGANTOWN OFFICE:

206 SPRUCE STREET

MORGANTOWN, WV 26505

(304) 292-8531

FAX (304) 292-7529

BUTLER OFFICE:

421 NORTH MAIN STREET

BUTLER, PA 16001

(724) 285-6677

GREENSBURG OFFICE

132 SOUTH MAIN STREET, SUITE B

GREENSBURG, PA 15601

(724) 836-5400

FAX (724) 836-5149

E-Mail: galbraith@zklaw.com  
Direct Dial No: (412) 434-5424

August 15, 2001

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

**Re:     *Steven G. O'Gara vs. Fred Diehl Motors, Inc., et al.***  
**No.: 01-81-CD**

Dear Mr. Gearhart:

Please recall that I am assisting Mr. Ramaley with the above captioned matter. I have received your responses to our Request for Production of Documents. I noted in your client's Answers to Interrogatories that he stated that all medical records regarding his claim had been provided either to our office or to you. I note from our file that we have not received medical records from Mr. O'Gara. Furthermore, Request No. 6 of that Request for Production of Documents requested information regarding Mr. O'Gara's wage loss which he claims is a result of the accident. The Response to our Request for Production of Documents contained no records relating to this topic. Please attempt to respond specifically to request no. 5 and 6 of our recent Request for Production of Documents by the time that the Consent Order we executed expires. As always, if you have any questions or comments, please do not hesitate to contact me.

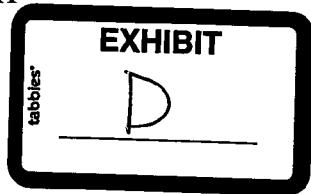
Thank you for your attention to this matter.

Very truly yours,

ROBERT W. GALBRAITH

RWG/mar

Document #: 242318  
7350.0093



*R. Denning Gearhart*

Attorney & Counselor at Law

215 E. Locust Street  
Clearfield, PA 16830

814-765-1581

(fax) 814-765-6745

<http://www.dgearhartpalaw.com>

August 22, 2001

Robert W. Galbraith, Esq.  
ZIMMER KUNZ  
3300 USX Tower  
Pittsburgh, PA 15219-2702

Re: O'Gara vs. Fred Diehl Motors, et. al. - No. 01-81-CD

Dear Mr. Galbraith:

Under separate envelope the medical records which apparently were inadvertently omitted will be sent to you. Please give me until the middle of next week to get them to you as the person I had assigned to this task is away on vacation.

Note that Mr. O'Gara has no wage information as he was "paid under the table". While we continue to assert for lost income, I understand that difficulty.

Sincerely,



R. Denning Gearhart

RDG:kar  
cc: Joseph Colavecchi, Esq.



received  
8-23-01

7350.009 3

**CERTIFICATE OF SERVICE**

I hereby certify that the within DEFENDANT'S MOTION FOR SANCTIONS was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 20 day of December, 2001, addressed as follows:

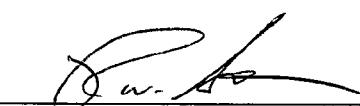
R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Robert A. Seiferth, Esquire  
33 West Third Street  
Suite 200  
Williamsport, PA 17701  
(Attorney for Additional Defendant, Steven Gerald O'Gara)

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By   
ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

CIVIL ACTION - LAW

No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,

And

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

**ORDER OF COURT**

AND NOW, to-wit, this \_\_\_\_\_ day of \_\_\_\_\_, 2002, it is hereby  
ORDERED that Plaintiff, Steven O'Gara, is barred from offering any medical records, medical  
bills or medical testimony at the time of trial and is ordered to pay to Defendant Fred Diehl  
Motors, Inc. fees in the amount of \$ \_\_\_\_\_ for preparing and presenting the within motion;  
said amount to be paid within \_\_\_\_\_ days of the date of this order.

BY THE COURT

\_\_\_\_\_, J.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL DIVISION

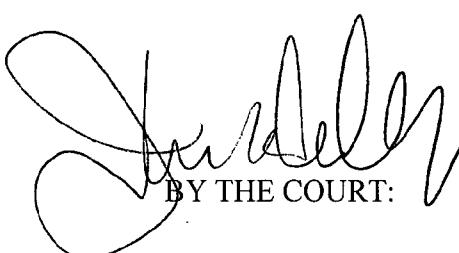
ROBERT D. HOLLAND :  
:  
vs. : No. 00-905-CD  
:  
FRED DIEHL MOTORS, INC. and :  
GENERAL MOTRORS CORPORATION :  
and :  
STEVEN GERALD O'GARA :  
\*\*\*\*\*  
STEVEN G. O'GARA :  
:  
vs. :  
:  
FRED DIEHL MOTORS, INC. and :  
GENERAL MOTORS CORPORATION :  
:

**ORDER**

AND NOW, this 26<sup>th</sup> day of December, 2001, upon  
consideration of Attorney Galbraith's Motion for Sanctions, a Rule is hereby issued  
on the parties to appear and show cause why the Motion should not be granted. Rule  
Returnable the 28 day of January, 2002, at 10:00 A M. in  
Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

**FILED**

DEC 26 2001  
013.0615ccatty  
William A. Shaw *Zimmer*  
Prothonotary

  
BY THE COURT:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

CIVIL ACTION - LAW  
No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
And

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

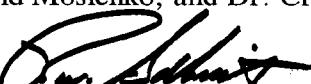
**FILED**

APR 26 2002

William A. Shaw  
Prothonotary

**CONSENT ORDER**

AND NOW, to-wit, this 26<sup>th</sup> day of April, 2002, upon  
consent of counsel for the parties, it is hereby ORDERED that Plaintiff, STEVEN G. O'GARA,  
is precluded from offering any evidence at the time of trial from any medical providers other  
than: Dr. Anthony Udekwu; UPMC Presbyterian University Hospital; Clearfield Hospital; Dr.  
K. David Mosienko; and Dr. Craig Burke.

  
ATTORNEY FOR DEFENDANT

  
ATTORNEY FOR PLAINTIFF

J.

FILED

2 cc Atty Gearhardt  
0134081  
APR 26 2002  
2 cc Atty Calbraugh

William A. Shaw  
Prothonotary

EAD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**NOTICE OF DEPOSITION OF STEVEN  
GERALD O'GARA**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
JEFFREY A. RAMALEY, ESQUIRE  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**

MAY 09 2002

William A. Shaw  
Prothonotary

**NOTICE OF DEPOSITION**

TO:            Steven G. O'Gara  
                  c/o R. Denning Gearhart, Esquire  
                  215 East Locust Street  
                  Clearfield, PA 16830

NOTICE is hereby given that the Deposition of **Steven G. O'Gara** will be taken upon oral examination in accordance with Rule 4007.1 of the Pennsylvania Rules of Civil Procedure, at the offices of Colavecchi, Ryan & Colavecchi, 221 East Market Street, Clearfield, Pennsylvania 16830, on **Tuesday, June 18, 2002, at 10:00 o'clock.**

The purpose for this Deposition is for use at Trial and discovery in accordance with Pa. R.C.P. 4007.1 and to inquire into all matters relevant to this lawsuit.

**ZIMMER KUNZ**  
Professional Limited Liability Company

By: \_\_\_\_\_

ROBERT W. GALBRAITH, ESQUIRE

**CERTIFICATE OF SERVICE**

I hereby certify that the within NOTICE OF DEPOSITION OF STEVEN G. O'GARA was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 7th day of May, 2002, addressed as follows:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Robert A. Seiferth, Esquire  
33 West Third Street  
Suite 200  
Williamsport, PA 17701  
(Attorney for Additional Defendant, Steven Gerald O'Gara)

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By \_\_\_\_\_

  
ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**NOTICE OF DEPOSITION OF ROBERT  
D. HOLLAND**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**

MAY 09 2002

**NOTICE OF DEPOSITION**

TO:            Robert D. Holland  
                  c/o Joseph Colavecchi, Esquire  
                  221 E. Market Street  
                  P. O. Box 131  
                  Clearfield, PA 16830

NOTICE is hereby given that the Deposition of **Robert D. Holland** will be taken upon oral examination in accordance with Rule 4007.1 of the Pennsylvania Rules of Civil Procedure, at the offices of Colavecchi, Ryan & Colavecchi, 221 East Market Street, Clearfield, Pennsylvania 16830, on **Tuesday, June 18, 2002, at 12:00 o'clock noon.**

The purpose for this Deposition is for use at Trial and discovery in accordance with Pa. R.C.P. 4007.1 and to inquire into all matters relevant to this lawsuit.

ZIMMER KUNZ  
Professional Limited Liability Company

By:   
ROBERT W. GALBRAITH, ESQUIRE

**CERTIFICATE OF SERVICE**

I hereby certify that the within NOTICE OF DEPOSITION OF ROBERT D. HOLLAND was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 7th day of May, 2002, addressed as follows:

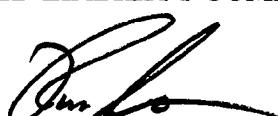
R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Robert A. Seiferth, Esquire  
33 West Third Street  
Suite 200  
Williamsport, PA 17701  
(Attorney for Additional Defendant, Steven Gerald O'Gara)

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Julie Fields Sweeney, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
(Attorney for Defendants, General Motors Corporation)

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By 

ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**NOTICE OF DEPOSITION OF JEFFREY  
S. HOOVER, JR.**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED** *no cc*  
11:38 AM  
JAN 13 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,

and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION,  
Defendants.

**NOTICE OF DEPOSITION**

TO: Jeffrey S. Hoover, Jr.  
R.R. 11  
Curwensville, PA 16833

NOTICE is hereby given that the Deposition of **JEFFREY S. HOOVER, JR.**  
will be taken upon oral examination in accordance with Rule 4007.1 of the Pennsylvania Rules  
of Civil Procedure, at the offices of Colavecchi, Ryan & Colavecchi, 221 East Market Street,  
Clearfield, Pennsylvania 16830, on **Thursday, January 23, 2003, at 11:00 o'clock a.m.**

The purpose for this Deposition is for use at Trial and discovery in accordance  
with Pa. R.C.P. 4007.1 and to inquire into all matters relevant to this lawsuit.

ZIMMER KUNZ  
Professional Limited Liability Company

By: \_\_\_\_\_

  
ROBERT W. GALBRAITH, ESQUIRE

**CERTIFICATE OF SERVICE**

I hereby certify that the within NOTICE OF DEPOSITION OF JEFFREY S. HOOVER, JR. was served upon all counsel of record by mailing a true copy therecf, via first-class mail, postage prepaid this 9th day of January, 2003, addressed as follows:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830

Timothy Coons, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By 

ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**NOTICE OF DEPOSITION OF ADAM L.  
BRESSLER**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**  
m11:38/01  
JAN 13 2003  
NO CC

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,

and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**NOTICE OF DEPOSITION**

TO: Adam L. Bressler  
State Route 879  
Grampian, PA 16838

NOTICE is hereby given that the Deposition of **ADAM L. BRESSLER** will be taken upon oral examination in accordance with Rule 4007.1 of the Pennsylvania Rules of Civil Procedure, at the offices of Colavecchi, Ryan & Colavecchi, 221 East Market Street, Clearfield, Pennsylvania 16830, on **Thursday, January 23, 2003, at 10:00 o'clock a.m.**

The purpose for this Deposition is for use at Trial and discovery in accordance with Pa. R.C.P. 4007.1 and to inquire into all matters relevant to this lawsuit.

ZIMMER KUNZ  
Professional Limited Liability Company

By: \_\_\_\_\_

  
ROBERT W. GALBRAITH, ESQUIRE

**CERTIFICATE OF SERVICE**

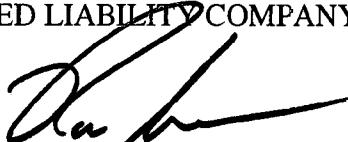
I hereby certify that the within NOTICE OF DEPOSITION OF ADAM L. BRESSLER was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 9th day of January, 2003, addressed as follows:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830

Timothy Coons, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By 

ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**NOTICE OF DEPOSITION OF SCOTT  
HOLLAND**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
JEFFREY A. RAMALEY, ESQUIRE  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**  
m/13/03  
JAN 13 2003  
NO CC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,

and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

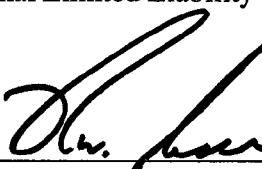
**NOTICE OF DEPOSITION**

TO: Scott Holland  
Bailey Road  
Curwensville, PA 16833

NOTICE is hereby given that the Deposition of **SCOTT HOLLAND** will be taken upon oral examination in accordance with Rule 4007.1 of the Pennsylvania Rules of Civil Procedure, at the offices of Colavecchi, Ryan & Colavecchi, 221 East Market Street, Clearfield, Pennsylvania 16830, on **Thursday, January 23, 2003, at 12:30 o'clock p.m.**

The purpose for this Deposition is for use at Trial and discovery in accordance with Pa. R.C.P. 4007.1 and to inquire into all matters relevant to this lawsuit.

ZIMMER KUNZ  
Professional Limited Liability Company

By: 

ROBERT W. GALBRAITH, ESQUIRE

**CERTIFICATE OF SERVICE**

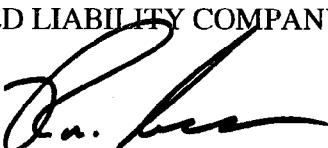
I hereby certify that the within NOTICE OF DEPOSITION OF SCOTT HOLLAND was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 9th day of January, 2003, addressed as follows:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830

Timothy Coons, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By 

ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**NOTICE OF DEPOSITION OF MARK  
WITHERITE**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**  
m 1:37 AM  
JAN 13 2003  
NO CC

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,

and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION,  
Defendants.

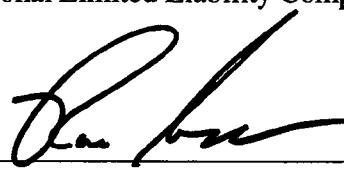
**NOTICE OF DEPOSITION**

TO: Mark Witherite  
R.R. 2 279  
Curwensville, PA 16833

NOTICE is hereby given that the Deposition of **MARK WITHERITE** will be taken upon oral examination in accordance with Rule 4007.1 of the Pennsylvania Rules of Civil Procedure, at the offices of Colavecchi, Ryan & Colavecchi, 221 East Market Street, Clearfield, Pennsylvania 16830, on **Thursday, January 23, 2003, at 1:30 o'clock p.m.**

The purpose for this Deposition is for use at Trial and discovery in accordance with Pa. R.C.P. 4007.1 and to inquire into all matters relevant to this lawsuit.

ZIMMER KUNZ  
Professional Limited Liability Company

By: 

ROBERT W. GALBRAITH, ESQUIRE

**CERTIFICATE OF SERVICE**

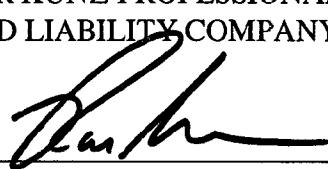
I hereby certify that the within NOTICE OF DEPOSITION OF MARK  
WITHERITE was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 9th day of January, 2003, addressed as follows:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830

Timothy Coons, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By   
ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**NOTICE OF DEPOSITION OF TROOPER  
BRIAN DAVIES**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
JEFFREY A. RAMALEY, ESQUIRE  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**  
1/13/03  
JAN 13 2003  
cc

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,

and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION,  
Defendants.

**NOTICE OF DEPOSITION**

TO: Trooper Brian Davies  
Pennsylvania State Police  
Dubois Barracks  
101 Preston Way  
Falls Creek, PA 15840

NOTICE is hereby given that the Deposition of **TROOPER BRIAN DAVIES** will be taken upon oral examination in accordance with Rule 4007.1 of the Pennsylvania Rules of Civil Procedure, at the offices of Colavecchi, Ryan & Colavecchi, 221 East Market Street, Clearfield, Pennsylvania 16830, on **Thursday, January 23, 2003, at 2:30 o'clock p.m.**

The purpose for this Deposition is for use at Trial and discovery in accordance with Pa. R.C.P. 4007.1 and to inquire into all matters relevant to this lawsuit.

ZIMMER KUNZ  
Professional Limited Liability Company

By: \_\_\_\_\_

ROBERT W. GALBRAITH, ESQUIRE

**CERTIFICATE OF SERVICE**

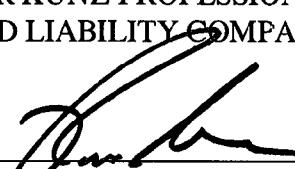
I hereby certify that the within NOTICE OF DEPOSITION OF TROOPER BRIAN DAVIES was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 9th day of January, 2003, addressed as follows:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830

Timothy Coons, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By 

ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.  
\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**AFFIDAVIT OF SERVICE**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ**  
**PROFESSIONAL LIMITED**  
**LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**

JAN 31 2003

William A. Shaw  
Prothonotary

## AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD

Before me, the undersigned notary public, this day, personally, appeared

Louis P. Radzyminski to me known, who being duly sworn according to  
law, deposes the following:

### Statement

The following is a list of subpoenas that were served in reference to Case 2000-00-905CD:

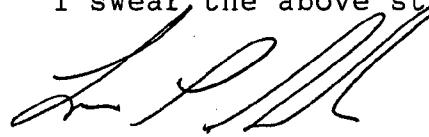
Adam Bressler Rt 879 Grampian PA hand to hand 1-16-03

Mark Witherite Witherite Rd Curwensville PA hand to hand  
1-18-03

Scott Holland Bailey Rd Curwensville PA hand to hand 1-21-03

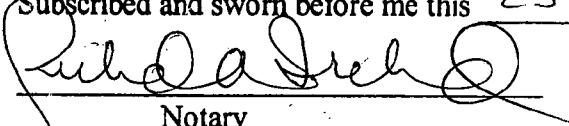
The subpoena for Jeffrey Hoover Jr was returned

I swear the above statement to be true and correct



Louis P. Radzyminski, State Constable

Subscribed and sworn before me this 23<sup>rd</sup> day of January, 2003



Notary

RICHARD A. IRELAND District Justice, State of Pennsylvania No. 46-3-02, Clearfield County Term Expires Jan. 3, 2006
--

**CERTIFICATE OF SERVICE**

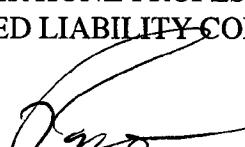
I hereby certify that the within AFFIDAVIT OF SERVICE was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 29th day of January, 2003, addressed as follows:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830

Timothy Coons, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By   
ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**NOTICE OF DEPOSITION OF TROOPER  
DAVE O'DONNELL**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
JEFFREY A. RAMALEY, ESQUIRE  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**

MAR 17 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,

and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION,  
Defendants.

**NOTICE OF DEPOSITION**

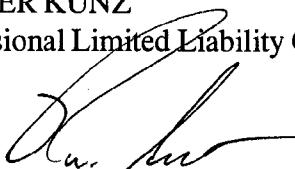
TO: Trooper Dave O'Donnell  
Pennsylvania State Police  
Dubois Barracks, 101 Preston Way  
Falls Creek, PA 15840

NOTICE is hereby given that the Deposition of **TROOPER DAVE**

**O'DONNELL** will be taken upon oral examination in accordance with Rule 4007.1 of the  
Pennsylvania Rules of Civil Procedure, at the offices of Colavecchi, Ryan & Colavecchi, 221  
East Market Street, Clearfield, Pennsylvania 16830, on **Wednesday, April 2, 2003, at 11:00**  
**o'clock a.m.**

The purpose for this Deposition is for use at Trial and discovery in accordance  
with Pa. R.C.P. 4007.1 and to inquire into all matters relevant to this lawsuit.

ZIMMER KUNZ  
Professional Limited Liability Company

By: 

ROBERT W. GALBRAITH, ESQUIRE

**CERTIFICATE OF SERVICE**

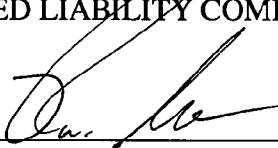
I hereby certify that the within NOTICE OF DEPOSITION was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 14th day of March, 2003, addressed as follows:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830

Paula Allan, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By   
ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**NOTICE OF DEPOSITION OF JEFFREY  
HOOVER**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**

MAR 17 2003

**William A. Shaw  
Prothonotary**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,

and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION,  
Defendants.

**NOTICE OF DEPOSITION**

TO: Jeffrey Hoover  
47 Allegheny Street  
Curwensville, PA 16833

NOTICE is hereby given that the Deposition of **JEFFREY HOOVER** will be taken upon oral examination in accordance with Rule 4007.1 of the Pennsylvania Rules of Civil Procedure, at the offices of Colavecchi, Ryan & Colavecchi, 221 East Market Street, Clearfield, Pennsylvania 16830, on **Wednesday, April 2, 2003, at 10:00 o'clock a.m.**

The purpose for this Deposition is for use at Trial and discovery in accordance with Pa. R.C.P. 4007.1 and to inquire into all matters relevant to this lawsuit.

ZIMMER KUNZ  
Professional Limited Liability Company

By: 

ROBERT W. GALBRAITH, ESQUIRE

**CERTIFICATE OF SERVICE**

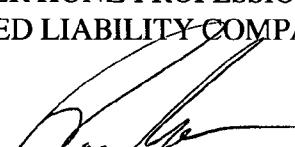
I hereby certify that the within NOTICE OF DEPOSITION was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 14th day of March, 2003, addressed as follows:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830

Paula Allan, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By   
ROBERT W. GALBRAITH, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW

No.: 00 - 905 CD

**NOTICE OF DEPOSITION OF MICHAEL  
LONDON**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**

MAR 17 2003

**William A. Shaw  
Prothonotary**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND, CIVIL ACTION - LAW

Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,

and

STEVEN GERALD O'GARA,  
Additional Defendant.

No.: 00 - 905 CD

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION,  
Defendants.

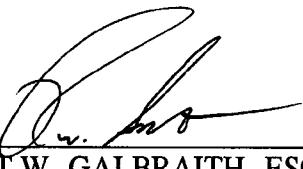
**NOTICE OF DEPOSITION**

TO: Michael London  
106 Main Street  
Troutville, PA 15866

NOTICE is hereby given that the Deposition of **MICHAEL LONDON** will be taken upon oral examination in accordance with Rule 4007.1 of the Pennsylvania Rules of Civil Procedure, at the offices of Colavecchi, Ryan & Colavecchi, 221 East Market Street, Clearfield, Pennsylvania 16830, on **Wednesday, April 2, 2003, at 9:30 o'clock a.m.**

The purpose for this Deposition is for use at Trial and discovery in accordance with Pa. R.C.P. 4007.1 and to inquire into all matters relevant to this lawsuit.

ZIMMER KUNZ  
Professional Limited Liability Company

By: 

ROBERT W. GALBRAITH, ESQUIRE

**CERTIFICATE OF SERVICE**

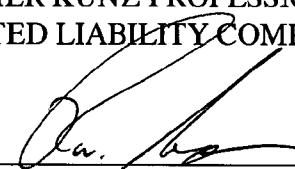
I hereby certify that the within NOTICE OF DEPOSITION was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid this 14th day of March, 2003, addressed as follows:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

Joseph Colavecchi, Esquire  
221 E. Market Street  
P. O. Box 131  
Clearfield, PA 16830

Paula Allan, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By   
ROBERT W. GALBRAITH, ESQUIRE

ROBERT D. HOLLAND,  
Plaintiff,

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY,  
PENNSYLVANIA

v.

FRED DIEHL MOTORS, INC. and  
GENERAL MOTORS CORPORATION,

CIVIL ACTION - LAW  
NO. 00-905-CD

Defendants.

and

STEVEN GERALD O'GARA,

Additional Defendant.

STEVEN GERALD O'GARA,

Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

**FILED**

SEP 08 2003

William A. Shaw  
Prothonotary/Clerk of Courts

To: Mr. William Shaw, Prothonotary  
Clearfield County

Please place the above-captioned case at issue.

Respectfully submitted,



Timothy S. Coop  
Pa. I.D. No. 52741  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Fl.  
Pittsburgh, PA 15219  
(412) 566-6000

Dated: September 4, 2003

Attorneys for General Motors Corporation

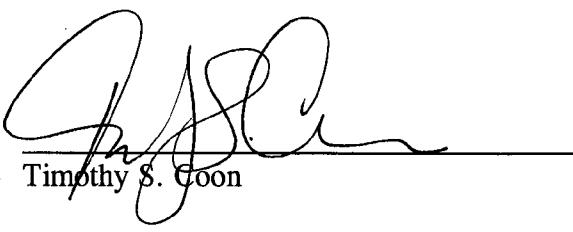
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **PRAECIPE TO PLACE CASE AT ISSUE** was served upon the following counsel of record by U.S. first class mail, postage prepaid, this 4<sup>th</sup> day of September, 2003:

Joseph Colavecchi, Esq.  
Colavecchi & Ryan  
221 East Market Street  
Clearfield, PA 16830

R. Denning Gearhart, Esq.  
215 East Locust Street  
Clearfield, PA 16830

Jeffrey A. Ramaley, Esq.  
Zimmer Kunz  
3300 U.S. Steel Tower  
600 Grant Street  
Pittsburgh, PA 15219

  
\_\_\_\_\_  
Timothy S. Coon

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and : No. 00-905-CD  
GENERAL MOTORS CORPORATION, :  
Defendants

and

STEVEN GERALD O'GARA,  
Additional Defendant

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants

CASE NUMBER: 00-905-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: MOTION TO REMOVE FROM TRIAL LIST

FILED ON BEHALF OF: Steven G. O'Gara

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE  
Supreme Court I.D. #26540  
215 East Locust Street  
Clearfield, PA 16830  
(814) 765-1581

FILED

NOV 12 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,  
Plaintiff

vs. : No. 00-905-CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants  
and  
STEVEN GERALD O'GARA,  
Additional Defendant

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants

MOTION TO REMOVE FROM TRIAL LIST

And now comes, R. Denning Gearhart, Attorney for Plaintiff, Steven G. O'Gara,  
who moves for a continuance and in support thereof offers as follows:

1. That this Complaint was filed on January 17, 2001, and various depositions were taken on various dates.
2. That Timothy S. Coon, Attorney for Defendant, General Motors Corporation, has asked that the matter be placed on the Civil Trial List, which is the Winter Civil Trial list to be called on January 6, 2004.
3. That because of a physical/health problem, your Petitioner has not been able to depose the medical experts for the Plaintiff, Steve O'Gara.

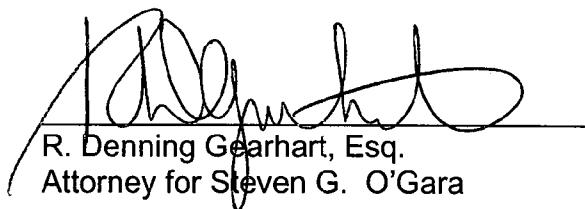
4. That he does not believe that he can be prepared to depose the medical experts in time for a trial during the next Civil Term.

5. He believes he can be ready for the Spring Trial list to be called on April 1, 2004.

6. This is the first time it has been on the Civil Trial list.

WHEREFORE, the Petitioner prays Your Honorable Court to issue a rule upon the other parties, to show cause why the matter should not be continued to the Spring Trial list.

Respectfully submitted,



R. Denning Gearhart, Esq.  
Attorney for Steven G. O'Gara

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION No. 00-905-CD

ROBERT D. HOLLAND,  
Plaintiff

vs.  
FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants

and  
STEVEN GERALD O'GARA,  
Additional Defendant  
etc.

MOTION TO REMOVE FROM TRIAL LIST

**FILED**

11/30/03  
446 to attorney b  
NOV 12 2003  
Ket

William A. Shaw  
Prothonotary

R. DENNING GEARHART  
ATTORNEY AT LAW  
CLEARFIELD, PA. 16830

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and : No. 00-905-CD  
GENERAL MOTORS CORPORATION, :  
Defendants

and

STEVEN GERALD O'GARA,  
Additional Defendant

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants

FILED

NOV 13 2003

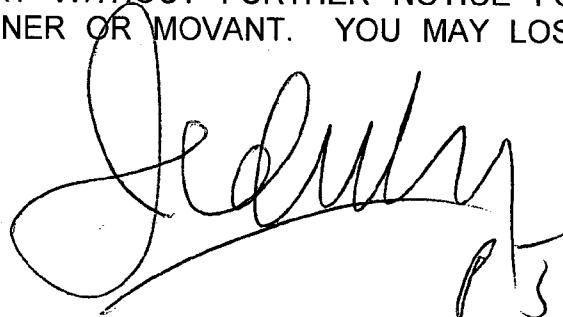
William A. Shaw  
Prothonotary/Clerk of Courts

RULE RETURNABLE

AND NOW, this 13<sup>th</sup> Day of November, 2003, upon consideration of the attached Motion, a Rule is hereby issued upon Respondents, to show cause why the Motion, should not be granted. Rule Returnable the 12<sup>th</sup> Day of December, 2003, for filing written response.

NOTICE

A PETITION OR MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING MOTION BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITIONER OR MOVANT. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.



YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator's Office  
Clearfield County Courthouse  
Second & Market Streets  
Clearfield, PA 16830  
(814) 765-2641

~~BY THE COURT~~  
~~JUDGE~~

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants

and

STEVEN GERALD O'GARA,  
Additional Defendant

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants

CASE NUMBER: No. 00-905-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: CERTIFICATE OF SERVICE

FILED ON BEHALF OF: Steven G. O'Gara

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE  
Supreme Court I. D. #26540  
215 East Locust Street  
Clearfield, PA 16830  
(814) 765-1581

**FILED**

NOV 20 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, Plaintiff  
vs.  
FRED DIEHL MOTORS, INC., and No. 00-905-CD  
GENERAL MOTORS CORPORATION, Defendants  
and  
STEVEN GERALD O'GARA, Additional Defendant  
\*\*\*\*\*

STEVEN G. O'GARA, Plaintiff  
vs.  
FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION, Defendants

CERTIFICATE OF SERVICE

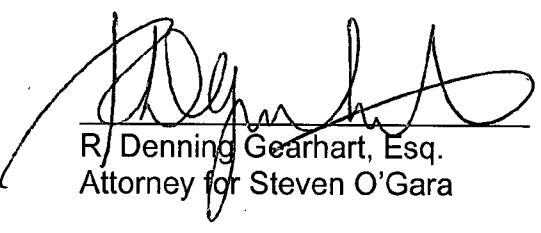
This is to certify that the undersigned has on this date served a certified copy of the Motion to Remove From Trial List and Rule Returnable filed in the above captioned matter on the opposing parties, through their attorneys, by depositing such documents in the United States Mail postage pre-paid and addressed as follows:

Timothy C. Coon, Esq.  
Eckert, Seamans, Cherin & Mellott, LLC  
600 Grant Street, 44<sup>th</sup> Floor  
Pittsburgh, PA 15219

Robert W. Galbraith, Esq.  
ZIMMER KUNZ  
3300 U.S. Steel Tower  
Pittsburgh, PA 15219

Joseph Colavecchi, Esq.  
Colavecchi, Ryan & Colavecchi, Esqs.  
221 East Market Street  
Clearfield, PA 16830

Dated: November 19, 2003

  
R. Denning Gearhart, Esq.  
Attorney for Steven O'Gara

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

ROBERT D. HOLLAND,

Plaintiff

vs.

No. 00-905-CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants

and

STEVEN GERALD O'GARA,  
Additional Defendant

FILED

NOV 26 2003

William A. Shaw  
Prothonotary/Clerk of Courts

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants

No. 01-81-CD

PRAEICE FOR APPEARANCE

TO WILLIAM A. SHAW, PROTHONOTARY.

Kindly enter my appearance on behalf of ROBERT D. HOLLAND, Plaintiff in the  
above-captioned matter, as Co-Counsel for Joseph Colavecchi, Esq. Direct all pleadings and  
matters concerning the foregoing to the undersigned.

Date: November 26, 2003

  
John Sughrue, Esquire

Attorney for Plaintiff  
Attorney I. D. #01037  
23 North Second Street  
Clearfield, PA 16830  
Phone: (814) 765-1704  
Fax: (814) 765-6959

cc: Joseph Colavecchi, Esq.  
R. Denning Gearhart, Esq.  
Robert W. Gailbreth, Esq.  
Timothy Coons, Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,

Plaintiff

vs.

No. 00-905-CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants

and

STEVEN GERALD O'GARA,

Additional Defendant :

\*\*\*\*\*

STEVEN G. O'GARA,

Plaintiff

vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants

CERTIFICATE OF SERVICE

AND NOW, I do hereby certify that on November 26, 2003, I caused a true and correct copy of PRAECIPE FOR APPEARANCE to be served on the following and in the manner indicated below:

By United States Mail, First Class, Postage Prepaid  
Addressed as Follows:

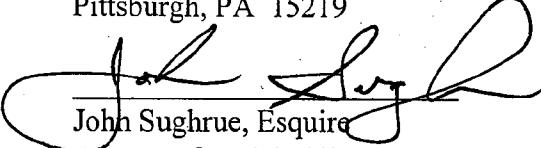
Mr. Joseph Colavecchi, Esq.  
COLAVECCHI, RYAN COLAVECCHI  
PO Box 131  
Clearfield, PA 16830

Mr. Denning R. Gearhart, Esq.  
215 E. Locust Street  
Clearfield, PA 16830

Mr. Robert W. Galbraith, Esq.  
ZIMMER KUNTZ  
3300 US Steel Tower  
Pittsburgh, PA 15219-2702

Mr. Timothy Coons, Esq.  
ECKERT SEAMANS  
600 Grant Street, 44<sup>th</sup> Floor  
Pittsburgh, PA 15219

Date: November 26, 2003

  
John Sughrue, Esquire  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,  
Plaintiff

vs. : No. 00-905-CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants  
and

STEVEN GERALD O'GARA,  
Additional Defendant

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

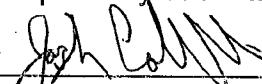
Defendants

STIPULATION

That the parties hereby stipulate as follows:

1. That the matter has been listed for trial to be called at Civil Call on the Winter Civil Trial list on January 6, 2004.
2. That R. Denning Gearhart, Attorney for Steven G. O'Gara, has asked that the case be removed from the Winter Civil Trial list and placed on the Spring Trial list to be called on April 1, 2004.
3. That on behalf of my client, I have no objection to such a continuance.

Respectfully submitted,

  
Joseph Colavecchi, Esq.  
Attorney for Robert D. Holland

FILED

O 11/34 68 NAP  
100-17500

DEC 18 2003 *Colavecchi*  
*Office of the Clerk*  
*City of Clearfield*

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,  
Plaintiff

vs.

No. 00-905-CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants

and

STEVEN GERALD O'GARA,

Additional Defendant

\*\*\*\*\*

STEVEN G. O'GARA,

Plaintiff

vs.

FRED DIEHL MOTORS, INC., and

GENERAL MOTORS CORPORATION,

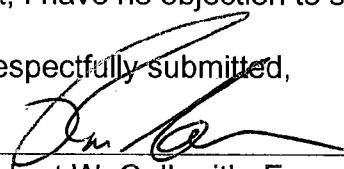
Defendants

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3. That on behalf of my client, I have no objection to such a continuance.

Respectfully submitted,

  
Robert W. Galbraith, Esq.  
Attorney for Defendant, Fred Diehl Motors, Inc.

FILED

O 11:34 NOCL

DEC 18 2003

RECEIVED  
COURT CLERK  
CLEARFIELD COUNTY  
DECEMBER 18 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISIONROBERT D. HOLLAND,  
Plaintiff

vs.

No. 00-905-CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,Defendants  
andSTEVEN GERALD O'GARA,  
Additional Defendant

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff

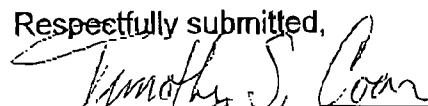
vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
DefendantsSTIPULATION

That the parties hereby stipulate as follows:

1. That the matter has been listed for trial to be called at Civil Call on the Winter Civil Trial list on January 6, 2004.
2. That R. Denning Gearhart, Attorney for Steven G. O'Gara, has asked that the case be removed from the Winter Civil Trial list and placed on the Spring Trial list to be called on April 1, 2004.
3. That on behalf of my client, I have no objection to such a continuance.

Respectfully submitted,

Timothy S. Coen, Esq.  
Attorney for Defendant, General Motors Corp.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,  
Plaintiff

vs.

No. 00-905-CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants  
and

STEVEN GERALD O'GARA,  
Additional Defendant

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants

O R D E R

AND NOW, this 22 Day of December, 2003, upon consideration of  
the Motion to Remove from Trial List, and with Stipulations of all opposing counsel, it is the  
ORDER of this Court that the matter be stricken from the Winter Civil List and placed on  
the Spring Civil List.

BY THE COURT

JUDGE

FILED

DEC 23 2003

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISIONROBERT D. HOLLAND,  
Plaintiff

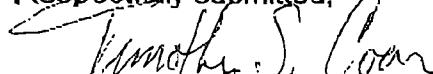
vs. : No. 00-905-CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION.  
Defendants  
andSTEVEN GERALD O'GARA,  
Additional Defendant\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiffvs.  
FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants*Stipulations*STIPULATION

That the parties hereby stipulate as follows:

1. That the matter has been listed for trial to be called at Civil Call on the Winter Civil Trial list on January 6, 2004.
2. That R. Denning Gearhart, Attorney for Steven G. O'Gara, has asked that the case be removed from the Winter Civil Trial list and placed on the Spring Trial list to be called on April 1, 2004.
3. That on behalf of my client, I have no objection to such a continuance.

Respectfully submitted,

Timothy S. Coan, Esq.  
Attorney for Defendant, General Motors Corp.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,  
Plaintiff

vs.

No. 00-905-CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants  
and

STEVEN GERALD O'GARA,  
Additional Defendant

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants

**STIPULATION**

That the parties hereby stipulate as follows:

1. That the matter has been listed for trial to be called at Civil Call on the Winter Civil Trial list on January 6, 2004.
2. That R. Denning Gearhart, Attorney for Steven G. O'Gara, has asked that the case be removed from the Winter Civil Trial list and placed on the Spring Trial list to be called on April 1, 2004.
3. That on behalf of my client, I have no objection to such a continuance.

Respectfully submitted,

  
\_\_\_\_\_  
Joseph Colavecchi, Esq.  
Attorney for Robert D. Holland

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

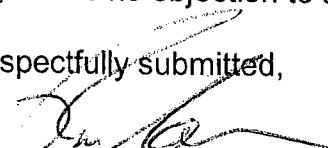
ROBERT D. HOLLAND, :  
Plaintiff :  
vs. : No. 00-905-CD  
FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants :  
and :  
STEVEN GERALD O'GARA, :  
Additional Defendant :  
\*\*\*\*\*  
STEVEN G. O'GARA, :  
Plaintiff :  
vs. :  
FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants :  
\*\*\*\*\*

STIPULATION

That the parties hereby stipulate as follows:

1. That the matter has been listed for trial to be called at Civil Call on the Winter Civil Trial list on January 6, 2004.
2. That R. Denning Gearhart, Attorney for Steven G. O'Gara, has asked that the case be removed from the Winter Civil Trial list and placed on the Spring Trial list to be called on April 1, 2004.
3. That on behalf of my client, I have no objection to such a continuance.

Respectfully submitted,

  
Robert W. Galbraith, Esq.  
Attorney for Defendant, Fred Diehl Motors, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants

and

STEVEN GERALD O'GARA,  
Additional Defendant

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants

CASE NUMBER: 00-905-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: MOTION TO REMOVE FROM TRIAL LIST

FILED ON BEHALF OF: Steven G. O'Gara

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE  
Supreme Court I.D. #26540  
215 East Locust Street  
Clearfield, PA 16830  
(814) 765-1581

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

NOV 12 2003

William L. Hause  
Prothonotary  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,  
Plaintiff

vs. : No. 00-905-CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants  
and

STEVEN GERALD O'GARA,  
Additional Defendant

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants

MOTION TO REMOVE FROM TRIAL LIST

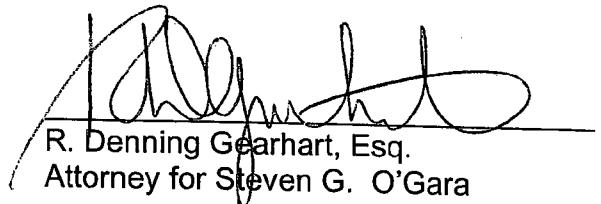
And now comes, R. Denning Gearhart, Attorney for Plaintiff, Steven G. O'Gara,  
who moves for a continuance and in support thereof offers as follows:

1. That this Complaint was filed on January 17, 2001, and various depositions were taken on various dates.
2. That Timothy S. Coon, Attorney for Defendant, General Motors Corporation, has asked that the matter be placed on the Civil Trial List, which is the Winter Civil Trial list to be called on January 6, 2004.
3. That because of a physical/health problem, your Petitioner has not been able to depose the medical experts for the Plaintiff, Steve O'Gara.

4. That he does not believe that he can be prepared to depose the medical experts in time for a trial during the next Civil Term.
5. He believes he can be ready for the Spring Trial list to be called on April 1, 2004.
6. This is the first time it has been on the Civil Trial list.

WHEREFORE, the Petitioner prays Your Honorable Court to issue a rule upon the other parties, to show cause why the matter should not be continued to the Spring Trial list.

Respectfully submitted,



R. Denning Gearhart, Esq.  
Attorney for Steven G. O'Gara

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and : No. 00-905-CD  
GENERAL MOTORS CORPORATION, :  
Defendants

and

STEVEN GERALD O'GARA,  
Additional Defendant

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

NOV 13 2003

Attest.

*William J. Ober*  
Prothonotary/  
Clerk of Courts

RULE RETURNABLE

AND NOW, this 13<sup>th</sup> Day of November, 2003, upon consideration of the  
attached Motion, a Rule is hereby issued upon Respondents, to show cause why the  
Motion, should not be granted. Rule Returnable the 12<sup>th</sup> Day of December,  
2003, for filing written response.

NOTICE

A PETITION OR MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU  
WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING MOTION  
BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND  
FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE  
MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO  
SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED  
AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF  
REQUESTED BY THE PETITIONER OR MOVANT. YOU MAY LOSE RIGHTS  
IMPORTANT TO YOU.

/s/ JOHN K. REILLY, JR.

*P.J.*

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator's Office  
Clearfield County Courthouse  
Second & Market Streets  
Clearfield, PA 16830  
(814) 765-2641

~~BY THE COURT~~

~~JUDGE~~

/X

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND :

-VS-

FRED DIEHL MOTORS, INC.,  
and GENERAL MOTORS  
CORPORATION  
and

00-905-CD

STEVEN GERALD O'GARA

No. 01-422-CD

and

STEVEN GERALD O'GARA

-VS-

FRED DIEHL MOTORS, INC.,  
and GENERAL MOTORS  
CORPORATION

O R D E R

NOW, this 1st day of April, 2004, this being the date set for Civil Call; the Court noting that the case is assigned to the Honorable Paul E. Cherry; upon request of counsel for Plaintiff, it is the ORDER of this Court that the matter be and is hereby continued until the fall Term of Court.

BY THE COURT,



---

President Judge

FILED

APR 07 2004

William A. Shaw  
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing General Motors Corporation's Pre-Trial Statement Pursuant to PA R.C.P. 212.2 and Local Rule 212.4C, was served by Federal Express, this 10th day of August, 2004, as follows:

Robert W. Galbraith, Esq.  
Jeffrey A. Ramaley, Esq.  
Zimmer Kuntz  
3300 US Steel Tower  
Pittsburgh, PA 15219-2702  
*Counsel for Fred Diehl Motor, Inc.*

John Shugrue, Esq.  
23 North Second Street  
Clearfield, PA 16830  
*Counsel for Plaintiffs*

Joseph Colavecchi, Esq.  
Colavecchi & Ryan  
221 East Market Street  
Clearfield, PA 16830  
*Counsel for Robert Holland*

R. Denning Gearhart, Esq.  
215 E. Locust Street  
Clearfield, PA 16830  
*Counsel for Steven O'Gara*

  
\_\_\_\_\_  
Timothy S. Coon, Esquire  
Melissa Lightcap Cianfrini, Esquire

Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219

Attorneys for Defendant  
General Motors Corporation

{J0824752.3}

FILED  
m19:34:60 NO CC  
AUG 12 2004  
EAS

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,  
Plaintiff,

vs.

FRED DIEHL MOTORS, INC. and  
GENERAL MOTORS CORPORATION,  
Defendants,

and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN GERALD O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

No. 00-905-CD

RECEIVED

AUG 11 2004

COURT ADMINISTRATOR'S  
OFFICE

**GENERAL MOTORS CORPORATION'S PRE-TRIAL STATEMENT  
PURSUANT TO PA R.C.P. 212.2 AND LOCAL RULE 212.4e**

General Motors Corporation ("General Motors") by its attorneys, Eckert Seamans Cherin & Mellott, LLC, respectfully submits its Pre-Trial Statement in accordance with Pa R.C.P. 212.2 and Local Rule 212.4e.

**I. BRIEF FACTUAL STATEMENT**

This lawsuit arises from a single vehicle accident on April 10, 1999, occurring at or about 1:30 a.m. on Anderson Creek Road (State Road 4005), in Bloom Township, Clearfield County, several miles north-west of Curwensville, Pennsylvania. The vehicle was a 1997 K1500 Chevrolet pickup truck. Plaintiffs are the driver and passenger of the truck. Plaintiffs have testified that they have no memory of the events of the accident. There were no eye witnesses to the accident itself. GM believes that plaintiff Holland will contend that plaintiff O'Gara was the driver and that Holland was the passenger.

00-905-CD  
CA

**CERTIFICATE OF SERVICE**

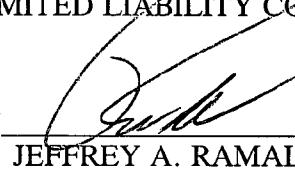
I hereby certify that the within DEFENDANTS PRE-TRIAL STATEMENT was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid and via facsimile, this 11<sup>th</sup> day of August, 2004, addressed as follows:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

John Sughrue, Esquire  
23 North Second Street  
Clearfield, PA 16830

Timothy Coon, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By 

JEFFREY A. RAMALEY, ESQUIRE  
ROBERT W. GALBRAITH, ESQUIRE

FILED  
01/30/2004 NO CC  
AUG 12 2004

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW  
No.: 00 - 905 CD

**DEFENDANT'S PRE-TRIAL  
STATEMENT**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**RECEIVED**

**AUG 12 2004**

**COURT ADMINISTRATOR'S  
OFFICE**

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND : NO. 00-905-CD

V. :

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION :  
and

STEVEN GERALD O'GARA :  
:

STEVEN GERALD O'GARA :  
:

V. :

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION :  
:

CA  
FILED

AUG 19 2004

William A. Shaw  
Prothonotary/Clerk of Courts

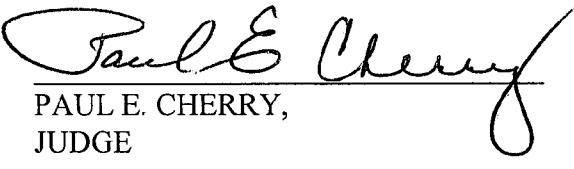
ORDER

AND NOW, this 18<sup>TH</sup> day of August, 2004, following Pre-Trial Conference, it is  
the ORDER of this Court:

1. Jury Selection in this matter is scheduled for January 6, 2005, beginning at 1:30 P.M. in Courtroom No.2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Trial in this matter is scheduled for January 17, 18, 19, 20, 21, 2005 at 9:00 A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. The deadline for providing any and all outstanding discovery shall be by and no later than thirty (30) days prior to the commencement of trial.
4. Counsel for the parties, if they so desire, may submit a Trial Brief to the Court no more than thirty (30) days prior to the commencement of trial.
5. The deadline for submitting any and all Motion shall be by and no later than thirty (30) days prior to the commencement of trial.
6. Points for Charge shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
7. Proposed Verdict Slip shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
8. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

It is the further ORDER of this Court that counsel need not appear for Civil Call with regard to this matter. No further Pre-Trial Conference shall be held unless requested by counsel.

BY THE COURT,

  
PAUL E. CHERRY,  
JUDGE

FILED

012-42601  
AUG 19 2004  
EAS

William A. Shaw  
Prothonotary/Clerk of Courts

cc: Antys, J. Caverchi, Sughrue,  
J. Gibbons, Sweeney,  
Ranaldo, Gearhart  
Seitz, Gearhart

CX

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants,

and

STEVEN GERALD O'GARA,

Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,

Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

ORDER OF COURT

AND NOW, on this 29<sup>th</sup> day of October, 2004, it is hereby

ORDERED, ADJUDGED and DECREED that oral argument on Defendant, Fred Diehl Motors,

Inc.'s Motion to Compel shall be heard on the 8 day of December, 2004 by  
the Honorable Paul E. Cherry at 10:30 o'clock. later than the        day of  
      , 2004.

BY THE COURT,

Paul E. Cherry

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants,

and

STEVEN GERALD O'GARA,

Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,

Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

**ORDER OF COURT**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2004, IT IS  
HEREBY ORDERED that, within twenty days of the date of this order, that Plaintiff, Robert  
Holland: (1) provide information to the Defendant as to the amount of the lien held by the  
Department of Public Welfare for medical treatment rendered to Robert Holland for the year 200  
(?); and/or (2) authorize counsel for the Defendant to secure this information directly from the  
Department of Public Welfare.

BY THE COURT:

\_\_\_\_\_, J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*  
STEVEN G. O'GARA,  
Plaintiff,

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

CIVIL ACTION - LAW  
No.: 00 - 905 CD

**MOTION TO COMPEL**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ  
PROFESSIONAL LIMITED  
LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

*3cc*  
*10/15/04*  
*OCT 28 2004*  
*BS*  
*William A. Shaw*  
*Prothonotary/Clerk of Courts*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants,

and

STEVEN GERALD O'GARA,

Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,

Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

**MOTION TO COMPEL**

Defendant, FRED DIEHL MOTORS, INC., by its attorneys, ZIMMER KUNZ, P.L.L.C., files the following Motion to Compel and, in support thereof, avers as follows:

1. In the civil action brought by Robert Holland, Mr. Holland alleges, inter alia, that he suffered injuries and damages as a result of the motor vehicle accident in question.
2. During the discovery phase of this case, undersigned counsel requested from Mr. Holland's counsel copies of all medical bills incurred by him as a result of the motor vehicle accident in question along with documentation as to whether any of those medical bills have been paid.

3. In response to the aforementioned discovery responses, counsel for Mr. Holland has advised that the Department of Public Welfare paid most, if not all, of Mr. Holland's medical bills.

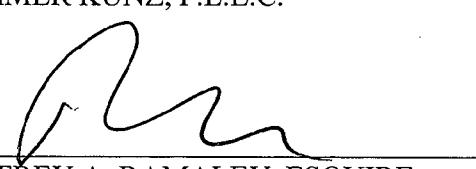
4. Counsel for Mr. Holland has provided a letter from the Department of Welfare setting forth its lien for the first set of medical treatment for Mr. Holland for 1999. However, Mr. Holland underwent a second round of medical treatment in the year 200\_\_\_\_ (?). Counsel for Mr. Holland has advised that this medical treatment has also been paid for by the Department of Public Welfare, but he has not been provided any documentation from the Department of Public Welfare as to the amount of that lien.

5. Defendant submits that it is necessary that it receive this information since Pennsylvania law provides that the only admissible amount for the medical bills in question would be the amount of the lien prepared by the Department of Public Welfare.

WHEREFORE, for the reasons set forth above, Defendant requests that the Court enter an Order ordering the Plaintiff to either: (1) provide a copy of the lien letter in question; and/or (2) provide appropriate authorization so counsel for the Defendant may have direct contact with the Department of Public Welfare for this information.

Respectfully submitted,

ZIMMER KUNZ, P.L.L.C.

By   
JEFFREY A. RAMALEY, ESQUIRE  
ATTORNEYS FOR DEFENDANTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,

and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within MOTION TO COMPEL  
was forwarded to counsel below named by United States Mail on the October 26 day of  
2004:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

John Sughrue, Esquire  
23 North Second Street  
Clearfield, PA 16830

Timothy Coon, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219

ZIMMER KUNZ, P.L.L.C.

By:

  
JEFFREY A. RAMALEY, ESQUIRE

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND

-VS-

FRED DIEHL MOTORS, INC.  
and GENERAL MOTORS  
CORPORATION

and

STEVEN GERALD O'GARA

STEVEN GERALD O'GARA

-VS-

FRED DIEHL MOTORS, INC.  
and GENERAL MOTORS  
CORPORATION

O R D E R

NOW, this 8th day of December, 2004, this being  
the date set for oral argument on Defendant Fred Diehl  
Motors, Incorporated's Motion to Compel; Plaintiff Robert  
Holland having failed to appear either personally or  
through counsel despite receiving due and proper notice, it  
is the ORDER of this Court that Plaintiff Robert Holland  
shall, within no more than ten (10) days from this date,  
provide information to Defendant Fred Diehl Motors,  
Incorporated, as to the amount of the lien held by the  
Department of Public Welfare for medical treatment rendered  
to Robert Holland for the years 2000, 2001 and 2002 or, in  
the alternative, prepare a release to enable Defendant Fred

FILED

01206314

2000 City Colavocash  
2000 Act. Damages  
2000 Act. Seizure  
1000 City Sweaney  
Gannett  
Suzanna

DEC 09 2004

William A. Shaw  
Prothonotary

No. 00-905-CD

Diehl Motors, Incorporated, to secure this information  
directly from the Department of Public Welfare.

BY THE COURT,

Paul E Cherry  
Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,

v.

CIVIL ACTION - LAW

No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,

and

STEVEN GERALD O'GARA,  
Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

**MOTION IN LIMINE**

Filed on behalf of:  
DEFENDANT, FRED DIEHL MOTORS, INC

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ROBERT W. GALBRAITH, ESQUIRE**  
Pa. I.D. #86473

**ZIMMER KUNZ**  
**PROFESSIONAL LIMITED**  
**LIABILITY COMPANY**  
Firm #920  
3300 USX Tower  
Pittsburgh, PA 15219  
(412) 281-8000

**FILED**  
M 11:45 100 NOV 2004  
DEC 17 2004

William A. Shaw  
Prothonotary

**MOTION IN LIMINE**

Defendant, Fred Diehl Motors, Inc., by and through its attorneys, ZIMMER KUNZ, P.L.L.C., files the following Motion in Limine and, in support thereof, sets forth as follows:

**I. Plaintiff's Holland is barred from pleading, proving and/or recovering the amount of any medical bills allegedly suffered as a result of the motor vehicle accident in question which have been paid for by an automobile insurance/company and/or personal insurance company and plaintiffs may only introduce evidence of amounts that have been received as final payment for medical services.**

The above captioned matters were initiated as a result of a one car automobile accident that occurred in the early morning hours of April 10, 1999. At the time of the motor vehicle accident in question, the vehicle occupied by Plaintiffs was insured with Bituminous Casualty Corporation and had a policy of insurance which provided \$ 5,000.00 in first party medical benefits coverage. See excerpt from Plaintiff Robert Holland's deposition transcript, page 85-88, a copy of which is attached hereto and marked as Exhibit "A" as well as a copy of the declarations page attached hereto and marked as Exhibit "B". Plaintiff Holland's medical bills were paid by his automobile insurance company until the first party benefits provided for under her automobile insurance policy were exhausted. The Department of Public Welfare then assumed the responsibility of paying for Mr. Holland's medical bills and has allegedly asserted a lien in the amount of \$7802.55.<sup>1</sup>

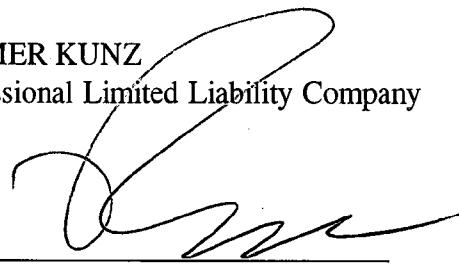
Sections 1719 and 1722 of the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A., provide that a Plaintiff is barred from pleading, proving and/or recovering the amount of any benefits paid or payable under her policy in the present

personal injury action. The medical bills may also not be offered for purposes of calculating a pain and suffering claim. Carlson v. Bubash, 639 A.2d 458 (Pa. Super 1994). As such, Plaintiff Holland is barred from pleading, proving and/or recovering those amounts paid by his Insurance company in the present civil action.

Additionally, this Defendant submits that Plaintiff Holland may only introduce evidence of amounts that have been received as final payment for medical services. See, Moorehead v. Crozer Chester Medical Center, 765 A.2d 786 (Pa. 2001); Pittsburgh Neurosurgery Associates, Inc. v. Danner, 733 A.2d 1279 (Pa. Super. 1999). In the present matter, the Department of Public Welfare was able to pay Mr. Holland's medical bills. Plaintiff may only plead, prove and recover those amount for which the Department of Public Welfare has asserted a lien. Therefore, Defendant requests that this Court order the Plaintiff not to make any reference to medical bills which have been paid by Bituminous Casualty nor make any reference to any other medical bills other than the amount for which the Department of Public Welfare is currently asserting a lien.

Respectfully submitted,

ZIMMER KUNZ  
Professional Limited Liability Company

By: 

Robert W. Galbraith, Esquire  
Counsel for Additional Defendant

---

<sup>1</sup> An earlier lien of \$25,227.59 was satisfied out of a settlement paid to Holland by O'Gara's insurance carrier.

**CERTIFICATE OF SERVICE**

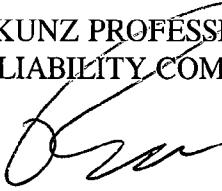
I hereby certify that the within MOTION IN LIMINE was served upon all counsel of record by mailing a true copy thereof, via first-class mail, postage prepaid and via facsimile, this 16<sup>th</sup> day of December, 2004, addressed as follows:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

John Sughrue, Esquire  
23 North Second Street  
Clearfield, PA 16830

Timothy Coon, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219

ZIMMER KUNZ PROFESSIONAL  
LIMITED LIABILITY COMPANY

By 

JEFFREY A. RAMALEY, ESQUIRE  
ROBERT W. GALBRAITH, ESQUIRE

1 honest with you.

2 Q When he would drink, what would he drink?

3 A Beer.

4 Q You had previously answered some questions,  
5 written questions called interrogatories. In fact,  
6 you had done this on the first lawsuit, the one  
7 against Mr. O'Gara only. One of the questions I  
8 want to show you is Interrogatory No. 13. If you  
9 could take a look at that and tell us when you're  
10 done looking at it.

11 A (Witness complies.) That's what I stated  
12 to you earlier.

13 Q How did you arrive at that figure?

14 A Maybe tax returns. I don't know.

15 Q We'll be able to get those. Do you still  
16 have those tax returns?

17 A Somewhere. Unless I have a fire.

18 Q Answer to Interrogatory No. 17 said you had  
19 treated for back pain at Clearfield Hospital in 1996  
20 or 1997. Do you recall that?

21 A Back pain? If I wrote it down, I must  
22 have.

23 Q Do you remember what --

24 A I have no idea. I don't know. I can't  
25 recall having any problem with my back. Maybe I



1 misunderstood what it said. Prior to the accident  
2 -- I don't know. No idea.

3 Q Did you have car insurance at the time of  
4 the accident?

5 A Auto insurance?

6 Q Yes, sir.

7 A Yes, I believe.

8 Q And that's the insurance we talked about  
9 before that would have been taken care of by one of  
10 your sisters?

11 A Right.

12 Q Do you remember if that company paid for  
13 any of your medical bills as a result of this  
14 accident?

15 A Someone paid some of them. I don't know  
16 what, exactly.

17 Q Did you have health insurance at the time  
18 of the car accident?

19 A I had some. I don't recall exactly what it  
20 was.

21 Q Do you know who the health insurer was?

22 A No.

23 Q Did they pay for any of your medical bills?

24 A Yes. There was some insurance coverage. I  
25 don't know exactly what all it consisted of, but

1 yeah.

2 Q Have you paid for any of your medical bills  
3 out of your pocket?

4 A Yes.

5 Q Can you estimate for us how much?

6 A I don't --

7 Q Would you keep records of that somewhere?

8 A Yeah. We had a settlement where I had to  
9 pay someone \$35,000, and I pay DuBois Hospital every  
10 month.

11 Q Right now?

12 A Yes, to this day.

13 MR. COLAVECCHI: Jeff, to interrupt. DPA  
14 paid most of the medical bills and then they  
15 asserted a lien. We paid them off out of the first  
16 accident. But he had a lot more medical bills that  
17 came in after that, then, when he went into the  
18 second operation. We settled their claim.

19 MR. RAMALEY: Are you saying that you paid  
20 off the first lien?

21 MR. COLAVECCHI: Right. We paid off the  
22 DPA lien.

23 MR. RAMALEY: Do you know how much that  
24 was?

25 MR. COLAVECCHI: They really reduced that

1 down. I'm going to guess less than \$50,000.

2 MR. RAMALEY: Then you're saying there are  
3 more medical bills that came in because he had that  
4 surgery?

5 MR. COLAVECCHI: The second operation,  
6 yeah. That's a huge amount of money. Those haven't  
7 all been paid. DPA wouldn't go along with that.  
8 DPA evidently wouldn't pay that.

9 MR. RAMALEY: The second surgery?

10 MR. COLAVECCHI: Yeah.

11 MR. RAMALEY: They haven't made any  
12 payment, whatsoever?

13 MR. COLAVECCHI: To my knowledge, they have  
14 not. I could be wrong.

15 THE WITNESS: I think it's \$120,000 at  
16 UPMC.

17 MR. RAMALEY: I'd like to try to get a  
18 package of the unpaid medical bills.

19 MR. COLAVECCHI: It shouldn't be hard.  
20 They've been sending them out.

21 MR. RAMALEY: Did they give you a reason  
22 why they wouldn't pay the second surgery?

23 THE WITNESS: I didn't -- I had too many  
24 assets and other things that, I guess, assistance  
25 wouldn't help me anymore. I was surprised that they

**BITUMINOUS CASUALTY CORPORATION**  **BITUMINOUS FIRE AND MARINE INSURANCE COMPANY**

**NEW**  
Renewal of Number

CAPITAL STOCK INSURANCE COMPANIES - 320 18TH STREET - ROCK ISLAND, ILLINOIS 61201

CA 00 03 07 97

**Policy No. CAP 2 551 091****BUSINESS AUTO DECLARATIONS****ITEM ONE**

Named Insured and Mailing Address (No., Street, Town or City, County, State, Zip Code)

**Holland Tree Services, Inc.**  
PO Box 367  
Curwensville, PA 16833

## FORM OF NAMED INSURED'S BUSINESS:

CORPORATION;  PARTNERSHIP;  INDIVIDUAL  
 LIMITED LIABILITY COMPANY;  OTHER

NAMED INSURED'S BUSINESS: **Logger**Policy Period: From **February 11, 1999**to **February 11, 2000**

at 12:01 A.M. Standard Time at your mailing

address shown above.

IN RETURN FOR THE PAYMENT OF THIS PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

**ITEM TWO—SCHEDULE OF COVERAGES  
AND COVERED AUTOS**

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those "autos" shown as covered "autos". "Autos" are shown as covered "autos" for a particular coverage by the entry of one or more of the symbols from the COVERED AUTOS Section of the Business Auto Coverage Form next to the name of the coverage.

COVERAGES	COVERED AUTOS (Entry of one or more of the symbols from the COVERED AUTOS Section of the Business Auto Coverage Form show which autos are covered autos)	LIMIT THE MOST WE WILL PAY FOR ANY ONE ACCIDENT OR LOSS	PREMIUM
LIABILITY	1	\$ 500,000.	\$ 1,157.
PERSONAL INJURY PROTECTION (P.I.P.) <sup>ttt</sup>	5	SEPARATELY STATED IN EACH P.I.P. END. MINUS \$ DEDUCTIBLE	\$ 10.
ADDED P.I.P. (or equivalent added No-fault cov.)	5	SEPARATELY STATED IN EACH ADDED P.I.P. ENDORSEMENT	\$ 9.
PROPERTY PROTECTION INS. (P.P.I.) (Michigan only)		SEPARATELY STATED IN THE P.P.I. ENDORSEMENT MINUS \$ DEDUCTIBLE FOR EACH ACCIDENT	\$
AUTO MEDICAL PAYMENTS		\$	\$
UNINSURED MOTORISTS (UM)	6	\$ 35,000.	\$ 7.
UNDERINSURED MOTORISTS (when not included in UM Cov.)	6	\$ 35,000.	\$ 12.
PHYSICAL DAMAGE	COMPREHENSIVE COVERAGE	ACTUAL CASH VALUE SCHEDULE FOR EACH COVERED AUTO, BUT NO DED OR COST OF REPAIR, WHICHEVER IS LESS MINUS SCHEDULED DEDUCTIBLE FOR EACH COVERED AUTO <sup>ttt</sup>	\$ 169.
	SPECIFIED CAUSES OF LOSS COVERAGE	APPLIES TO LOSS CAUSED BY FIRE OR LIGHTNING. <sup>ttt</sup> \$25 DEDUCTIBLE FOR EACH COVERED AUTO FOR LOSS CAUSED BY MISCHIEF OR VANDALISM <sup>ttt</sup>	\$
	COLLISION COVERAGE	\$25 DEDUCTIBLE FOR EACH COVERED AUTO <sup>ttt</sup>	\$ 495.
	TOWING AND LABOR (Not Available in California)	\$ for each disablement of a private passenger auto	\$
FORMS AND ENDORSEMENTS MADE PART OF THIS POLICY AT TIME OF ISSUE: See MAN1		PREMIUM FOR ENDORSEMENTS \$	
		▲ ESTIMATED TOTAL PREMIUM	\$ 1,859.

**ITEM THREE—SCHEDULE OF COVERED AUTOS YOU OWN**

†(or equivalent No-fault cov.) ††See ITEM FOUR for hired or borrowed "autos".

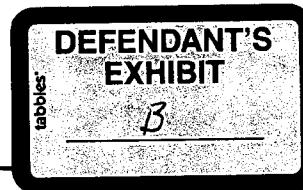
Covered Auto No.	DESCRIPTION Year Model; Trade Name; Body Type Serial Number (S); Vehicle Identification Number (VIN)	PURCHASED			TERRITORY: Town & State Where the Covered Auto will be principally garaged	
		Original Cost New	Actual Cost <sup>8</sup>	NEW (N) USED (U)		
1						
2	See Schedule Attached					
3						
4						
5						
Covered Auto No.	CLASSIFICATION Radius of Operation (In Miles) Business use s = service r = retail c = commercial	Size GVW, GCW or Vehicle Seating Capacity	Age Group	Primary Rating Factor Liab. Phy. Damage	Secondary Rating Factor Code	Except for towing all physical damage loss is payable to you and the loss payee named below as interests may appear at the time of the loss
1	See Schedule Attached					
2						
3						
4						
5						

▲ This policy may be subject to final audit.

Countersigned **March 11, 1999 at: Philipsburg, PA**By William M. Jones  
Authorized Representative

THESE DECLARATIONS AND THE POLICY JACKET, TOGETHER WITH THE BUSINESS AUTO COVERAGE FORM AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

AA 1196d (07-97) Part 1 Includes copyrighted material of Insurance Services Office, Inc., with its permission. Copyright, Insurance Services Office, Inc., 1997



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff,  
v.

CIVIL ACTION - LAW  
No.: 00 - 905 CD

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants,  
and

**MOTION IN LIMINE**

STEVEN GERALD O'GARA,  
Additional Defendant.  
\*\*\*\*\*

STEVEN G. O'GARA,  
Plaintiff,  
v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants.

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2004/2005, upon  
consideration of Defendant's Motions in Limine, it is hereby ORDERED that Plaintiff Holland  
may not make reference to medical bills which have been paid by Bituminous Casualty nor make  
any reference to any other medical bills other than the amount for which the Department of  
Public Welfare is currently asserting a lien.

By the Court:

02141-00124

ROBERT D. HOLLAND

vs.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION

vs.

STEVEN GERARD O'GARA

STEVEN GERALD O'GARA

vs.

FRED DIEHL MOTORS, INC. and  
GENERAL MOTORS CORPORATION

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSYLVANIA

: CIVIL ACTION - LAW

: NO. 00-905-CD

**O R D E R**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, Additional  
Defendant Steven Gerard O'Gara's motion for leave to file an amended answer pleading defenses  
based on a joint tortfeasor release settlement with Plaintiff Robert D. Holland as new matter is  
GRANTED.

BY THE COURT,

---

Judge

02141-00124

ROBERT D. HOLLAND

vs.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION

vs.

STEVEN GERARD O'GARA

STEVEN GERALD O'GARA

vs.

FRED DIEHL MOTORS, INC. and  
GENERAL MOTORS CORPORATION

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSYLVANIA  
:  
: CIVIL ACTION - LAW  
:  
: NO. 00-905-CD  
:

**FILED**  
M 2007 BPA/CCT/MS  
DEC 17 2004

William A. Shaw  
Prothonotary

**ADDITIONAL DEFENDANT STEVEN GERARD O'GARA'S  
MOTION TO AMEND ANSWER TO  
PLEAD JOINT TORTFEASOR RELEASE AS NEW MATTER**

1. The above-captioned consolidated cases are scheduled for jury selection and trial in January, 2005.
2. Steven Gerard O'Gara has been joined as an additional defendant in the case filed by Robert D. Holland.
3. On February 4, 2000, Additional Defendant O'Gara settled the claim filed by Plaintiff Holland on the basis of a Joint Tortfeasor Release, a copy of which is attached hereto and marked as Exhibit A.
4. The Joint Tortfeasor Release of Additional Defendant O'Gara extinguishes his liability to all parties in connection with the April 10, 1999 motor vehicle accident.
5. Attached hereto and marked Exhibits B and C are proposed Amended Answers pleading defenses based on the Joint Tortfeasor Release by way of New Matter.

WHEREFORE, Additional Defendant Steven Gerard O'Gara requests an Order permitting the filing of an Amended Answer.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

BY Robert A. Seiferth  
Robert A. Seiferth  
Attorney for Additional Defendant O'Gara  
I.D. No. 20481  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
(570) 326-9094

UCLM-1-2-49

### JOINT TORTFEASOR RELEASE

For and in consideration of the payment of the sum of \$150,000.00 I, Robert D. Holland (hereinafter referred to as "Releasor"), being of sound mind and lawful age, do hereby on behalf of myself, my heirs, executors, administrators, successors and assigns, remise, release and forever discharge Steven Gerard O'Gara, David L. Holland, and Holland Tree Service, Inc. (hereinafter referred to collectively as the "Releasees"), its principals, shareholders, employees, servants, agents, and insurers (including Bituminous Casualty Corporation), from any and all claims arising from, or in any way relating to any and all personal or bodily injuries, whether known or unknown, and whether discovered or not yet discovered, resulting or which may at some future date result from an accident which occurred on April 10, 1999 in or about Bloom Township, Clearfield County, Pennsylvania, including but not limited to those claims which were, or could have been, the subject matter of a civil action filed in the Court of Common Pleas of Clearfield County, Pennsylvania, captioned Robert D. Holland v. Steven Gerard O'Gara at No. 99-1103-CD.

It is understood that the Releasor reserves unto him any and all claims against all other persons, corporations, or entities not parties to this Release, who may be legally responsible in whole or in part for those injuries or damages suffered by the Releasor as a result of the aforementioned accident. The Releasor does hereby reserve all claims against all other tortfeasors, other than those parties released herein.

It is understood that this Release operates only to settle that comparative percentage share of liability, if any, of the Releasees named herein, no more nor less, as determined judicially. Should it be determined, however, that persons or entities not being released by the terms of this Release (hereinafter collectively referred to as "non-settling parties"), are jointly or severally liable to the Releasor with the Releasees herein, under any theory, the verdict at trial against all parties, including the Releasees herein, shall be reduced in accordance with the provisions of the applicable Comparative Negligence Act and the Contribution Among Joint Tortfeasors Act to the extent of the percentage share of legal responsibility or liability attributable to the Releasees herein. Notwithstanding any other language of this Release, it is the express intent of the parties that this Release shall not operate to reduce any trial award or verdict recoverable by the Releasor from any non-settling party except to the extent that the Releasees may be found to have percentage responsibility for the Releasor's damages.

In further consideration for the aforesaid payment to the Releasor by or on behalf of the Releasees, the Releasor hereby agrees to satisfy any claim, judgment, verdict or award ultimately entered or recovered by the Releasor, or by any other party, person, corporation or entity against the Releasees for contribution, indemnification, or otherwise, by satisfying such percentage of any claim or judgment against the Releasees as the negligence of the Releasees bears to all causal negligence of all tortfeasors having liability by reason of the aforesaid occurrence, and to that end, the Releasor agrees to indemnify and hold harmless the Releasees from any and all claims or liability to the Releasor or any other party, person or entity making claim for contribution or indemnification arising out of the aforesaid occurrence, including but not limited to all such claims on the part of the other defendants or additional defendants in the aforementioned civil action.

**EXHIBIT**

**A**

This Release is understood to preclude the Releasor from executing a Release or agreement with any other party, person or entity which reserves to such other party, person or entity the right to proceed against the Releasees on any claim for contribution or indemnification.

By executing this Release, it is the intention of the Releasor to enter into a final settlement with the Releasees herein only, and to ensure that the Releasees have no further obligations of payment to the Releasor, or any other party.

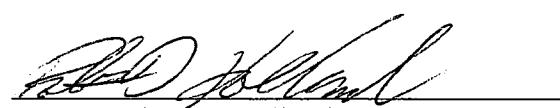
The Releasor does hereby acknowledge and will similarly acknowledge at the time of trial that the Releasees are joint tortfeasors, and, therefore, the Releasees will not be required to be present at the time of trial. It is the specific intent of the parties to this Release that the Releasees have no further liability to any party and shall not be required to participate further in the litigation or be present at trial.

It is understood and agreed that the Releasor will indemnify and hold harmless the Releasees and will satisfy any claim regarding any and all liability arising from any subrogation lien with regard to any medical, disability or compensation payments paid or payable in connection with the accident.

It is understood that the Releasor is represented by legal counsel, namely, Joseph Colavecchi, Esquire. The Releasor hereby acknowledges and confirms that his attorney has reviewed this Release with him in detail, has explained its contents and legal effect, and that the Releasor fully and completely understands the meaning and legal effect of this Release, intending to be bound thereby. The Releasor further acknowledges that he enters into this Release willingly, knowingly and voluntarily.

This Release shall not be construed against the party or its representative who drafted this Release, or any portion thereof. The parties hereby waive the benefit of any statutory, judicial or other rule providing that, in cases of ambiguity, language of a contract should be interpreted against the party who caused the uncertainty or ambiguity to exist.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of February, 2000.

  
\_\_\_\_\_  
Robert D. Holland

Sworn to and Subscribed  
Before me this 4 Day  
Of February 2000

  
\_\_\_\_\_  
NOTARY PUBLIC

JOSEPH COLAVECCHI, Notary Public  
Clearfield Boro, Clearfield County, Pa.  
My Commission Expires June 2, 2000

02141-00124

ROBERT D. HOLLAND

vs.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION

vs.

STEVEN GERARD O'GARA

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

: CIVIL ACTION - LAW

: NO. 00-905-CD

STEVEN GERALD O'GARA

vs.

FRED DIEHL MOTORS, INC. and  
GENERAL MOTORS CORPORATION

**ADDITIONAL DEFENDANT STEVEN GERALD O'GARA'S  
AMENDED ANSWER TO COMPLAINT TO JOIN WITH NEW MATTER**

1-3. Admitted.

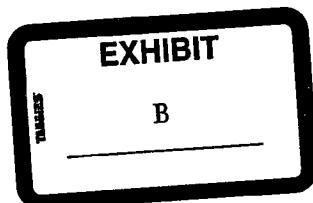
4-5. After reasonable investigation, Additional Defendant Steven Gerard O'Gara is without knowledge or information sufficient to form a belief as to the truth of these averments as a result of the injuries he sustained in the accident and specific proof thereof is demanded.

6. Denied in accordance with Pa.R.C.P. §1029(e). By way of further answer, see answer to paragraphs 4-5.

WHEREFORE, Additional Defendant Steven Gerard O'Gara demands judgment in his favor.

**NEW MATTER**

7. Paragraphs 1-6 of this Amended Answer are incorporated herein by reference.



8. On or about February 4, 2000, all claims of Robert D. Holland v. Steven Gerard O'Gara in connection with the accident of April 10, 1999 were settled on the basis of a Joint Tortfeasor Release.

9. The Joint Tortfeasor Release constitutes a complete defense in the claim filed by Fred Diehl Motors, Inc. against Steven Gerald O'Gara.

WHEREFORE, Additional Defendant Steven Gerald O'Gara demands judgment in his favor.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

BY \_\_\_\_\_

Robert A. Seiferth  
Attorney for Additional Defendant O'Gara  
I.D. No. 20481  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
(570) 326-9094

02141-00124

ROBERT D. HOLLAND

vs.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION

vs.

STEVEN GERARD O'GARA

STEVEN GERALD O'GARA

vs.

FRED DIEHL MOTORS, INC. and  
GENERAL MOTORS CORPORATION

**ADDITIONAL DEFENDANT STEVEN GERARD O'GARA'S  
AMENDED ANSWER WITH NEW MATTER TO  
NEW MATTER PURSUANT TO PA.R.C.P. 2252(d) OF GENERAL MOTORS CORP.**

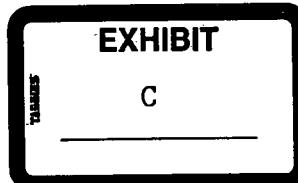
1. Denied that Additional Defendant Steven Gerard O'Gara is solely liable to the plaintiff and/or liable to General Motors for indemnification and/or contribution on Plaintiff's claims.

2. Denied that the sole cause of the accident and Plaintiff's injuries was Additional Defendant O'Gara's negligent operation of a motor vehicle. By way of further answer, subparagraphs (a)-(h) are denied in accordance with Pa.R.C.P. §1029(e).

WHEREFORE, Additional Defendant Steven Gerard O'Gara demands judgment in his favor.

**NEW MATTER**

3. Paragraphs 1-2 of this Amended Answer are incorporated herein by reference.



4. On or about February 4, 2000, all claims of Robert D. Holland v. Steven Gerard O'Gara in connection with the accident of April 10, 1999 were settled on the basis of a Joint Tortfeasor Release.

5. The Joint Tortfeasor Release constitutes a complete defense in the claim filed by Fred Diehl Motors, Inc. against Steven Gerald O'Gara.

WHEREFORE, Additional Defendant Steven Gerald O'Gara demands judgment in his favor.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

BY Robert A. Seiferth  
Robert A. Seiferth  
Attorney for Additional Defendant O'Gara  
I.D. No. 20481  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
(570) 326-9094

**CERTIFICATE OF SERVICE**

I, Robert A. Seiferth, hereby certify that I have served a true and correct copy of the foregoing Motion to Amend Answer to Plead Joint Tortfeasor Release as New Matter upon:

**VIA UNITED STATES REGULAR MAIL:**

Joseph Colavecchi, Esquire  
Colavecchi, Ryan & Colavecchi  
P.O. Box 131  
Clearfield, PA 16830

R. Denning Gearhart, Esquire  
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Daniel P. Orie, Esquire  
Eckert Seamans Cherin & Mellott  
600 Grant Street, 45th Floor  
Pittsburg, PA 15219

Robert A. Seiferth  
Robert A. Seiferth  
Attorney for Additional Defendant O'Gara

Date of Service: 12-14-04

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, :  
Plaintiff, :  
vs. : No. 00-905-CD  
FRED DIEHL MOTORS, INC. and :  
GENERAL MOTORS CORPORATION, :  
Defendants, :  
and :  
STEVEN GERALD O'GARA, :  
Additional Defendant. :  
\*\*\*\*\* :  
STEVEN GERALD O'GARA, :  
Plaintiff, :  
v. :  
FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants. :  
:

FILED

DEC 17 2004 E&K  
M/11/15/04  
William A. Shaw  
Prothonotary/Clerk of Courts  
NO CCRN TO MFTS

**DEFENDANTS' MOTION IN LIMINE TO EXCLUDE PLAINTIFF ROBERT  
HOLLAND'S PROPOSED EXPERT TESTIMONY**

Defendants, by their undersigned counsel, move this Court for an Order excluding the proposed opinion testimony of David J. Bizzak ("Bizzak") and Robert Nocivelli ("Nocivelli"), who have been identified by plaintiff Robert Holland as expert witnesses who will testify on the issue of defendants' liability. The proposed opinions of Bizzak and Nocivelli are based on a chain of speculative assumptions that are not supported by generally accepted engineering analysis. At best, the proposed opinions are a guess about what might have happened during the motor vehicle accident giving rise to this lawsuit. They do not meet the standards for admission as expert engineering testimony and should be excluded.<sup>1</sup>

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<sup>1</sup> It is unclear what specific roles Bizzak and Nocivelli provided, respectively, in the analysis set forth in their joint report or which opinions each would intend to offer. Defendants reserve the right to conduct *voir dire* of these witnesses to examine their qualifications to provide any opinions set forth in the report and to otherwise address the admissibility of the proposed opinion evidence offered by plaintiff Holland on liability issues.

## The Accident

This lawsuit arises from a single vehicle accident occurring on April 10, 1999, at approximately 1:30 a.m. on Anderson Creek Road (State Road 4005) in Bloom Township, Clearfield County. The vehicle was a 1997 K1500 Chevrolet pickup truck. Plaintiffs are the driver and passenger of the truck. Plaintiffs have testified that they have no memory of the events of the accident. There were no eyewitnesses to the accident. Defendants believe that plaintiff Holland will contend that plaintiff O'Gara was the driver and that Holland was the passenger.<sup>2</sup>

Based on subsequent investigative reports, it is reported that while on a straight section of the road the driver of the pickup made a severe steering maneuver causing the truck to spin on the roadway approximately 105 degrees in a clockwise direction. The truck traveled down the road in this orientation for an undetermined distance then skidded off the road at an angle and traveled approximately 80 feet in a sideways orientation until the tires struck rocks, causing the vehicle to roll onto the driver's side followed by an impact of the roof with a stand of trees. The truck was severely damaged. *See Plaintiff Holland's Pretrial Statement -- Expert Report of John Peters.* Medical records, blood alcohol tests, and other evidence show that both plaintiffs were substantially impaired by alcohol at the time of the accident. *See GM's Pretrial Statement - Expert report of Edward Krenzelok, Ph.D.*

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<sup>2</sup> Holland originally filed suit against O'Gara claiming, among other things, that he was speeding and operating the truck in a reckless manner. After that suit was settled in Holland's favor, Holland and O'Gara each filed suit against General Motors Corporation and Fred Diehl Motors, Inc. claiming that the vehicle was defective and that Fred Diehl failed to identify the defect and negligently repaired the truck a few months before the accident. The separate cases were joined for discovery and trial. O'Gara was joined as an additional defendant in Holland's suit.

### **The Bizzak/Nocivelli Report**

Certain alleged facts concerning the events of the accident are summarized in the report of Bizzak and Nocivelli. A copy of their report is attached as Exhibit 1. Based on a review of the Pennsylvania State Police accident report, the accident reconstruction report of plaintiff's expert John Peters and an examination of the scene, Bizzak and Nocivelli assume that plaintiff O'Gara was the driver and conclude that he operated the truck in such a manner as to cause it to enter into a severe yaw. They conclude that while neither plaintiff "can provide testimony as to why Mr. O'Gara lost control of the truck" . . . "physical evidence indicates that the pickup was in a severe yaw at the time [it] left the roadway." "Regardless of the action that may have precipitated the accident, Mr. O'Gara had to have provided significant steering input to cause the pickup to enter a yaw before leaving the roadway." "Because Mr. O'Gara was traveling on a relatively straight section of roadway (Photograph 3), one must conclude that the yaw that precipitated the loss of control was initiated by one or more severe steering inputs. While it cannot be known what initiated the steering input, it would appear that a steering overcorrection resulted in the pickup entering an uncontrollable clockwise yaw." Ex. 1 p. 2-3.

For purposes of this Motion, defendants agree with the conclusion that a severe steering input made by the driver caused the truck to enter into an uncontrolled yaw that resulted in it leaving the roadway. For purposes of this Motion, defendants also accept the conclusions in the report that the truck was traveling between 38 and 42 mph at the time it left the roadway and that the vehicle was likely traveling at a greater speed before the driver made a steering maneuver that caused him to lose control. Ex. 1 p. 3. Defendants also agree that in September, 1998, GM issued a Technical Service Bulletin (TSB 86-32-06) advising that some vehicles in certain 1997-98 Chevrolet and GMC truck model series could encounter intermittent reduced steering effort as

a result of a condition that might affect the steering wheel position sensor (“the Sensor”). Ex. 1 p. 4-5.

The fundamental flaws in the Bizzak/Nocivelli report proceed from this point. Initially, they assume, without any verification or testing, that their measurements of the Sensor (on which they rely to opine that the Sensor was defective) were unaffected by the severe damage to the truck that resulted from the accident. Next, they assume without explanation, factual support or engineering analysis that the admittedly random and intermittent condition of reduced steering effort actually happened during the accident. Following on these two unsupported assumptions, Bizzak and Nocivelli next conclude that a reduced steering effort condition caused by a defective Sensor could cause a driver to lose control of the vehicle under the conditions of this accident. This conclusion is made without any testing by Bizzak or Nocivelli, without reference to any testing, modeling or other engineering analysis by third parties and without reference to any engineering literature. In fact, as discussed below, this unsupported assumption is contrary to the information in GM’s Technical Service Bulletin, contrary to the results of extensive testing performed by the National Highway Transportation Safety Administration (“NHTSA”), and contrary to the engineering reality of how the Sensor works during a substantial steering input. Finally, while Bizzak and Nocivelli conclude that it is their “opinion that the defective steering wheel position sensor could have affected the directional control of the vehicle” (emphasis added), they offer no engineering analysis to reasonably exclude other likely causes of the accident (including but not limited to plaintiffs’ alcohol impairment) or at least demonstrate that other causes are less likely than a supposedly defective Sensor.

## ARGUMENT

Individually, the flaws in methodology and unsupported assumptions in the Bizzak/Nocivelli report are each sufficient to permit the Court, in the exercise of its discretion, to preclude the proposed testimony that the Sensor could have been a cause of the accident. Collectively, these deficiencies compel a conclusion that the proposed opinion testimony does not meet the standard for admission of expert evidence under Pennsylvania law.

In all tort actions involving claims of negligence or product liability, the plaintiff must prove that the defendant's conduct was a proximate cause of the plaintiff's damage. *Blum v. Merrell Dow Pharmaceuticals, Inc.*, 705 A.2d 1314, 1316 (Pa. Super. 1997), *aff'd* 564 Pa. 3, 764 A.2d 1 (2000) (citations omitted). "The test for proximate cause is whether the defendant's acts or omissions were a substantial factor in bringing about the plaintiff's harm." *Id.* In the present case, plaintiff Holland intends to attempt to meet his burden through the testimony of Bizzak and/or Nocivelli, specifically by arguing that the Sensor in the Holland truck malfunctioned at the time of the accident and that it caused the driver (purportedly O'Gara) to lose control and wreck. There is no other alleged defect identified as a purported cause of the accident.

Pennsylvania adheres to the *Frye* test in determining whether scientific opinion evidence is admissible. *Grady v. Frito-Lay, Inc.*, 576 Pa. 546, 839 A.2d 1038 (2003). Plaintiff Holland has the burden of establishing that the proposed testimony of Bizzak and Nocivelli meets the test for admissibility. "We emphasize that the proponent of expert scientific evidence bears the burden of establishing all of the elements for its admission under Pa.R.E. 702, which includes showing that the *Frye* rule is satisfied." *Id.* at 558, 839 A.2d at 1045.

"The *Frye* test directs [that] 'admissibility of the evidence depends upon the general acceptance of its validity by those scientists active in the field to which the evidence belongs'".

*Thomas v. The West Bend Co., Inc.*, 760 A.2d 1174, 1178 (Pa. Super. 2000), quoting *Commonwealth v. Topa*, 471 Pa. 223, 369 A.2d 1277, 1281 (1977). The purpose of the *Frye* test is to assess the quality of expert scientific evidence prior to admission, so as to not mislead jurors with unreliable evidence. *Thomas*, 760 A.2d at 1178. The *Frye* standard of admissibility is not limited to “new inventions or techniques” but also applies to “new theories which have been developed by traditional techniques. Indeed, our courts have often applied *Frye* to situations where experts use traditional techniques to announce a new syndrome or theory of causation.” *Id.* “In short, *Frye* applies not only to new inventions, but whenever science enters the courtroom.” *Id.* at 1179.

A common response to motions challenging the admissibility of expert evidence (and a likely response to defendants’ motion here) is that defective methodology employed by a party’s expert should simply be a subject of cross-examination, and the evidence should still be admitted for the jury’s consideration. That argument has been soundly rejected by Pennsylvania courts. “[C]ross examination is not the appropriate tool to test the speciousness or accuracy of the expert’s testimony where the evidence on which that testimony is based is not deemed reliable . . . Rather, the judge as gatekeeper decides whether the expert is offering sufficiently reliable, solid, trustworthy science. The question is: is the science good enough to serve as the basis for the jury’s findings of fact, or is it dressed up to look good enough, but basically so untrustworthy that no finding of fact can be properly based on it. If the latter is true, the integrity of the trial process would be tainted were the jury to consider it.” *Blum*, 705 A.2d at 1322; *Thomas*, 760 A.2d at 1178 (same).

**A. No testing was performed by plaintiff Holland's experts to show that the Sensor was not functioning properly in the truck when it was in an undamaged condition.**

The electrical measurements performed by Bizzak and Nocivelli were made on the Sensor while it was in the subject pickup truck in its post-accident condition. As evident from the photographs attached to their report, the truck was severely damaged in the accident. No testing of the Sensor was done by placing it in an undamaged exemplar vehicle or in another test environment that would exclude any effects on the functioning of the Sensor caused by the severe damage to the subject truck. Bizzak and Nocivelli merely assume that the results they obtained from their measurements of the Sensor were unaffected by the extreme forces placed on the Holland truck and its components during the accident.<sup>3</sup>

**B. Bizzak and Nocivelli assume without engineering or other support that the reduced steering effort phenomena manifested during the accident.**

A fundamental flaw in the methodology employed by Bizzak and Nocivelli is an assumption that reduced steering effort caused by the allegedly defective Sensor occurred during the accident. Their report acknowledges that the phenomena of reduced steering effort was an intermittent problem – based both on the oral history provided by plaintiff Holland and another witness who had driven the truck and on the information contained in GM's Technical Service Bulletin. Thus, assuming *arguendo* that the Sensor in the Holland truck was capable of producing the reduced steering effort phenomena, maybe the Sensor malfunctioned at the time of the accident but maybe it did not. Bizzak and Nocivelli provide no basis to conclude that one is more likely than the other, and certainly do not provide any engineering grounds to conclude that the phenomena did in fact manifest during the accident. “[S]cientific methodology and

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<sup>3</sup> For the reasons explained below and in the expert reports submitted by defendants, a malfunctioning Sensor is not a defect for purposes of this action. It is not a safety-related issue. Nothing in this Motion is a concession or recognition by defendants that a malfunctioning Sensor is or could be characterized as a defect or that it creates a safety related issue.

conclusions must be evaluated by the court to ensure that ‘what might appear . . . to be science is not in fact speculation in disguise’” *Skoogfors v. Haverstcik-Borthwick Co.*, 44 Pa. D&C.4<sup>th</sup> 1, 6 (Montgomery Co. 2000) (citations omitted). *See Sweeney v. Blue Anchor Beverage Co.*, 325 Pa. 216, 222, 189 A. 331, 334 (1937) (“No matter how skilled the witness, he will not be permitted to guess or to state a judgment based on mere conjecture.”)

**C. No testing was performed by plaintiff Holland’s experts to show what effect, if any, a malfunction in the Sensor would have on a driver’s ability to control the truck.**

Another critical flaw in the methodology employed by Bizzak and Nocivelli is their unproven assumption that a malfunctioning Sensor affects the ability to control the truck. Bizzak and Nocivelli did not perform any testing or other engineering analysis to support this opinion, nor does their report refer to or purport to rely on testing performed by others to support this opinion. GM’s Technical Bulletin (TSB 86-32-06), on which they do rely, specifically states:

Some owners may comment about reduced steering effort while driving. This reduced steering effort may change back to the original effort intermittently during driving or remain until the next key off-on cycle. **These slight changes in steering effort do not affect the control of the vehicle**, but may alert the driver that the system is not functioning as intended. (emphasis added)

Bizzak and Nocivelli not only pass over this critical information in the Technical Service Bulletin, they offer no factual engineering support for a contrary conclusion.

Moreover, while Bizzak and Nocivelli purport to have considered vehicle data maintained by NHTSA, they fail to even mention NHTSA’s engineering investigation on this exact issue. Between May 12, 1999 and February 27, 2001, NHTSA’s Office of Defects Investigation (“ODI”) conducted an Engineering Analysis (EA99-011) of reported complaints concerning erratic power steering assist in model year 1997-1999 GM C/K trucks. A copy of NHTSA’s report is attached as Exhibit 2. From extensive, actual testing of the trucks at its Vehicle Research and Test Center in Ohio, NHTSA concluded, among other things, that:

The alleged defect does not present substantial vehicle control concerns. Testing in straight-line driving demonstrated that the alleged defect does not cause the vehicle to self-steer or change lanes. In executing turns (ranging from mild to sharp), test drivers reported that alleged defect symptoms are brief enough that a reasonably attentive driver should be able to adapt to differing steering feedback before the vehicle significantly deviates from the desired travel path. Necessary corrections are usually comparable to the normal instinctive corrections necessary for everyday driving . . . .

Test data document that the steering wheel displacements involved with the alleged defect symptoms fall within the magnitude and frequency of steering corrections that are needed to maintain course in the face of commonly occurring road irregularities and crosswinds . . . .

In concluding that further investigation was not warranted, NHTSA explained its reasons, including:

- Short duration & magnitude of the subject power steering fluctuations require small corrections in steering angle and force to maintain the desired travel path.
- Vehicle testing shows no adverse effect on driver control.

Ex. 2, Closing Report p. 22; *see also* Ex. 2, Test Report: VRTC-DCD9003, p. 13.

The Bizzak and Nocivelli analysis does not meet the standard of admissibility under *Frye* because no evidence has been provided in their report that it is generally accepted in the relevant engineering community that a malfunctioning Sensor adversely affects the ability of a driver to control the vehicle. In contrast, NHTSA's conclusion that a malfunctioning Sensor has not been shown to have an adverse effect on driver control is generally accepted in the relevant field. Nor have Bizzak and Nocivelli submitted their novel opinion for independent peer analysis. *See e.g.* *Blum*, 705 A.2d at 1320 ("Dr. Done agreed that the FDA, after complete review in 1980, found that the available evidence showed no basis for a conclusion that Benedectin causes or increases the risk of birth defects in humans. It is important to note that Dr. Done has never published his conclusions in any scientific journal so as to enable his peers to evaluate them scientifically.") A further critical failure lies in their "methodology", or rather their lack of generally accepted

methodology. There is no testing, modeling, calculation, or other engineering analysis cited to support a conclusion that a malfunctioning Sensor affects the driver's ability to continue to control the truck. In all respects, the opinion of Holland's experts is of the type "because I say its so". But Pennsylvania law and the *Frye* standard reject such self-serving pronouncements. "Testimony by a qualified expert doesn't become scientific knowledge just because its uttered by a scientist; nor can an expert's self-serving assertion that his conclusions were 'derived by the scientific method' be deemed conclusive." *Blum*, 705 A.2d at 1323.

Furthermore, Bizzak and Nocivelli provide no discussion or analysis of how the Sensor is intended to operate when a substantial steering input is made by the driver, such as a steering effort made in an emergency maneuver.<sup>4</sup> We know from their report that they agree that "the yaw that precipitated the loss of control was initiated by one or more severe steering inputs" by the driver. But Bizzak and Nocivelli are silent as to how the Sensor is intended to operate under such circumstances. However, as explained in the report of GM's engineer, Dennis Vallad, the Sensor is designed to provide full hydraulic steering assistance with rapid steering wheel rotation, and that, as designed, "[t]he steering system of the subject vehicle would have responded with full hydraulic assist irrespective of the functionality of the steering wheel position sensor under the circumstances of the accident." (emphasis added). See Exhibit 3, p. 5-6.

In other words, when a driver makes a substantial steering maneuver – which all parties agree likely happened here – the system is designed to default to the full power mode to assist the driver in turning the vehicle. Thus, whether the Sensor intermittently malfunctioned by

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<sup>4</sup> Bizzak and Nocivelli admit that they do not know the "impetus" for the severe steering movement, but speculate it could have been from "an animal or object in the roadway". Ex. 1 p. 7. They alternatively speculate that it might have been "from an unexpected steering movement caused by the defective wheel position sensor". *Id.* But as NHTSA explained "[t]esting in straight-line driving demonstrated that the alleged defect does not cause the vehicle to self-steer or change lanes." Ex. 2, Closing Report p. 22.

providing more steering assistance during normal driving is not the issue. The issue is whether the Sensor malfunctioned under the circumstances of this accident. If the Sensor provided more power assistance (as Bizzak and Nocivelli argue) it did exactly what it is designed to do. This is an issue not even addressed by the “methodology” employed in the Bizzak/Nocivelli report. *See Grady*, 576 Pa. at 560-61 (while plaintiffs’ expert may have used a “standard methodology” to evaluate the hardness of Doritos, his analysis missed the mark because he failed to establish the method was generally accepted to reach a conclusion as to the real issue in the case: whether Doritos remain too hard and too sharp as they are chewed and swallowed to be eaten safely). Bizzak and Nocivelli have not addressed the real issue in this case.

**D. Bizzak and Nocivelli provide no engineering analysis to show that accident would not have happened just as it did regardless an alleged malfunctioning Sensor.**

Compounding the flaws and deficiencies in methodology, as described above, is the lack of any evidence or analysis to reasonably exclude other likely causes of the accident or show that other reasonable causes supported by the record evidence are less likely than a supposedly malfunctioning Sensor. Bizzak and Nocivelli note that the road was wet from heavy falling snow (Ex. 1 p. 2) but provide no analysis of how a wet roadway would or would not contribute to a loss of control with a severe steering maneuver. They note that the accident happened in the early morning hours (Ex. 1 p. 2 ) (1:30 a.m. according to the police and EMT reports) but make no mention of driver fatigue as a possible cause of the loss of control. Perhaps understandably as advocates (but not understandably as investigating experts) Bizzak and Nocivelli do not even mention, much less address, the record evidence showing that both men had been drinking throughout the evening and that each of them had substantial blood alcohol levels following the accident. Defendants’ expert toxicologist will testify that plaintiffs were substantially impaired

by alcohol at the time of the accident. *See* GM's Pretrial Statement - Expert report of Edward Krenzelok, Ph.D. Plaintiffs have identified no expert to testify to the contrary.

Wet roadways, driver fatigue and/or intoxication, and just plain old driver error -- the overwhelming cause of motor vehicle accidents<sup>5</sup> -- individually or combined, are obvious likely causes for this accident, but are not addressed, much less reasonably excluded, by Bizzak and Nocivelli. *See Sweeney*, 325 Pa at 222 (Where there were obvious potential reasons for a bottle breaking, expert would not be permitted to opine as to other causes without addressing the other obvious potential causes. "For an 'expert' to be permitted to assign any other cause, without first eliminating the apparently causal factor, would be to make his testimony a mere matter of guesswork.")

### Conclusion

In summary, the opinion of Bizzak and Nocivelli that the Sensor was defective and "could have" contributed to the accident plainly lacks the grounding in generally accepted engineering methodology to permit its admission at trial. Their conjecture as to what might have happened during the accident is exacerbated by their failure to address and reasonably exclude other obvious and common explanations for this unfortunate accident. Permitting the jury to consider this evidence would encourage and, indeed, virtually command the jury to engage in speculation which would taint the trial process. The proposed opinion testimony of Bizzak and Nocivelli as to the alleged role of the Sensor in causing the accident should be excluded.

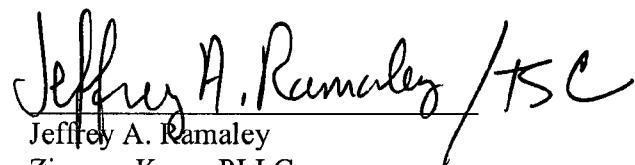
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<sup>5</sup> For example, NHTSA issued a report in 1999 that from an extensive investigation of over 700 crashes across the country, driver behavioral error was identified as causing the crash in 99% of the incidents, with driver inattention, vehicle speed, alcohol impairment, perceptual or decisional errors, and/or incapacitation and fatigue being the principal reasons. All of these are likely causes of the accident here.

Respectfully submitted,



\_\_\_\_\_  
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,	:	
Plaintiff,	:	
vs.	:	No. 00-905-CD
FRED DIEHL MOTORS, INC. and	:	
GENERAL MOTORS CORPORATION,	:	
Defendants,	:	
and	:	
STEVEN GERALD O'GARA,	:	
Additional Defendant.	:	
*****		
STEVEN GERALD O'GARA,	:	
Plaintiff,	:	
v.	:	
FRED DIEHL MOTORS, INC., and	:	
GENERAL MOTORS CORPORATION,	:	
Defendants.	:	

**ORDER**

And now, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, upon consideration of defendants' motion to preclude the opinion testimony of David J. Bizzak and Robert Nocivelli, who have been designated as proposed experts by plaintiff Robert Holland, the Motion is hereby GRANTED and it is ordered that Mr. Bizzak and Mr. Nocivelli may not provide any testimony at trial concerning any alleged defect in the vehicle and/or the cause of the accident involved in this case.

\_\_\_\_\_. J.

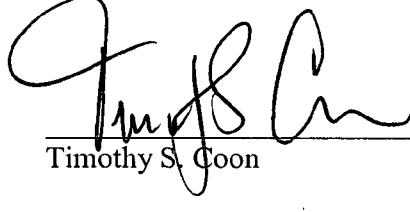
## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **DEFENDANTS' MOTION IN LIMINE TO EXCLUDE PLAINTIFF ROBERT HOLLAND'S PROPOSED EXPERT TESTIMONY** has been served upon the following counsel of record by United States mail, this 16<sup>th</sup> day of December, 2004:

John Shugrue, Esq.  
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Clearfield, PA 16830  
*Counsel for Robert Holland*

Joseph Colavecchi, Esq.  
Colavecchi & Ryan  
221 East Market Street  
Clearfield, PA 16830  
*Counsel for Robert Holland*

R. Denning Gearhart, Esq.  
215 E. Locust Street  
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*Counsel for Steven O'Gara*

  
\_\_\_\_\_  
Timothy S. Coon



**ROMUALDI, DAVIDSON & ASSOCIATES, INC.**

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September 12, 2000

**Project RDA 99-212**

Joseph Colavecchi, Esquire  
Colavecchi Ryan & Colavecchi  
221 East Market Street  
P.O. Box 131  
Clearfield, Pennsylvania 16830

*Re: Holland v. General Motors and Diehl Motors*

Dear Mr. Colavecchi:

You have asked us to review the circumstances surrounding a single-vehicle traffic accident that occurred during the early morning hours of April 10, 1999 on a section of State Route 4005 (Anderson Creek Road) located in Bloom Township, Clearfield County, Pennsylvania. In particular, you have asked us to determine if any aspect of the steering system of the subject vehicle, a 1997 Chevrolet pickup, was a contributing factor in the accident. For this purpose, we have reviewed the police accident report, an investigative report compiled by Mr. John Peters, vehicle data (customer complaints, manufacturer recalls, and technical service bulletins) maintained by the National Highway Traffic Safety Administration (NHTSA), and General Motors technical service bulletins. In addition, Dr. David Bizzak traveled to the accident site on April 14, 1999 to document physical evidence of the accident and to measure certain physical characteristics of the roadway. On this same day, the pickup involved in the accident was examined to document the collision damage. Data collected from these examinations was employed to reconstruct the accident. Finally, a mechanical inspection of the steering system of the pickup was conducted by Mr. Robert Nocivelli on October 27, 1999. Based upon review and evaluation of information gathered from the above sources, we have formulated certain opinions concerning the accident.

## Description of the Accident

During the early morning hours of April 10, 1999, Messrs. Robert Holland and Steven O'Gara were traveling in Mr. Holland's 1997 Chevrolet pickup, with Mr. O'Gara driving. Mr. Holland has said that a heavy snow was falling. The snow reportedly caused the pavement to become wetted, rather than snow-covered, but Mr. Holland has said that it was slippery in some spots. Turning onto Anderson Creek Road from State Route 879, Mr. O'Gara traveled north along the winding, uphill road toward the crest of the ridge that the road follows. They had traveled several miles along Anderson Creek Road before Mr. O'Gara reached the crest of the hill and began traveling along a straight section of roadway. Photograph 1 presents a view north along the road from a position just south of the accident site. As he traveled the straightaway, Mr. O'Gara lost control of the pickup, traveled off the roadway onto the eastern berm, and struck a stand of trees located approximately 21 feet east of the edge of the northbound lane. The pickup, which was traveling sideways at the time of impact, struck the trees at a position near the driver's side B-pillar. The force of the collision caused Mr. O'Gara to be ejected from the pickup.

Because Messrs. O'Gara and Holland have no recollection of the events preceding the accident, neither can provide testimony as to why Mr. O'Gara lost control of the truck. However, physical evidence indicates that the pickup was in a severe yaw at the time he left the roadway. Thus, regardless of the action that may have precipitated the accident, Mr. O'Gara had to have provided significant steering input to cause the pickup to enter a yaw before leaving the roadway.

## Accident Reconstruction

In a traffic accident in which a vehicle collides with a fixed object, such as a building, utility pole or a tree, the collision damage can often be utilized to estimate the vehicle's impact speed. That is, the speed change experienced during the collision can be computed by the amount of energy absorbed in the deformation of the vehicle. In such analysis, the crush profile of the vehicle is measured and, with the use of crush stiffness coefficients derived from crash tests of an exemplar vehicle (a typical source for such information are crash tests conducted by the National Highway Traffic Safety Administration), a computer-based analysis can be performed to determine the velocity change (i.e., delta-V) experienced in the collision. In this particular accident, however, the crush damage to the Holland pick up is not amenable to such an analysis, because impact with the stand of trees along the eastern edge of the roadway was not a simple side impact. Rather the collision damage, which is shown in Photograph 2, indicates that the pickup had partially rolled so that the passenger side wheels were off the ground at the time of impact with the trees. Since there are no crash test data for a similar type of collision, the crush damage cannot be readily related to the delta-V the vehicle experienced when it collided with the trees.

In such an accident, one means of estimating the impact speed is the maximum distance that debris from the vehicle traveled after impact. For example, in a collision in which the windshield or side window is broken, small glass fragments from the broken window(s) will continue to travel at the impact speed of the vehicle. As they depart the collision, with a component of velocity parallel to the ground equal to the impact speed of the vehicle, the force of gravity will cause them to fall to the ground. The component of velocity perpendicular to the ground, associated with acceleration due to gravity, can be readily calculated. Therefore, if the height of the fragment at the start of its post-impact travel is known, the distance that it travels following impact provides a means of calculating the vehicle's impact speed.

During inspection of the accident site, glass fragments from the windows of the Holland pickup were found at distances up to approximately 35 feet from the stand of trees that the pickup struck. Depending on the position of the pickup at the time of impact—primarily its roll angle—the maximum height at which a broken glass fragment may have been at the moment of impact would be on the order of about 100 inches. In addition, the glass from the upper right side of the windshield would have been located about 5 feet south of the stand of trees at the time of impact. Thus, the maximum distance that a glass fragment could have traveled following impact would be about 40 feet, rather than the 35 feet distance from the trees to the rest position of the glass. Based upon these heights and distances, one may conclude that the impact speed of the pickup was on the order of 33 to 38 mph.

As is shown in Photograph 3, tire tracks leading from the edge of the roadway indicate that the Holland pickup was in a severe yaw before it left the roadway. Figure 1 provides a representation of its travel off the roadway, and its position at the time of impact with the stand of trees. The tire tracks indicate that the pickup, after leaving the roadway, traveled a distance of approximately 60 feet before the driver's side struck the stand of trees shown in Photograph 4. Assuming that the pickup was oriented nearly perpendicular to its direction of travel, one may conclude that its speed at the moment it exited the roadway was between 38 and 42 mph. Although the pickup would likely have been traveling at a higher speed just before Mr. O'Gara lost control, there is no physical evidence that would indicate how far the vehicle yawed before leaving the roadway and/or when, or if, Mr. O'Gara applied the brakes. Consequently, the only relevant estimate of speed that can be provided is the speed at which the vehicle was traveling at the moment it left the roadway.

As is illustrated in Figure 1, the Holland pickup was in a severe yaw prior to leaving the roadway. Because Mr. O'Gara was traveling on a relatively straight section of roadway (Photograph 3), one must conclude that the yaw that precipitated the loss of control was initiated by one or more severe steering inputs. While it cannot be known what initiated the steering input, it would appear that a steering overcorrection resulted in the pickup entering an uncontrollable clockwise yaw.

## Mechanical History of Holland Pickup

According to Mr. Holland, he began to notice a problem with the steering on his 1997 Chevrolet pickup in the fall of 1998. In particular, he has said that even with slight steering pressure, such as you might apply while simply maintaining your lane of traffic, the steering wheel would sometimes unexpectedly rotate. In turn, this movement would instinctively prompt the driver to return the wheel to its former position. In doing so, this movement could result in an overcorrection, causing the pickup to veer in the direction the steering wheel was moved. Because this problem worsened with time, Mr. Holland returned the pickup to Fred Diehl Motors in December 1998 to have the problem diagnosed and repaired.

An invoice from Fred Diehl Motors, dated December 11, 1998, indicates that the steering box on the pickup was replaced in an effort to correct this malfunction. Nonetheless, Mr. Holland has said that the problem continued after this repair. In fact, Mr. Holland's brother, Sam, has said that he noticed a problem with the steering on the pickup while driving it the week before the accident. According to Sam Holland, he had borrowed the pickup to drive to Johnstown from Curwensville (a round trip of about 130 miles) to pick up a motorcycle that his son had purchased. During this trip, he has said that the pickup exhibited a tendency to jerk to the side. He has described the abnormal steering behavior as a quick and severe motion, similar to type of steering correction that a sleepy driver might make to return to the roadway if he wakes to discover that he has drifted out of his lane of travel. Sam Holland has also said that the abnormal steering behavior did not occur on any regular basis, but that it did occur on a few different occasions during his trip. In neither instance did he believe that it was related to the roadway surface.

## Examination of Steering System

Mr. Robert Nocivelli examined and performed selected tests on the 1997 Chevrolet 4X4 pickup owned by David L. Holland<sup>1</sup>. Before these tests could proceed, the pickup was transported to the RAN group service facility<sup>2</sup> from Northwest Penn Auction Sales in Garland, Pennsylvania. This transport was completed on September 1, 1999, with appropriate documentation of the Chain of Custody of the vehicle. Following examination and testing of the vehicle, it was transported to the Gateway Commerce Center in Wampum, Pennsylvania on July 3, 2000 for long term storage.

### *Research*

The Document and Photograph Catalog that accompanies this report contains technical service bulletin information pertaining to the subject vehicle that is identified in Document A. Documents B through I are technical service bulletins that were available

<sup>1</sup> VIN: 2GCEK19R3V1237343

<sup>2</sup> RAN group 1875 Sampson Drive Building II Apollo, PA

at General Motors dealerships and additionally available on the ALLDATA System. The ALLDATA System—a technical reference source available to dealerships and independent garages—provides a library of technical service bulletins and service manual data for this vehicle, as well as other make and model cars and trucks.

Documents B and C in the attached Document and Photograph Catalog contain information provided to GM dealerships and, via the ALLDATA System, to independent garages. The referenced Technical Service Bulletin (TSB)—Number 86-32-06, dated Sept. 1998—contains an advisory regarding a reduced steering effort condition that may intermittently change while driving. The identified cause of this condition is a high electrical resistance in the steering wheel speed sensor that occurs as a result of inadequate electrical contactor contact pressure in the sensor assembly. The bulletin further advises that this condition may not set a DTC (Diagnostic Trouble Code), but it can be diagnosed without removing the sensor. The simple diagnostic procedure consists of measuring resistance with a digital multimeter (ohm meter). As indicated in the TSB, the steering wheel speed sensor should be replaced if the measured resistance is above 12k ohms.

An additional General Motors TSB (Number 76-30-01) pertaining to “steering wander” is shown on pages 1 and 2 of Document D. This bulletin, issued in June of 1997, was the result of a steering problem reported by owners that was characterized by a different and unusual feel to the power steering. Subsequent to this early bulletin, General Motors issued TSB No. 86-32-06, which specifically indicated that the steering wheel speed sensor should be replaced if found to be defective, as has been previously discussed. Additional technical service bulletins related to this make and model pickup are shown in Documents E through I.

#### *Discussion of the Operation of the EVO Power Steering System*

The Electronic Variable Orifice (EVO) system increases or decreases the amount of fluid leaving the conventional power steering pump. This electronically-controlled fluid flow actuator (mounted to the outlet port of the power steering pump) controls the amount of fluid leaving the pump. When driving conditions require less hydraulic fluid, a flow control valve directs surplus pressurized fluid to the pump reservoir. At vehicle “stand still” or very low speeds, the system allows full hydraulic fluid flow for maximum power assist and reduced steering effort. As the vehicle gains speed, a variable orifice<sup>3</sup> at the power steering pump begins to close to reduce pump fluid flow. Reduction in fluid flow provides less power assist, resulting in a stiffer steering wheel response. The purpose of reducing power assist is to provide improved road feel and greater directional stability at highway speeds.

A sensor mounted on the steering column, detects the rapid steering wheel movements associated with defensive driving maneuvers<sup>4</sup>. A control module uses this

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<sup>3</sup> DOCUMENT – K.

<sup>4</sup> DOCUMENT – L.

sensor input and the speed of the vehicle to adjust the amount of current supplied to the fluid flow actuator (i.e., the variable outlet orifice). If a malfunction occurs at the EVO sensor, an interruption or incorrect signal from the sensor assembly to the module may result in a loss of directional stability and subsequent loss of control.

### *Testing Procedures*

The procedures in Document I were followed subsequent to the diagnostic scanning of the electronic control module that revealed the stored DTCs indicated in Document J. Additionally, Photographs 1 through 16 in the attachment show the procedure and equipment that was used for the test. It should be noted that the subject vehicle was started by jumping the battery, bypassing the circuit to the solenoid (to actuate the starter) and removing the accessory drive belt, to permit the engine to turn without further damage to the surrounding components<sup>5</sup>.

The scanner indicated a DTC (Diagnostic Trouble Code) had set showing the Steering Position Sensor input was low (CO507)<sup>6</sup>. Further testing with the digital multimeter (DMM/ohm meter) indicated a fluctuating resistance that was reached at various steering wheel positions. All of these readings were well over the 12k ohm specification indicated in Document I<sup>7</sup>. The testing specifically indicated the steering wheel speed sensor was defective and had also set a diagnostic trouble code.

### **Observations and Analysis**

Available testimony concerning the operation of the Holland pickup indicate that an abnormal steering condition, affecting the directional control of the vehicle, occurred during the fall of 1998. In fact, this specific condition was the reason that the pickup was taken to Diehl Motors in December 1998. During this service visit, Diehl Motors incorrectly concluded that the cause of the reported steering problem was a malfunction of the steering box. Although the steering box was replaced, Mr. Holland has reported that the problem persisted. Moreover, his brother has said that he experienced an intermittent steering system problem when he used the pickup the week prior to the accident. In describing the problem, Mr. Sam Holland has said that the pickup would intermittently steer in one direction or another, even though no steering input was applied.

Based upon examination and testing of the subject pickup, it has been concluded that the steering wheel speed sensor was defective and that this defect would affect directional control of the vehicle. The potential for such failure and its resulting effect on the power steering system was initially recognized and addressed by General Motors in

<sup>5</sup> Refer to photographs 1 through 4 in the Document and Photograph Catalog.

<sup>6</sup> DOCUMENT - J.

<sup>7</sup> No. 4: Record the highest reading. If the reading is above 12k ohms, replace the steering wheel speed sensor and bearing assembly. If the reading is below 12k ohms the steering wheel speed sensor is operating as designed.

June of 1997 (TSB 76-30-01) and again in September of 1998 (TSB 86-32-06). These two technical service bulletins were distributed to the dealerships that sell Chevrolet and GMC trucks to notify service personnel of the steering system complaint raised by Mr. Holland in December 1998. In addition, these bulletins provided appropriate procedures to test the operation of the steering wheel speed sensor. Given the nature of the complaint raised by Mr. Holland, service personnel at Diehl Motors, who should have been cognizant of the TSBs that had been issued, should have identified the defective steering wheel position sensor and replaced it.

Examination and testing has indicated that the steering wheel speed sensor had not been replaced and was defective, failing the simple prescribed test procedure outlined in the bulletin. In as much as the steering control and directional stability is directly affected by this sensor (e.g., when a quick abrupt steering maneuver is necessary), it is our opinion that the failure of this sensor was likely a causal factor in the accident. That is, physical evidence of the accident indicates that, while driving along a relatively straight section of roadway, Mr. O'Gara initiated one or more steering inputs that resulted in the pickup entering a uncontrolled clockwise yaw. Tire marks produced by the pickup indicate that it was in a severe yaw at the time it left the roadway.

Given that Mr. Holland reported the steering system abnormality to Diehl Motors, after the issuance of the General Motors TSBs that addressed the particular complaint that he had raised, it is our opinion that Diehl Motors should have performed the necessary diagnostic tests necessary to identify the defective steering wheel position sensor. Once it was identified as being defective, it should have been replaced.

## Conclusions

Based upon review and evaluation of available information, it is our opinion that the April 10, 1999 accident involving the 1997 Chevrolet pickup leased by Mr. Robert Holland was precipitated by a steering input that resulted in the vehicle entering an uncontrolled clockwise yaw. While it cannot be known precisely what the impetus for the initial steering input was (e.g., an animal or object in the roadway or an unexpected steering movement caused by the defective wheel position sensor), it is our opinion that the defective steering wheel position sensor could have affected the directional control of the vehicle, resulting in a loss of control. In as much as this problem was recognized by General Motors, who issued proper diagnostic procedures to their dealers via two separate technical service bulletins, it is our opinion that this defective sensor should have been identified and replaced by Diehl Motors in December 1998. Given Mr. Holland's description of the problem, it is clear that service personnel should have immediately recognized the potential cause of the reported complaint or should have consulted the available TSBs for the vehicle before attempting repair of the vehicle.

The above opinions have been formulated with reasonable engineering and/or technical certainty. If additional information, relative to this matter, should become

available, we reserve the right to consider this information, as it relates to the opinions that we have expressed.

Sincerely,

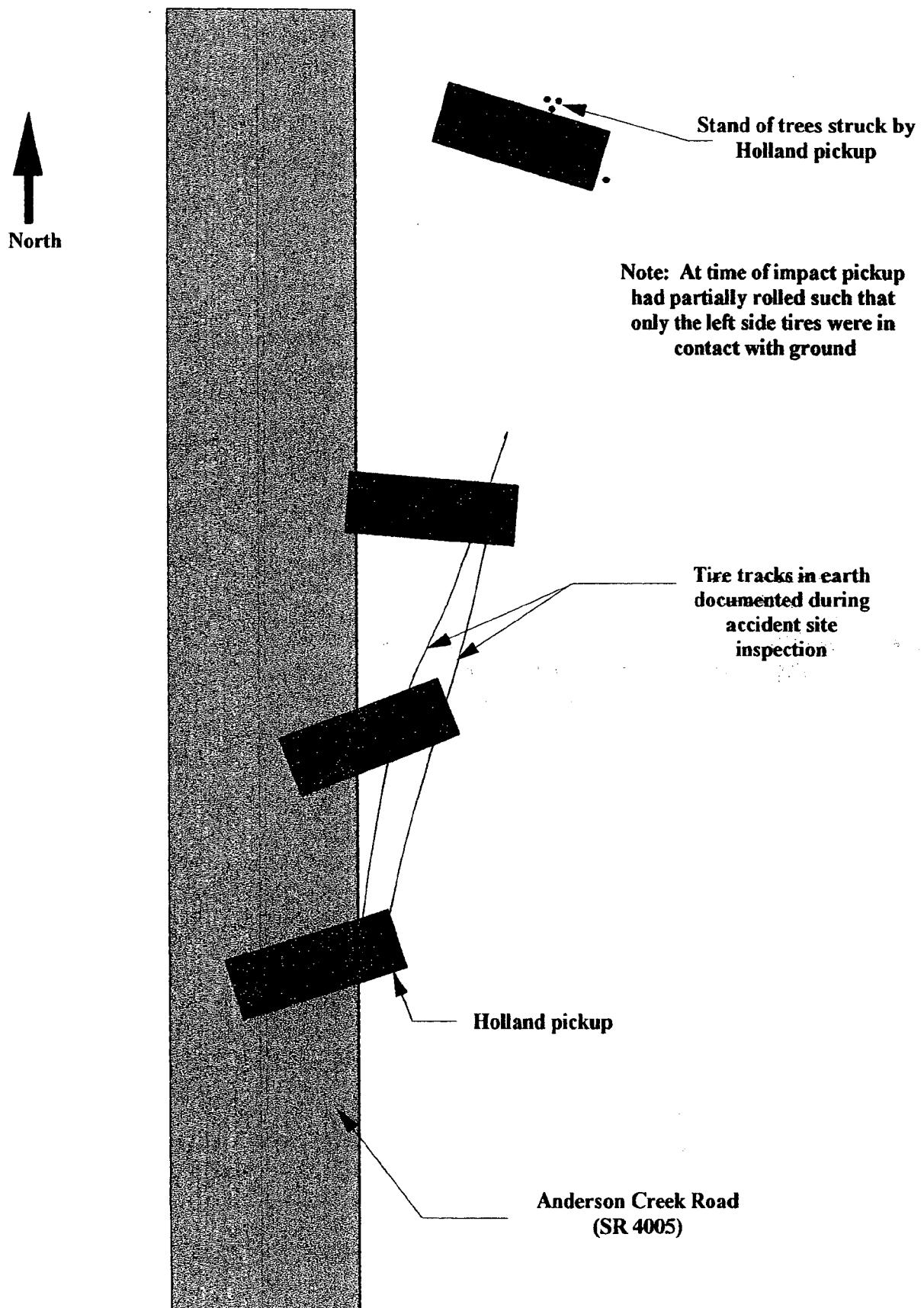
*Romualdi, Davidson & Associates, Inc.*

*David J. Bizzak*

David J. Bizzak, Ph.D., P.E.

*Robert A. Nocivelli*

Robert A. Nocivelli



**Figure 1 Vehicle Travel Off Road into Stand of Trees**



**Photograph 1 – View north along SR 4005 from a position south of accident site.**



**Photograph 2 – View of Holland pickup.**



**Photograph 3 – View south along SR 4005.**

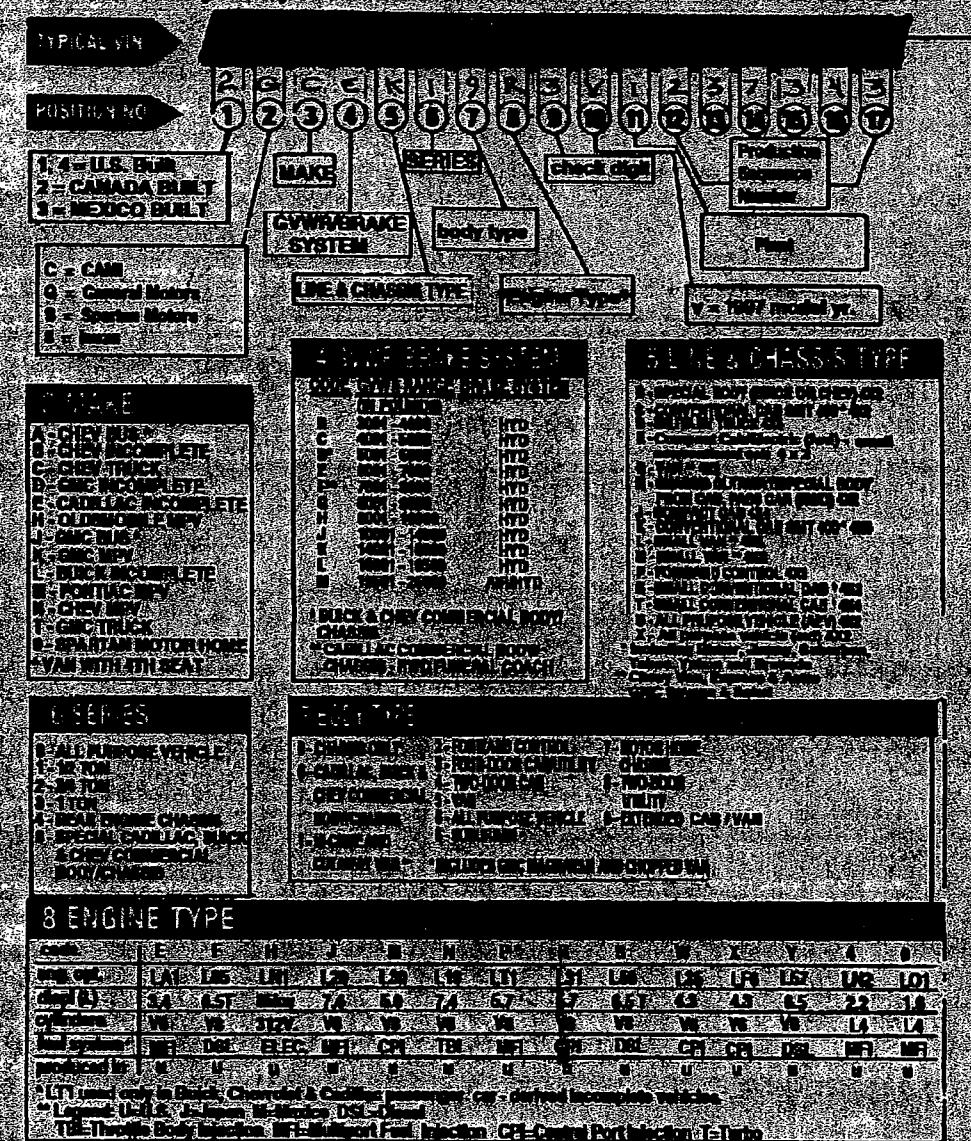


**Photograph 4 – View of stand of trees that were struck by pickup.**

## Vehicle: Application and ID

## 1997 Light Duty Trucks & Multi-Purpose Vehicles

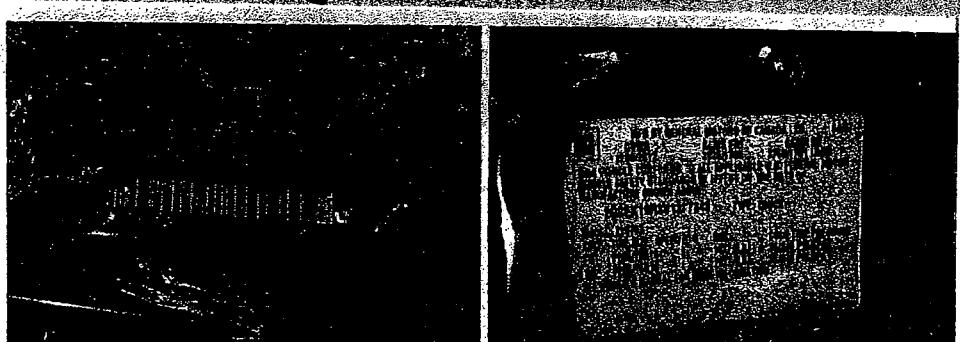
**1977 SECURITY TRUCK AND PASSENGER VEHICLE INTRUSION ALARMS**



#### 1997 Light Duty & Multi-Purpose Truck VIN Label

VIN: 2GCEK19R3V1237343

### Subject Vehicle





# Service Bulletin



File In Section: 3 - Steering/Suspension

Bulletin No.: 86-32-06

Date: September, 1998

**Subject: Reduced Steering Effort  
(Diagnose/Replace Steering Wheel Speed Sensor and Bearing Assembly)**

**Models: 1997-98 Chevrolet and GMC C/K, M/L, G Van Models  
with EVO (Electronic Variable Orifice)**

## Condition

Some owners may comment about reduced steering effort while driving. This reduced steering effort may change back to the original effort intermittently during driving or remain until the next key off-on cycle. These slight changes in steering effort do not affect the control of the vehicle, but may alert the driver that the system is not operating as intended.

## Cause

The condition may be caused by high electrical resistance in the steering wheel speed sensor. The high electrical resistance is a result of inadequate contact pressure of the electrical contactor in the sensor.

## Correction

Follow Steps 1, 2, and 3 of the Strategy Based Diagnostics for the condition. Refer to Section 2B5 of the Service Manual, Diagnostic System Check. Verify that there are no stored DTC's. The conditions stated above typically will not set a DTC. If no DTC is found, do the following diagnosis:

1. Disconnect the 3 wire connector from the steering wheel speed sensor.
2. With the key in the OFF position, use a digital multimeter (DMM) to test for resistance between CKT 1057 (ORN/BLK) and CKT 1059 (LT BLU).

3. Rotate the steering wheel slowly from lock to lock.
4. Record the highest reading. If the reading is above 12K ohms, replace the steering wheel speed sensor and bearing assembly. If the reading is below 12K ohms, the steering wheel speed sensor is operating as designed.

## Parts Information

P/N	Description	Qty
26076106	Sensor Kit, Strg Whl Spd (w/Brg) (C/K, M/L)	1
26076113	Sensor Kit, Strg Whl Spd (w/Brg) (G Van)	1

Parts are currently available from GMSPO.

## Warranty Information

For vehicles repaired under warranty, use:

Labor Operation	Description	Labor Time
E7690	Sensor, Steering Wheel Rotation (EVO) - Replace	Use Published Labor Operation Time

GM bulletins are intended for use by professional technicians, NOT a "do-it-yourselfer." They are written to inform these technicians of conditions that may occur on some vehicles, or to provide information that could assist in the proper service of a vehicle. Properly trained technicians have the equipment, tools, safety instructions, and know-how to do a job properly and safely. If a condition is described, DO NOT assume that the bulletin applies to your vehicle, or that your vehicle will have that condition. See your GM Dealer for information on whether your vehicle may benefit from the information.

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WE SUPPORT  
VOLUNTARY TECHNICIAN  
CERTIFICATION

**Vehicle: All Technical Service Bulletins****Reduced Steering Effort**

File In Section: 3 - Steering/Suspension

Bulletin No.: 86-31-06

Date: September, 1998

**Subject:****Reduced Steering Effort**

(Diagnose/Replace Steering Wheel Speed Sensor and Bearing Assembly)

**Models:**1997-98 Chevrolet and GMC C/K, M/L, G Van Models  
with EVO (Electronic Variable Orifice)**Condition**

Some owners may comment about reduced steering effort while driving. This reduced steering effort may change back to the original effort intermittently during driving or remain until the next key off-on cycle. These slight changes in steering effort do not affect the control of the vehicle, but may alert the driver that the system is not operating as intended.

**Cause**

The condition may be caused by high electrical resistance in the steering wheel speed sensor. The high electrical resistance is a result of inadequate contact pressure of the electrical contactor in the sensor.

**Correction**

Follow Steps 1, 2, and 3 of the Strategy Based Diagnostics for the condition. Refer to Section 2B5 of the Service Manual, Diagnostic System Check. Verify that there are no stored DTC's. The conditions stated above typically will not set a DTC. If no DTC is found, do the following diagnosis:

1. Disconnect the 3 wire connector from the steering wheel speed sensor.
2. With the key in the OFF position, use a digital multimeter (DMM) to test for resistance between CKT 1052 (ORN/BLK) and CKT 1059 (LT-BLU).
3. Rotate the steering wheel slowly from lock to lock.
4. Record the highest reading. If the reading is above 12K ohms, replace the steering wheel speed sensor and bearing assembly. If the reading is below 12K ohms, the steering wheel speed sensor is operating as designed.

**Parts Information**

P/N	Description	Qty
26076106	Sensor Kit, Strg Whl Spd (w/Brg) (C/K, MIL)	1
26076113	Sensor Kit, Strg Whl Spd (w/Brg) (G Van)	1

Parts are currently available from GMSPO.

**Warranty Information**

For vehicles repaired under warranty, use:

**Labor**

**Vehicle: All Technical Service Bulletins****Steering Wander**

File In Section: 3 - Steering/Suspension

Bulletin No.: 76-30-01

Date: June, 1997

Subject:

**Steering Wander**

(Reset Alignment, Adjust/Replace Steering Gear)

Models:

1997 Chevrolet and GMC C/K Models

Excluding 3500 HD

**Condition**

An owner may comment about steering wander or the perception of loose steering at highway speeds

**Correction**

Follow the Strategy Based Diagnostic Steps for the condition using the Service Manual, Section 3B5, Speed Dependent Steering, Diagnosis System Check. Perform the Front Wheel Alignment Preliminary Inspections in Section 3A-2. Verify that the front suspension "Z" dimension is within specifications per the trim height chart on page 3A-4.

Disconnect the left and right tie rod ends and check for tight or binding ball joints and that they are properly lubricated. If all components and specifications are correct, adjust the front wheel alignment to the following specifications.

Caster	3.80 to 3.90 degrees
Camber	0.5 degrees +/- 0.5 degrees
Sum Toe-In	.24 degrees +/- 0.2 degrees

If condition persists,

- On vehicles below 8050 # GVW, adjust the steering gear spool valve preload and sector preload following the procedure described in Section 3B1A.
- On Suburbans equipped with 6.5L Diesel Engine, under 8600 # GVW, built prior to March 5, 1997, replace the steering gear with P/N 26068771 and the EVO Module, P/N 16259515.
- On vehicles above 8500 # GVW, built prior to March 5, 1997, replace only the steering gear with P/N 26068771.

**Parts Information**

P/N	Description	Qty
26068771	Steering Gear	1
16259515	Module, EVO	1

Parts are currently available from GMSPO.

**Warranty Information**

Labor Op	Description	Labor Time
E2020	Wheel Alignment - Check and/or Adjust	Use Published Labor Operation Time
E9700	Gear Assembly, Power Steering - Adjust	
E9740	Gear Assembly, Power Steering - Replace	
E8438	Controller, EVO - Replace	
E9995	To check ball joint stiffness if no trouble found	

For vehicles repaired under warranty, use:

**Important:**

Labor operation is coded to base vehicle coverage in the warranty system.

## Technical Service Bulletins

## All Technical Service Bulletins:

<u>Number</u>	<u>Date</u>	<u>Name</u>
83-05-03	May 98	Labor Time Guide Updates
83-64-17	May 98	New Battery Tester
82-05-02	May 98	Request for Authorization Using Routing Code H
87-61-24	Apr 98	Use of Surface Conditioning Discs
83-05-02	Apr 98	Labor Time Guide Updates
83-83-07	Mar 98	Fuel Level Sensor Replacement Procedure
64-90-04A	Mar 98	Error Codes on Radio Display/Cause & Corrective Action
61-65-60A	Mar 98	Revised DTC P1345
81-65-36	Mar 98	Revised Enhanced Ignition System Diagnostic Procedure
87-63-02	Mar 98	Excessive Ticking Noise in Ambient Temperature
83-64-09	Mar 98	Tool J 41450-B Released for CS Generator Diagnosis
83-01-14	Mar 98	VIN Plate Replacement
48-05-01C	Mar 98	Customer Concern Not Duplicated /Verified - Labor
83-05-01	Mar 98	Labor Time Guide Updates
98-GI-06	Feb 98	Updated Information Regarding Air Bag On-Off Switches
81-65-37	Feb 98	Revised Engine DTC's P0137, P0172 and P0420
63-82-06A	Feb 98	Exterior Lamp Condensation / Replacement Guidelines
82-05-01	Feb 98	New Vehicle / Replacement Battery Warranty Instructions
73-05-09	Feb 98	Labor Guide Updates
72-05-09	Feb 98	GM Dealer Empowerment Program
48-05-02C	Feb 98	Information On Expediting Parts
73-90-23	Jan 98	Frontal (SIR) ON-Off Switch Kits, Parts and Procedures
73-50-37	Jan 98	Brake Rotor and Hub Cleaning Tool Revision
72-05-12	Jan 98	Shock Absorbers and Struts Operations
72-05-14	Jan 98	Enhanced Sublet Repair Policy
72-05-13	Jan 98	Repair/Replace Policies and Procedures
73-05-09	Jan 98	Labor Times Update
72-05-11	Dec 97	Rail Dust Removal and Chemical Spotting - labor
77-71-77	Dec 97	Loss of 4th Gear/Busy 3-4 Shifting/TCC Cycling
73-12-12A	Dec 97	Diagnostic Procedure When A/C Leak Cannot Be Found
71-05-02	Dec 97	Recall Campaign Follow-Up Post Card
73-01-10	Dec 97	Technical Assistance Call Preparation
73-05-07	Dec 97	Labor Time Guide Updates
77-65-23	Nov 97	On-Board Diagnostic System Improvements
78-83-03A	Nov 97	Identification of the Instrument Cluster
73-12-13	Nov 97	PureGuard 2 Operating Alert
48-05-01A	Nov 97	Customer Concern Not Verified/Duplicated Labor Operation
62-05-02A	Nov 97	Labor Operation Z1241 - Personal Property Damage
73-05-07	Nov 97	Labor Time Guide Updates
73-01-09	Oct 97	Revised Repair Procedures for Inoperative Ign. Cylinders
73-90-18	Oct 97	Diagnostic Hints for Rolling Code (RFA) Systems
77-71-68	Oct 97	Cooler Flush Adapter for 4T40-E and 4L60-E
76-11-01	Oct 97	HVAC Control Knob Spins Freely
73-05-06	Oct 97	Labor Time Guide Addition
70-05-01	Sep 97	Tire Replacement During Bumper to Bumper Warranty
73-62-13A	Sep 97	Servicing of Aluminum Heater Cores and/or Radiators
67-61-14B	Sep 97	Engine Noise
73-05-06	Sep 97	Labor Time Guide addition
97024	Aug 97	Incorrect Linear Exhaust Gas Recirculation Valve Used
76-82-08	Aug 97	Revised Convenience Center Table
76-81-12	Aug 97	Revised Table for Keyless Entry Does Not Operate
72-05-03	Aug 97	Guidelines for Wheel Alignments and Wheel Balance
76-81-13	Aug 97	Revised Audible Warnings, Circuit Operation
77-71-67	Aug 97	Diagnosis of Transmission Noise and Delayed Engagement

## Technical Service Bulletins

## All Technical Service Bulletins:

<u>Number</u>	<u>Date</u>	<u>Name</u>
000000A	Jul 99	GM Service Bulletin Precautions
83-81-34	Mar 99	Operating Vehicle with SIR Warning Light On
99-07-30-005	Mar 99	Component Slipping/DTC P1870 Diagnosis
99-06-03-001	Mar 99	Essential Tool J 42000 Battery Tester
99-06-03-002	Mar 99	Battery Insulator Replacement
99-00-89-003	Mar 99	1994-2000 Labor Time Guide Updates
99-00-89-002	Mar 99	Using the New GM Service Bulletins
99-06-04-006	Feb 99	Correct Solvent for CSFI Poppet Cleaning Procedure
99-01-39-004	Feb 99	Air Conditioning Odor
99-00-89-001	Feb 99	1994-99 Car and Truck Labor Time Guide Updates
83-12-21	Jan 99	Contaminated R134a A/C Systems
83-05-11	Jan 99	1994-99 Labor Time Guide Updates
86-05-02	Dec 98	Delayed Warranty Start Process
83-05-10	Dec 98	Labor Guide Updates for 94/99 Cars and Trucks
87-71-74	Nov 98	1-2 Accumulator Piston and Outer Spring Replacement
86-42-04	Nov 98	Rear Axle Lubricant Compatibility
83-35-08	Nov 98	Chemical Staining of Chrome Wheels
83-32-10	Nov 98	Tool J 43435 Adjuster Locknut Wrench
83-32-09	Nov 98	Tool J 43485 Power Steering Bleeder Adapter
83-05-09	Nov 98	Labor Time Guide Updates for 1994-99 Cars and Trucks
83-01-20	Nov 98	Temporary Changes to Techline ESI Applications
76-02-02A	Oct 98	Recommended Axle Lubricant
86-90-06	Oct 98	Information on Reduced Range/Operation of (RKE)
83-15-16	Oct 98	New Windshield and Glass Urethane Adhesive Caulking Kit
83-05-08	Oct 98	Labor Time Guide
83-02-01	Sep 98	Revised Crankcase Ventilation System Maintenance
83-83-16	Sep 98	Speedometer Accuracy
86-50-20A	Sep 98	Brake Lead / Pull and Front Brake Wear
83-81-32	Sep 98	Information On New PCM Connector Service Kits
76-43-01A	Sep 98	Slow/No Engagement of Front Axle when 4WD Selected
86-74-04	Sep 98	Low Transmission Fluid Level, Transfer Case Overfilled
86-32-06	Sep 98	Reduced Steering Effort
83-05-07	Sep 98	Labor Time Updates
76-60-04A	Aug 98	Engine Oil Consumption Guideline
83-90-12	Aug 98	Keyless Entry Transmitter Tester
43-17-01B	Aug 98	Bumps or Rust Colored Spots in Paint
84-96-01	Aug 98	Correct Labor Code Usage for Entertainment Systems
86-43-06A	Aug 98	Fluid Leak Near Front Wheels or Front Engine Area
83-05-06	Aug 98	Labor Time Updates
16-01-01B	Aug 98	Towing
80-05-03	Aug 98	Redefined Use of Parts Warranty Special Claims B and C
81-65-40	Jul 98	No Serial Data Diagnostic Procedure
86-43-08	Jul 98	Differential Carrier/Output Shaft/Bearing Replacement
83-96-05	Jul 98	Radio Telephone/Mobile Radio Inst/Troubleshooting
87-65-07A	Jul 98	Rgh Idle After Start When Vehicle Has Sat Overnight
68-05-02B	Jul 98	Courtesy Transportation Administration Guidelines
83-05-05	Jul 98	Labor Time Guides Updates
77-60-02	Jun 98	Acc Drive Belt Noise/Pwr Steering Pump Pulley Misaligned
83-90-08	Jun 98	Charts and Schematics for Cruise Control Diagnosis
76-83-03A	Jun 98	Fuel Gauge Indicates Empty w/ 7-8 Gals Left in Tank
36-71-03A	Jun 98	Automatic Transmission External Oil Cooler
83-05-04	Jun 98	Labor Guide Time Update
83-71-10	May 98	Park/Neutral Switch Conn. Cannot Be Removed
82-05-03	May 98	Elimination of Labor Op Z7920/Z7930
82-05-05	May 98	General Motors Warranty Inquiry System

## Technical Service Bulletins

### All Technical Service Bulletins:

Number	Date	Name
72-05-04	Aug 97	Guidelines for Claiming C0034 - Windshield Replacement
76-81-15	Aug 97	Revised Table for Wipers Will Not Shut Off
71-65-36	Aug 97	Revised DTC P1406
72-05-06	Aug 97	Guidelines for I/M 240 Labor, J9980-I/M, J9981 and J9982
76-81-14	Aug 97	Revised Table for Fuel Gauge is Inaccurate
76-81-10	Aug 97	Revised Interior Lights, Circuit Operation
73-16-11	Aug 97	Top Tether Hardware Package for Child Restraint Seats
72-05-05	Aug 97	Guidelines for Using E0420 Wheel Replace
73-05-05	Aug 97	Labor Times
73-62-13	Jul 97	Aluminum Heater Core and/or Radiator Replacements
73-62-14	Jul 97	Approved Engine Coolant Recycling Processes
97008A	Jun 97	Seat Recliner Hinge Pinch Point
63-17-07B	Jun 97	Paint Specification for Basecoat/Clearcoat Paint Systems
36-71-06B	Jun 97	Automatic Transmission Service Procedure
76-30-01	Jun 97	Steering Wander
77-71-59	Jun 97	Automatic Transmission Oil Cooler Flushing/Flow Check
67-61-20A	Jun 97	6.5L Diesel Engine Product Update
73-05-04	Jun 97	Labor Time Update
76-50-08	May 97	Cloudy, Strawberry-Colored Parking Brake Fluid
71-65-40	May 97	Enhanced Ignition System Description and Operation
73-10-54	May 97	Two-Part Urethane Adhesive For Windshield Installations
76-50-09	May 97	Revised ABS Diagnostic Information
73-83-15	Apr 97	Fuel Gauge Responds Slowly After Fueling
77-64-04	Apr 97	Distributor Service Kits
661509A	Apr 97	Fiber Glass Rear Fender Paint Star Shaped Crack
77-71-53	Apr 97	Chuggle/Surge on TCC Apply/No DTC's
730107	Apr 97	Revised Supplemental Inflatable Restraint Warning labels
76-16-12	Apr 97	Easy Entry Seat Noise, Movement, High Adjustment effort
631208A	Apr 97	A/C Tool And Equipment Maintenance
620504	Apr 97	Operating Procedures
730503	Apr 97	Labor Times Guide Update
73-05-03	Apr 97	Labor Time Guide Update
67-61-14A	Mar 97	Engine Noise
549001A	Mar 97	CLN Indicator On Radio Display
766504	Mar 97	Malfunction Indicator Light (MIL) On, Poor Driveability
736513	Mar 97	Reprogram Capability Using Off Board Program Adapter
676540	Mar 97	Pictorial Of Oxygen Sensor Designations
97006	Feb 97	Clutch Pedal Separation From Pivot Bracket
768102	Feb 97	Courtesy Lamp Dome Lamp Remain On
739005	Feb 97	Inflatable Restraint I/P Module Remove/Install Procedure
668131	Feb 97	Power Windows Revised Chart
616316	Feb 97	Injection Balance Test Procedure Revised
731049	Feb 97	Body Sealer Tape For Collision Repairs
367405A	Feb 97	Driveline Noise While Operating In Four Wheel Drive
731204	Feb 97	Air Conditioning Systems With R12 Or R134a Service Issue
730501	Feb 97	Update Labor Time Guide
730502	Feb 97	Updates Labor Time Guide
630507	Jan 97	Updates Labor Time Guides
436407A	Jan 97	Low Voltage Reading Or Dim Lights At Idle
649601	Jan 97	Compact Disk Players Procedures
569603A	Jan 97	Electrical Interference In Mobile (Two Way) Radio
600503	Jan 97	Warranty Repairs And Claims Procedures
61-65-59	Dec 96	Need to Clear DTC's After PCM, VCM or EGR Servicing
63-05-06	Dec 96	Updates to Labor Time Guide

**Technical Service Bulletins****All Technical Service Bulletins:**

<u>Number</u>	<u>Date</u>	<u>Name</u>
677163	Dec 96	Automatic Transmission
669002	Nov 96	Under Hood Reel Lamp
610111	Nov 96	Key Code Information
677157	Nov 96	1997 4L80E Transmission Product Updates
631215	Nov 96	A/C Compressor Seal Washer Reference Chart
377148A	Nov 96	Transmission Shift Solenoid Update
670502	Oct 96	Submission of OBD II Codes with Warranty Claims
689601A	Oct 96	Radio Repair Centers and Warranty Information
564401A	Oct 96	Driveline Clunk Noises
630504	Oct 96	Warranty Administration Labor Time Guide Updates
630505	Oct 96	Warranty Labor Time Guide Updates
668304A	Sep 96	ACDelco Service Center Locations Odometer/Speedometer
319004A	Sep 96	SIR Module Shipping/Return Procedure
667407	Sep 96	4 x 4 HI Range Does Not Engage During Cold Weather
661206	Sep 96	Section 1B - HVAC - Updated
630503	Sep 96	Labor Time Guide (Request for Review) Updates
400501A	Sep 96	Corporate Parts Return Program Instructions
677151	Sep 96	New Product Information
67-71-49	Jun 96	Revised Text For All DTC Tables

Subject:  
Reduced Steering Effort  
(Diagnose/Replace Steering Wheel Speed Sensor and Bearing Assembly)

## DOCUMENT - I

Models:  
1997-98 Chevrolet and GMC C/K, M/L, G Van Models  
with EVO (Electronic Variable Orifice)

### Condition

Some owners may comment about reduced steering effort while driving. This reduced steering effort may change back to the original effort intermittently during driving or remain until the next key off-on cycle. These slight changes in steering effort do not affect the control of the vehicle, but may alert the driver that the system is not operating as intended.

### Cause

The condition may be caused by high electrical resistance in the steering wheel speed sensor. The high electrical resistance is a result of inadequate contact pressure of the electrical contactor in the sensor.

### Correction

Follow Steps 1, 2, and 3 of the Strategy Based Diagnostics for the condition. Refer to Section 2B5 of the Service Manual, Diagnostic System Check. Verify that there are no stored DTC's. The conditions stated above typically will not set a DTC. If no DTC is found, do the following diagnosis:

1. Disconnect the 3 wire connector from the steering wheel speed sensor.
2. With the key in the OFF position, use a digital multimeter (DMM) to test for resistance between CKT 1057 (ORN/BLK) and CKT 1059 (LT BLU).
3. Rotate the steering wheel slowly from lock to lock.
4. Record the highest reading. If the reading is above 12K ohms, replace the steering wheel speed sensor and bearing assembly. If the reading is below 12K ohms, the steering wheel speed sensor is operating as designed.

### Parts Information

P/N	Description	Qty
26076106	Sensor Kit, Strg Whl Spd (w/Brg) (C/K, MIL)	1
26076113	Sensor Kit, Strg Whl Spd (w/Brg) (G Van)	1

Parts are currently available from GMSPD.

### Warranty Information

For vehicles repaired under warranty, use:

### Labor



## OBD II VEHICLE DIAGNOSTIC REPORT

10/27/99 5:26:21 PM

Shop Name:

Address:

Phone:

Fax

E-mail:

Motto: Scanning with EASE

Technician:

Manufacturer: GM

License:

State:

Make: Chevrolet-Truck

Model: K1500, 4WD

Year: 1997

Engine: (R) 5.7

A screenshot of a computer monitor displaying the EASE OBD II Diagnostic Software. The interface includes a menu bar, toolbars, and several windows. One window shows a list of error codes with columns for time, vehicle ID, code, and description. Another window shows a list of pre-existing codes. The background of the software shows a dark, grid-like pattern.

05:31:19 PM	10	82713	Code not found.	EDTC
05:31:19 PM	10	C8507	STEERING POS SENSOR LOW INPUT	EDTC
05:31:19 PM	10	U1132	LOSS OF CLASS 2 COMM W/ VTD	EDTC

Pre-existing	10	P0713	TRANS FLUID TEMP SENSOR HIGH UP
Pre-existing	10	P0740	TORQUE CONVERT CLUTCH CIRCUIT MALF
Pre-existing	10	P0786	SHIFT/TIMING SOLENOID MALFUNCTION
Pre-existing	10	P1860	TCC PWM SOLENOID CKT-ELECTRIC

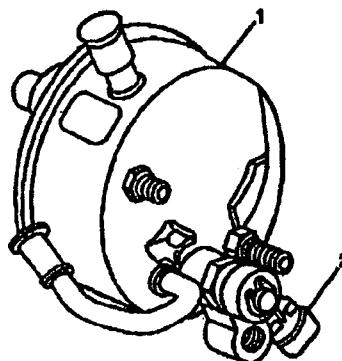
## Steering: Description and Operation

### Power Steering Hydraulic System

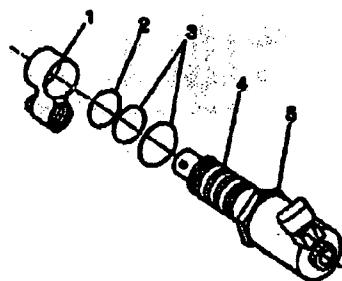
The Electronic Variable Orifice (EVO) power steering pump is a conventional power steering pump with a power steering fluid flow actuator mounted to the outlet port. When driving conditions require less hydraulic fluid, a flow control valve directs surplus pressurized fluid to the pump reservoir.

## Steering: Description and Operation

### Power Steering Fluid Flow Actuator



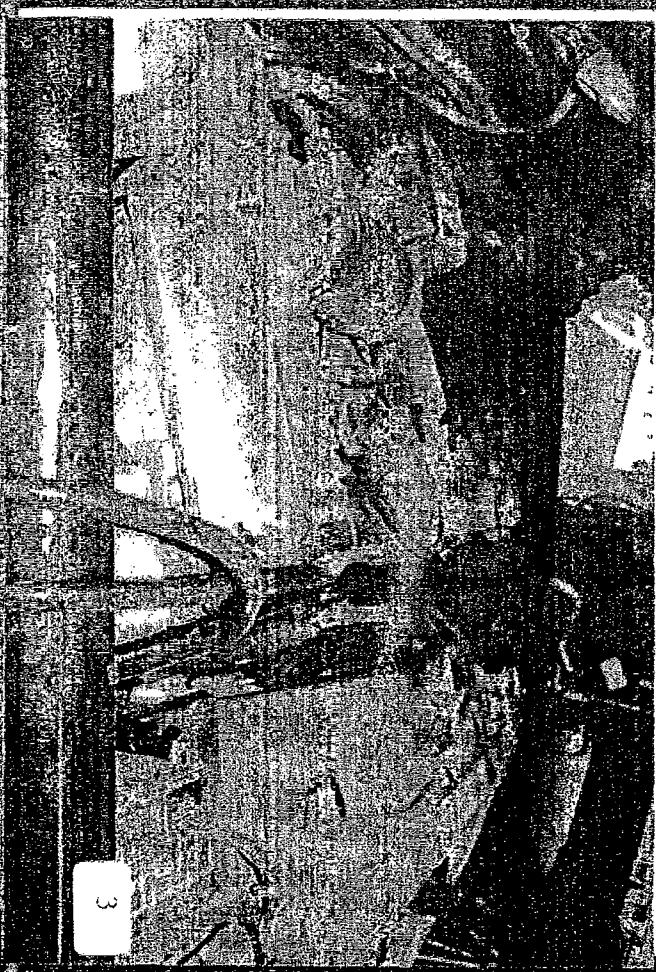
(1) Power Steering Pump  
 (2) Power Steering Fluid Flow Actuator.



(1) Discharge Fitting  
 (2) O Ring (Large) Seal  
 (3) O Ring (Small) Seal  
 (4) Flow Control Valve  
 (5) Power Steering Fluid Flow Actuator

The power steering fluid flow actuator, mounted on the power steering pump, contains a solenoid operated valve. Discharged fluid passes through an orifice in the actuator. As the vehicle speed increases, the power steering control module increases electrical current to the fluid flow actuator. Higher current gradually moves the valve further and further into the orifice. This action restricts the passage of fluid flow through the orifice, reducing power assist in the steering gear.

Because the Power Steering Control Module sends a variable signal, the power steering Fluid Flow Actuator provides variable levels of power assist. The Electronic Variable Orifice (EVO) system therefore consistently adjusts power steering assist for changing vehicle speeds and driving conditions. For repair procedures.



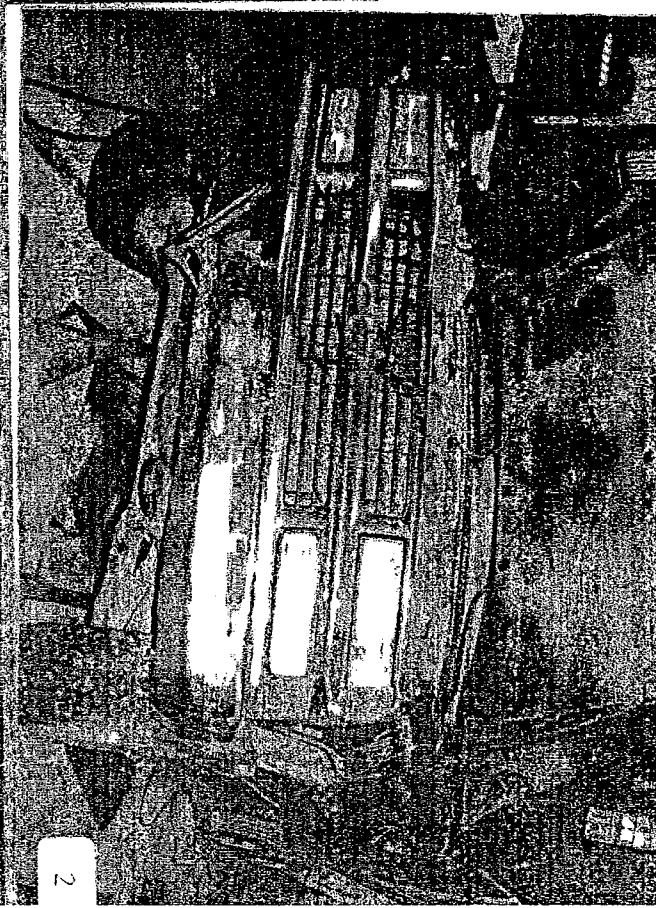
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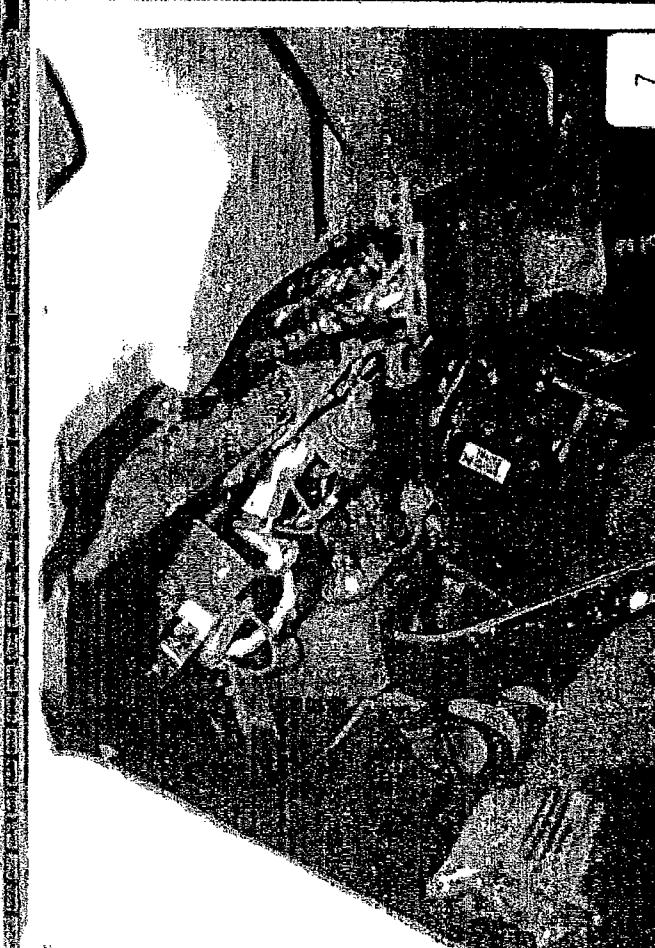
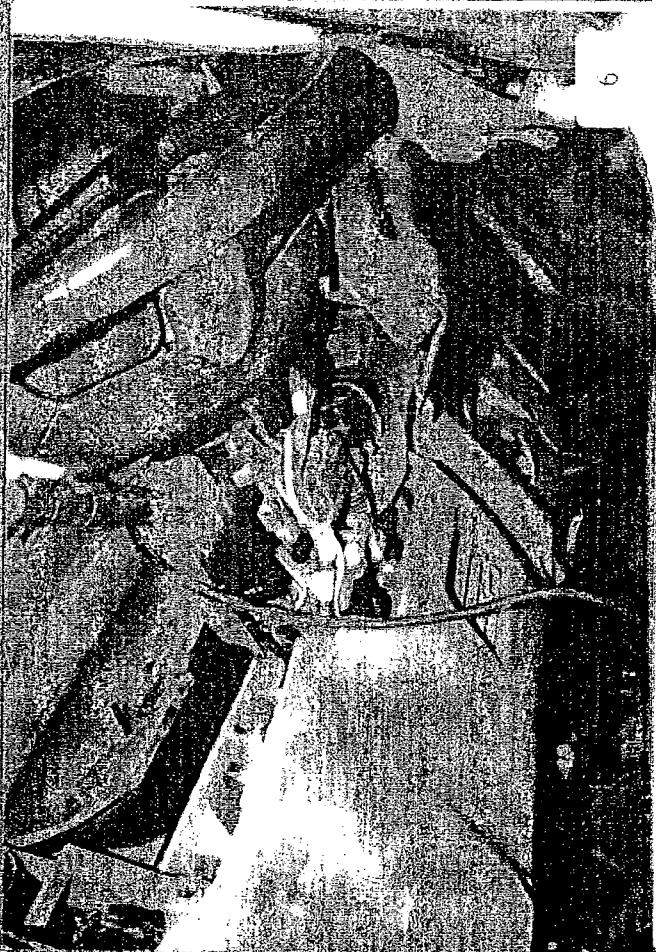
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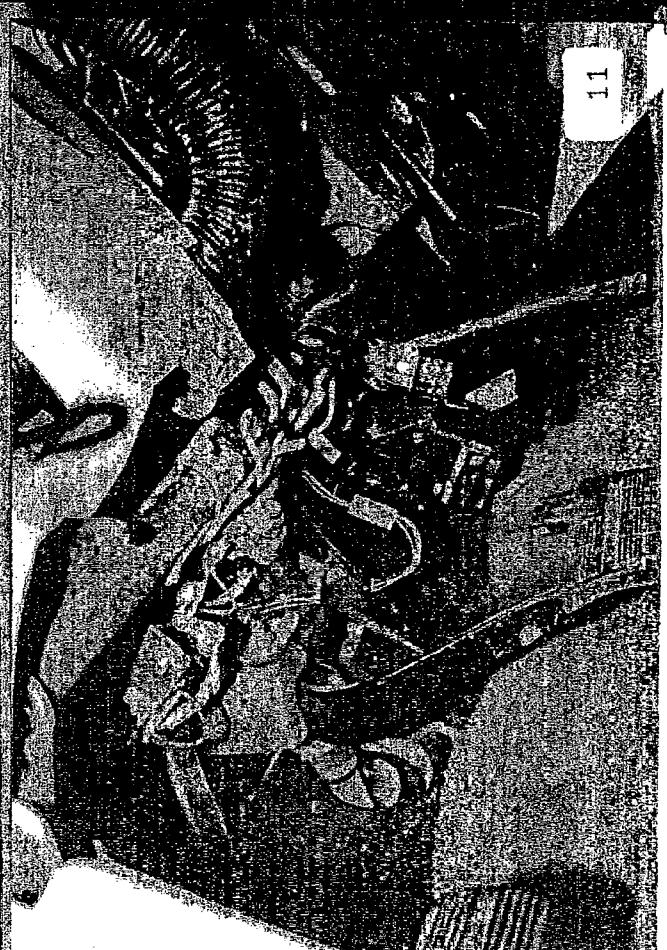


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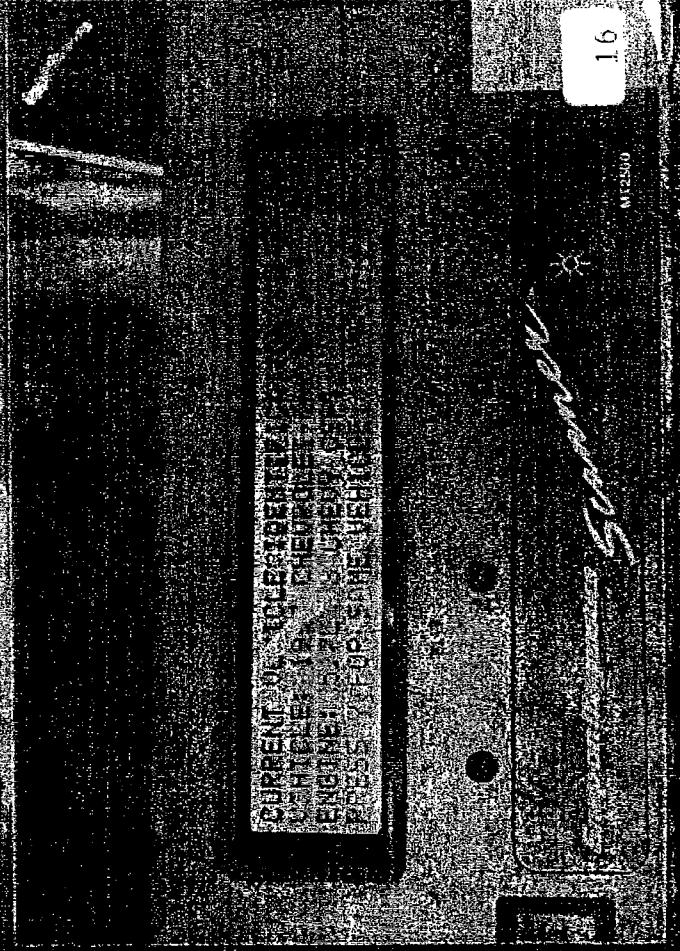
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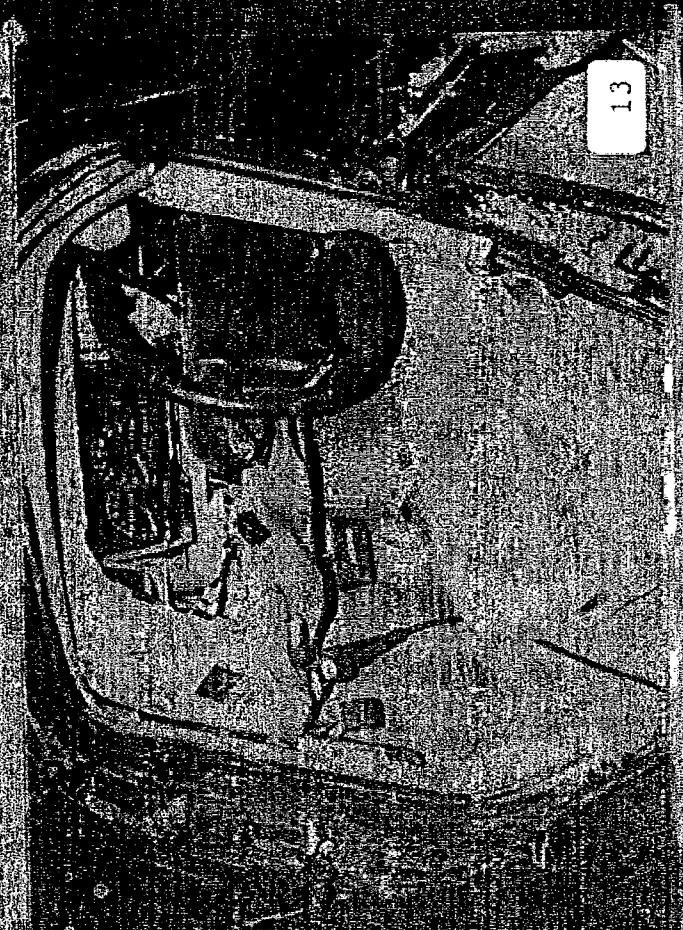


14



16

M12200



13



15

M12200

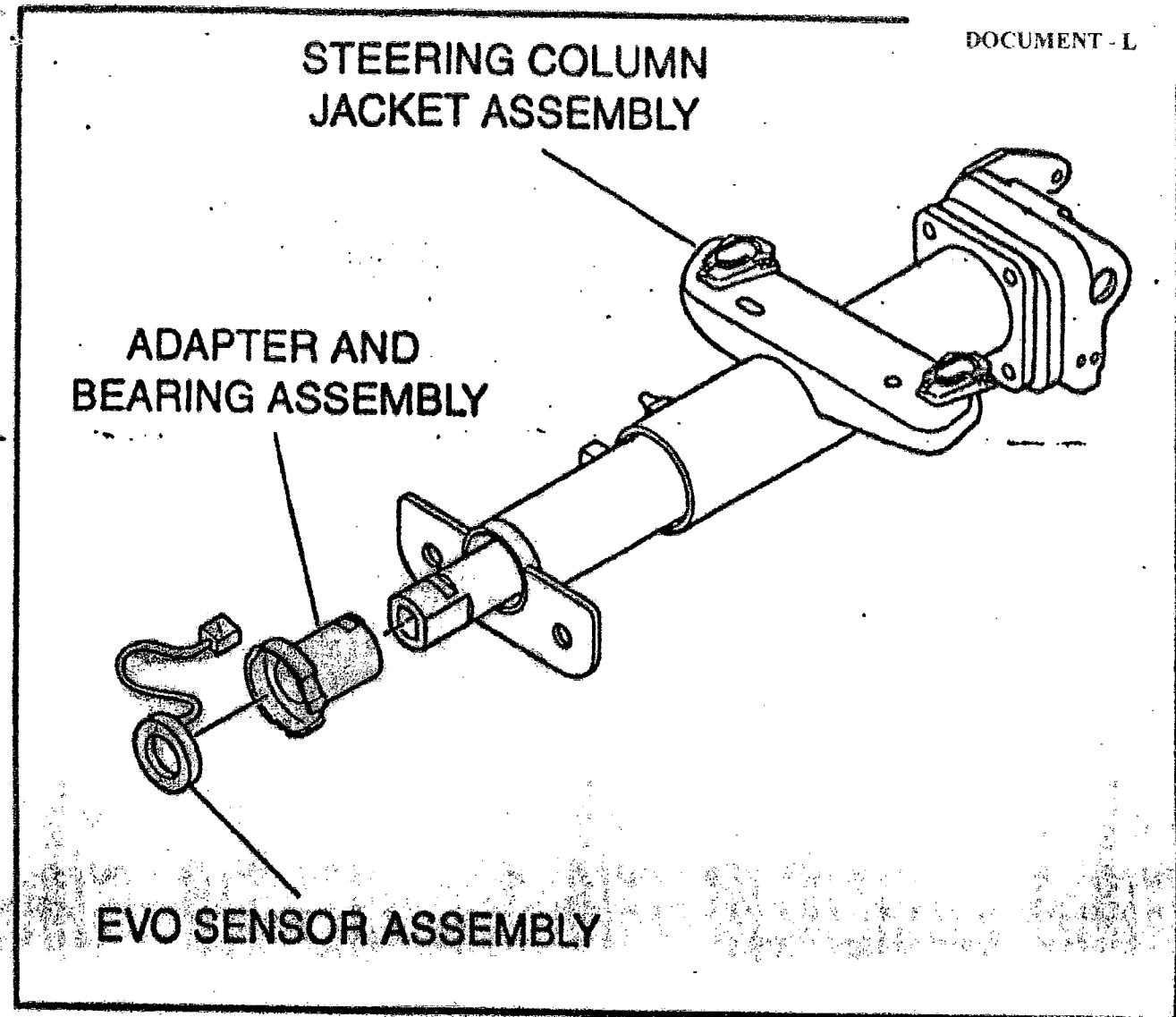
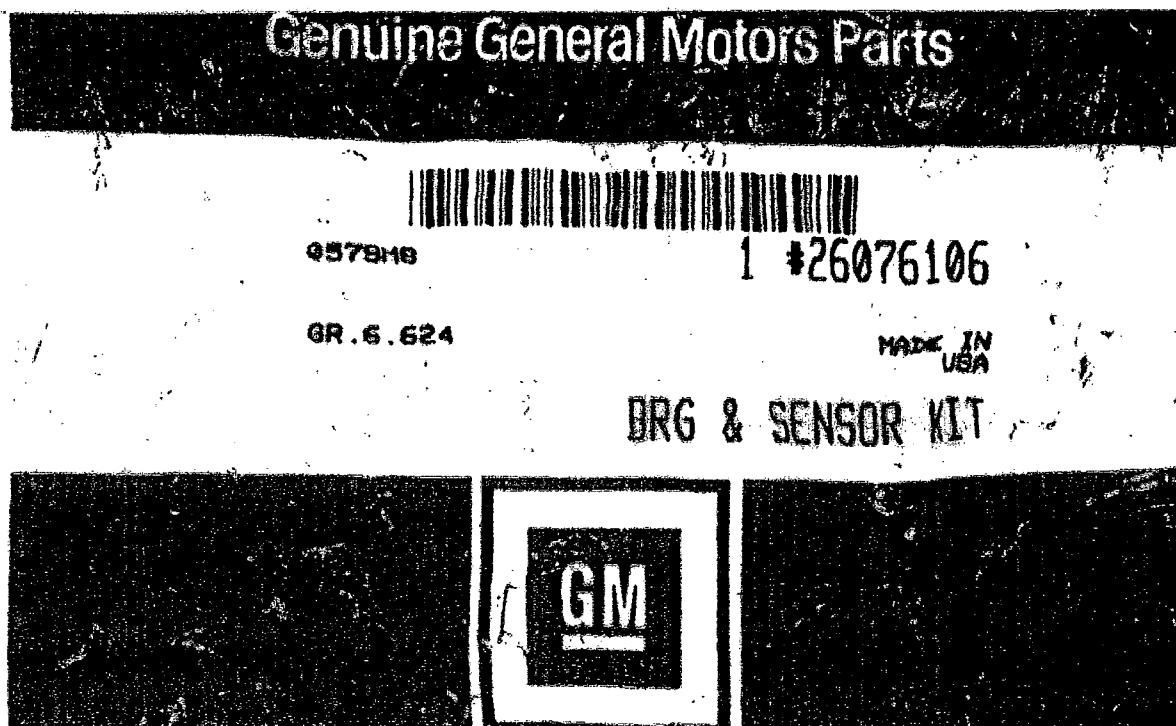


Figure 1 Removing Bearing Assembly and Sensor from Steering Column





# Engineering Analysis Closing Report

## Erratic Power Steering Assist in Model Year 1997-1999 GM C/K Trucks EA99-011

### 1.0 Background

On November 12, 1998, ODI opened Preliminary Evaluation (PE) 98-060 on Model Year (MY) 1997 GM C/K Pickup Trucks and Suburbans based on 26 consumer complaints alleging intermittent periods of excess power steering assist. Complaint content included reports of steering wheel "twitching" or self-steering, usually in sweeping turns or lane change maneuvers above 40 mph. On May 12, 1999, the investigation was upgraded to the Engineering Analysis level. ODI expanded the scope to encompass all MY 1997 through 1999 GM C/K platform vehicles (C/K Pickup, Suburban, Tahoe, and Yukon). All of the vehicles in the Engineering Analysis investigation have a common design for this power steering system and ODI has received complaints alleging intermittent excess power steering assist in these vehicles.

### 2.0 Subject System

The subject system is called Variable Effort Steering (VES) and was introduced in the MY 1997 C/K platform. The main purpose of the VES system is to furnish a range of steering assist depending upon driving conditions. It provides both a high level of steering assist (low steering wheel effort) during parking lot maneuvers and a decreasing level of steering assist as vehicle speed increases to enhance road-feel (steering feedback) and stability at highway speeds. Furthermore, the VES system will furnish full assist at any vehicle speed when rapid steering wheel movement occurs (indicative of an emergency maneuver). GM designed this capability to enhance driver control during emergency maneuvers, thus eliminating the lag in the hydraulic system response (sometimes referred to as "system catch-up") that was present with earlier power steering systems.

The VES system controls steering assist levels by throttling the power steering pump output with an electronic variable orifice (EVO). The principal components in the steering system that are significant to this investigation are the EVO sensor (steering wheel speed sensor), the EVO Controller (EVO/Passlock module) and the EVO.

The *EVO sensor* (Figures 1 – 4 on next page) contains a rotating potentiometer that forms one of the legs of a resistive bridge circuit. Two concentric tracks of electric resistor material are bridged by electrical wiper contacts. As the steering wheel is rotated, the wiper location changes, altering the sensor's resistance. (The EVO controller detects this change in resistance.) The EVO sensor sits at the base of the steering column in the passenger compartment (Figure 3).

The *EVO controller* is an electronic control device that interprets signals from the EVO Sensor and sends electronic signals to the EVO. It manipulates the EVO by regulating the supply of

electric current to the EVO. Based on vehicle speed and steering wheel speed inputs, the EVO controller determines the level of current supplied to the EVO.

The EVO varies the output of pressurized hydraulic fluid from the power steering pump to the power steering box based on the supply of electric current it receives from the EVO controller.

The VES is designed to revert to full assist in the event of an electronic or sensor failure.

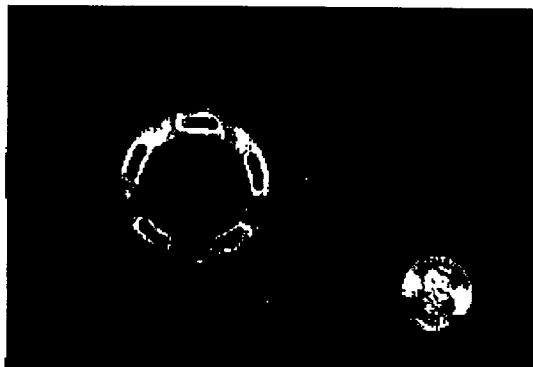


Figure 1: EVO sensor

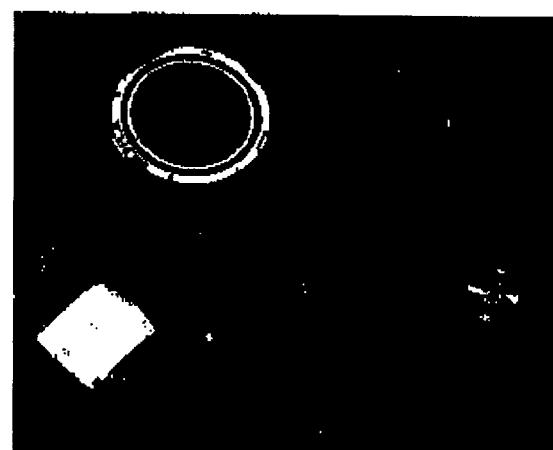


Figure 2: EVO sensor components

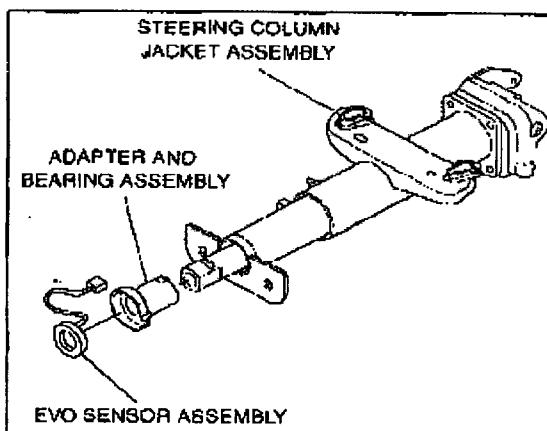


Figure 3: EVO sensor mounted at steering column base

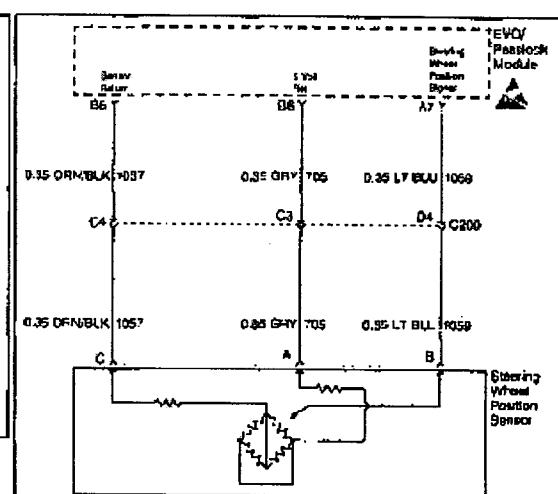


Figure 4: EVO sensor and circuit

### 3.0 Alleged Defect

Malfunctions within the EVO sensor cause it to send signals to the EVO controller that falsely indicate rapid steering wheel movements under normal driving conditions. This causes the EVO to immediately furnish full steering assist.

Reported root causes of this are:

- insufficient contact force between the wipers and resistive tracks inside the sensor;
- debris contamination; and
- wiper misalignment.

The vehicle control module (VCM) monitors the operation of the EVO system and stores diagnostic trouble codes (DTC) if a problem is detected. In the event that EVO sensor signals go outside of the accepted range (0.5 V – 4.5 V) for more than one second, the system will go into a full-assist failsafe mode and set a DTC. The VES will return to normal operation once the vehicle has been shut down and restarted. In several instances, failing EVO sensors have caused the VCM to store a DTC C0507 "low EVO sensor voltage." However, consumer complaint experience indicates that, in most situations, the alleged defect does not cause the VES system to enter the failsafe mode or set any DTCs.

Generally, the alleged defect leads to brief periods (less than one second in length) in which the VES goes from normal to full power assist levels, and then back to normal again. These events are generally reported as "jerking" or "twitching" of the steering wheel. Steering input is necessary for these symptoms to occur (i.e., the vehicle must be in a turn maneuver). Power steering assist, as regulated by the spool valve inside the steering box, is not provided in the absence of steering wheel input by the driver (the system is physically incapable of spontaneous self-steering as a result of EVO sensor faults).

### 4.0 Vehicle Population: 2,514,790

### 5.0 Correspondence

NHTSA to Mfr.	Mfr. To NHTSA	Confidentiality Requested by Mfr.	Date NCC Response	Items Confidential
4-Dec-98 PE IR letter	1-Feb-99 PE IR response	1-Feb-99	15-Mar-99	Attachments G & H
27-Jul-99 EA IR letter	3-Nov-99 EA IR response	3-Nov-99	Pending	Attachments I, N, & Q
23-Sep-99 Follow-up letter	24-Sep-99 Response	N/A	N/A	N/A

## 6.0 Problem Experience

### *Consumer Complaints*

GM Owner reports	473
Dealer Technical Assistance System reports (TAS)	551
Vehicle Owners Questionnaire (VOQ)	331
Crashes	7
Injurious Crashes	3
Fatal Crashes	1
Injuries	3
Fatalities	2

### 6.1 Alleged Crashes

ODI is aware of seven vehicle crashes alleged to have been caused by EVO sensor malfunction. The incidents are listed below:

1. 1997 Chevrolet Suburban      Incident Date 29-May-98

The collision report filed by the California Highway Patrol states that this vehicle experienced a single vehicle rollover collision on a straight and level segment of US 395 (on a vacation trip from Los Angeles to the Mammoth, CA area). The posted speed limit was 65 mph. While traveling northbound, the vehicle passed two other vehicles by entering the oncoming (southbound) lane, and continued moving to the left until off the road. After avoiding a road sign, the vehicle tripped and rolled twice. As a result of roof intrusion from the rollover incident, the driver was paralyzed from the chest down. An in-vehicle witness reported that the driver had complained about being fatigued from limited sleep on the previous night and assumed that the driver had fallen asleep. Another witness estimated the vehicle speed to be 80 mph.

This incident is the subject of a lawsuit by the driver against GM. The plaintiff has custody of the EVO sensor. It is unknown whether the sensor has been tested.

2. 1997 GMC K-15 Pickup Truck      Incident Date 9-Aug-98

This incident is a single vehicle run-off-the-road event. It occurred in a rural area of Colorado.

The report claimed no injuries and \$1,900 worth of undercarriage damage.

The vehicle driver reported that several days prior to the incident, the steering wheel would "catch and release immediately" when he turned the wheel sharply in tight turns. He also reported that this did not affect his ability to operate the truck or affect the steering. A dealer appointment to address these concerns had been arranged for August 12, 1998. The incident occurred on August 9, 1998.

On August 11, 1998, a dealer technician found a sensor code & replaced the EVO sensor with part number 26064468.

This incident is the subject of a subrogation claim against GM by the driver's insurance company. The repairing dealer sent the original EVO sensor to GM. It is unknown whether GM examined the sensor. ODI attempts to follow up with the vehicle driver have been unsuccessful.

3. 1997 GMC Suburban      Incident Date 4-Jan-99

The subject vehicle and a Toyota Camry collided at the intersection of Rt 90 and Rt 205 in Erie, PA. No injuries were reported. However, the subject vehicle sustained approximately \$900 worth of damage. Damage to the Camry is unknown.

The vehicle owner reported that he had been experiencing problems with the electronics associated with the steering and that he had written to GM concerning this in the past.

This incident is the subject of a subrogation claim against GM by driver's insurance company. ODI attempts to follow up with the vehicle driver and insurance company have been unsuccessful.

4. 1997 GMC C-15 Pickup Truck      Incident Date 15-Apr-98

The subject vehicle sustained \$1,169 worth of damage. No injuries were reported. No additional details were provided to ODI.

Repair records indicate that the vehicle steering gear was replaced under warranty on April 16, 1998 in response to the driver's complaint that the steering wheel had jerked. The EVO sensor was then replaced under warranty on July 30, 1998.

This incident is the subject of a subrogation claim against GM by the driver's insurance company. ODI attempts to follow up with the vehicle driver and insurance company have been unsuccessful.

5. 1997 GMC K-15 Pickup Truck      Incident Date 5-Jul-98

The subject vehicle was involved in a single vehicle run-off-the-road incident around 3:00 a.m. while the driver was on the way home from a restaurant. No police report was taken but ODI managed to interview the driver and a representative of his insurance company. The roadway was a two lane "over the bayou" road in the State of Louisiana. Upon leaving the road, the vehicle ran through a ditch but was successfully driven back onto the road. The driver reported hitting his head against the truck roof interior during this time. The driver has alleged that the steering jerked and caused this incident.

According to the insurance adjuster, the vehicle sustained \$5,500 worth of damage and showed signs of apparent rough use prior to the incident (severely worn rear tires and a leaking rear axle).

The driver reported that the truck showed symptoms consistent with the alleged defect when it was new. On July 27, 1998, the repairing dealer retrieved a DTC C0507 from the VCM. DTC C0507 indicates a low steering sensor voltage. The dealer replaced the EVO sensor at this time but the whereabouts of the old sensor are now unknown. A search of warranty records submitted by GM in response to ODI inquiries indicate that another EVO sensor was replaced on this vehicle on January 6, 1998.

This incident was the subject of a subrogation claim against GM by the subject driver's insurance company. The company ultimately dropped the claim. The driver has submitted claims to his insurance company for chiropractic treatment to address back and neck pains as a result of hitting his head against the truck interior during the incident.

6. 1997 Chevrolet K-25 Pickup Truck Incident Date 29-Sep-98

The subject truck inadvertently veered to the left on a two lane urban road in Ashland City, TN, crossing through the oncoming traffic lane, striking a dirt embankment, and rotating 180 degrees, whereupon it came to a rest. No other vehicles were involved. With the exception of air bag vent burns on his inner arms, the driver, the sixteen year-old son of the truck's owner, was uninjured. The road segment on which this incident occurred was a two-lane straightaway with a slight upgrade approaching a leftward curve.

ODI interviewed the subject truck owner and obtained copies of supporting documentation (including the police accident report).

The regular drivers of the subject truck (truck owner's son and wife) had both reported that the steering effort would occasionally fluctuate, usually with the wheel becoming difficult, then easier to turn, resulting in a faster than desired steering movement.

Post-crash examination by a local consulting engineer revealed that the steering system was mechanically intact. However, a GM Tech 2 diagnostic tool recovered a DTC C0507.

None of the evidence indicates that the truck was being operated at an unreasonable speed (posted speed limit in this area is 35 mph). The air bag burn marks indicate that the driver had both hands on the steering wheel at the time of impact.

The truck owner has retained an attorney and filed a claim for reimbursement from GM. The current status of this action is unknown.

7. 1999 GMC C-35 Pickup Truck Incident Date 8-Oct-99

The subject vehicle veered across a straight, narrow two-lane, undivided road and collided with an oncoming 1996 Ford F-350 that was towing a trailer loaded with steel pipe. Both drivers were killed as a result of the crash. At the time of impact, the subject vehicle had veered three feet into the oncoming travel lane.

The subject vehicle is owned by the US Government and was operated by the Army Corps of Engineers, Vicksburg District. At the time of the collision, it was traveling northbound along Louisiana State Highway 124 in a convoy of Corps vehicles at an estimated speed of 35 mph.

No external factors such as traffic, substance abuse, or road or weather conditions have been found that could have contributed to the subject vehicle's movement into the southbound lane. The Corps of Engineers Vicksburg District Office Counsel is continuing its investigation of this incident at this time.

## 7.0 Service Bulletins

GM released two service bulletins that address alleged defect symptoms in the subject vehicles.

Service Bulletin 76-30-01: "*Steering Wander (Reset Alignment, Adjust/Replace Steering Gear)*"

GM released this bulletin in June 1997. It applies to all 1997 C/K models except the 3500 HD. The bulletin states that a vehicle owner may complain about steering wander or the perception of loose steering at highway speeds and instructs technicians to inspect and then adjust the front suspension alignment settings. Vehicles with persisting symptoms are to have the steering gear adjusted or replaced depending on vehicle weight rating.

Service Bulletin 86-32-06: "*Reduced Steering Effort (Diagnose/Replace Steering Wheel Speed Sensor and Bearing Assembly)*"

This bulletin was released in September 1998 and applies to all 1997 and 1998 C/K, M/L, and G platforms. It describes a complaint condition that is consistent with the alleged defect symptoms and instructs technicians to measure the EVO sensor output and, if necessary, replace the sensor and bearing assembly.

Subsequent discussions with GM have revealed that this bulletin also applies to MY 1999 C/K vehicles.

## 8.0 Warranty

Warranty figures for EVO sensor replacement in all MY '97-'99 C/K platform vehicles are given below. The data are current as of September 1999.

The EVO sensor is covered under the basic 3 year / 36,000 mile bumper-to-bumper warranty. In the one year period between the release of service bulletin 86-32-06 and the September 1999 IR response, 71,931 EVO sensors had been replaced in the subject vehicle population, yielding a replacement rate of 2.9% (71,931 repairs / 2,514,790 vehicles).

Figure 5 below shows that warranty claims appear to continue over time. Figure 6 below shows warranty rates by vehicle model. The top group of three models (1/2 ton series) all contain the

700-series steering gear, while the bottom group of models contain the 708-series steering gear, which operates at slightly different fluid flow rate. Figure 7 illustrates warranty claims by vehicle build month for MY '97-'99.

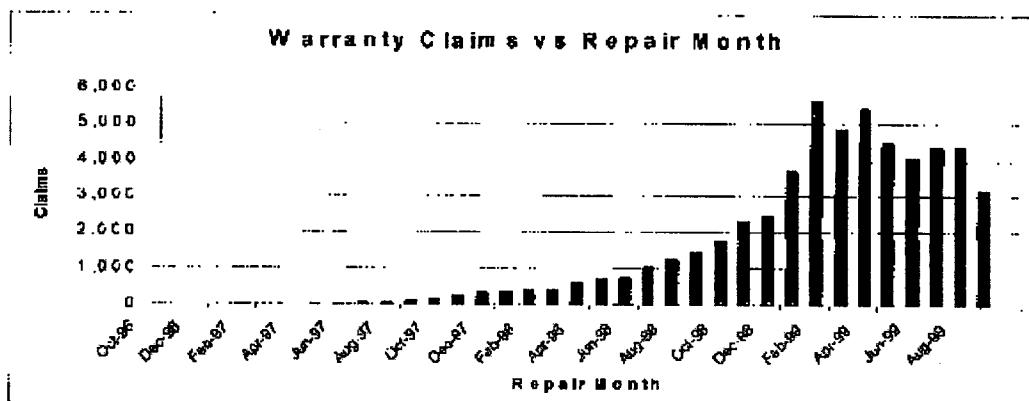


Figure 5

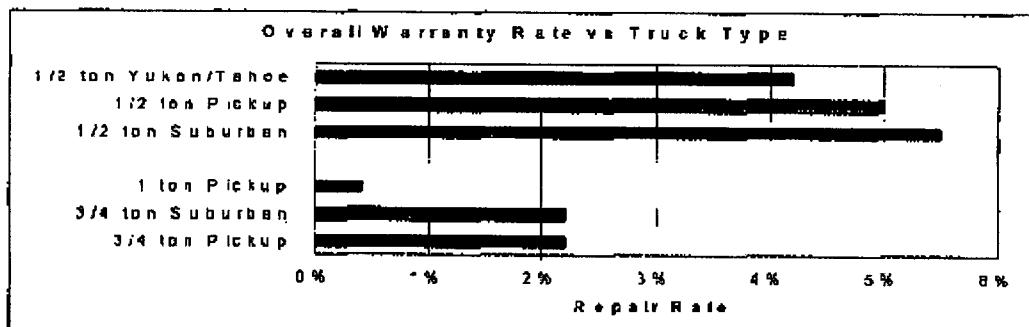


Figure 6

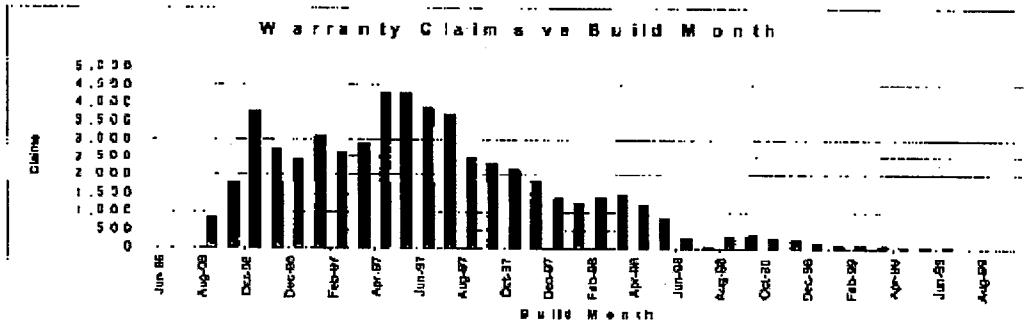


Figure 7

Note: Each model year begins production in August of the previous year, i.e., MY '97 entered production in Aug '96.

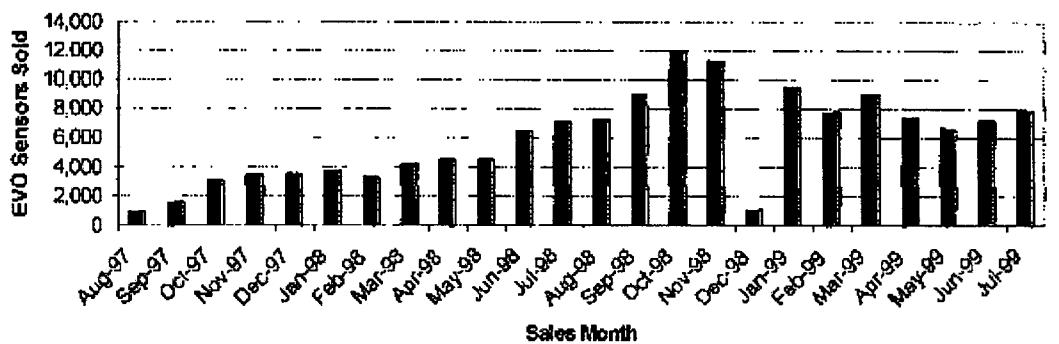
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## 9.0 Part Sales

From August 1997 through July 1999, a total of 142,683 EVO sensors were sold to dealers (this includes warranty repairs). Figure 8 shows EVO sensor sales by sales month and year.

GM has noted that these parts are applicable to many vehicles outside of the subject population (including the G van, M/L van, and N car platforms).

**EVO Sensor Sales vs Sales Month**



**Figure 8**

## 10.0 Modifications

The subject EVO sensor is a pre-existing design produced on a newer automated production line to accommodate the higher volume necessary for incorporation in the C/K platform. Changes were made to this sensor prior to its production on the new line to address durability concerns. Specific changes were identified in Confidential Attachment G of the PE98-060 IR response. The original design EVO sensor, Part # 26020224, was available in "small numbers of vehicles built prior to June 1997." Effective June 1997, GM changed the EVO sensor part number to 26064468, to identify it as having come from the new production line. GM considers the two components to be interchangeable.

A repair kit comprised of an EVO sensor and an improved version of the lower steering bearing assembly (a plastic cup that contains the EVO sensor at the base of the steering column) entered vehicle production in April 1999. The improvements were a result of GM concerns that side-loadings unique to C/K platform EVO sensor mountings (at the base of the steering column) were contributing to the subject condition. One of the chief differences noted between the subject vehicles and other platforms that incorporate the EVO sensor but lack the high complaint rates (M/L van, G van, N car) has been its exposure to side-loadings. The new kit is identified as Part # 26081626, which supersedes the older kit (identified as Part # 26076106). It is unknown at this time whether this new kit will remedy the subject condition.

## 11.0 Testing

### 11.1 VRTC Testing

Several driving tests of exemplar and complaint vehicles were performed on closed driving courses and public roads at and around the Vehicle Research and Test Center (VRTC) in East Liberty, OH.

#### 11.1.1 Lease Pickup

Preliminary tests were performed on an extended cab pickup truck (VIN 1GCGK29K7VE195398, build date Jan '97) leased from a local dealer during the Preliminary Evaluation.

Interrupting the signal from the EVO sensor to the EVO controller approximated alleged defect symptoms. This forced the EVO into the failsafe full assist mode. Each time this was done, the truck had to be shut down and restarted to reset the EVO controller. Maneuvers including high-speed lane changes, large-scale figure-eights, and constant radius circles were performed. Testing was performed both with the truck unloaded, and with 1,000 lbs of ballast in the truck bed to alter the fore-aft weight distribution. The truck itself was instrumented to capture vehicle speed, steering wheel torque and displacement, and EVO sensor output.

Some test drivers noticed differences in the steering feedback— but these differences could not be identified in the test data. The difficulties in identifying the differences in the test data were attributed to the nature of the signal interruption technique in simulating EVO sensor malfunctions: interruption of the EVO signal causes the power assist system to furnish full assist until being reset, rather than fluctuate from minimal to full, and back, as identified in the alleged defect. Overall, none of the test drivers noted any concern over the changes in steering effort.

#### 11.1.2 Complaint Tahoe

In August 1999, VRTC leased a 1997 Tahoe (build date Dec '96) from a complainant in the Brecksville area of Ohio. The complainant reported experiencing the alleged defect on numerous occasions and submitted VOQ # 547298 to ODI. In the VOQ, the complainant stated:

When I am driving Tahoe at moderate speed in 2 Wheel Drive on dry pavement that is smooth, I can feel the steering wheel seem to disconnect from the vehicle steering mechanics. This lasts for only a few seconds, then the "feel" of the steering comes back. It happens when I have just a slight amount of pressure on the steering wheel. It happens when the pressure on the steering wheel is to the left or right.

When delivered to VRTC, the test vehicle had 35,913 miles on the odometer. With the exception of slightly under-inflated tires and a leaking left outer CV boot, the Tahoe was found to be in good condition.

VRTC installed the instrumentation package on this vehicle and subjected it to 296 miles of testing on closed courses and public roads (public road testing included sampling every entrance

and exit ramp on Ohio State Route 33 between the town of Bellafontaine, OH and Honda Parkway).

During the course of this testing, the vehicle manifested the alleged defect twice, both times in a banked right turn on the TRC (test facility) access road. The turn itself had a posted speed of 35 mph. In both cases, it was traversed in 13 sec. at 40 - 45 mph with an average steering angle of approximately 20°.

Data were captured during the second occurrence as shown in Figure 9 on page 12 (the first occurrence was unexpected, so the data acquisition equipment was not in operation at that time). The symptoms began 5.1 sec. into the data run and lasted for 0.88 sec. Steering wheel effort dropped from 5 lb to about 1.8 lb, and displacement fluctuated 17.8°. The vehicle driver reported that the symptoms felt as if someone had reached over and briefly tugged on the steering wheel.

During the driving event shown in Figure 9, the steering wheel angle briefly reached a maximum of 10° from the interpolated normal conditions value. This "defect-induced" deviation is comparable to normal steering corrections observed later in the same test (after 16 sec. of test duration) during normal driving.

Further attempts to precipitate the alleged defect symptoms by re-sampling this turn and by emulating its characteristics on closed driving courses were unsuccessful.

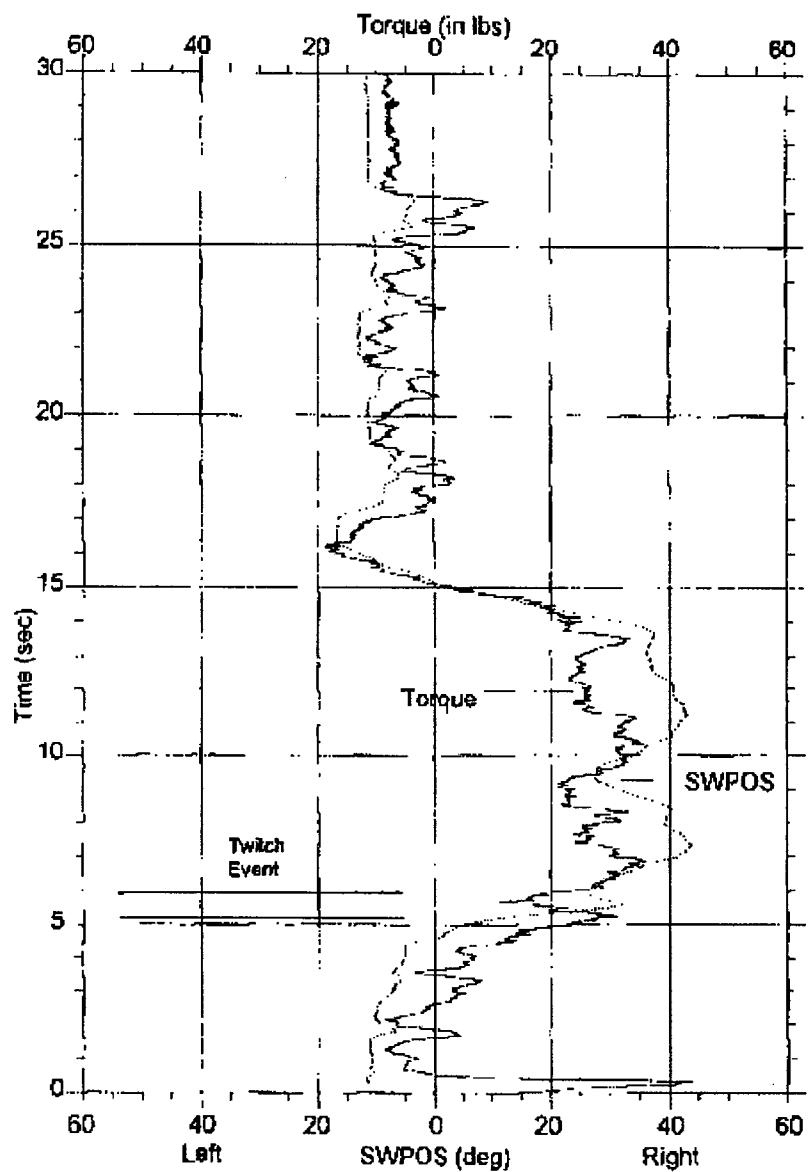
Figure 10 (page 13) shows data of the same vehicle being driven over the same route under normal conditions, without the occurrence of "defect-induced" steering influence (twitching, etc.).

Additional testing that incorporated the sensor signal interrupter used in the earlier pickup truck testing was inconclusive.

Feedback offered by the two drivers who experienced the alleged defect was consistent with the symptoms reported by complainants. Driver experience also indicated that the actual alleged defect symptoms did feel more pronounced than the effects of merely interrupting the EVO sensor signal output (lease pickup testing).

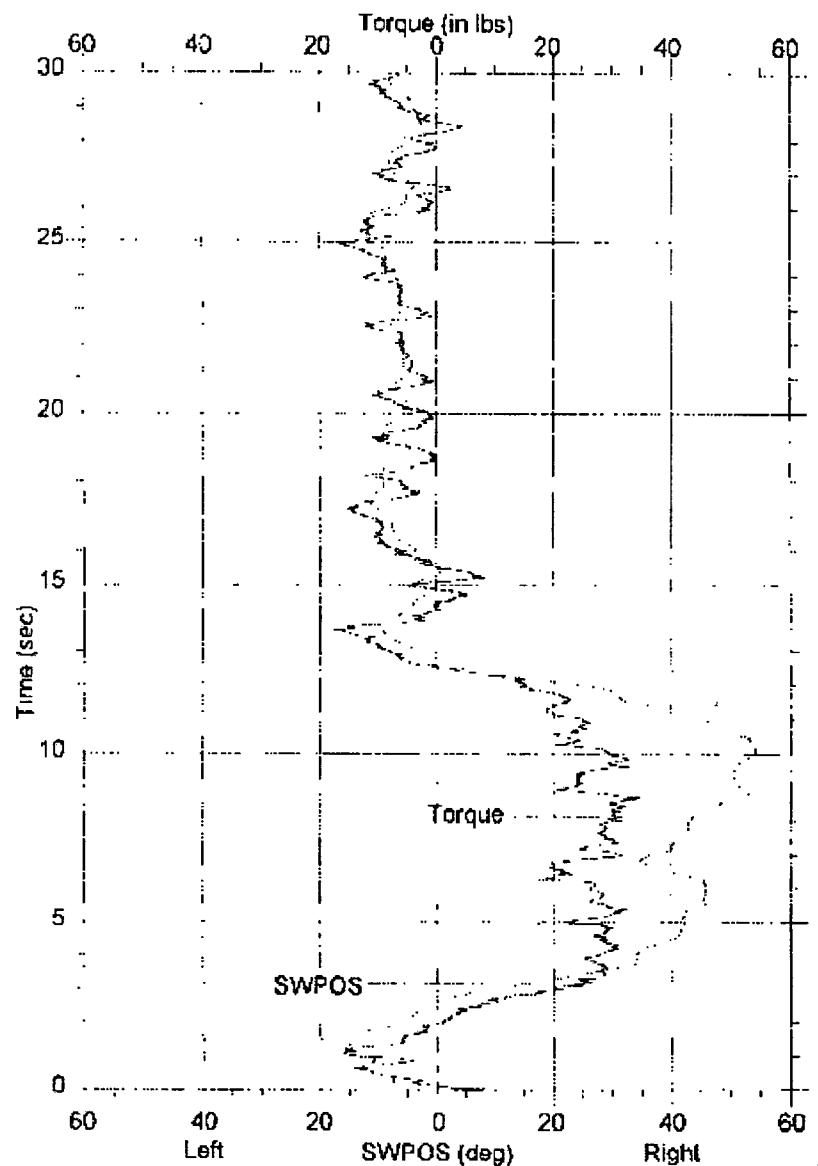
Before returning the vehicle to its owner, VRTC personnel had the local GM dealer replace the complaint EVO sensor. The complaint part was retained by VRTC for further examination.

**Complaint Tahoe experiencing alleged defect in a right turn**  
**Steering wheel torque and position over time**



**Figure 9**

**Complaint Tahoe traversing the same right turn as in Figure 11 under normal conditions**  
Steering wheel torque and position over time



**Figure 10**

### 11.1.3 Lcase-Tahoe

VRTC leased an exemplar Tahoe from a local dealer. VRTC constructed a "black box" electronics apparatus designed to directly manipulate the EVO at will and installed it in the Tahoe so that the alleged defect symptoms could be produced on command. This apparatus allowed the test operator to force the EVO from its normal operating position into a full-assist position (0% duty cycle (Figure 11)) at any time and for any duration. This was done with a hidden switch so as to surprise the vehicle driver. Because the EVO never attains full assist under normal operating conditions, this is viewed as the typical worst-case scenario (the maximum EVO opening measured under VRTC test-driving conditions was a 17% duty cycle).

Data capture for this test was the same as for the previous tests, with the addition of a multi-axis accelerometer set and an improved steering wheel torque sensor.

Most testing took place on the figure-eight course, an area that allows moderate – highway speed sweeping banked turns comparable to many exit ramps, steering transitions, and highway straightaway lane changes. Subjective feedback by test drivers indicated that the simulated EVO failure was somewhat more pronounced than the alleged defect symptoms experienced in the complaint Tahoe. None of the test drivers reported feeling out of control of the test vehicle at any time. Specific test results are described below.

Vehicle Speed Effect on EVO Duty Cycle (Average)

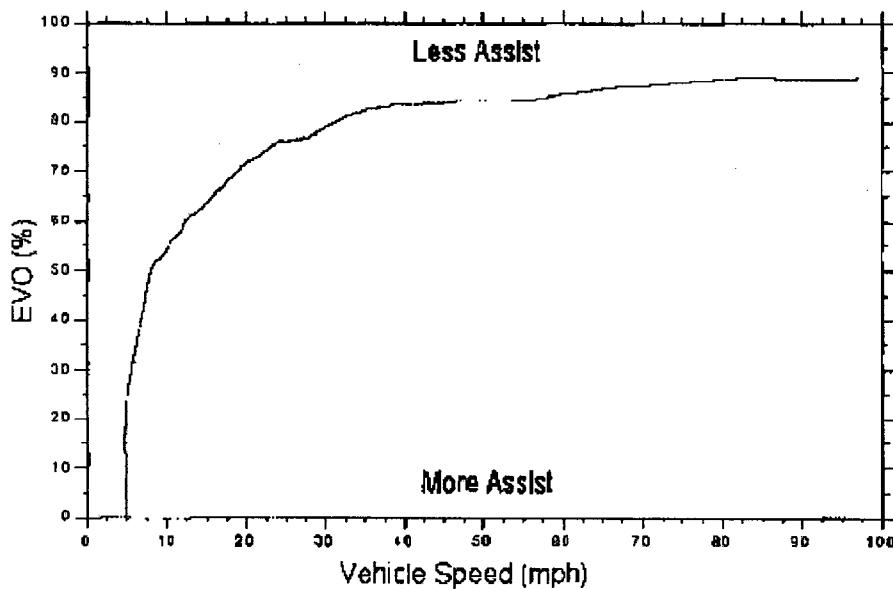


Figure 11: EVO duty cycle represents the degree to which the EVO is open (and therefore, steering assist level). At 100% duty cycle, the valve is in its minimum flow state, whereas at 0%, it is in its maximum flow state. The EVO tends to asymptotically approach an 88% duty cycle at very high vehicle speeds. The minimum duty cycle recorded in the emergency maneuvers on closed driving courses was 17%.

Figure 12 (next page) shows the effect of the subject condition simulated during a 70 mph left-steer to straightaway transition. The twitch was initiated at time = 2.1 sec., and lasted for a total of 1.6 sec. The test driver immediately noticed the steering feedback change, but corrected for it with no undue effort. Vehicle control was not compromised.

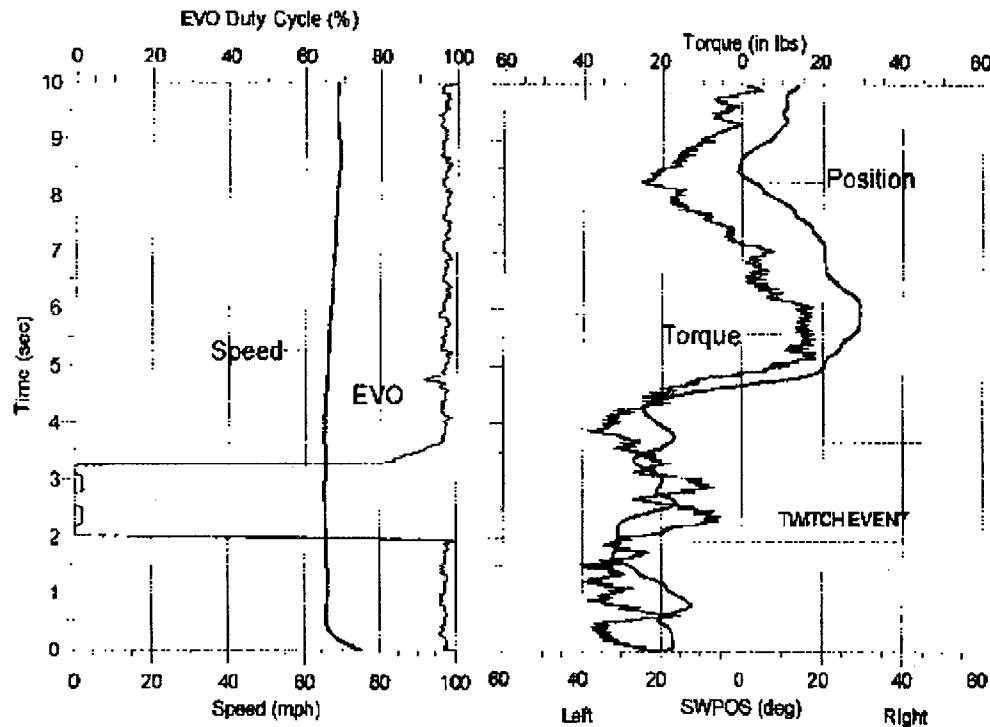
Figure 13 (page 17) involved two simulations of the subject condition while driving through a highway-banked turn. The turn itself is banked and radiused to give a 34 mph neutral steer speed. It was traversed at speeds ranging from 60 - 65 mph. The "black box" was used to simulate the subject condition twice during the approximately 1,000 ft center third of the turn. Again, the test driver noticed the changing steering properties, but corrected the vehicle's path. Vehicle control was not compromised.

Figures 9 through 13 have been chosen to show the alleged defect symptoms under test conditions because they are the most representative of the situations described in consumer complaints: steering fluctuations in moderate to high speed turns and lane change situations.

A comparison of Figure 9 (EVO sensor-induced steering twitch (alleged defect in action)) and Figure 10 (same maneuver and conditions with no twitch) shows the minimal effect of EVO fluctuations. While the twitch effects were distinct and noticeable to both test drivers, the vehicle remained within its designated travel lanes, with no major corrections necessary.

More details concerning the specifics of the VRTC testing and the test course may be found in the Attachment 1: Test Report: VRTC-DCD9003 "Tests Concerning Erratic Power Steering Assist on 1997-99 GM C/K Trucks (EA99-011)" and Attachment 2: "Vehicle Dynamics Area" respectively.

**Lease Tahoe making a left turn-to-straight transition at 70 mph**

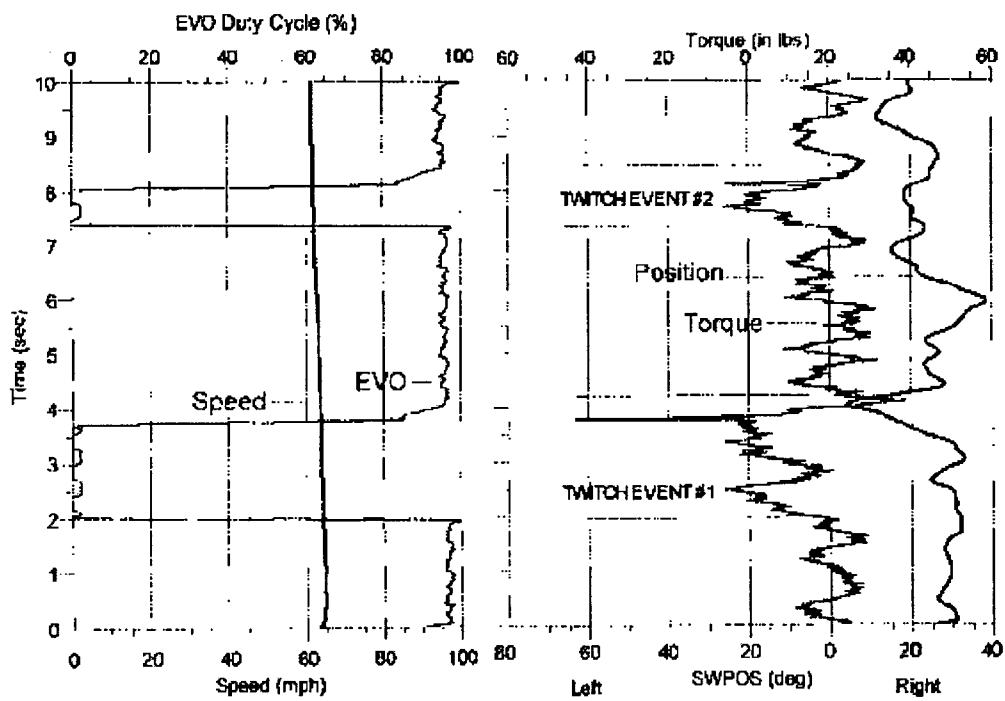


**Figure 12**

Simulated symptoms via "black box" occurred at time = 2.1 sec, and lasted for 1.6 sec.

Maximum changes noted in the steering were:  $14.6^{\circ}$  of steering wheel displacement over a 0.4 sec. period and 4.6 lb of steering effort over a 1.2 sec. period.

**Exemplar Tahoe traversing a 7.5° bank, 630 ft radius right turn at 65 mph**



**Figure 13**

Simulated symptoms via "black box" occurred at time = 2 sec. for a 2 sec. duration (Event 1), and at time = 7.4 sec. for a 1 sec. duration (Event 2).

Event 1: Maximum changes noted in the steering were: 28.8° of steering wheel displacement over a 1 sec. period and 13.7 lb of steering effort over a 0.3 sec. period.

Event 2: Maximum changes noted in the steering were: 7.3° of steering wheel displacement over a 0.5 sec. period and 5.6 lb of steering effort over a 0.75 sec. period.

## 11.2 Local Test Drive by ODI Staff

To enable more ODI staff to experience the alleged defect symptoms on a closed driving course, the EVO "black box" (as used in Figures 12 and 13) was installed in a locally acquired 1997 Suburban (VIN 1GNFK16R0VJ353248). The course included a banked decreasing radius turn comparable to many exit ramps (45 - 35 mph), a straightaway for simulating highway speed (50 - 65 mph) lane changes and sweeping turns, and a moderate speed (40 - 55 mph) left-to-right steering transition segment.

Once each driver was familiar with the course and settled into routine driving, the test operator would discreetly force the EVO into full assist in the midst of a steering maneuver. From the start of each test drive to the time of the first alleged defect simulation (for each driver), the test operator engaged the driver in conversation about the test course and other topics (pointing out military aircraft flying overhead) in an effort to further distract them from driving. After this initial experience, each driver made several more circuits of the course at different speeds with the test operator manipulating the EVO at random times.

None of the test drivers had any difficulty controlling the test vehicle at any time. One of the drivers, who had experienced the alleged defect firsthand (from a bad EVO sensor), reported that the simulated symptoms were slightly more pronounced or aggressive than those experienced on the road. This is consistent with ODI and VRTC understanding of the "black box" performance vs. that of the actual alleged defect.

## 12.0 Manufacturer Position

In its response to ODI Information Requests, GM has stated the following:

PE98-060 IR Response      1-Feb-99

"Potential causes for an EVO sensor malfunction are: (1) improper contact pressure between the sliding contacts and the resistor track, (2) foreign particles or debris within the sensor may increase the electrical resistance, and (3) misalignment of the resistor track with the sliding contacts."

"In each of the above conditions, the VES will reduce the power steering attenuation. Since this power steering attenuation was to improve road feel, it is GM's position that there is no effect on vehicle control and therefore is not a safety issue. Finally, GM has issued Service Bulletin 86-32-06 and Service Bulletin 76-30-01 to our dealers for repair of vehicles that exhibit the steering condition that is the subject of this inquiry."

EA99-011 IR Response      9-Nov-99

GM has theorized that possible driver demographic differences among these vehicle groups may play a role in the warranty rate differences, i.e., some driver-types may perceive and react differently to power steering assist changes.

"In order to establish an objective measure, the following example is offered. This example is based on testing performed on a 1999 Production 4WD Suburban (GM Proving Ground Report # PG-070047) with an EVO system operative and inoperative, wind tunnel data from a 1993 4WD Suburban, and a cross wind simulation."

"In order to negotiate a curve on a freeway or an off ramp at 60 mph (approximately 0.2g), the driver would need to apply 3.8 lb of force at the rim of the steering wheel in a subject vehicle with a properly operating EVO system. If the EVO system were then disabled and full power assist was applied at the steering gear, the effort to maintain this same condition would be 1.6 lb or a difference of 2.2 lb."

For reference, 2.2 lb is the force that must be applied to the steering wheel in order to maintain a straight path when encountering a 20 mph crosswind. As an illustration, this is equivalent to the change in steering effort required when responding to a 20 mph cross wind that suddenly becomes blocked by a passing semi-tractor trailer truck.

GM believes that the required driver response to an EVO system that defaults to full power assist would be a normal driving response that has no safety implications."

### 13.0 Peer Investigations

All ODI power steering-assist defect investigations since 1980 have related to loss of power assist. Two "steering-wander"-related investigations were performed:

PE91-017: MY '88-'90 Ford F-150 and Bronco inconsistent vehicle control; and  
PE99-066: MY '99 Dodge Ram 4X4 2500 Series steering wander.

Findings in these two investigations were that the steering difficulties as experienced could be corrected with instinctive, minor steering inputs.

No voluntary safety recalls relating to excess power steering assist have been found since 1980.

## 14.0 ODI Analysis

### 14.1 Consumer Complaints

Figure 14 depicts ODI VOQs by their complaint date. The peak in July 1999 corresponds with the upgrade of this investigation to the EA level. The data show that these are ongoing complaints in the field.

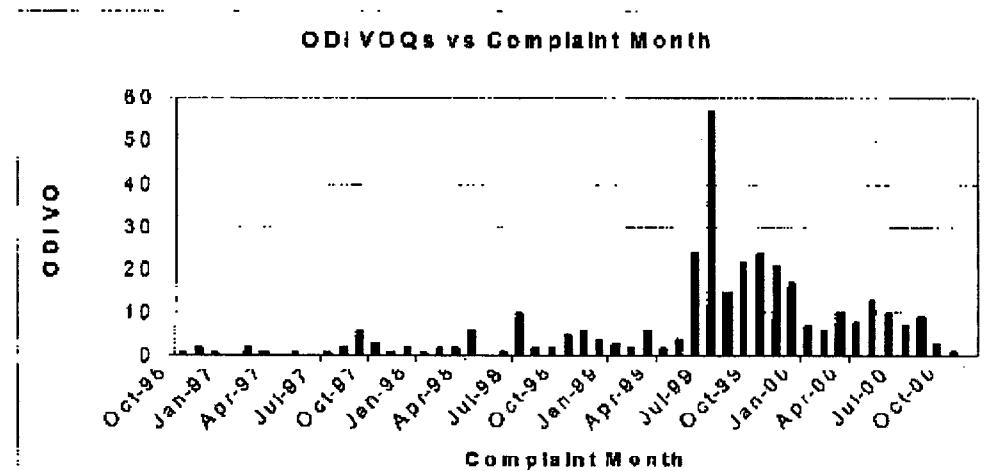


Figure 14

### 14.2 Complaint Symptoms

Reported steering wheel movements are caused by existing driver steering input reacting to the sudden reduction of required steering input force. These symptoms are most noticeable at vehicle speeds above 40 mph, where the difference between nominal steering assist and full assist is greater, and steering angle changes give more pronounced course deviations. The symptoms are typically reported while traversing exit ramps, following sweeping highway turns, and during lane change maneuvers. Some complainants have voiced concern related to their own over-corrections when the alleged defect manifests itself. Additionally, many complainants in all categories noted concern and frustration over parts availability and multiple repair attempts by the dealers.

A sample of 400 VOQs and GM consumer complaints was examined and categorized according to symptom. The symptom distribution is illustrated in Figure 15 (next page). Categories are described below.

#### *Steering jerks*

Other symptoms placed in this category include:

- "jumps;"
- "slips;"
- "steering wheel binds;"

- “play in the steering;”
- “loose steering;” and
- “like driving on ice.”

In all cases, these symptoms are consistent with a sudden reduction of steering effort coupled with a given level of pre-existing steering input from the vehicle driver.

#### *Constant overboost*

- In this situation, the EVO controller has detected a malfunction and placed the system into the failsafe full-assist mode.

#### *Not in scope*

- These complaints were found to relate to non-EVO steering problems such as power steering pump failure, tie rod separation, steering gear internal failures, etc.

#### *Vague*

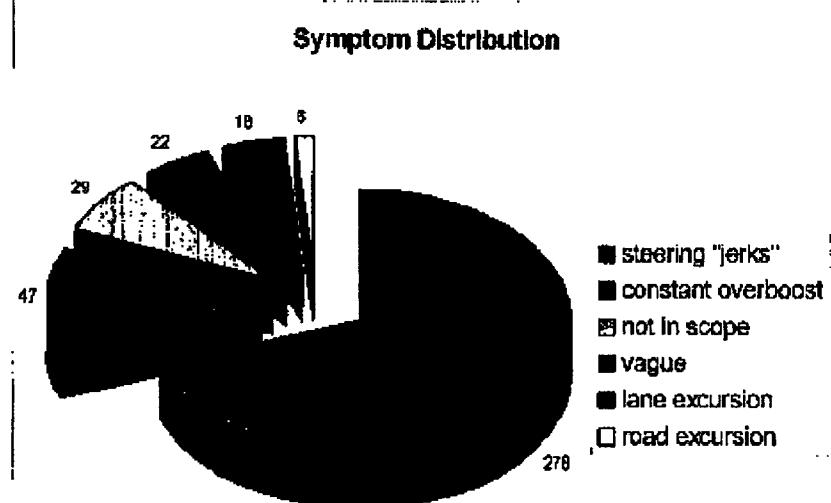
- This category contains complaints whose summaries probably relate to the alleged defect, but state no symptoms. Examples are “EVO sensor failed” and “EVO sensor replaced.”

#### *Lane excursion*

- A lane excursion event occurs when the vehicle traverses a lane identification line against the driver’s intention. This can apply to either a complete or a partial lane change.

#### *Road excursion*

- A road excursion event is a noncollision event in which the vehicle leaves the roadway, driving onto the shoulder or roadside. No vehicle or property damage occurs, so this event is therefore classified separately from vehicle crashes.



**Figure 15**

#### 14.3 Discussion

It is clear from the volume of consumer complaints, warranty repairs, and EVO sensor sales that the alleged defect continues to be a source of substantial annoyance and concern to subject vehicle owners.

The alleged defect does not present substantial vehicle control concerns. Testing in straight-line driving demonstrated that the alleged defect does not cause the vehicle to self-steer or change lanes. In executing turns (ranging from mild to sharp), test drivers reported that alleged defect symptoms are brief enough that a reasonably attentive driver should be able to adapt to differing steering feedback before the vehicle significantly deviates from the desired travel path. Necessary corrections are usually comparable to the normal instinctive corrections necessary for everyday driving. The majority of consumer complaint symptoms further attest to the relatively brief nature of the subject condition, and its minimal effect on altering the vehicle's path.

Test data document that the steering wheel displacements involved with the alleged defect symptoms fall within the magnitude and frequency of steering corrections that are needed to maintain course in the face of commonly occurring road irregularities and crosswinds (as observed in Figures 11, 12, 14, and 15).

Due to the nature of the alleged defect, it occurs sporadically. Allegations due to the alleged defect are difficult to confirm. ODI has not developed, and is unaware of, a technical method of proving whether the alleged defect caused or contributed to a power steering assist fluctuation at the time of crash.

In the cases of the alleged crashes, it is unclear what role the EVO sensor played in view of other contributing factors such as driver fatigue or driver inexperience, which may exist.

#### 15.0 Reasons for Closing

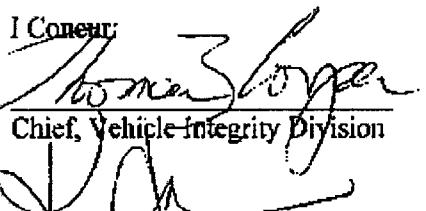
- Short duration & magnitude of the subject power steering fluctuations require small corrections in steering angle and force to maintain the desired travel path.
- The majority of consumer complaints indicate the driver's ability to maintain control while experiencing the alleged defect.
- Lane excursions are a small portion of the total number of complaints.
- Vehicle testing shows no adverse effect on driver control.

ODI has not identified a safety-related defect trend in the subject vehicle population. Further expenditure of agency resources on this subject does not appear to be warranted at this time. The closing of this investigation does not constitute a finding by NHTSA that no safety-related defect exists. The agency reserves the right to take further action if warranted by the circumstances.



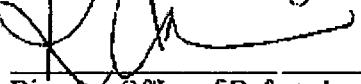
Safety Defects Engineer

2/26/01  
Date

I Concur:  
  
Thomas J. Bolyer

Chief, Vehicle Integrity Division

2/27/01  
Date

  
Director, Office of Defects Investigation

2-27-01  
Date

Attachment 1:

Test Report: VRTC-DCD9003

Tests Concerning Erratic Power Steering Assist on  
1997-99 GM C/K Trucks (EA99-011)

241

# **Memorandum Report VRTC-DCD9003**

## **Tests Concerning**

### **Erratic Power Steering Assist**

#### **on 1997-99 GM C/K Trucks (EA99-011)**

##### **1.0 Introduction**

This test program was performed at the Vehicle Research and Test Center (VRTC) in response to a request by the Office of Defects Investigation (ODI), National Highway Traffic Safety Administration (NHTSA). The ODI has received numerous complaints alleging sudden fluctuations in steering effort caused by erratic power steering assist on certain 1997-99 General Motors (GM) C/K trucks, including pickups, Suburban, Yukon and Tahoe. The complaints include reports of unexpected steering wheel movement in turns, usually in lane change maneuvers or sweeping turns at speeds above 35 mph. The subject vehicles are equipped with an electronically controlled power steering system known as Variable Effort Steering (VES). The VES system controls steering assist using an electronically variable orifice (EVO) to vary the power steering pump output. The alleged defect is thought to be caused by a malfunction in the EVO sensor that detects steering wheel speed.

## 2.0 Discussion

The VES system was introduced in the 1997 model year C/K platform and controls power steering assist levels, normally reducing the steering assist as vehicle speed increases. The main purpose of the VES system is to provide high levels of steering assist (low steering wheel effort) at low speeds, such as parking lot maneuvers and low levels of assist to enhance road feel (steering wheel feedback) and stability at highway speeds.

The VES system controls power steering assist levels by varying the output of the power steering pump with an electronically variable orifice (EVO). The "EVO/Passlock module" (EVO controller) alters the amount of EVO opening based on inputs for vehicle speed and steering wheel speed. The EVO controller is designed to revert to full assist (full fluid flow) if a VES system malfunction is detected.

Figure 1 is an illustration from a GM service manual showing the location of the EVO sensor at the base of the steering column inside the passenger compartment. The EVO sensor is a rotating potentiometer which forms one of the legs of a resistive bridge circuit. It contains two concentric tracks of electric resistor material which are bridged by electrical wiper contacts. As the steering wheel is rotated, the wiper location changes, altering the sensor resistance. Figure 2 is an electrical schematic of the EVO sensor from a GM service manual.

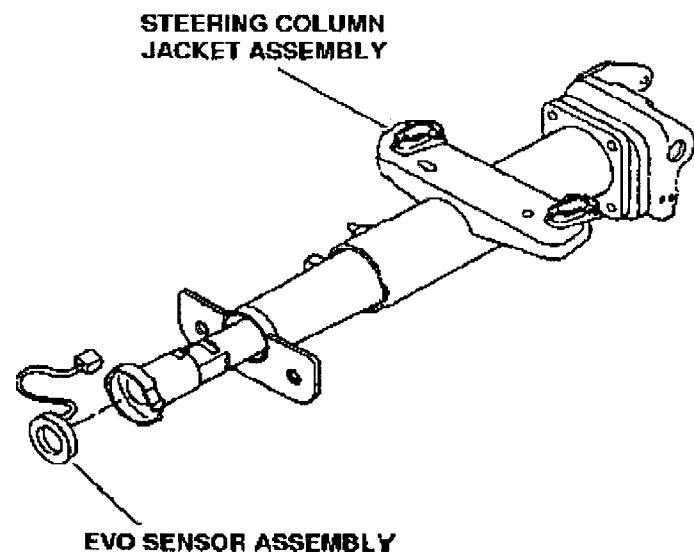


Figure 1 - Location of the EVO Sensor at Base of Steering Column

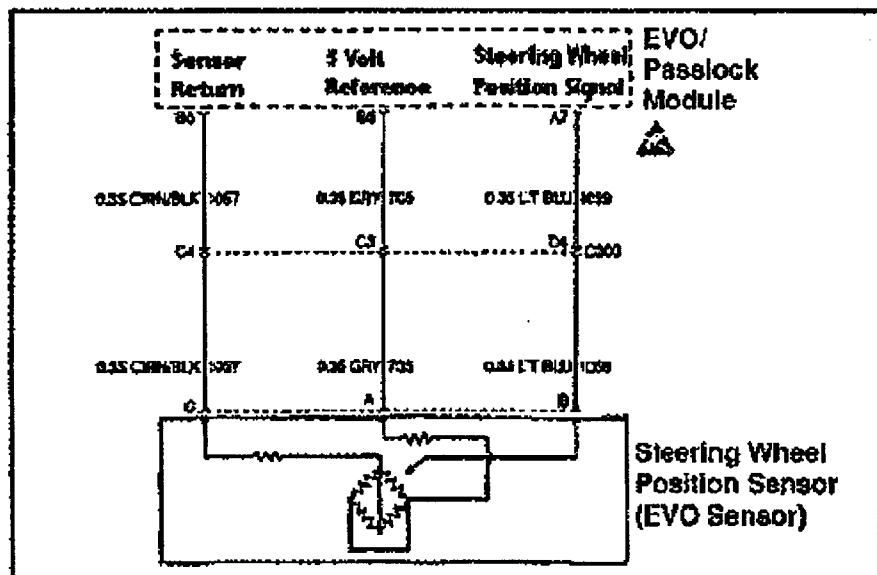


Figure 2 - Electrical Schematic for EVO Sensor

Malfunctions within the EVO sensor can result in erroneous signals to the EVO controller that cause the EVO to furnish full steering assist. If the EVO sensor signals are outside an accepted voltage range (0.5V to 4.5V) the system will default to a full-assist failsafe mode. It will return to normal operation once the engine has been stopped and restarted. However, the complaints indicate an intermittent type of failure in which the VES goes from normal to full-power assist levels, and then back to normal again. These events are generally reported by complainants as "jerking" or "twitching" of the steering wheel and oversteer. These symptoms are typically reported while traversing exit ramps, during sweeping turns and lane change maneuvers at vehicle speeds above 35 mph.

In September 1998, GM released Service Bulletin 86-32-06 "Reduced Steering Effort (Diagnose/Replace Steering Wheel Speed Sensor and Bearing Assembly)". This service bulletin applies to all 1997 and 1998 C/K, M/L, and G platforms and describes a complaint condition consistent with symptoms of the alleged defect. The service technician is instructed to measure the EVO sensor output and, if necessary, replace the sensor.

The primary objectives of these tests were to investigate the effects of an EVO sensor malfunction on vehicle control and demonstrate a "worst case" failure of the EVO sensor. As described in the following sections, a subject vehicle was instrumented and a "switching" device was installed in the vehicle to simulate an EVO sensor failure during various driving maneuvers.

### **3.0 Test Procedures**

#### **3.1 Preliminary Vehicle Testing**

A steering effort and steering wheel position sensor package (Sensor Developments Inc. Model Number 001184) with a VRTC-designed data acquisition package was installed in a 1997 Chevrolet 2500 (extended cab) pickup (VIN 1GCGK29R7VE195398) leased from a local Chevrolet dealer. Figure 3 is a photograph of the steering effort and steering wheel position sensor package installed in a test vehicle. Other instrumentation included a fifth wheel to measure vehicle speed, a voltage channel which recorded EVO sensor signal output, and a GM diagnostic tool (Tech 2; Model Number Z1090A) to monitor the EVO duty cycle. The Tech 2 is a hand-held computer aid for the diagnosis and repair of automotive systems with electronic controls and interfaces. To simulate the alleged defect, the signal from the EVO sensor to the EVO controller was interrupted, forcing the EVO system into the failsafe full-assist mode. Each time this was done, the engine had to be stopped and restarted to reset the EVO controller. Driving maneuvers included high-speed lane changes, figure-eight driving patterns, and constant-radius circles.

#### **3.2 Baseline VES Performance Testing**

The purpose of baseline testing was to gain an understanding of how the VES system performs by measuring how vehicle speed affects the EVO duty cycle with no steering input and to see how steering rate affects EVO duty cycle at a given speed. The subject vehicle used for baseline testing was a 1997 Chevrolet Tahoe (VIN 1GNEK13R9VJ338456) leased from a local GM dealer. The vehicle used in the preliminary testing was no longer available. Additional instrumentation included voltage channels to record the vehicle speed sensor (VSS) signal and EVO duty cycle. The vehicle was placed on jack stands (vehicle wheels off the ground) and data for the EVO duty cycle was collected at various steady-state vehicle speeds (no steering input).

To compare how steering rate affects the EVO duty cycle at a given speed, the vehicle, still placed on jack stands, was tested at a given steady-state speed as measured by the VSS signal. Data was collected while the steering wheel was turned at a relatively slow rate of approximately 200°/second and a faster rate of approximately 600°/second.

### 3.3 Complaint Vehicle Testing

The steering effort and steering wheel position sensor package (upgraded for telemetry) with a VRTC-designed data acquisition package was installed in a complaint vehicle, a 1997 Chevrolet Tahoe (VIN 1GNEK13R2VJ345992). Other instrumentation included a voltage channel to record EVO sensor output voltage and a fifth wheel to measure vehicle speed. The road courses and maneuvers included the 500-ft radius circle and figure eight-course on the Vehicle Dynamics Area (VDA), a winding road course, and a variety of local roads. Test speeds ranged from 40 mph to 60 mph. To simulate the alleged defect, the EVO sensor voltage was manually interrupted. As noted in preliminary testing, this forced the EVO system into the failsafe full-assist mode until the engine was stopped and restarted.

During the initial inspection of the vehicle, it was found that the EVO wiring harness was making contact with the engine harmonic balancer (a rotating component). Since the wire insulation was undamaged and bore no wear marks, the harness was taped and moved out of contact with the harmonic balancer. There appeared to be no effect on vehicle driveability. After testing was completed, the complaint vehicle was sent to a GM dealer for installation of a new EVO sensor and then returned to the owner.

### 3.4 "Worst Case" Demonstration

The vehicle used for a "worst case" demonstration was the same 1997 Chevrolet Tahoe used in the previous baseline testing. The same steering effort sensor and steering wheel position package and data acquisition system were installed in this vehicle. A switching device fabricated by VRTC was installed in this vehicle to allow direct control of the EVO so that the alleged defect symptoms could be simulated at any time. This allowed the operator to switch the EVO from its normal operating mode into full assist and back to normal assist for various intervals. Figure 4 is an electrical schematic of the switching device. Because the EVO does not normally attain full assist at highway speeds, a simulated EVO failure was viewed as a "worst case" scenario for the test maneuvers at speeds above 35 mph. The test maneuvers included the 500-ft constant-radius circle and the figure-eight course on the VDA. Use of this switching device did not force the EVO system into the failsafe full-assist mode which required an engine shutdown and restart to reset the EVO controller for normal operation. A second EVO switching device was fabricated by VRTC and sent to ODI to be installed on a 1997 Suburban in their area for demonstration purposes.



Figure 3 - Steering Effort and Steering Wheel Position Sensor Package

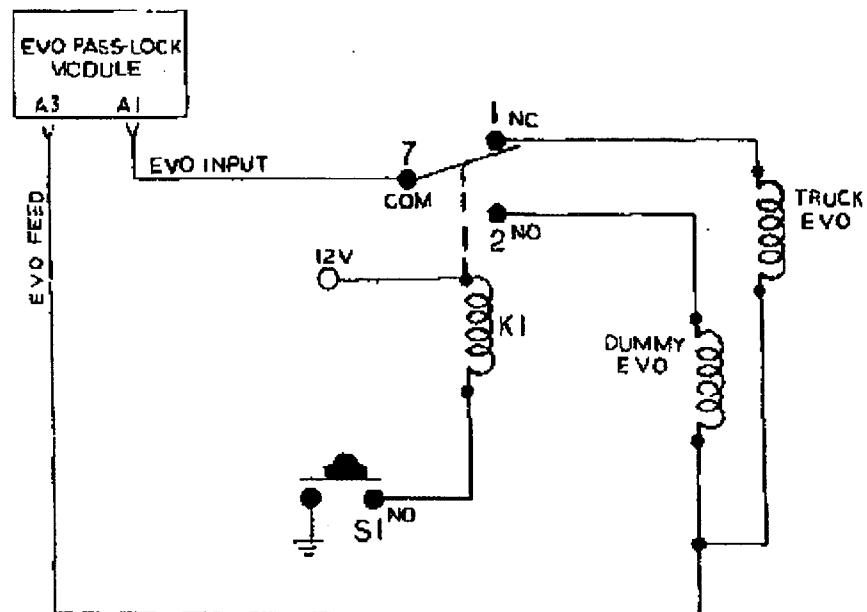


Figure 4 - Electrical Schematic for Switching Device

## **4.0 Results**

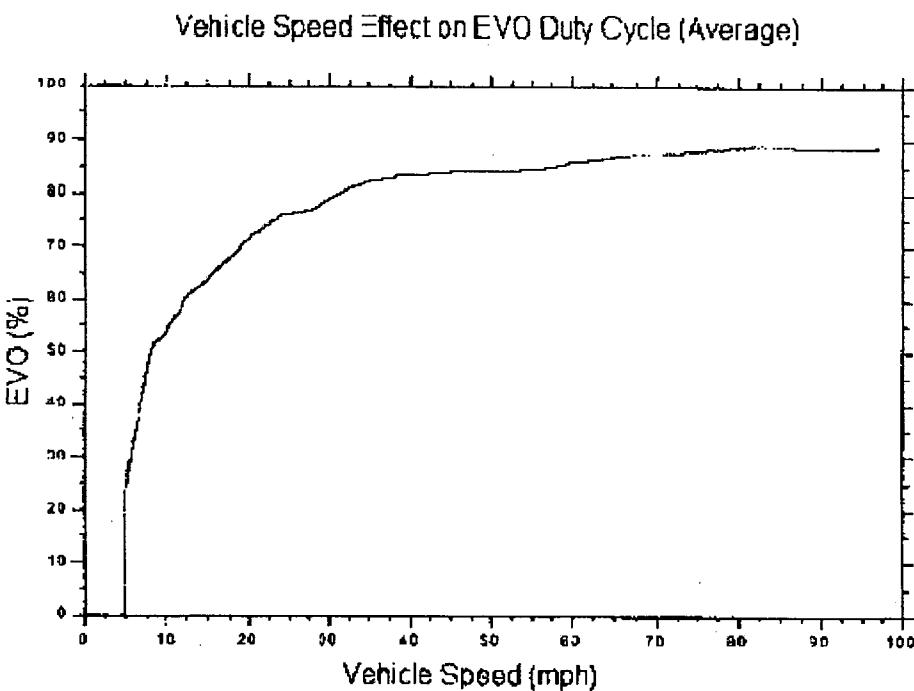
### **4.1 Preliminary Vehicle Testing**

The results were inconclusive since the EVO switched to and stayed in the failsafe full-assist mode when the EVO signal was interrupted. Although this change in power steering assist could be detected by the test driver, it did not affect his control of the vehicle.

### **4.2 Baseline VES Performance Testing**

The EVO duty cycle percentage rose sharply as the test vehicle speed increased and started to level off at approximately 35 mph. Figure 5 is a graphical representation of the EVO performance based on the average of several tests with no steering inputs. A higher EVO duty cycle percentage corresponds to a lower amount of steering assist.

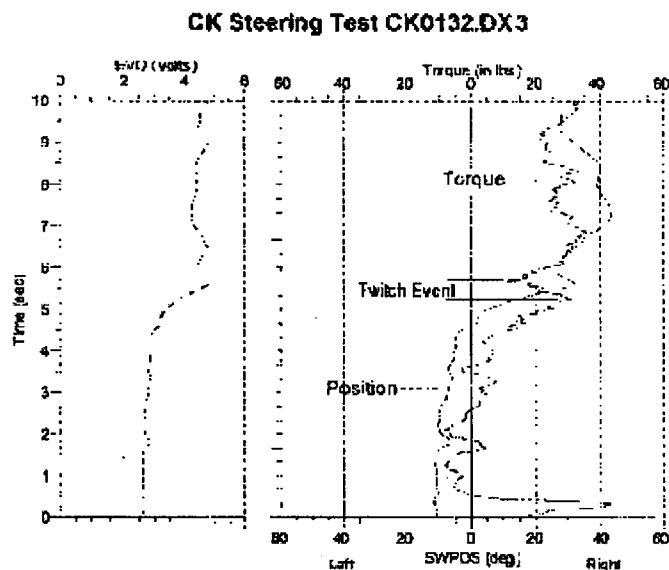
Appendix B includes graphical representations of the data collected comparing steering wheel input rates to EVO duty cycle percentage at a given speed. For vehicle speeds between 40 mph and 70 mph, the data shows that the EVO duty cycle percentage dropped approximately 20% when the steering wheel was moved at relatively slow rates (about 200°/sec) but dropped approximately 75% when the steering wheel was moved at faster rates (about 600°/sec). These results indicate that substantial steering assist was available at typical highway speeds when the steering wheel was moved at the faster rate.



**Figure 5 - Vehicle Speed Effect on EVO Duty Cycle (Average)**

#### 4.3 Complaint 1997 Chevrolet Tahoe

The complaint vehicle was driven about 270 miles. The alleged defect was noted twice on the same sweeping right turn on the TRC access road when the vehicle was traveling at 40 to 45 mph. The first case occurred before instrumentation was installed. The test driver noted that it felt like someone had grabbed the steering wheel and turned it about 10 degrees to the right. Data was recorded when the second case occurred and the data (File # 132) is shown in Figure 6. The steering change, while discernible to the test driver, did not cause any loss of steering control. It can be seen in Figure 6 that the "twitch" event correlated with EVO activity so this event was apparently caused by an intermittent failure of the EVO sensor. No loss of control was noted during various maneuvers with a simulated failure of the EVO sensor.



**Figure 6 - Steering Wheel "Twitch" Event on Complaint Vehicle**

#### **4.3 "Worst Case" Demonstration**

Several "non-test" drivers from the staffs of VRTC and ODI drove two subject vehicles equipped with the EVO "switching" device. None of these drivers lost control of the vehicle during various maneuvers on the test courses when an observer in the vehicle would randomly switch to the simulated failure mode. The consensus of opinion of the several drivers, who experienced "twitch" events caused by a simulated EVO failure during testing, was that it seemed no worse than cross-wind conditions each had previously encountered before in their own personal experience. Typical plots of data collected during "twitch" events driving turning maneuvers for the subject vehicle at VRTC are shown in Figure 7. The first plot (File #2043) shows the "twitch" event occurring at the exit of a 750-foot radius (south loop of VDA) left turn at 65 mph while the second plot (File #2044) shows the "twitch" occurring twice at the apex of a 800-foot radius (north loop of VDA) sweeping right turn at 65 mph.

The plots show a change in steering torque is required to keep the test vehicle on its intended path to compensate for the sudden change from increasing to decreasing steering assist. In the first plot (File #2043), the driver had to move the steering wheel approximately 15 degrees using a torque change of approximately 27 inch-pounds to keep the vehicle on the intended path. There are two twitch events in the second plot (File #2044). In the first event, the driver had to move the steering wheel approximately 29 degrees using a torque change of approximately 82 inch-pounds to keep the vehicle on the intended path. In the second event, the driver had to move the steering wheel approximately 7 degrees using a torque change of approximately 34 inch-pounds to keep the vehicle on the intended path.

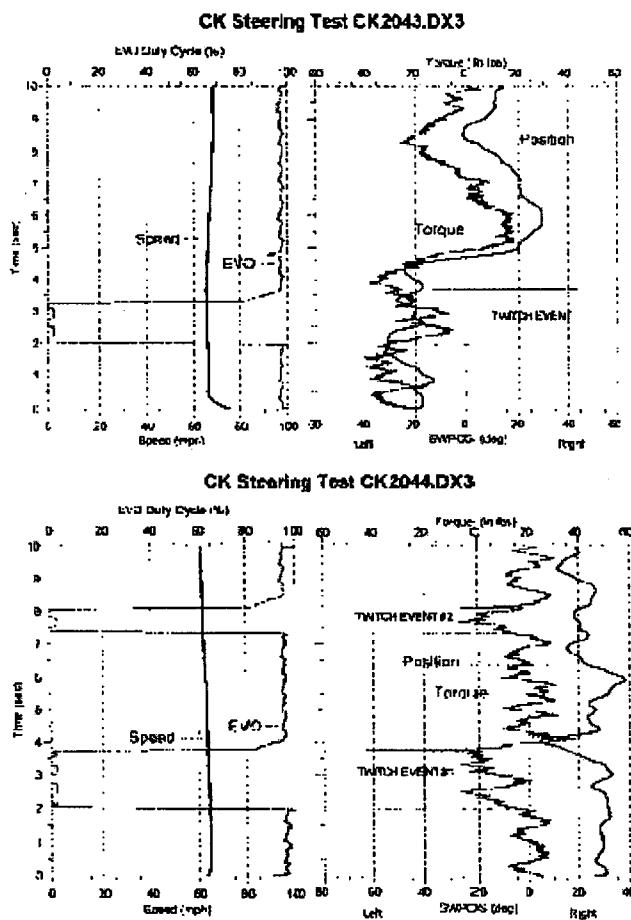


Figure 7 - Graphical Representations of Data Collected During "Twitch" Events

## 5.0 Conclusions

Based on the testing performed during this program, the following conclusions were made:

1. Two cases of inappropriate power steering assist, corresponding to EVO activity were noted on a "complaint" vehicle (1997 Chevrolet Tahoe). However, the test driver had no difficulty in maintaining steering control.
2. None of the several "non-test" drivers had difficulty in maintaining control of the two "demonstration" test vehicles when a ("worst case") failure of the EVO sensor was simulated during various maneuvers and vehicle speeds.

## Appendix A

GM Service Bulletin 86-32-06

"Reduced Steering Effort (Diagnose/Replace Steering Wheel Speed Sensor and Bearing Assembly)"

Instruction sheet for "Hand Wheel Speed Sensor Replacement".

255



# Service Bulletin

File In Section: 3 - Steering/Suspension

Bulletin No.: 86-32-06

Date: September, 1998



**Subject:** Reduced Steering Effort  
(Diagnose/Replace Steering Wheel Speed Sensor and Bearing Assembly)

**Models:** 1997-98 Chevrolet and GMC C/K, M/L, G Van Models  
with EVO (Electronic Variable Orifice)

## Condition

Some owners may comment about reduced steering effort while driving. This reduced steering effort may change back to the original effort intermittently during driving or remain until the next key on/off cycle. These slight changes in steering effort do not affect the control of the vehicle, but may alert the driver that the system is not operating as intended.

## Cause

The condition may be caused by high electrical resistance in the steering wheel speed sensor. The high electrical resistance is a result of inadequate contact pressure of the electrical contactor in the sensor.

## Correction

Follow Steps 1, 2, and 3 of the Strategy Based Diagnostics for the condition. Refer to Section 2B5 of the Service Manual, Diagnostic System Check. Verify that there are no stored OTC's. The conditions stated above typically will not set a OTC. If no OTC is found, do the following diagnosis:

1. Disconnect the 3 wire connector from the steering wheel speed sensor.
2. With the key in the OFF position, use a digital multimeter (DMM) to test for resistance between CKT 1057 (ORN/BLK) and CKT 1059 (LT BLU).

3. Rotate the steering wheel slowly from lock to lock.
4. Record the highest reading. If the reading is above 12K ohms, replace the steering wheel speed sensor and bearing assembly. If the reading is below 12K ohms, the steering wheel speed sensor is operating as designed.

## Parts Information

P/N	Description	Qty
26076106	Sensor Kit, Strg Whl Spd (w/Brg) (C/K, M/L)	1
26076113	Sensor Kit, Strg Whl Spd (w/Brg) (G Van)	1

Parts are currently available from GMSPO.

## Warranty Information

For vehicles repaired under warranty, use:

Labor Operation	Description	Labor Time
E7690	Sensor, Steering Wheel Rotation (EVO) - Replace	Use Published Labor Operation Time

GM bulletins are intended for use by professional technicians, NOT a "do-it-yourselfer." They are written to inform these technicians of conditions that may occur on some vehicles, or to provide information that could assist in the proper service of a vehicle. Properly trained technicians have the equipment, tools, safety instructions, and know-how to do a job properly and safely. If a condition is described, DO NOT assume that the bulletins applies to your vehicle, or that your vehicle will have that condition. See your GM Dealer for information on whether your vehicle may benefit from the information.

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CERTIFICATION

GM-549 1453

156

156

# INSTRUCTION SHEET

FOR EFFECTIVE REPAIR, USE ALL PARTS IN KIT REGARDLESS OF ORIGINAL CONDITION

## Hand Wheel Speed Sensor Replacement 1997-1998 C/K Truck

*Read service manual instructions carefully before proceeding.*

26076112

26076112

### Disassembly

- Set the front wheels in the straight ahead position and the steering wheel in the LOCKED position.
- 1. Disconnect the negative battery cable.
- 2. Disable the SIR system (refer to service manual for proper procedure).
- 3. Remove the nut and bolt from upper to lower steering shaft connection. Slide lower shaft down.
- 4. Position sensor connector by using suitable tool to pull connector down around the right side of steering column for accessibility.
- 5. Position sensor and bearing assembly from steering column jacket by pulling straight out. Use care not to apply force to sensor and bearing assembly in a sideways direction.
- 6. Position sensor from clips in bearing assembly.

### Assembly

1. Position sensor into bearing assembly.
2. Place the bearing into steering column jacket. Align notches on bearing and column jacket and seat bearing fully into jacket. Use care not to apply force to sensor in a sideways direction.
3. Position sensor connector.
4. Install the bolt and nut to upper end of shaft.

### Tighten

Tighten nut to 62 N·m (46 lb. ft).

5. Connect the negative battery cable.
6. Enable the SIR system (refer to service manual for proper procedure).

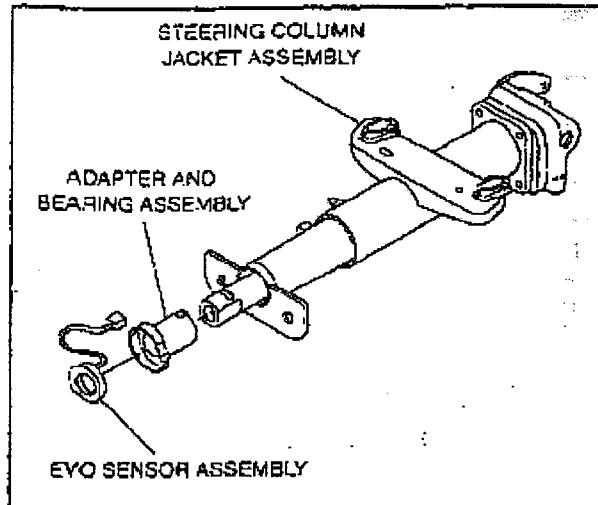


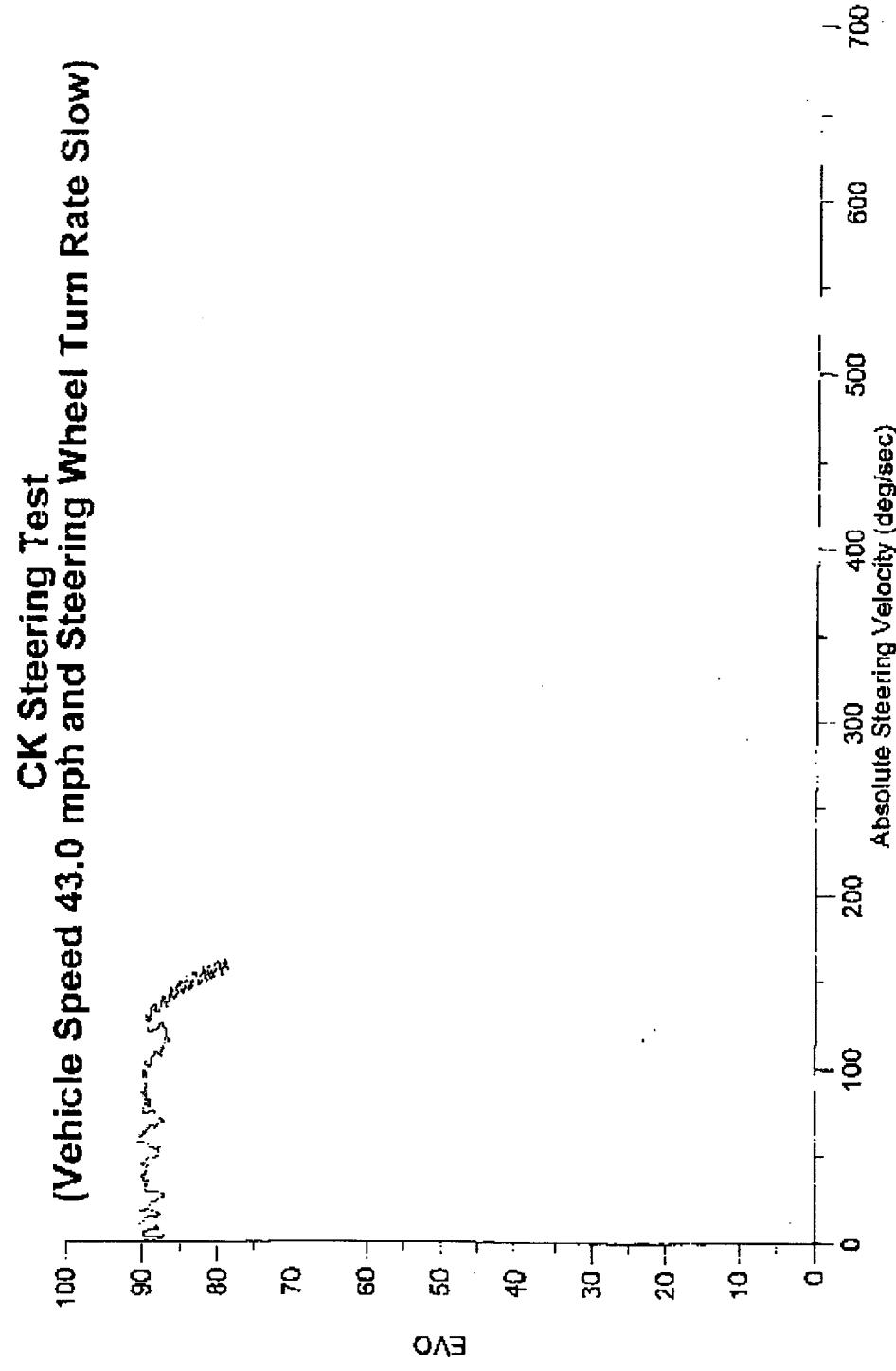
Figure 1 Removing Bearing Assembly and Sensor from Steering Column

## Appendix B

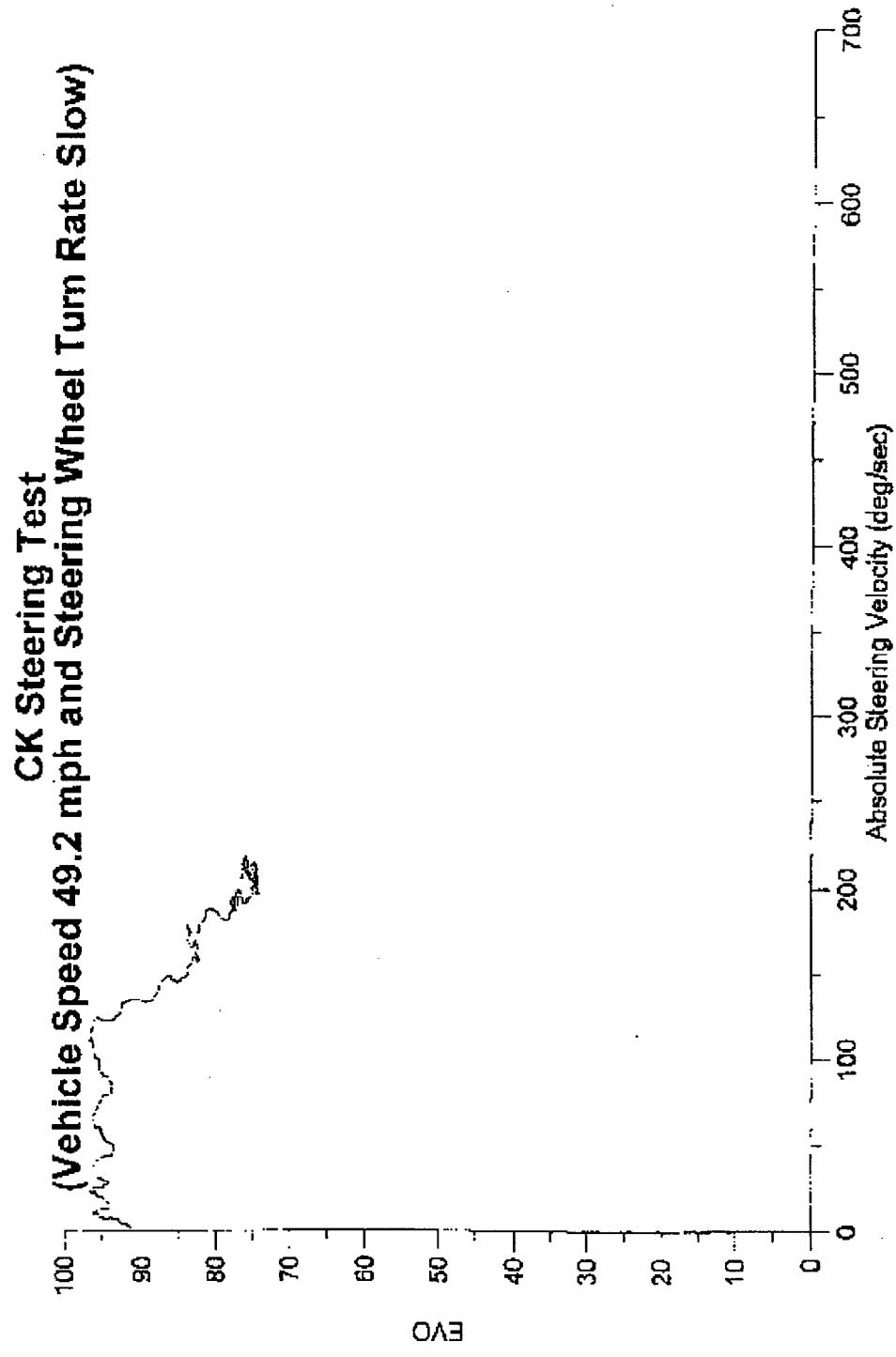
Included on the following pages are graphical representations of data collected during baseline testing (with steering input) to determine the steering rate effect on EVO duty cycle percentage at a given vehicle speed.

Note - EVO is fully "open" at 0% to allow full steering assist.

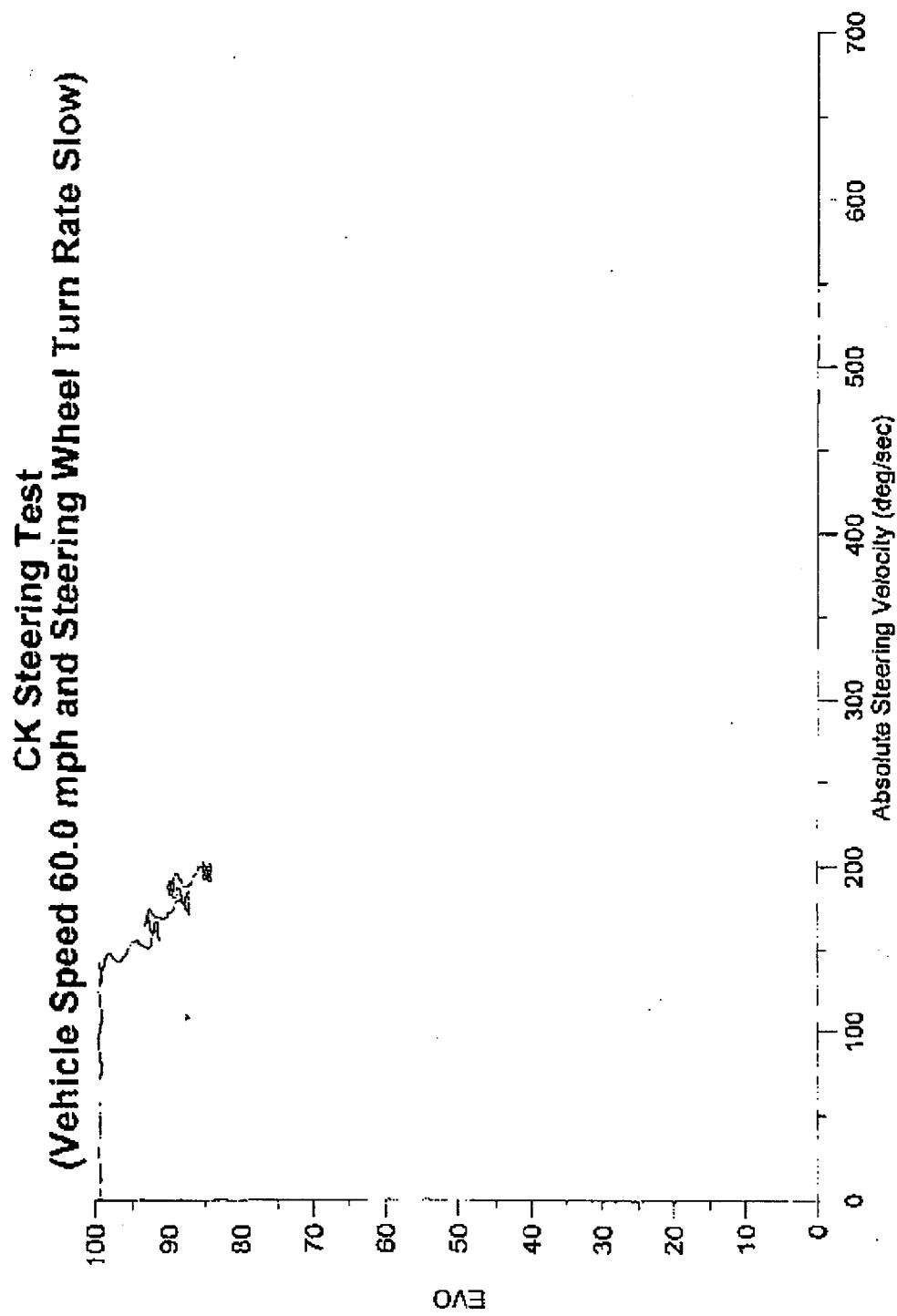
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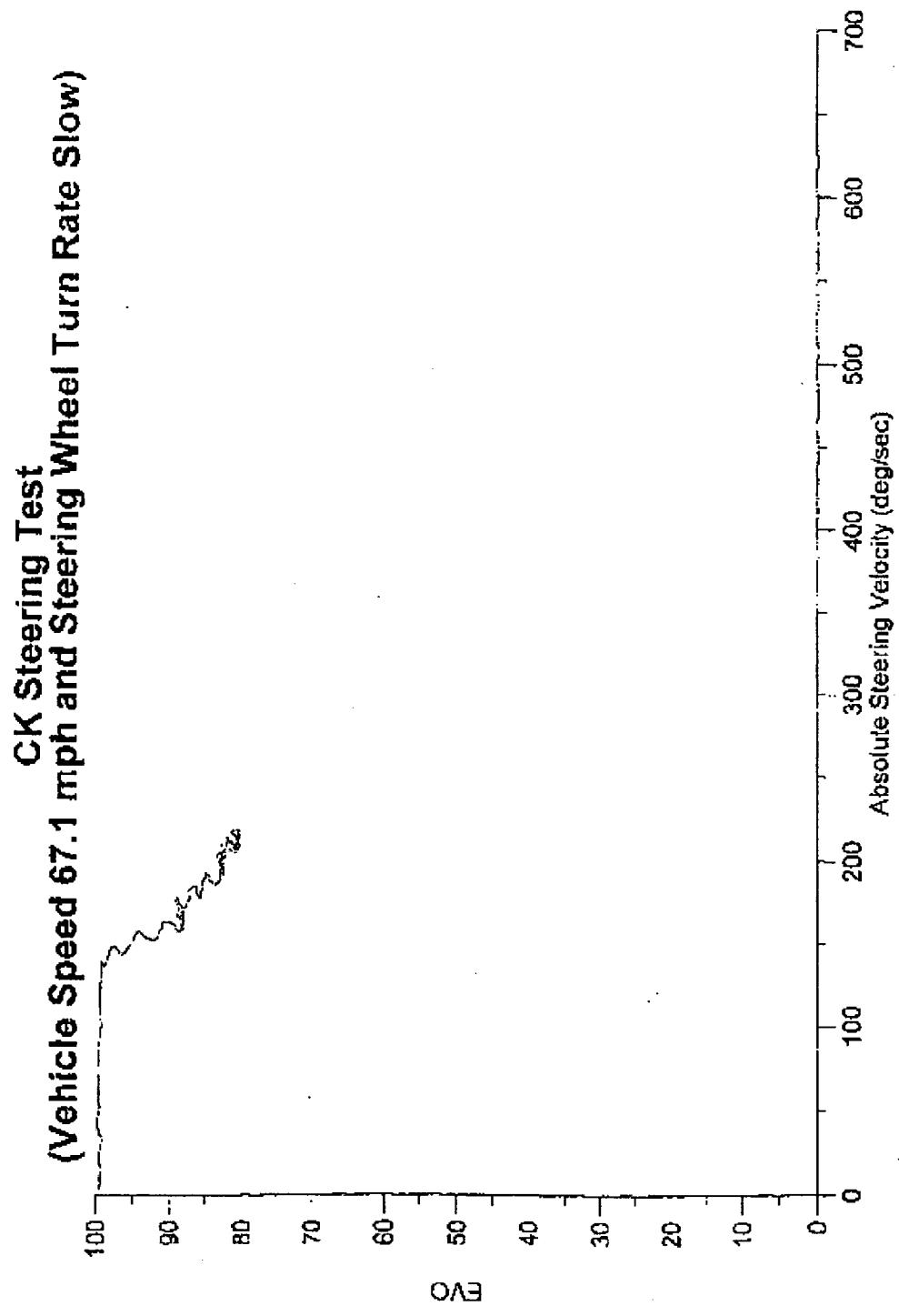
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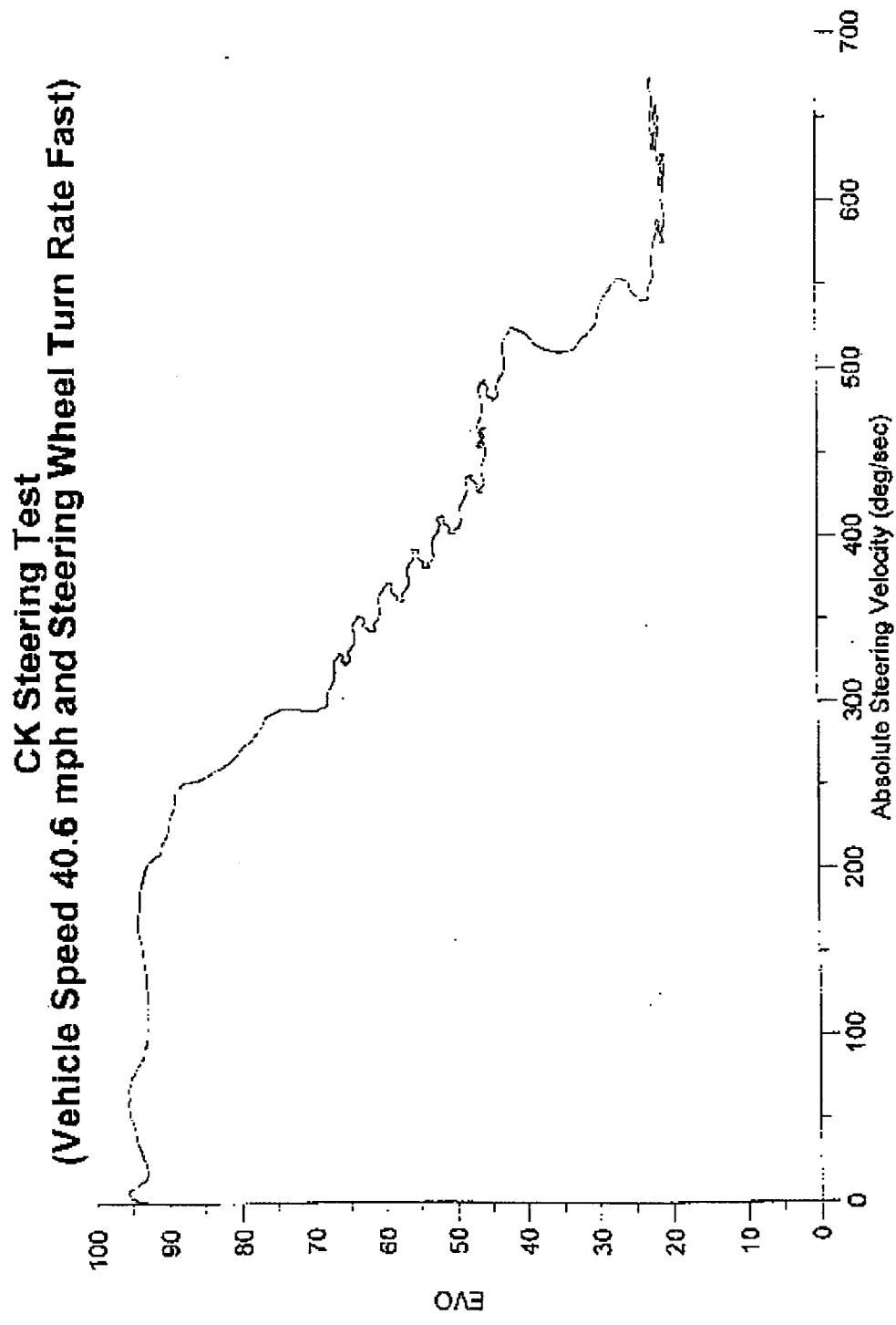
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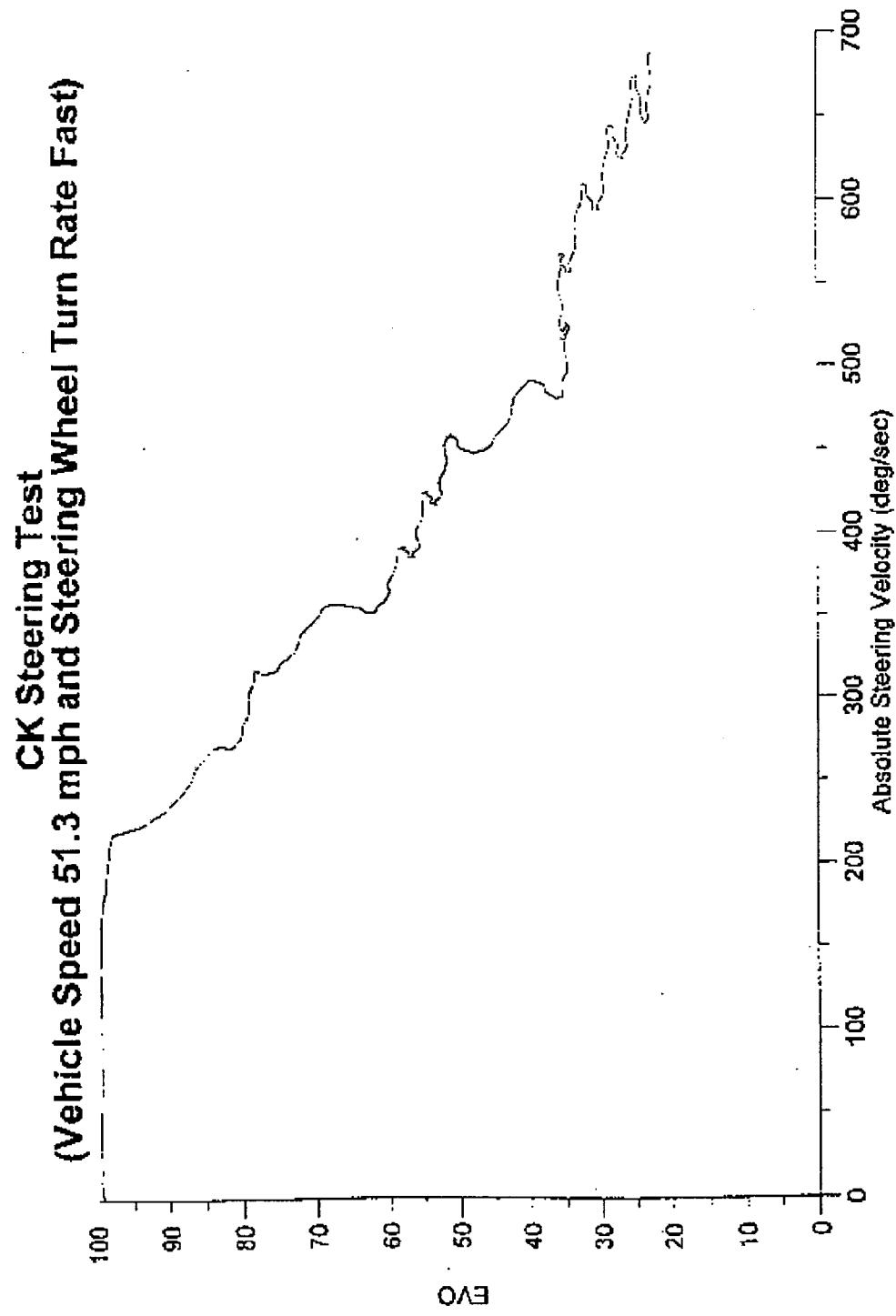


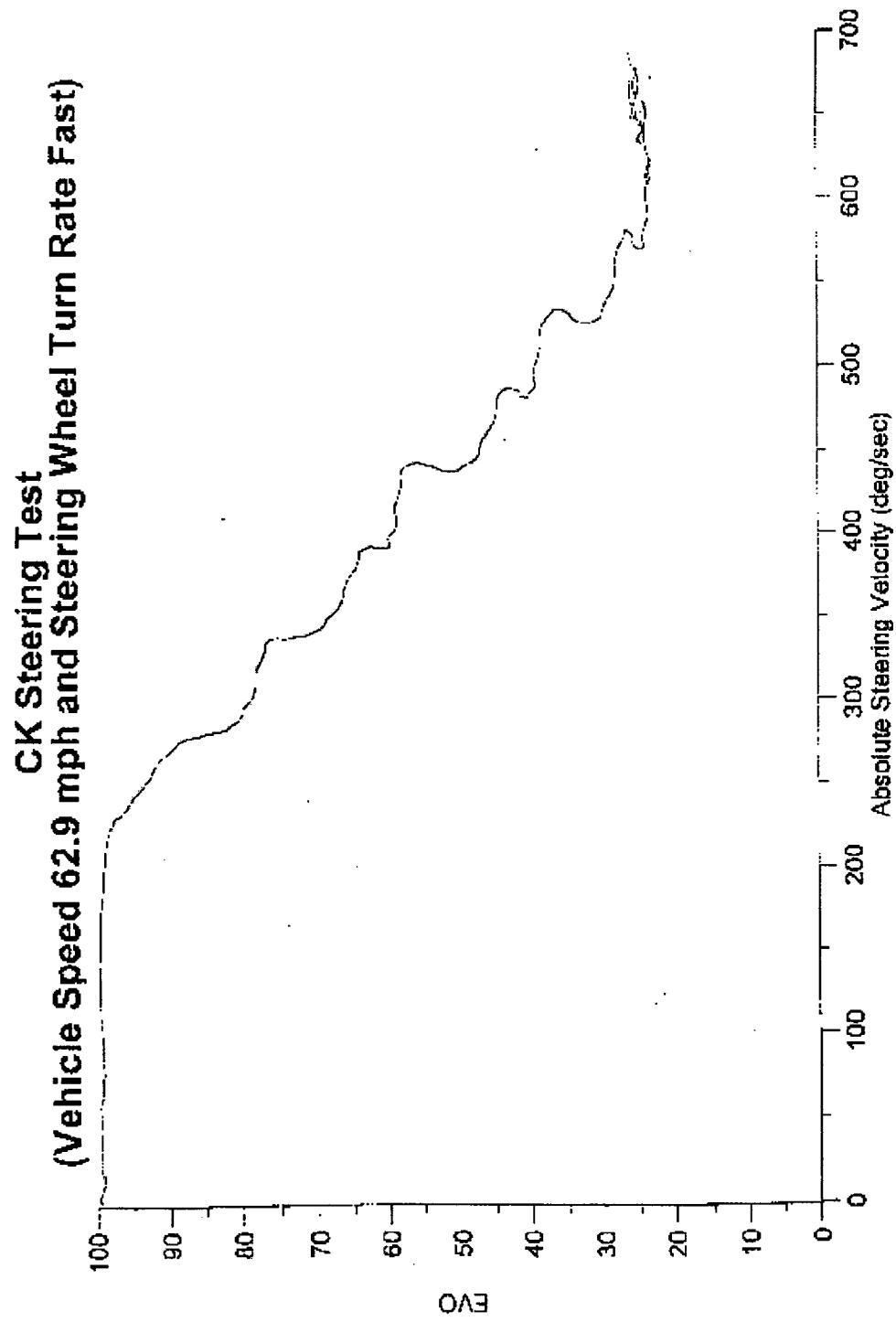
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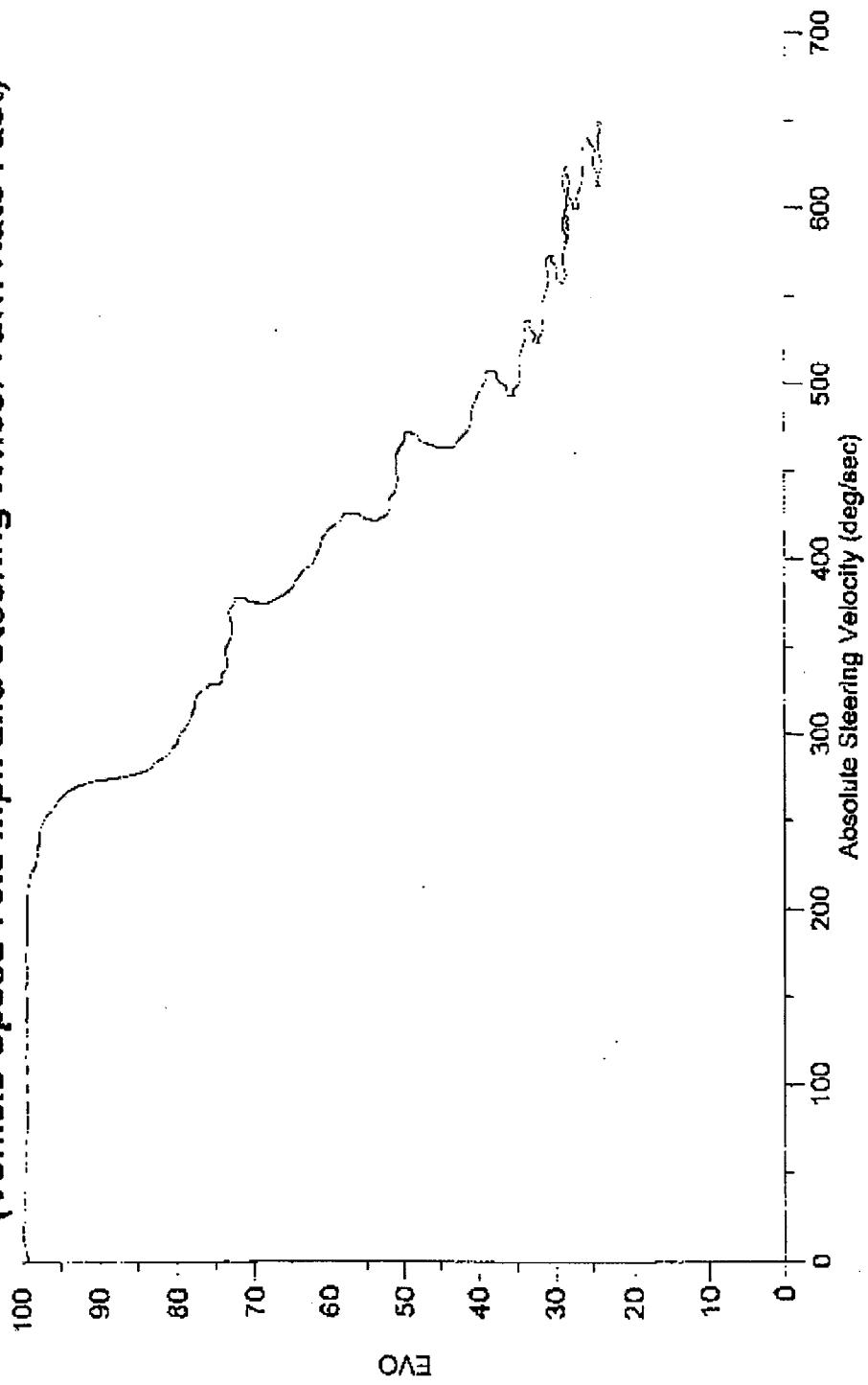
42  
55  
74







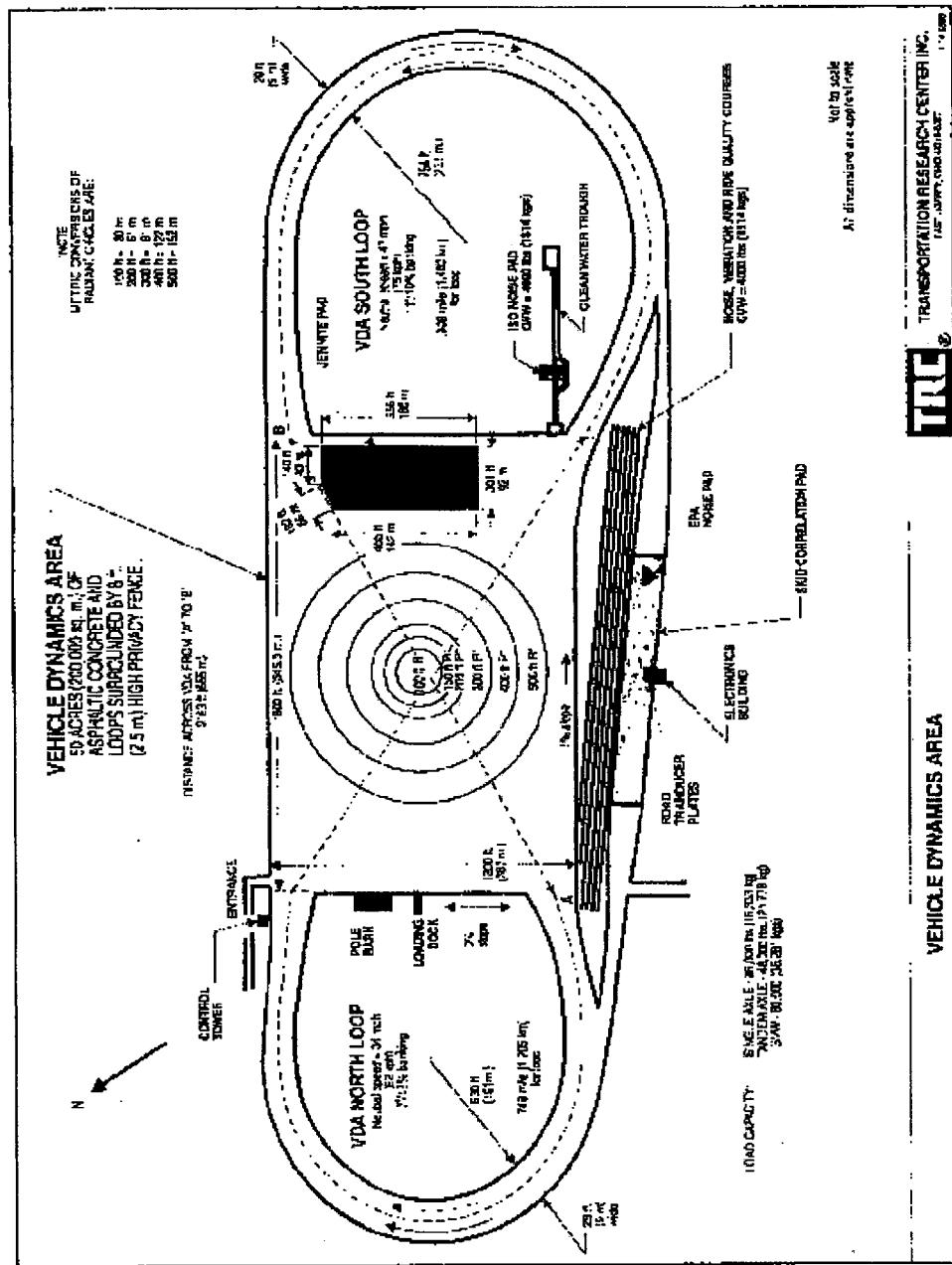
CK Steering Test  
(Vehicle Speed 70.5 mph and Steering Wheel Turn Rate Fast)



9/26

**Attachment 2:**  
**TRC Vehicle Dynamics Area Schematic**

26



VDA\_GRAYSCALE (1275x1754x256 bmp)



U.S. Department  
of Transportation

National Highway  
Traffic Safety  
Administration

# Memorandum

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Subject: **VIDEO TAPE AND CD: Submittal to the Public File**  
ODI Investigation EA99-011

Date: September 19, 2001

*Rosa Howell*

From: Rosa Howell, Investigation Case Assistant  
Office of Defects Investigation/NSA-10

Reply to: EA99-011

To: Kim Jackson, Director  
Technical Information Service/NAD-50

Please forward the attached video tape(s) and CD(s) to George Washington University's  
NHTSA/FHWA National Crash Analysis Center for Public access under EA99-011.

## 1 CD

Attachment(s)

#

# **VIDEO TAPE AND CD**

**AVAILABLE UPON REQUEST**

## **VIDEO TAPE AND CD AVAILABILITY**

**George Washington University  
Virginia Campus  
NHTSA/FHWA National Crash Analysis Center  
20101 Academic Way, NCAC Library  
Ashburn, VA 22011**

**Telephone: (703) 729-8236  
Fax (703) 478-8983**

**Contact Person:  
Ms. Amy Reagan, GWU Film Technician**

EA99-011

APPENDIX	PAGE NUMBER
ATTACHMENT A	16
ATTACHMENT B	31
ATTACHMENT C	1485
ATTACHMENT D	1517
ATTACHMENT E	1781
ATTACHMENT F	1838
ATTACHMENT G	1853
ATTACHMENT H	1880
ATTACHMENT I	1901
ATTACHMENT J	2094
ATTACHMENT K	3181
ATTACHMENT L	3184
ATTACHMENT M	3186
ATTACHMENT N	3189
ATTACHMENT O	3191
ATTACHMENT P	3222
ATTACHMENT Q	3272





GENERAL MOTORS NORTH AMERICA  
Safety Center

March 23, 2004

Mr. Timothy S. Coon  
Eckert Seamans Cherin & Mellott, LLC  
U.S. Steel Tower  
600 Grant Street, 44<sup>th</sup> Floor  
Pittsburgh, Pennsylvania 15219

Re: Robert D Holland v General Motors et al &  
Steven G. O'Gara v General Motors et al  
Our Ref.: 420916

Dear Mr. Coon,

At your request, I have reviewed material in the above referenced matters to offer opinions in those cases. I have reviewed the following materials:

- Legal documents filed in connection with these lawsuits, including copies of the complaints and answers set forth by the defendants
- A copy of the Police Accident Report (Commonwealth of Pennsylvania #C4-0598065) concerning the incident which is the subject of this litigation
- General Motors' Vehicle Inquiry System (VIS) records for the subject vehicle involved in this litigation, a 1997 four wheel drive Chevrolet extended cab pick-up truck bearing vehicle identification number (VIN) 2GCEK19R3V1237343. These include warranty and build records.
- Repair records from Fred Diehl Motor, Inc pertaining to the subject vehicle
- General Motors Service Manual information relating to the variable effort steering system of the subject vehicle
- General Motors Technical Service Bulletins #86-32-06 (September 23, 1998) and #76-30-01 (June, 1997)
- Report by David Bizzak and Robert Nocivelli of Romualdi, Davidson & Associates, Inc. dated September 12, 2000 concerning the subject incident
- Report by William E. Wetzel of William E. Wetzel & Associates, dated September 14, 1999 concerning the subject incident
- Report by Daniel R. Aerni of MV Engineering Company, dated June 13, 2001 concerning the subject incident
- Transcript of the deposition of Robert D. Holland, dated June 18, 2002





- Transcript of the deposition of Steven G. O'Gara, dated June 18, 2002
- Transcript of the deposition of Scott Holland, dated January 23, 2003
- Laser copies of seventy-two (72) photographs with index from Romauldi, Davison & Associates (unknown date), including 24 site photographs and 48 of the subject vehicle

In addition to these materials, I have reviewed communications between NHTSA and General Motors concerning the EVO steering system of the 1997-1999 GM Full Size Trucks. I was also allowed to inspect the subject vehicle in its storage location at the Gateway Commerce Center in Wampum, Pennsylvania on March 3, 2004. My opinions in this matter are based on my inspection of the subject vehicle, the materials I have reviewed, my education, training and employment experiences. These opinions are held to a reasonable degree of engineering certainty.

For your reference, I have been employed by General Motors Corporation, in various engineering capacities, for more than thirty years. I have experience in many areas of vehicle design, development, and validation as well as experience in the areas of service and maintenance of vehicles. My experience includes the areas of powertrain, powertrain controls, chassis, and electronics. I am currently employed as a Staff Analysis Engineer in the Field Performance Assessment department, a part of the North American Safety Center. My current position involves the evaluation of the field performance of General Motors products, past and present. As part of my duties, I provide technical expertise to attorneys in litigation matters involving the defense of General Motors products, including deposition and trial testimony. A copy of my Curriculum Vitae is attached.

The subject vehicle in this matter is a 1997 Chevrolet Pickup truck, bearing VIN 2GCEK19R3V1237343. It is a full size, extended cab, four-wheel drive truck, built in Oshawa, Ontario, Canada on April 21, 1997. This truck was equipped with a 5.7L V-8 engine, automatic transmission, power assisted steering and brakes, a 3.73:1 ratio rear axle, air conditioning, antilock brakes, power windows and locks, and electronic shift four wheel drive transfer case. This truck was equipped with a third door for easy access to the extended cab compartment, a front split bench seat, off road chassis equipment, and a gross vehicle weight rating (GVWR) of 6200 pounds. The truck was well equipped.

According to the police accident report, the subject vehicle was involved in a single vehicle accident on April 10, 1999 at 1:30 AM on State Route 4005 in Bloom Township, Clearfield County, Pennsylvania. The road was described as two lane asphalt, just over 18 feet in width and was wet at the time of the accident. According to the narrative, the truck experienced a loss of control, rotated approximately 105 degrees in a clockwise yaw, left the roadway to the right and slid approximately 80 feet with its driver side leading through the soft earth. The subject vehicle then rolled onto its driver side and impacted several trees. Mr. Steven O'Gara, believed to be the driver of the vehicle according to Mr. Wetzel, was ejected and found lying near the cab. Mr. Robert Holland,





believed to be the passenger according to Mr. Wetzel, was trapped inside the vehicle. Neither of the truck's two occupants have any recollection of the events just prior to the collision. Both occupants suffered significant injury requiring hospitalization.

The subject vehicle was equipped with an Electronically Variable Orifice (EVO) steering system, sometimes referred to as variable effort steering. The system regulates power steering fluid flow based on vehicle speed and rotational velocity of the steering wheel to adjust the amount of steering assist available to the operator. The system consists of a steering wheel position sensor (also referred to as a handwheel speed sensor), a pulse width modulated solenoid which controls an orifice size at the power steering pump outlet, and an electronic control module which controls the solenoid and ultimately the hydraulic fluid flow in the steering assist system. At low speeds, such as in a parking lot, the orifice is fully opened to supply the maximum amount of fluid flow and hydraulic assist available. At elevated speeds such as traveling on the highway at 45 MPH, the orifice size is reduced which limits the fluid flow and reduces the steering assist. This provides additional road feel to the operator and results in slightly increased efforts required at the steering wheel rim to initiate a turning maneuver. The system also responds to rapid steering wheel rotation, providing full steering assist levels regardless of the speed of the vehicle. The electronic control module also features system self-diagnosing software. In the event a problem with the system exists for more than one second, the system, in general, defaults to a full hydraulic assist mode and stores a diagnostic code in the controller. This default mode will continue until the ignition is cycled when the system is re-evaluated for the existence of the condition. The EVO system cannot steer the vehicle; it can only regulate the amount of steering assist available if the driver initiates a steering maneuver based on the operating conditions of the vehicle. Plaintiffs have argued a component of this system, the steering wheel position sensor, was defective and caused the accident.

On March 4, 2004 the subject vehicle was inspected at the Gateway Commerce Center in Wampum, Pennsylvania. The principal thrust of the inspection was to measure the electrical resistance of the steering wheel position sensor during rotation of the steering wheel. The front wheels of the vehicle were raised off the ground to facilitate rotation of the steering wheel. The wheels were placed in an orientation pointing straight ahead with the steering wheel noted to be in a normal position with respect to the logo imprint of the horn pad. The electrical connector of the steering wheel position sensor, located at the interior base of the steering column, was disconnected to separate the sensor from the electrical system of the vehicle. A Craftsman Digital volt-ohm meter was connected to the sensor using the prescribed method of measuring the sensor resistance as outlined in Technical Service Bulletin # 86-32-06, "Reduced Steering Effort (Diagnose/Replace Steering Wheel Speed Sensor and Bearing Assembly)", dated September 23, 1998. The meter had been calibrated in May, 2003 and has been used on several occasions to characterize the resistance of a steering wheel position sensor. The steering wheel was rotated slowly left and right to full travel and the resistance of the sensor was observed.





The observed resistance of the sensor at the initial position was 12,000 to 13,000 ohms. Observed maximum resistance occurred at approximately 180 degrees of rotation from the initial position. This resistance was approximately 14,000 ohms when the wheel was turned to this position and the steering wheel was released (no rim force applied). The resistance was approximately 2,000 ohms higher while the wheel was being turned (with rim force applied) at all steer angles. Steering force was subjectively higher than normal for this condition with the front wheels raised. Distortion in the steering wheel rim was observed. The subjectively high steering effort, coupled with the change in sensor resistance with and without rim effort application at the same rotational position, indicates unusual loading of the sensor may be occurring due to distortion in the column/steering wheel assembly. Minimum sensor resistance was observed to be approximately 3,000 ohms. The range of resistance change of 9,000 ohms between maximum and minimum readings is consistent with a new sensor measured in an undamaged column. Those readings vary from just under 2,000 ohms to just over 11,000 ohms. The observed resistance curve as the steering wheel was rotated to full left and right displacement is consistent with the curve observed on a new sensor in that the curve repeats twice per one full revolution of the steering wheel.

The Craftsman volt-ohm meter was set to manual mode using the 30,000 ohm range for these observations. There were points observed during rotation of the steering wheel (with rim force applied) where the resistance exceeded the established range of the meter as indicated by an "O.L." reading on the digital display (resistance exceeding 30,000 ohms). These observations were brief in nature, unrepeatable, and could not be maintained when the rim force was released at a given angle of rotation. These observations are additional evidence that unusual loading of the sensor may be occurring due to the distortion in the column/wheel assembly.

Technical Service Bulletin #86-32-06 indicates that sensors with resistance values above 12,000 ohms should be replaced. Technical service bulletins are issued to franchised General Motors dealerships to assist dealership service technicians in the diagnosis and correction of conditions customers may present for service. The bulletin was written to assist in the diagnosis of a customer complaint of reduced steering effort while driving. This sensor may have experienced significant change in resistance as a result of the accident. To determine if this sensor is still usable, the sensor and bearing support would require removal from the column/steering wheel assembly and installation in another substantially similar vehicle with no history of impact which may have distorted the column. Resistance values above 12,000 ohms in a column with no damage would dictate replacement of the bearing support and sensor assembly.

The National Highway Traffic Safety Administration (NHTSA) Office of Defect Investigations (ODI) has investigated alleged defects in the EVO steering sensor on two occasions. Preliminary Evaluation PE98060 was initiated on November 13, 1998 to examine customer complaints that the variable effort steering unit on 1997 General Motors C/K Pickups and Suburbans intermittently provides full boost to the power steering gear at moderate to high vehicle speeds. Following this initial investigation, the





NHTSA initiated Engineering Analysis action EA99011 on May 12, 1999 on this same subject, increasing the scope of the investigation to all 1997-99 C/K Platform vehicles. The preliminary evaluation indicated that manufacturing faults may have caused the sensor to send erroneous signals to the system controller which would cause the system to provide full steering assist on an intermittent basis at speed or until the vehicle was shut down and restarted. This condition was caused by intermittent high resistance of the sensor. The NHTSA, with full cooperation of General Motors, examined several vehicles and devised testing protocol to determine the effect of intermittent sensors on customer driving and vehicle control. Results of this testing showed no adverse effect on driver control for this condition and that power steering fluctuations as a result of the condition required small corrections in steering angle and rim force to maintain the intended vehicle path. General Motors provided testing during the investigation which showed a .2 g turn at 60 MPH with the EVO steering system working properly would require 3.8 pounds of force at the steering wheel rim, while the same turn would require 1.6 pounds of force with full hydraulic assist. This 2.2 pound difference was equated to that required in order to maintain vehicle direction in a 20 MPH crosswind. The NHTSA closed the investigation on February 27, 2001 with no further action required.

The Romualdi, Davidson & Associates report of September 12, 2000 indicates Mr. Nocivelli conducted an inspection of the steering system of the subject vehicle on October 27, 1999. During this inspection, he noted diagnostic trouble code (DTC) C0507 (Steering Wheel Position Sensor – Signal Voltage Low) was set in the module memory. It is not clear whether this code was a history code (set on a prior ignition cycle) or a current code (set on the current ignition cycle). If the condition which set the code existed at the time of the accident, the EVO system would have defaulted to full hydraulic assist. This assist level is the same level that would have been experienced with a rapid movement of the steering wheel in an emergency steering maneuver. Messrs. Bizzak and Nocivelli indicate that "...regardless of the action that may have precipitated the accident, Mr. O'Gara had to have provided significant steering input to cause the pickup to enter a yaw before leaving the roadway". By design, the system supplies full hydraulic steering assist with rapid steering wheel rotation. The system does not steer the vehicle; it adjusts the level of power assist available to the operator if a turning maneuver is initiated, according to the conditions present. A significant, rapid steering event was required to cause the vehicle to rotate in a clockwise yaw. It is not clear as to why a significant, rapid steering event was required on the straight stretch of road where the accident occurred.

In summary, I have concluded the following with respect to this litigation:

- The Romualdi, Davidson report of September 12, 2000 places the subject vehicle speed in this accident as 38 to 42 MPH as it leaves the road. The vehicle was most certainly traveling faster than this and lost speed in the yaw prior to leaving the road. The exact speed or range of speeds the vehicle was





traveling prior to the yaw movement cannot be determined from the physical evidence.

- The steering wheel position sensor, in its post accident condition installed in the subject vehicle, shows resistance readings in rotation of the wheel which exceed 12,000 ohms.
- Steering effort with the front of the subject vehicle raised is subjectively much higher than a substantially similar vehicle that has not been in an accident resulting in steering wheel/column distortion. The distortion noted in the subject vehicle may be contributing to the elevated resistance readings of the steering wheel position sensor.
- The steering wheel position sensor resistance range (min/max) and output curve in rotation are consistent with the output of design intent undamaged sensors.
- This accident was the result of a driver's loss of control precipitated by a significant, rapid steering input on a straight, wet, asphalt roadway. The reasoning behind such an input on a straight roadway with minimal traffic is unknown.
- The steering system of the subject vehicle would have responded with full hydraulic assist irrespective of the functionality of the steering wheel position sensor under the circumstances of this accident.
- The EVO steering system of the subject vehicle cannot and did not steer the vehicle. The system responds to vehicle inputs to adjust the level of steering assist available when the operator initiates a steering input.
- Testing by the National Highway Traffic Safety Administration has shown that any fluctuations in power steering assist levels of vehicles substantially similar to the subject vehicle (with respect to the EVO steering system) are minor in nature and easily controlled with minor angular corrections with the steering wheel, similar to responses required in normally encountered driving conditions.

These opinions are based on my inspection of the subject vehicle, review of the referenced material, my education, training, and job related experiences. These opinions are held to a reasonable degree of engineering certainty. Should additional information become available for my review regarding this matter, I would request the opportunity to review and amend these opinions.

Sincerely,

Dennis J. Vallad  
Field Performance Assessment





GENERAL MOTORS NORTH AMERICA  
Safety Center

FIELD PERFORMANCE ASSESSMENT  
MAIL CODE: 480-103-004 • 30500 Mound Road, Warren, MI 48090  
Phone: [810] 986-1310 Fax: [810] 986-7643





**DENNIS J. VALLAD**

**Curriculum Vitae**

**WORK EXPERIENCE:**

**4/00-Present** **STAFF ANALYSIS ENGINEER**, General Motors Corporation, Field Performance Assessment; Warren, Michigan  
Responsibilities: Evaluate field performance of current and past production vehicles; Primary involvement in areas such as vehicle electrical and electronic systems, powertrain and emission control systems, chassis steering and suspension, noxious gas intrusion. Also provide engineering evaluation of technical issues and discovery related matters in product litigation.

**11/98-3/00** **ASSISTANT STAFF ENGINEER**, GM Powertrain Group; Milford, Michigan  
Responsibilities: Manage large group of engineering and technical support personnel in the vehicle validation of General Motors engine programs. Programs included both car and truck domestic and international. Direct total vehicle and subsystem validation plan execution for engine programs.

**7/93-10/98** **ASSISTANT STAFF ENGINEER**, GM Powertrain Group; Flint, Michigan  
Responsibilities: Manage medium size group of engineering and technical support personnel in the vehicle validation of V-6 Passenger Car engine programs. Direct total vehicle and subsystem validation plan execution for engine programs. Manage Emission Certification Programs for V-6 Engines to achieve compliance with Federal, California, and International standards.

**11/91-6/93** **ASSISTANT STAFF ENGINEER**, GM Powertrain Group; Warren , Michigan  
Responsibilities: Manage small group of engineering and technical support personnel in the vehicle and subsystem validation of V-6 engine programs. Direct total vehicle and subsystem validation plan execution for engine programs.

**4/89-10/91** **STAFF PROJECT ENGINEER**, GM Truck Engineering; Milford, Michigan  
Responsibilities: Chassis systems development of small trucks and utilities including suspensions (shock absorbers and springs), isolation mount development, powertrain integration (including transmission calibration, torque converter and axle development), squeak and rattle identification and resolution, audio performance, tire development, and noise reduction.

**6/85-3/89** **DEVELOPMENT ENGINEER**, Chevrolet-Pontiac-Canada Group (GM); Warren, Michigan  
Responsibilities: Truck Engine Applications Engineer for four cylinder and small V-6 engine programs responsible for model year project development and management. Responsible for model year program definitions, power





development, powertrain integration in platform, and technical interface to platform engineering group.

**6/84-5/85** **SENIOR PROJECT ENGINEER**, Pontiac Motor Division (GM); Pontiac, Michigan  
Responsibilities: Group Leader, engine controls validation, responsible for directing engine validation programs in vehicles. Development of integrated engine test plans for new engines produced offshore.

**4/79-5/84** **SENIOR PROJECT ENGINEER**, Pontiac Motor Division (GM); Pontiac, Michigan  
Responsibilities: Engine development and calibration of four cylinder engines with throttle body fuel injection system. Development activities included power development, fuel and ignition systems, exhaust systems, air induction systems, transmission calibration, and control software definition and development (digital controller). Development programs included both passenger car and truck applications.

**1/75-3/79** **PROJECT ENGINEER**, General Motors Engineering Staff; Warren, Michigan  
Responsibilities: Development of emissions subsystems and components including base engine emission reduction, fuel (closed loop carbureted and fuel injected) systems, ignition systems, exhaust systems, electronic (analog and digital) control systems, and control software.

**1/74-12/74** **EDUCATIONAL LEAVE** from General Motors to complete MSME degree requirements.

**8/69-12/73** **COOPERATIVE EDUCATION STUDENT**, General Motors Engineering Staff; Warren, Michigan  
Work Assignments: Assignments completed in fasteners, machining operations, drafting, energy absorbing bumper development, safety car development, carburetor development, and emission systems development (EGR and catalytic converters).

**EDUCATION:** **MSME** August, 1975; University of Michigan; Ann Arbor, Michigan.

**BME** July, 1975; General Motors Institute (now Kettering University); Flint, Michigan.

**PUBLICATIONS:** "Level Road Fuel Energy Efficiency of Gasoline-Methanol Blended Fuels in a 1973 Chevrolet", MSME Thesis , submitted to General Motors





GENERAL MOTORS NORTH AMERICA  
Safety Center

Institute in partial fulfillment of degree requirements; Flint, Michigan; June, 1975.

**PROFESSIONAL DEVELOPMENT TRAINING:**

Traffic Accident Reconstruction, Part I; Traffic Institute, Center for Public Safety, Northwestern University, Evanston IL. (Certificate Awarded, 1/26/2001)

Quality Systems (Crosby, Demming, QS9000)

Management Training (Leadership, Team Building, Employee Development, Safety)

Computer Training in Microsoft Office

Technical Training (Transmissions, Emissions, Vehicle Dynamics, Compliance and Liability, Hazardous Materials)

Self Improvement (Time/Project Management, Advanced Driving, Interviewing)



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT D. HOLLAND,  
Plaintiff  
vs.

FRED DIEHL MOTORS, INC.,  
and GENERAL MOTORS  
CORPORATION,  
Defendants

vs.

STEVEN GERALD O'GARA,  
Additional Defendant

\*\*\*\*\*  
STEVEN GERALD O'GARA,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC. and  
GENERAL MOTORS CORPORATION,  
Defendants

CIVIL DIVISION

No. 00 - 905 - CD

**MOTION IN LIMINE**

Filed on Behalf of:

Plaintiff, ROBERT D. HOLLAND

Counsel of Record for This  
Party:

JOSEPH COLAVECCHI, ESQUIRE  
Pa. I.D. #06810

COLAVECCHI RYAN & COLAVECCHI  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830

814/765-1566

JOHN SUGHRUE, ESQUIRE  
Pa. I.D. #01037

23 North Second Street  
Clearfield, PA 16830  
(814) 765-1704

**FILED** *5cc*

*1/3/2001*  
**DEC 20 2004**

*WAS*  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, :  
Plaintiff : No. 00-905-CD

VS. :

FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants :

VS. :

STEVEN GERALD O'GARA, :  
Additional Defendant :

\*\*\*\*\*

STEVEN O'GARA, :  
Plaintiff :

VS. :

FRED DIEHL MOTORS, INC. and :  
GENERAL MOTORS CORPORATION, :  
Defendants :

MOTION IN LIMINE

TO THE HONORABLE PAUL E. CHERRY, JUDGE OF SAID COURT

AND NOW COMES, Plaintiff, Robert D. Holland, by his  
Attorneys, Joseph Colavecchi, Esquire and John Sughrue, Esquire,

and moves for exclusion of certain evidence and testimony at the trial of this action and in support thereof represents the following:

**Count I:**  
**ALCOHOL CONSUMPTION BY ROBERT D. HOLLAND**

1. Plaintiff, Robert D. Holland, (hereinafter "Holland") was a passenger in a motor vehicle driven by Co-Plaintiff and Additional Defendant, Steven G. O'Gara, (hereinafter "O'Gara") at the time the collision occurred which gives rise to this action.

2. Holland believes that Defendants will attempt to introduce at trial evidence and testimony, through Holland's medical records and witnesses, that Holland had consumed alcoholic beverages in the course of the evening prior to the accident.

3. Holland believes that the Defendants will attempt to prove through expert witnesses, specifically a Toxicologist, the effects of alcohol consumption on Holland and will attempt to introduce certain conclusions and opinions of the Toxicologist with respect to the effect of alcohol consumption by Holland and its effect on him as set forth in said expert's report.

4. Whether or not Holland consumed alcohol during the course of the evening is irrelevant to the issues of liability and damages in this matter, generally and in particular, because Holland was not driving the motor vehicle and had no control over the motor vehicle.

5. As a result of the foregoing, the fact that Holland was consuming alcoholic beverages prior to the accident has no probative value in his claim against the Defendants, and any probative value or relevance that it may have is outweighed by the prejudice it would cause Holland.

6. There is no evidence or testimony that may be introduced that would tend to prove that Holland's consumption of alcoholic beverages, in any way, was the legal cause or contributed to the collision that resulted in the damages claimed in this action.

WHEREFORE, Plaintiff Holland by his Attorneys respectfully moves the Honorable Court to enter an Order barring the Defendants from attempting to present and excluding from the trial of this action any and all evidence and testimony, including expert witnesses, whose purpose is to prove or give rise to the inference that Holland consumed alcoholic beverages prior to the accident and/or the effects of such consumption on the human body systems and/or any expert witnesses and/or conclusions arising therefrom.

**Count II:**  
**ALCOHOL CONSUMPTION BY PLAINTIFF HOLLAND AND**  
**ADDITIONAL DEFENDANT O'GARA**

7. At the time of the events complained of in this action Plaintiff, Robert D. Holland, (hereinafter "Holland") was a

passenger, and Steven Gerald O'GARA, (hereinafter "O'GARA") was driving a motor vehicle owned by Plaintiff Holland.

8. Plaintiff Holland believes that the Defendants will attempt to introduce at the trial of this action medical records, testimony and expert witnesses for the purpose of proving or inferring that O'Gara had prior to the time of the accident consumed alcoholic beverages.

9. There is no testimony, documentation, or other evidence that establishes or tends to prove that alcohol consumption by O'Gara prior to the accident was the legal cause or contributed to the collision giving rise to this action.

10. On the contrary, there is evidence that will be presented by Plaintiff's expert witnesses who examined the vehicle in question that the accident was caused by a defective steering wheel sensor that General Motors manufactured and assembled into the truck, and which General Motors and Fred Diehl Motors, Inc. had reason to know had a significant rate of failure. Further, under the facts of this case, Fred Diehl Motors, Inc. knew, or should have known, that the sensor in this particular truck had failed. Nevertheless, Fred Diehl Motors, Inc. failed to replace the sensor.

11. As a result of the foregoing, the fact that O'Gara may or may not have consumed alcohol beverages prior to the accident

has no relevance to the underlying issues in this case. In any event, such minimal relevance or speculative value that it may have, if any, is far outweighed by the prejudice that it would cause to Holland's claim.

WHEREFORE, Plaintiff Holland by his Attorneys respectfully moves the Honorable Court to enter an Order barring the Defendants from attempting to present and excluding from the trial of this action any and all evidence and testimony, including expert witnesses, whose purpose is to prove or give rise to the inference that O'Gara consumed alcoholic beverages prior to the accident and/or the effects of such consumption on the human body systems and/or any expert witnesses and/or conclusions arising therefrom.

**Count III:  
EVIDENCE OF PRIOR COMPROMISE AND SETTLEMENT**

12. At or about the time of the matters complained of in this action, Holland was a passenger in a motor vehicle driven by Additional Defendant, Steven Gerald O'Gara.

13. Holland previously filed an alternative claim of negligence against O'Gara in the Court of Common Pleas of Clearfield County, Pennsylvania at Docket No. 99-1103-CD in which Holland alleged that O'Gara's negligence caused or contributed to the collision which gave rise to Holland's injuries.

14. The action plead by Holland at Docket No. 99-1103-CD arose out of the same collision, injuries and damages that are the basis of the instant claim.

15. That the action filed at Docket No. 99-1103-CD was compromised and settled between Holland and the automobile insurance carrier on behalf of O'Gara.

16. There was no adjudication of the underlying issues of whether or not O'Gara was negligent or any other fact or conclusion alleged in said action.

17. Whether or not O'Gara was negligent and/or the sole cause of the collision giving rise to Holland's claim, is an issue that is presently before this Court to be determined.

18. The fact a prior action filed at Docket No. 99-1103-CD was or was not compromised and settled on behalf of O'Gara and whether or not O'Gara received a Release or not, is irrelevant and of no probative value with respect to the issues presently before the Court.

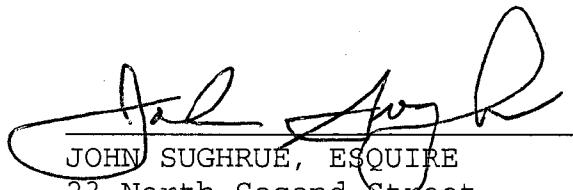
WHEREFORE, Plaintiff Holland respectfully moves the Honorable Court to enter an Order barring Defendants from attempting to introduce and excluding from the trial of this action any testimony, exhibits or other evidence introduced for the purpose of establishing the filing of the prior lawsuit, its allegations

LAW OFFICES OF  
COLAVECCHI  
& COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
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CLEARFIELD, PA

and/or that Holland's claim against O'Gara was in fact settled between Holland and O'Gara for compensation.

Respectfully submitted:

  
JOSEPH COLAVECCHI, ESQUIRE  
221 East Market Street  
Clearfield, PA 16830  
(814) 765-1566

  
JOHN SUGHRUE, ESQUIRE  
23 North Second Street  
Clearfield PA 16830  
(814) 765-1704

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& COLAVECCHI  
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COURTHOUSE)  
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CLEARFIELD, PA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, :  
Plaintiff : No. 00-905-CD

vs. :

FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants :

vs. :

STEVEN GERALD O'GARA, :  
Additional Defendant :

\*\*\*\*\*

STEVEN O'GARA, :  
Plaintiff :

vs. :

FRED DIEHL MOTORS, INC. and :  
GENERAL MOTORS CORPORATION, :  
Defendants :

The undersigned hereby certifies that on December 20, 2004,  
a true and correct copy of a Motion In Limine on said matter was  
served on all parties of interest by depositing said copy in the  
United States Mail, first class, postage prepaid and addressed as  
follows:

Timothy S. Coon, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
44<sup>th</sup> Floor, 600 Grant Street  
Pittsburgh, PA 15219  
(Attorney for General Motors Corporation)

LAW OFFICES OF  
COLAVECCHI  
& COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

Robert W. Galbraith, Esquire  
Jeffery A. Ramaley, Esquire  
Zimmer Kuntz  
3300 US Steel Tower  
Pittsburgh, PA 15219-2702  
(Attorney for Fred Diehl Motors, Inc.)

R. Denning Gearhart, Esquire  
207 East Market Street  
Clearfield, PA 16830  
(Attorney for Steven O'Gara)



JOSEPH COLAVECCHI, ESQUIRE  
221 East Market Street  
Clearfield, PA 16830  
814/765-1566

LAW OFFICES OF  
COLAVECCHI  
& COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, :  
Plaintiff : No. 00-905-CD  
:  
vs. :  
:  
FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants :  
:  
vs. :  
:  
STEVEN GERALD O'GARA, :  
Additional Defendant :  
\*\*\*\*\*

STEVEN O'GARA, :  
Plaintiff :  
:  
vs. :  
:  
FRED DIEHL MOTORS, INC. and :  
GENERAL MOTORS CORPORATION, :  
Defendants :  
:

O R D E R

AND NOW, to-wit, this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, upon consideration of Plaintiff, Robert D. Holland's, Motion  
in Limine, it is hereby ORDERED as follows:

1. Defendants may not make any reference to nor provide any  
evidence to establish the fact that Holland consumed alcoholic  
beverages prior to the accident, his blood alcohol content at the

time of the accident, the effect of alcohol consumption on the human body systems, and/or any expert witness to present any science or opinions related to or arising from the consumption of alcohol by Holland prior to the accident.

2. Defendants may not make any reference to nor provide any evidence to establish the fact that O'Gara consumed alcoholic beverages prior to the accident, his blood alcohol content at the time of the accident, the effect of alcohol consumption on the human body systems, and/or any expert witness to present any science or opinions related to or arising from the consumption of alcohol by O'Gara prior to the accident.

3. Defendants are hereby barred from making any reference to the fact that Holland previously filed a separate action against O'Gara, the allegations contained in such action filed at Docket No. 99-1103-CD and/or the fact that said prior action was settled between Holland and O'Gara for compensation.

BY THE COURT:

LAW OFFICES OF  
COLAVECCHI  
& COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

---

JUDGE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND

: No. 00-905-CD

vs. FRED DIEHL MOTORS, INC. and  
GENERAL MOTRORS CORPORATION

and  
STEVEN GERALD O'GARA

\*\*\*\*\*  
STEVEN G. O'GARA

vs. FRED DIEHL MOTORS, INC. and  
GENERAL MOTORS CORPORATION

6/1  
FILED Le CC  
10/4/00 BCL Atty Galbraith  
DEC 20 2004 W/ memo for service

William A. Shaw  
Prothonotary/Clerk of Courts

O R D E R

AND NOW, this 20<sup>th</sup> day of December, 2004, upon  
consideration of Attorney Ramaley's Motion in Limine, a Rule is hereby issued on  
the parties to appear and show cause why the Motion should not be granted. Rule  
Returnable the 29 day of December, 2004, at 10:00 A.M.  
in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

PAUL E. CHERRY  
Judge



**OFFICE OF COURT ADMINISTRATOR  
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA**

CLEARFIELD COUNTY COURTHOUSE  
SUITE 228, 230 EAST MARKET STREET  
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK  
COURT ADMINISTRATOR

PHONE: (814) 765-2641  
FAX: 1-814-765-7649

MARCY KELLEY  
DEPUTY COURT ADMINISTRATOR

MEMO: To all parties filing Petitions/Motions in Clearfield County:

Please make note of the following:

Rule 206(f) The party who has obtained the issuance of a Rule to Show Cause shall forthwith serve a true and correct copy of both the Court Order entering the Rule and specifying a return date, and the underlying Petition or Motion, upon every other party to the proceeding in the manner prescribed by the Pennsylvania Rules of Civil Procedure (see PA. R.C.P. 440) and upon the Court Administrator.

Rule 206(g) The party who has obtained the issuance of a Rule to Show Cause shall file with the Prothonotary, within seven (7) days of the issuance of the Rule, an Affidavit of Service indicating the time, place and manner of service. Failure to comply with this provision may constitute sufficient basis for the Court to deny the prayer of the Petition or Motion.

**\*\*\* Please note: This also includes service of scheduling orders obtained as the result of the filing of any pleading.**

(A)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND

vs.

: No. 00-905-CD

FRED DIEHL MOTORS, INC. and  
GENERAL MOTORS CORPORATION

and

STEVEN GERALD O'GARA

\*\*\*\*\*

STEVEN G. O'GARA

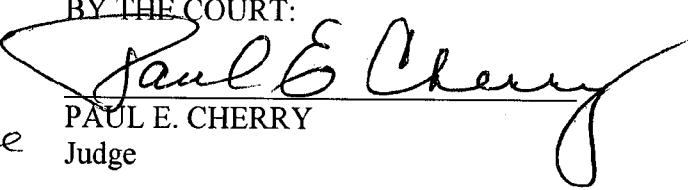
vs.

FRED DIEHL MOTORS, INC. and  
GENERAL MOTORS CORPORATION

ORDER

AND NOW, this 20<sup>th</sup> day of December, 2004, upon  
consideration of Attorney Seiferth's Motion to Amend Answer to Plead Joint  
Tortfeasor Release as New Matter, a Rule is hereby issued on the parties to appear  
and show cause why the Motion should not be granted. Rule Returnable the 29  
day of December, 2004, at 10:00 A.M. in Courtroom No.  
2, Clearfield County Courthouse, Clearfield, PA.

6K  
FILED <sup>cc</sup>  
01357/04 Atty Seiferth  
DEC 20 2004 W/Memorandum Service  
William A. Shaw mailed 12/20/04  
Prothonotary/Clerk of Courts

BY THE COURT:  
  
PAUL E. CHERRY  
Judge



**OFFICE OF COURT ADMINISTRATOR  
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA**

**CLEARFIELD COUNTY COURTHOUSE  
SUITE 228, 230 EAST MARKET STREET  
CLEARFIELD, PENNSYLVANIA 16830**

**DAVID S. MEHOLICK  
COURT ADMINISTRATOR**

**PHONE: (814) 765-2641  
FAX: 1-814-765-7649**

**MARCY KELLEY  
DEPUTY COURT ADMINISTRATOR**

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**\*\*\* Please note: This also includes service of scheduling orders obtained as the result of the filing of any pleading.**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,

Plaintiff

No. 00-905-CD

vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants

vs.

STEVEN GERALD O'GARA,

Additional Defendant

\*\*\*\*\*

STEVEN O'GARA,  
Plaintiff

vs.

FRED DIEHL MOTORS, INC. and  
GENERAL MOTORS CORPORATION,  
Defendants

**FILED**

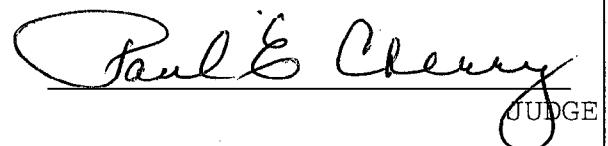
02/05/04  
6K DECEMBER 21 2004  
William A. Shaw  
Prothonotary

R U L E

AND NOW, this 21<sup>st</sup> day of December, 2004, upon  
consideration of Motion in Limine filed by the Plaintiff, Robert  
D. Holland, a Rule shall be initiated by issue directed to the  
Defendants to show cause, if any, why the prayer of said motion  
should not be granted. An answer shall be filed at or prior to  
time of Argument.

Argument on said motion shall be held on the 29 day of  
December, 2008, at 10:00  
o'clock A.M. in Courtroom Number 2.

BY THE COURT:

  
Paul E. Cleary  
JUDGE

LAW OFFICES OF  
COLAVECCHI  
& COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

ROBERT D. HOLLAND

vs.

FRED DIEHL MOTORS, INC., and GENERAL  
MOTORS CORPORATION

vs.

STEVEN GERARD O'GARA

STEVEN GERALD O'GARA

vs.

FRED DIEHL MOTORS, INC. and  
GENERAL MOTORS CORPORATION

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION – LAW

NO. 00-905-CD

**FILED**  
M 12/5/00 10:20 AM  
DEC 22 2004

William A. Shaw  
Prothonotary

**AFFIDAVIT OF SERVICE**

I, Robert A. Seiferth, Esquire, hereby certify that on the 21<sup>st</sup> day of December, 2004, I served a true and correct copy of Defendant O'Gara's Motion to Amend Answer to Plead Joint Tortfeasor Release as New Matter as well as a copy of the Court's Rule Returnable Order, as follows:

**VIA U.S. FIRST CLASS MAIL:**

Joseph Colavecchi, Esquire  
Colavecchi, Ryan & Colavecchi  
P.O. Box 131  
Clearfield, PA 16830

Daniel P. Orie, Esquire  
Eckert Seamans Cherin & Mellott  
600 Grant Street, 45th Floor  
Pittsburgh, PA 15219

Jeff Ramaley, Esquire  
Robert W. Galbraith, Esquire  
Zimmr Kunz, P.C.  
3300 USX Tower  
Pittsburgh, PA 15219

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

BY Robert A. Seiferth  
Robert A. Seiferth, I.D. No. 20481  
Attorney for Defendant O'Gara  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
(570) 326-9094

Date: 12-21-04

UR

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, :  
Plaintiff, :  
vs. : No. 00-905-CD  
FRED DIEHL MOTORS, INC. and :  
GENERAL MOTORS CORPORATION, :  
Defendants, :  
and :  
STEVEN GERALD O'GARA, :  
Additional Defendant. :  
\*\*\*\*\*  
STEVEN GERALD O'GARA, :  
Plaintiff, :  
v. :  
FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants. :  
:

FILED  
M.J.H.  
DEC 27 2004  
NO CC  
W.A. Shaw  
Prothonotary/Clerk of Courts

**DEFENDANTS' MOTION TO PRECLUDE PLAINTIFF STEVEN O'GARA  
FROM OFFERING EVIDENCE AT TRIAL FOR FAILURE TO COMPLY  
WITH COURT RULE AND ORDER**

Defendants, by their undersigned counsel, move this Court for an Order precluding plaintiff Steven O'Gara ("O'Gara") from offering evidence at the trial of this matter, which is set to commence on January 17, 2005. O'Gara has failed to comply with the requirements of Pa.R.Civ.P. 212 despite ample opportunity to do so, and defendants are thereby prejudiced in their ability to prepare for trial.

1. These consolidated suits arise from a motor vehicle accident occurring in 1999.
2. Trial was first set for the January, 2004 trial term. After the trial list was issued, O'Gara's counsel requested additional time to prepare his case due to health problems that had prevented him from completing discovery and other pretrial matters. Defendants consented to the request and, on agreement of all parties, O'Gara requested and received Court permission to adjourn this matter to the April, 2004 trial term. No further discovery was subsequently sought or scheduled by O'Gara.

3. At the call of the April, 2004 trial list, counsel for plaintiff Robert Holland orally moved on behalf of both plaintiffs for a further adjournment of the trial date so that plaintiffs could obtain reports from and take trial depositions of their medical experts. Defendants again consented. The Court granted the motion, ordering that trial would be held in the September, 2004 trial term. Again, O'Gara did not take any action to complete trial preparation.

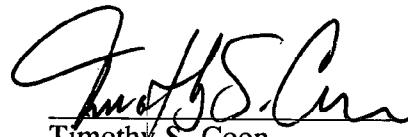
4. On July 21, 2004, the Court issued the September, 2004 trial list. A trial call was held on June 29, 2004. No party sought an adjournment or reported that they were not prepared for trial. As required by Pa.R.Civ.P. 212 and local rule, the parties were directed to file their pretrial statements with expert reports, which were due July 11, 2004. All parties complied, except for O'Gara.

5. A pretrial conference was held with the Court on July 18, 2004. The failure of O'Gara to comply Rule 212 was discussed at the conference, and O'Gara's counsel requested further time to obtain expert medical reports and prepare for the trial. Once again, defendants assented to the requested adjournment. The Court issued an Order on August 18, 2004 setting the case for trial on January 17, 2005 and, among other things, ordering that the "deadline for providing any and all outstanding discovery shall be by and not later than thirty (30) days prior to trial."

6. O'Gara has still not filed a pretrial statement or expert reports. O'Gara has not disclosed to defendants the witnesses or exhibits he intends to offer at trial; the amount, nature and method of calculation of any damages to be sought at trial; or the identity and opinions of any experts he intends to call.

7. Having ample time to comply with the Court's August 18, 2004 Order, having failed to seek an extension or otherwise advise the Court and parties that he could not comply with the Court's Order, and in the absence of any evidence excusing his non-compliance, O'Gara should be precluded from calling witnesses or offering exhibits at trial. *See* Clearfield County Local Rule 212.4(f).

Respectfully submitted,



\_\_\_\_\_  
Timothy S. Coon  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(412) 566-6000  
Counsel for General Motors Corporation



\_\_\_\_\_  
Jeffrey A. Ramaley /JSC  
Jeffrey A. Ramaley  
Zimmer Kunz, PLLC  
600 Grant Street, Suite 3300  
Pittsburgh, PA 15219  
(412) 281-8000  
Counsel for Fred Diehl Motors, Inc.

December 22, 2004

I hereby certify that a true and correct copy of the foregoing **DEFENDANTS' MOTION TO PRECLUDE PLAINTIFF STEVEN O'GARA FROM OFFERING EVIDENCE AT TRIAL FOR FAILURE TO COMPLY WITH COURT RULE AND ORDER** has been served upon the following counsel of record by United States mail, this 22nd day of December, 2004:

John Shugrue, Esq.  
23 North Second Street  
Clearfield, PA 16830  
*Counsel for Robert Holland*

Joseph Colavecchi, Esq.  
Colavecchi & Ryan  
221 East Market Street  
Clearfield, PA 16830  
*Counsel for Robert Holland*

R. Denning Gearhart, Esq.  
215 E. Locust Street  
Clearfield, PA 16830  
*Counsel for Steven O'Gara*



Timothy S. Coon

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,

Plaintiff

vs.

FRED DIEHL MOTORS, INC., and

GENERAL MOTORS CORPORATION,

Defendants

No. 00-905-CD

and

STEVEN GERALD O'GARA,

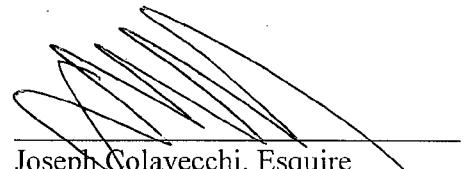
Additional Defendant

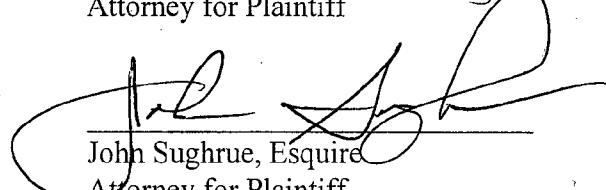
**PRAECIPE TO SETTLE AND DISCONTINUE**

TO WILLIAM A. SHAW, PROTHONOTARY.

Kindly mark the above-captioned matter settled, discontinued, and terminated with prejudice. Each party is to pay his and/or its individual costs. Please forward Certificate of Discontinuation to the undersigned, John Sughrue, Co-Attorney for Plaintiff.

Date: December 27, 2004

  
Joseph Colavecchi, Esquire  
Attorney for Plaintiff

  
John Sughrue, Esquire  
Attorney for Plaintiff

2cc  
1/3/2004  
FILED  
DEC 27 2004  
1 Certificate  
to Atty Sughrue  
William A. Shaw  
Prothonotary/Clerk of Courts  
Copy to CJA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND,  
Plaintiff  
vs.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,  
Defendants

No. 00-905-CD

and

STEVEN GERALD O'GARA,  
Additional Defendant :

**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on December 27, 2004, I caused a true and correct copy of PRAECIPE TO SETTLE AND DISCONTINUE, to be served on the following and in the manner indicated below:

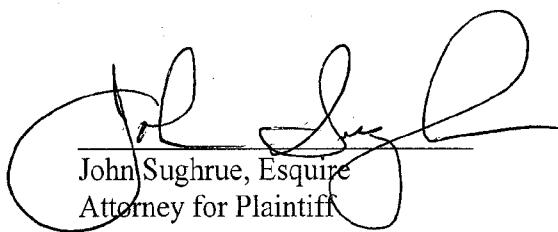
By United States Mail, First Class, Postage Prepaid  
Addressed as Follows:

Jeffery A. Ramaley, Esq.  
Zimmer Kunz  
3300 USX Tower  
600 Grant St.  
Pittsburgh, PA 15219

Timothy S. Coon, Esq.  
ECKERT, SEAMANS, CHERIN &  
MELLOTT, LLC.  
USX Tower  
600 Grant St. 44<sup>th</sup> Fl.  
Pittsburgh, PA 15219

R. Denning Gearhart Esquire  
207 E. Market St.  
Clearfield, PA 16830

Date: December 27, 2004

  
John Sughrue, Esquire  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

**COPY**

CIVIL DIVISION

**Robert D. Holland**

**Vs.**

**No. 2000-00905-CD**

**Fred Diehl Motors, Inc.**

**General Motors Corporation**

**Steven G. O'Gara**

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA

County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on December 27, 2004, marked:

Settled, Discontinued, and Terminated with Prejudice

Record costs in the sum of \$80.00 have been paid in full by John Sughrue, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 27th day of December A.D. 2004.

---

William A. Shaw, Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, :  
Plaintiff :  
vs. : No. 00-905-CD

FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants :  
and :  
:

STEVEN GERALD O'GARA, :  
Additional Defendant :

\*\*\*\*\*  
STEVEN G. O'GARA, :  
Plaintiff :  
vs. :  
:

FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants :  
:

**FILED**

JAN 18 2005

0/45001  
William A. Shaw  
Prothonotary  
cc: Clerk Copie

To the Honorable Paul E. Cherry, Judge of Said Court:

AND NOW, comes Robert D. Holland, Plaintiff, by his attorney John Sughrue, and moves the Honorable Court to vacate its Order of December 8, 2004 with respect to discovery and in support thereof, represents the following:

1. This Court entered an Order December 8, 2004 indicating that Plaintiff, Holland, and his attorney, had failed to appear for argument despite receiving due and proper notice. Copy of said Order is attached hereto for easy reference.
2. That this Court scheduled said argument date by Order dated October 29, 2004, a copy of which is attached hereto for easy reference, and the Clerk forwarded the scheduling Order to counsel for Fred Diehl Motors, Inc. for service in accordance with the Rules.

3. That Defense counsel inadvertently, due to a misunderstanding, failed to serve the Court's Scheduling Order on counsel for the Plaintiff. As a result, Plaintiff's counsel was not aware of the Court's scheduled December 8, 2004 oral argument.

4. Plaintiff's counsel acknowledges receiving on October 28, 2004, a copy of Defendant, Fred Diehl's, Motion to Compel and inadvertently failed to note it or provide the requested report even though Plaintiff's counsel had the requested report and had intended to provide it.

5. Defense counsel acknowledges by the consent attached hereto that he did not give notice to Plaintiff's counsel of the December 8, 2004 hearing and agrees to the request that the Order be vacated.

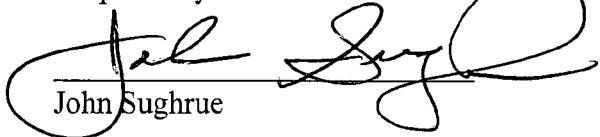
6. Both counsel for the Plaintiff and the Defendant believe that Plaintiff's failure to provide the requested report and Defense counsel's failure to provide notice of the hearing were inadvertent oversights by both parties.

7. Plaintiff counsel acknowledges that Defense Counsel, immediately upon becoming aware of the lack of service, made him aware of the proceedings by phone on December 8, 2004.

8. Plaintiff counsel provided the requested report immediately on December 8, 2004 upon being advised by phone of the oversight and confusion related to this matter.

WHEREFORE, in view of foregoing and in view of Defense counsel's consent attached hereto, counsel for Robert D. Holland respectfully moves the Honorable Court to forthwith enter the Order attached hereto vacating the Court's prior order of December 8, 2004.

Respectfully submitted:



John Sughrue

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND

-VS-

FRED DIEHL MOTORS, INC.  
and GENERAL MOTORS  
CORPORATION  
and  
STEVEN GERALD O'GARA

STEVEN GERALD O'GARA

-VS-

FRED DIEHL MOTORS, INC.  
and GENERAL MOTORS  
CORPORATION

O R D E R

Attest.

*William A. Shaw*  
Prothonotary  
Clerk of Courts

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

DEC 09 2004

NOW, this 8th day of December, 2004, this being  
the date set for oral argument on Defendant Fred Diehl  
Motors, Incorporated's Motion to Compel; Plaintiff Robert  
Holland having failed to appear either personally or  
through counsel despite receiving due and proper notice, it  
is the ORDER of this Court that Plaintiff Robert Holland  
shall, within no more than ten (10) days from this date,  
provide information to Defendant Fred Diehl Motors,  
Incorporated, as to the amount of the lien held by the  
Department of Public Welfare for medical treatment rendered  
to Robert Holland for the years 2000, 2001 and 2002 or, in  
the alternative, prepare a release to enable Defendant Fred

**RECEIVED**  
DEC 10 2004

BY: \_\_\_\_\_

**FILED**

0 12 06 2004  
2cc acty Colveras Inc  
2cc acty Amalest  
2cc acty Seaford  
1cc acty Sweeney  
6cc acty Sennard  
5cc acty Scurran

DEC 09 2004

Diehl Motors, Incorporated, to secure this information  
directly from the Department of Public Welfare.

BY THE COURT,

/s/ Paul E. Cherry

\_\_\_\_\_  
Judge

*D*

CX

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT D. HOLLAND,

CIVIL ACTION - LAW

Plaintiff,

No.: 00 - 905 CD

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants,

and

STEVEN GERALD O'GARA,

Additional Defendant.

\*\*\*\*\*

STEVEN G. O'GARA,

Plaintiff,

v.

FRED DIEHL MOTORS, INC., and  
GENERAL MOTORS CORPORATION,

Defendants.

**ORDER OF COURT**

AND NOW, on this 29<sup>th</sup> day of October, 2004, it is hereby

ORDERED, ADJUDGED and DECREED that oral argument on Defendant, Fred Diehl Motors,

Inc.'s Motion to Compel shall be heard on the 8 day of December, 2004 by

the Honorable Cherry at 10:30 o'clock. later than the        day of  
      , 2004.

BY THE COURT,

Paul E. Cherry

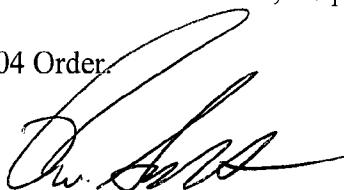
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, :  
Plaintiff :  
vs. : No. 00-905-CD  
: :  
FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants :  
: :  
and :  
: :  
STEVEN GERALD O'GARA, :  
Additional Defendant :  
\*\*\*\*\*  
STEVEN G. O'GARA, :  
Plaintiff :  
vs. :  
: :  
FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants :  
:

**CONSENT**

Fred Diehl Motors, Inc., by its attorney, Robert W. Galbraith, Esq., hereby consents to the Court forthwith vacating the December 8, 2004 Order.

Date: January 3, 2005

  
\_\_\_\_\_  
Robert W. Galbraith, Esq.

Attorney for Fred Diehl Motors, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION-LAW

ROBERT D. HOLLAND, :  
Plaintiff :  
vs. : No. 00-905-CD  
FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants :  
:  
and :  
:  
STEVEN GERALD O'GARA, :  
Additional Defendant :  
\*\*\*\*\*  
STEVEN G. O'GARA, :  
Plaintiff :  
vs. :  
:  
FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants :  
:

**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on January 14, 2005, I caused a true and correct copy of MOTION TO VACATE COURT'S ORDER OF DECEMBER 8, 2004 to be served on the following and in the manner indicated below:

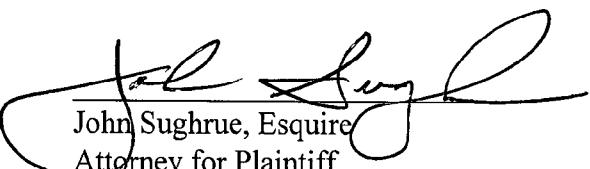
By United States Mail, First Class, Postage Prepaid  
Addressed as Follows:

Mr. Denning R. Gearhart, Esq.  
207 E. Market Street  
Clearfield, PA 16830

Jeffery A. Ramaley, Esq.  
ZIMMER KUNZ  
3300 USX Tower  
600 Grant Street  
Pittsburgh, PA 15219

Mr. Timothy Coons, Esq.  
ECKERT SEAMANS  
600 Grant Street, 44<sup>th</sup> Floor  
Pittsburgh, PA 15219

Date: January 14, 2005



John Sughrue, Esquire  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT D. HOLLAND, :  
Plaintiff :  
vs. : No. 00-905-CD  
:  
FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants :  
:  
and :  
:  
STEVEN GERALD O'GARA, :  
Additional Defendant :  
\*\*\*\*\*  
STEVEN G. O'GARA, :  
Plaintiff :  
vs. :  
:  
FRED DIEHL MOTORS, INC., and :  
GENERAL MOTORS CORPORATION, :  
Defendants :  
:

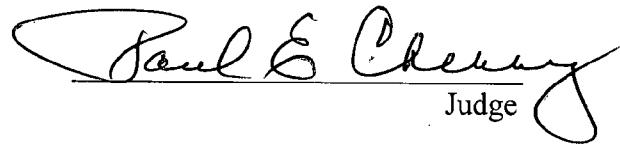
**ORDER VACATING ORDER OF DECEMBER 8, 2004**

AND NOW, to wit, this 14<sup>th</sup> day of January 2005, upon consideration of Plaintiff's Motion to Vacate this Court's Order of December 8, 2004, it appearing to the Court that Defendant, Fred Diehl Motors, Inc., filed a Motion to compel Plaintiff to produce documentation and that this Court entered an order with respect to the same on December 8, 2004, and it further appearing to the Court that the parties have agreed as evidenced by Plaintiff's said Motion and the consent of Fred Diehl Motors, Inc. attached thereto.

NOW THEREFORE, upon agreement of the parties, it is Ordered that this Court's Order of December 8, 2004 directed to Plaintiff shall be and is hereby vacated.

**FILED**

By the Court:

  
Paul E. Cleary  
Judge

JAN 18 2005 *(initials)*

0/4/00/

William A. Shaw  
Prothonotary  
200812