

Massachusetts State Police

Collision Reconstruction Report



CASE #	██████████
Related Case#	██████████

Requesting Agency:		MSP Sturbridge			
Date Rec'd:	04 Aug 2011	Time Rec'd:	1800	Class:	Traffic, Crash - MV PI
Primary Investigating Officer:		Tpr. Brian Pearl		Agency	MSP Sturbridge
Reconstructionist Assigned:		Trooper Daniel J Nicoloro, #2657		Team	Central
Collision Occurred:	City/Town	County	Day	Date	Time
	OXFORD	WORCESTER	Thursday	04 Aug 2011	17:44

This document may contain sensitive information regulated pursuant to G.L.c.4 7(26). Additionally, information contained in this document and any attachment may or may not be part of an ongoing Massachusetts State Police and/or local police investigation. Any disclosure, dissemination or copying of this report by persons not authorized by the Department of State Police or the District Attorney's Office of jurisdiction is strictly prohibited. Please forward any requests for this report to the following address:

Massachusetts State Police
Collision Analysis and Reconstruction Section
 485 Maple Street
 Danvers, MA 01923
cars.reports@state.ma.us

Status: Approved
 Approved by: #Sergeant Stephen Marsh ID# 2220



Commonwealth of Massachusetts
Collision Analysis and Reconstruction Section **2011-CAR-000303**
Collision Reconstruction Report

Collision Analysis and Reconstruction Section 8/4/11 5:44 PM # Vehicles: # Injured: 2
Trooper Nicoloro, Daniel On Call: No 1 Speed Limit: 65
Arrival Time: 2011-08-04 18:20:13 Cleared Time: 2011-08-04 21:50:13 Crash - MV PI
RT 395 North, Mile Marker 4.4, OXFORD, MA
Latitude: 42.11347 Longitude: -71.85464
Requesting Agency: MSP Sturbridge Requesting Agency Case#: 2011-OC5-002799 OUI Related: No
Cause Determination: Operator/Human, Distraction/Inattentiveness, Other Charges: No

Light:	1 - Daylight	Trafficway:	3 - Two-way, divided, positive
Weather:	1 - Clear	School Bus:	No
Traffic Ctrl:	1 - No controls	Work Zone:	No
Ctrl Function:		Collision:	1 - Single Vehicle Crash
Road Surface:	1 - Dry	1st Harmful:	Guardrail
InterSection:	1 - Not at intersection	1st Harmful Location:	5 - Shoulder - Unpaved

Vehicle#	1	Reg#	9LR640	MA	PAN	2008	Cadillac	Seville	Impounded
Insurance Co:		Commerce Insurance			Action Prior:		1 - Travelling Straight ahead		
Veh Config:		1 - Passenger car			Most Harmful:		Guardrail		
Hit/Run:		No			Event Seq. 1:		40 - Ran off road right		
Moped:		No			Event Seq. 2:		24 - Guardrail		
Travel Direction:		N			Event Seq. 3:				
Respond Emerg:		No			Event Seq. 4:				
Driver Contributing:		9 - Failure to keep in proper lane			Under/Override:		1 - None		
Tow Company:		Bonnettes			Tow Reason:		Crash		
CDR:		No			CDR Supported:		No		
									Damaged Area(s) 1,2,8 Damage > \$1000 Yes

Owner/Operator: Veh # 1

<p>DOB: [REDACTED] Sex: [REDACTED] Lic Num: [REDACTED] Lic State: [REDACTED] Restrictions: [REDACTED] CDL END: [REDACTED]</p> <p>Medical Examiner: Body Removed To: Citation/Charge(s)</p>	<p>Seat Position: 1 - Front seat - left seat (or Safety System: 0 - None used Airbag Status: 3 - Deployed - Both Front/Side Airbag Switch: 4 - Unknown if switch is present Eject Code: 0 - Not ejected Trap Code: 0 - Not trapped Injury Status: 2 - Incapacitating (non-fatal) Transported: 2 - EMS MedicalFac. [REDACTED] ME Notified and Came To: Next of Kin Notified By:</p>
---	--

Passenger: Veh # 1

<p>DOB: [REDACTED] Sex: [REDACTED] Lic Num: [REDACTED] Lic State: [REDACTED] Restrictions: [REDACTED] CDL END: [REDACTED]</p> <p>Medical Examiner: Body Removed To: Citation/Charge(s)</p>	<p>Seat Position: 3 - Front seat - right side Safety System: 0 - None used Airbag Status: 3 - Deployed - Both Front/Side Airbag Switch: 4 - Unknown if switch is present Eject Code: 0 - Not ejected Trap Code: 0 - Not trapped Injury Status: 2 - Incapacitating (non-fatal) Transported: 2 - EMS MedicalFac. [REDACTED] ME Notified and Came To: Next of Kin Notified By:</p>
---	---

Status: Approved
Approved by: #Sergeant Stephen Marsh ID# 2220

Officer Name	Signature	ID#	Station	Date
Trooper Nicoloro, Daniel		2657	Collision Analysis and	11/05/2011 2 of 24



Commonwealth of Massachusetts
Collision Analysis and Reconstruction Section 2011-CAR-000303
Collision Reconstruction Report

Narrative

By Trooper Daniel J Nicoloro 2657

It should be noted that the following synopsis is a brief outline or general view of the facts surrounding this incident.

On Thursday 08/04/2011 at approx. 1800 hours, Veh #1, a 2008 Cadillac CTS was traveling north on Rt. 395 in the town of Oxford. Shortly after passing the Cudworth Rd. overpass and prior to the 4.4 Mile Marker, the Cadillac began departing the right side of the roadway. The right front tire of the Cadillac struck the granite curbing and continued across the grassy shoulder. The right front corner of the Cadillac then struck the beginning of a section of guardrail. The guardrail end cap and a section of paneling broke off and were projected in a northwesterly direction. A continuing section of the guardrail paneling then penetrated the left front corner of the Cadillac. The paneling severed the left front wheel assembly and proceeded through the fire wall and floor boards. The guardrail then entered the occupant compartment, causing amputation type injuries to both occupants. The guardrail continued, piercing the rear seat and entering the trunk area. The Cadillac rotated in a counterclockwise direction, coming to rest on the grass shoulder facing a south westerly direction. Both occupants were removed and transported to UMass Medical Center in Worcester.

The operator made statements that she was cut off by another vehicle, causing her to depart the roadway. There were no witnesses to the collision, or anyone who could corroborate the operator's statement.

Trooper Daniel J Nicoloro #2657

Trooper Daniel J Nicoloro #2657

Status: Approved
Approved by: #Sergeant Stephen Marsh ID# 2220

Officer Name	Signature	ID#	Station	Date
Trooper Nicoloro, Daniel		2657	Collision Analysis and	11/05/2011 3 of 24

INVESTIGATIVE INTRODUCTION

1. On Thursday 8/4/2011 at approx. 1744 hours, a single vehicle collision occurred on Rt. 395 North, just north of the Cudworth Rd overpass, in the town of Oxford. On 8/4/2011 at 1800 hours, I was contacted by Lt. Robert Boutillete, CHQ Duty Office, and assigned to reconstruct this collision. I arrived on scene at approx. 1820 hours and was assisted by Tpr. Colleen Tanguay, MSP Crime Scene Services Section and Troopers from the Sturbridge Barracks. Trooper Brian Pearl was the investigating officer for SP Sturbridge.
2. The roadway remained open during the on-scene investigation. The following reconstruction report summarizes an investigation conducted at the request of and in conjunction with the State Police CSSS and the Sturbridge Barracks. The scope of this Trooper's investigation was limited to the reconstruction of the collision.

ROADWAY

3. This officer observed Rt. 395 north near the collision to be a three lane interstate highway. The far right lane is an acceleration lane that stretches from the onramp at Cudworth Rd. and gradually merges into the second lane prior to mile marker 4.4. Rt. 395 runs in a north / south direction and is maintained by the Commonwealth. The roadway is comprised of an asphalt surface. There are white skip lines that separate the travel lanes. There is a solid yellow line that separates the left travel lane from the paved shoulder. The shoulder was measured to be approx. 3.33 feet wide with an accompanying rumble strip. There is approx. 2 feet of asphalt curbing to the left of the median shoulder. A guardrail is present approx. 1 foot west of the asphalt curbing. The left travel lane was measured to be approx. 12.16 feet wide. The center travel lane was measured to be approx. 11.33 feet wide and the right travel lane was measured to be approx. 11.91 feet wide. There is a solid white line that separates the right travel lane and the paved shoulder. There is approx. 2.5 feet of paved shoulder and granite curbing that defines the edge of the roadway. A guardrail begins on the right side of the roadway approx. 528 feet south of the 4.4 mile marker. There is a slight incline in the roadway of 1.2 % as you travel north through the collision location. The roadway is generally straight as you travel north through the collision location. The speed limit for Rt. 395 north in the area of the collision is regulated under Mass General Law Chapter 90 Section 17-18 and posted at 65 Mph.
4. The weather was clear at the time of the collision. The road surface was dry when the collision occurred. At the time of the collision, the roadway was clear and free of any debris or defects. The crash occurred during the daylight hours. This area of Rt.395 is a

rural area with trees lining either side of the roadway. The collision locus is measured to be at Latitude 42.0849 and Longitude -71.86604.



ON SCENE INVESTIGATION

5. This officer observed a tire mark along the granite curbing that borders the right side/eastern edge of the roadway. The tire mark was located approx. 16.25 feet south of

the start of the guardrail. A tire print was also visible along the grassy surface just east of the curbing where the tire mark was present. The tire print traveled in a north, northeasterly direction towards the start of the guardrail. The tire mark and print were made by the right front tire of the Cadillac as it departed the roadway. There was no tire mark evidence located on any portion of the asphalt travel lanes.

6. The guardrail design was comprised of an inverted rectangular shaped end cap at the start, with panels and support posts thereafter. This officer observed 8 damaged guardrail posts. The end cap and approx. 2.5 feet of guardrail paneling had been sheared off and displaced approx. 153 feet north of its original location. The end cap and paneling were located along the wood line approx. 34 feet east of the edge of road. There was an additional +/- 63 feet of connected guardrail paneling that was damaged or displaced due to impact with the Cadillac. Approx. 15 feet of the damaged guardrail had pierced the left front end of the Cadillac. The guardrail had severed the linkage components that attach the tire and rim to the axle. The guardrail continued, piercing the firewall and floorboards in the area of the brake and accelerator pedals. The guardrail continued up and along the center console before striking both inner sides of the front occupant seats. The guardrail then proceeded into the rear passenger compartment where it continued through the right rear passenger seat and into the trunk area. The guardrail struck the interior of the trunk, dislodging the trunk after the right rear hinge broke loose.

7. The left front wheel assembly was separated from the Cadillac and found approx. 52 feet from the CTS's first point of departure from the roadway. The wheel assembly was in the wooded area approx. 46 feet adjacent to the roadway.

8. The center mass of the Cadillac traveled approx. 89 feet from its first point of roadway departure to its final rest. The Cadillac rotated counterclockwise approx. 135 degrees before coming to final rest facing a southwesterly direction approx. 15.5 feet from the edge of the roadway.





VEHICLE INSPECTION

9. This officer made a visual examination of the Cadillac CTS at Bonnette's Garage in Oxford on 8/5/2011 at 1600 hours.

Cadillac Exterior: The front bumper, grill, both headlight assemblies, radiator, hood, the forward portion of both left and right front fenders and the trunk all sustained substantial damage from impact with the guardrail. The damage to the right front corner was caused by the initial contact with the guardrail end cap. All the roof pillars were cut by the Oxford Fire Department to remove the roof and gain easier access to the interior. The windshield and rear window were removed for the same purpose.

Cadillac Interior: The floor boards, the accelerator, brake pedal, emergency brake pedal, the center console, both front occupant seats, the right and middle rear seats and trunk liner were damaged from contact with the guardrail. The steering wheel and passenger dashboard sustained induced damage from airbag deployment.

Cadillac Mechanical: The steering on the Cadillac was limited due to front end damage (specifically the severed front left wheel assembly). The accelerator, brake and

emergency brake pedals were all inoperable due to damage. The Cadillac was equipped with Michelin Pilot HX MXM4 size P235 50 R18 tires. All four tires had good tread depth. Both front tires were flat due to impact. Both rear tires sustained good pressure. The left and right front rims had minor scratches and dents. The front and rear brakes were disc and had adequate rotors and pads to pass inspection.

VEHICLE RECALLS

10. A check of the NHTSA database revealed 1 safety recall for this year, make and model vehicle. This electrical system recall was not considered a factor in this crash.

KINEMATICS ANALYSIS

[REDACTED]

CDR ANALYSIS

12. The Cadillac CTS is equipped with an ACM (Airbag Control Module). The ACM is capable of recording and capturing two types of events, a non-deployment event and a deployment event. There is both pre-crash and crash data recorded for each event. The front and side airbags deployed when the Cadillac crashed into the guardrail. When this office attempted to image the information stored in the ACM, the information from the module stated that no events or crash data were recorded prior to algorithm enable. A copy of the CDR report will be attached as an addendum to this report.

CONCLUSIONS

13. The following summary statement is the result of the compilation of evidence collected at the scene and the vehicle inspection and is a likely account of what occurred at the time of the collision.
14. ██████ was the operator of the 2008 Cadillac CTS when the collision occurred.
15. Welcome was the front seat passenger in the Cadillac CTS at the time of the collision
16. ██████ departed the right side of the roadway, striking the granite curbing and a section of guardrail. The Cadillac then rotated counterclockwise before coming to final rest on the grass covered shoulder. A portion of the guardrail penetrated the interior compartment of the Cadillac, causing incapacitating injuries to the occupants.
17. There were no weather related contributory factors noted in this collision.
18. There were no roadway engineering, or roadway defects noted as contributory causes noted by this officer.
19. There were no pre-existing mechanical deficiencies with the vehicle that could be noted as a causation factor.

OPINIONS

20. ██████ inability to maintain control of her vehicle was a major factor in the cause of this collision.
21. ██████ made statements that she was cut off by another vehicle. There was no evidence at the scene that would indicate any abrupt steering or braking action that would most likely occur when a driver is faced with a sudden, unexpected hazard. The evidence at the scene indicates the Cadillac drifted off the roadway, striking the curb and then the guardrail.

Tpr. Daniel J. Nicoloro #2657
Collision Analysis and Reconstruction Section

IMPORTANT NOTICE: Robert Bosch LLC and the manufacturers whose vehicles are accessible using the CDR System urge end users to use the latest production release of the Crash Data Retrieval system software when viewing, printing or exporting any retrieved data from within the CDR program. Using the latest version of the CDR software is the best way to ensure that retrieved data has been translated using the most current information provided by the manufacturers of the vehicles supported by this product.

CDR File Information

User Entered VIN	[REDACTED]
User	Tr. Dan Nicoloro
Case Number	[REDACTED]
EDR Data Imaging Date	09/09/2011
Crash Date	08/04/2011
Filename	[REDACTED]
Saved on	Friday, September 9 2011 at 22:24:01
Collected with CDR version	Crash Data Retrieval Tool 4.1
Reported with CDR version	Crash Data Retrieval Tool 4.1
EDR Device Type	Airbag Control Module
Event(s) recovered	None

Comments

No comments entered.

Data Limitations

Recorded Crash Events:

There are two types of recorded crash events. The first is the Non-Deployment Event. A Non-Deployment Event records data but does not deploy the air bag(s). The minimum SDM Recorded Vehicle Velocity Change, that is needed to record a Non-Deployment Event, is five MPH. A Non-Deployment Event may contain Pre-Crash and Crash data. The SDM can store up to one Non-Deployment Event. This event can be overwritten by an event that has a greater SDM recorded vehicle velocity change. This event will be cleared by the SDM, after approximately 250 ignition cycles. This event can be overwritten by a second Deployment Event, referred to as Deployment Event #2, if the Non-Deployment Event is not locked. The data in the Non-Deployment Event file will be locked, if the Non-Deployment Event occurred within five seconds of a Deployment Event. A locked Non Deployment Event cannot be overwritten or cleared by the SDM.

The second type of SDM recorded crash event is the Deployment Event. It also may contain Pre-Crash and Crash data. The SDM can store up to two different Deployment Events. If a second Deployment Event occurs any time after the Deployment Event, the Deployment Event #2 will overwrite any non-locked Non-Deployment Event. Deployment Events cannot be overwritten or cleared by the SDM. Once the SDM has deployed an air bag, the SDM must be replaced.

Data:

-SDM Recorded Vehicle Velocity Change reflects the change in velocity that the sensing system experienced during the recorded portion of the event. SDM Recorded Vehicle Velocity Change is the change in velocity during the recording time and is not the speed the vehicle was traveling before the event, and is also not the Barrier Equivalent Velocity. For Deployment Events, the SDM will record 220 milliseconds of data after Deployment criteria is met and up to 70 milliseconds before Deployment criteria is met. For Non-Deployment Events, the SDM can record up to the first 300 milliseconds of data after algorithm enable. Velocity Change data is displayed in SAE sign convention.

-The CDR tool displays time from Algorithm Enable (AE) to time of Deployment command in a Deployment event and AE to time of maximum SDM recorded vehicle velocity change in a Non-Deployment event. Time from AE begins when the first air bag system enable threshold is met and ends when Deployment command criteria is met or at maximum SDM recorded vehicle velocity change. Air bag systems such as frontal, side, or rollover, may be a source of an enable. The time represented in a CDR report can be that of the enable of one air bag system to the Deployment time of another air bag system.

-Maximum Recorded Vehicle Velocity Change is the maximum square root value of the sum of the squares for the vehicle's combined "X" and "Y" axis change in velocity.

-Event Recording Complete will indicate if data from the recorded event has been fully written to the SDM memory or if it has been interrupted and not fully written.

-SDM Recorded Vehicle Speed accuracy can be affected by various factors, including but not limited to the following:

- Significant changes in the tire's rolling radius
- Final drive axle ratio changes
- Wheel lockup and wheel slip

-Brake Switch Circuit Status indicates the open/closed state of the brake switch circuit.

-Pre-Crash data is recorded asynchronously.

-Pre-Crash Electronic Data Validity Check Status indicates "Data Invalid" if:

- The SDM receives a message with an "invalid" flag from the module sending the pre-crash data
- No data is received from the module sending the pre-crash data
- No module is present to send the pre-crash data
- Driver's and Passenger's Belt Switch Circuit Status indicates the status of the seat belt switch circuit.
- The Time Between Non-Deployment to Deployment Events is displayed in seconds. If the time between the two events is greater than five seconds, "N/A" is displayed in place of the time. If the value is negative, then the Deployment Event occurred first. If the value is positive, then the Non-Deployment Event occurred first.
- If power to the SDM is lost during a crash event, all or part of the crash record may not be recorded.
- The ignition cycle counter relies upon the transitions through OFF->RUN->CRANK power-modging messages, on the GMLAN communication bus, to increment the counter. Applying and removing of battery power to the module will not increment the ignition cycle counter.
- All data should be examined in conjunction with other available physical evidence from the vehicle and scene

Data Source:

All SDM recorded data is measured, calculated, and stored internally, except for the following:

- Vehicle Status Data (Pre-Crash) is transmitted to the SDM, by various vehicle control modules, via the vehicle's communication network.
- The Belt Switch Circuit is wired directly to the SDM.

01006_SDMCG_r002



Hexadecimal Data

Data that the vehicle manufacturer has specified for data retrieval is shown in the hexadecimal data section of the CDR report. The hexadecimal data section of the CDR report may contain data that is not translated by the CDR program. The control module contains additional data that is not retrievable by the CDR system.

```
$01 00 00 00 00 00 00 00
$02 00 00 00 00 00 00 00
$03 00 00 00 00 00 00 00
$04 00 00 00 00 00 00 00
$05 00 00 00 00 00 00 00
$06 C5 00 00 00 00 00 00
$0A 00 00 00 00 00 00 00
$0B 00 00 00 00 00 00 00
$0C 00 00 00 00 00 00 00
$0D 00 00 00 00 00 00 00
$0E 00 00 00 00 00 00 00
$0F 00 00 00 00 00 00 00
$10 00 00 00 00 00 00 00
$11 27 FF FF 82 21 00 00
$12 FF F0 FC F0 C0 00 00
$13 FF C0 FC 70 40 00 00
$14 FF C0 FC 70 40 00 00
$15 01 02 03 04 0B 0C 07
$16 08 05 06 00 00 00 00
$17 00 00 00 00 00 00 00
$18 01 03 04 05 06 07 0A
$19 07 07 07 07 07 07 07
$1A 07 07 07 00 00 00 00
$1B 00 00 00 00 00 00 00
$1C 00 00 00 00 00 00 00
$1D 00 00 00 00 00 00 00
$1E 01 00 00 00 00 00 00
$1F 00 00 00 00 00 00 00
$20 00 00 00 00 00 00 00
$21 00 00 00 00 00 00 00
$22 00 00 00 00 00 00 00
$23 00 00 00 00 00 00 00
$24 00 00 00 00 00 00 00
$25 00 00 00 00 00 00 00
$26 00 12 9A 94 52 38 08
$27 00 52 00 00 00 00 00
$28 00 00 00 00 00 00 00
$29 00 00 00 00 00 00 00
$2A 00 8F 00 00 00 00 00
$2B 23 20 50 00 00 00 00
$2C 7E 7E 7D 80 80 80 00
$2D FF FF FF FF FF 80 00
$2E 00 80 00 80 00 00 00
$2F FF FF FF FF FF 80 00
$30 0F FF 0F FF 80 00 00
$31 FF FF FF FF FF 80 00
$32 FF FF FF FF FF 80 00
$33 00 00 00 00 00 00 00
$34 00 00 00 00 00 00 00
$35 00 00 00 00 00 00 00
$36 00 00 00 00 00 00 00
$37 00 00 00 00 00 00 00
$38 00 00 00 00 00 00 00
$39 00 00 00 00 00 00 00
```



\$3A 00 00 00 00 00 00 00
\$3B 00 FF FF 03 68 00 00
\$3C 00 FF 1B 8C 00 1B 8C
\$3D 2F C0 00 00 00 00 00
\$40 00 00 00 00 00 00 00
\$41 00 00 00 00 00 00 00
\$42 00 00 00 00 00 00 00
\$43 00 00 00 00 00 00 00
\$44 00 00 00 00 00 00 00
\$45 00 00 00 00 00 00 00
\$46 00 00 00 00 00 00 00
\$50 00 00 00 00 00 00 00
\$51 00 00 00 00 00 00 00
\$52 00 00 00 00 00 00 00
\$53 00 00 00 00 00 00 00
\$54 00 00 00 00 00 00 00
\$55 00 00 00 00 00 00 00
\$56 00 00 00 00 00 00 00
\$57 00 00 00 00 00 00 00
\$58 00 00 00 00 00 00 00
\$59 00 00 00 00 00 00 00
\$5A 00 00 00 00 00 00 00
\$5B 00 00 00 00 00 00 00
\$5C 00 00 00 00 00 00 00
\$5D 00 00 00 00 00 00 00
\$5E 00 00 00 00 00 00 00
\$5F 00 00 00 00 00 00 00
\$60 00 00 00 00 00 00 00
\$61 00 00 00 00 00 00 00
\$62 00 00 00 00 00 00 00
\$63 00 00 00 00 00 00 00
\$64 00 00 00 00 00 00 00
\$65 00 00 00 00 00 00 00
\$66 00 00 00 00 00 00 00
\$90 00 00 00 00 00 00 00
\$91 00 00 00 00 00 00 00
\$92 00 00 00 00 00 00 00
\$93 00 00 00 00 00 00 00
\$94 00 00 00 00 00 00 00
\$95 00 00 00 00 00 00 00
\$96 00 00 00 00 00 00 00
\$97 00 00 00 00 00 00 00
\$98 00 00 00 00 00 00 00
\$99 00 00 00 00 00 00 00
\$9A 00 00 00 00 00 00 00
\$9B 00 00 00 00 00 00 00
\$9C 00 00 00 00 00 00 00
\$9D 00 00 00 00 00 00 00
\$9E 00 00 00 00 00 00 00
\$9F 00 00 00 00 00 00 00
\$A0 00 00 00 00 00 00 00
\$A1 00 00 00 00 00 00 00
\$A2 00 00 00 00 00 00 00
\$A3 00 00 00 00 00 00 00
\$A4 00 00 00 00 00 00 00
\$A5 00 00 00 00 00 00 00


\$01 41 48 30 30 30 30 58 30 30 30 30 30 30 30 30
\$02 03
\$03 41 4A 30 30 30 30 58 30 30 30 30 30 30 30 30
\$04 03
\$05 41 55 30 30 30 30 58 30 30 30 30 30 30 30 30
\$06 04
\$07 41 54 30 30 30 30 58 30 30 30 30 30 30 30 30
\$08 04



```
$09 44 41 30 30 30 30 58 30 30 30 30 30 30 30 30
$0A 04
$0B 44 42 30 30 30 30 58 30 30 30 30 30 30 30 30
$0C 04
$0D 41 5A 30 30 30 30 58 30 30 30 30 30 30 30 30
$0E 00
$0F 30 65 00 00
$22 12 65
$23 FA FA 44 FA FA FA FA FA
$24 FA FA 44 FA FA FA FA FA
$25 FA FA 44 FA FA FA FA FA
$26 FA FA 44 FA FA FA FA FA
$40 00 00
$42 D6 50 14
$43 00 00 EC 80
$44 E6 18 00 C0 FF 1C
$45 0F 01 19 0B 64 64 64 64
$46 04 64 04 04 64 04 64 04 04 64 00 00
$47 1D 09 08
$B4 41 53 32 31 30 39 4B 4B 38 30 37 39 32 38 51 32
$C1 01 8A 7E B2
$C2 01 8B 86 F1
$CB 01 8A 2A AD
$CC 01 8A 2A AD
$DB 41 41
$DC 41 41
```

Disclaimer of Liability

The users of the CDR product and reviewers of the CDR reports and exported data shall ensure that data and information supplied is applicable to the vehicle, vehicle's system(s) and the vehicle ECU. Robert Bosch LLC and all its directors, officers, employees and members shall not be liable for damages arising out of or related to incorrect, incomplete or misinterpreted software and/or data. Robert Bosch LLC expressly excludes all liability for incidental, consequential, special or punitive damages arising from or related to the CDR data, CDR software or use thereof.

 [Click to Print](#) or Select '**Print**' in your browser menu to print this document.

Page printed from: [Texas Lawyer](#)

Accident Victim Sues Guardrail Maker Trinity Industries

Miriam Rozen, Texas Lawyer

November 24, 2014

An accident victim has filed what her lawyers said ranks as the first case against Dallas-based guardrail manufacturer Trinity Industries since a jury issued a [\\$175 million verdict](#) against the company last month.

On Oct. 20, that jury decided in favor of a whistleblower who alleged that the company violated the False Claims Act, knowing about its products' alleged defectiveness.

The accident victim, Danielle Washington, a Greensboro, N.C. resident, filed on Nov. 14 her complaint in federal court in Marshall. Her lawyers predict that it will lead a wave of individual accident victims' claims against Trinity.

In her complaint, Washington alleged that on Nov. 29, 2013, she fell asleep while driving, and her vehicle collided with a guardrail. She alleged that because of that guardrail's defectiveness it pierced the passenger compartment of the car, leading to her injuries.

Her complaint specifically references the jury verdict issued Oct. 20 in favor of the whistleblower. Trinity "knew of the dangerous conditions created by" its guardrail system, Washington stated in her complaint.

Collen Clark, a partner in Schmidt & Clark in Dallas, and Josh Maness in Marshall, represent Washington.

"This is the first," Maness said about Washington's complaint. He and Clark represent about 20 other accident victims who will likely file against Trinity, he said. The "bulk" of those clients contacted the plaintiffs lawyers after the Oct. 20 verdict, which garnered national attention, said Maness, who also served as counsel but not lead in the whistleblower case.

Washington's own role in her accident, falling asleep at the wheel, doesn't matter, Maness said.

"Why you left the road" will be "largely irrelevant" in the claims against the guardrail maker, he said. "The product is failing, and as long as you are not going 200 miles an hour, it is supposed to work," Maness said.

Jeff Eller, a Trinity spokesman, wrote in an email that "it would not be appropriate to comment

on this litigation."

Ethan Shaw, a partner in Dallas' Shaw Cowart, who led a team representing Trinity in the whistleblower case, did not return a call by press time.

In a statement posted on its website after the Oct. 20 verdict, Trinity wrote: "The company respects the jury's decision. However, Trinity believes the decision cannot and will not withstand legal scrutiny. The company strongly believes the courts will affirm its position."

Copyright 2014. ALM Media Properties, LLC. All rights reserved.

Bloomberg

Trinity Industries Ordered to Mediation After Trial Loss

By Patrick G. Lee - Oct 28, 2014

Trinity Industries Inc. (TRN), which last week lost a \$175 million verdict for hiding from regulators changes to its highway guardrails, was ordered by a judge to enter into mediation with the whistleblower who brought the case.

Lawyers for Trinity and whistle-blower Joshua Harman were told by U.S. District Judge Rodney Gilstrap in Marshall, Texas, to mediate the lawsuit before the end of the year, according to a court filing today. Gilstrap has yet to decide on penalties to impose on Trinity, which a company lawyer has said could reach \$1 billion.

“We intend to follow the court instructions and attend mediation,” the Dallas-based company said in an e-mailed statement. “Trinity continues to believe that the jury decision cannot and will not withstand legal scrutiny.”

The lawsuit, brought by Harman on behalf of the U.S. government, alleged that Trinity made secret changes to its ET-Plus guardrail system, transforming the devices into spears that could impale cars upon impact. The end terminal is mounted on the tip of a guardrail to absorb the impact of a crashing car.

Judges often require litigants to mediate disputes before a final judgment is entered, said Nicholas Gravante, a lawyer at Boies Schiller & Flexner LLP who represented Harman at the trial.

Guardrail Recall?

Along with damages, the mediation may also focus on whether there should be a recall of the ET-Plus, unless the U.S. government initiates one on its own, Gravante said.

“We have to work together to make sure appropriate steps will be taken to make the nation’s roads and highways safe,” he said in an interview today. “The federal government is going to have to have a seat at the table, too.”

Francis McGovern, a Duke University law professor, will serve as mediator, Gilstrap said.

At least 10 lawsuits have been filed against Trinity this year, claiming the device caused three deaths and nine injuries. Jurors in last week's trial didn't rule on whether the ET-Plus is defective.

The case is Harman on behalf of the U.S. v. Trinity Industries Inc., 12-cv-00089, U.S. District Court, Eastern District of Texas (Marshall).

To contact the reporter on this story: Patrick G. Lee in New York at plee315@bloomberg.net

To contact the editors responsible for this story: Michael Hytha at mhytha@bloomberg.net David Glovin

©2014 BLOOMBERG L.P. ALL RIGHTS RESERVED.



Guardrail Manufacturer to Halt Device Sales Amid Safety Concerns

Company Found to Have Defrauded Government About Road-Lining Safety System

By CINDY GALLI, ANGELA M. HILL, BRIAN ROSS and LEE FERRAN

Trinity Industries is halting sales of its controversial ET-Plus guardrail system, a device meant to protect motorists across the country that instead has been blamed by accident victims for dozens of injuries and deaths.

The move came late Friday in response to a request by the Federal Highway Administration (FHWA) to conduct crash tests on the device or face suspension of its eligibility for sale. Earlier this week Trinity lost a civil trial in Texas in which the jury found the company had defrauded the government by misrepresenting changes made to the guardrail nearly a decade ago.

"In light of FHWA's request, the right thing to do is to stop shipping the product until the additional testing has been completed," Gregg Mitchell, President of Trinity Highway Products, wrote in a [press release](#). "We have confidence in the ET-Plus System as designed and crash tested by Texas A&M Transportation Institute. It has met all tests previously requested by FHWA. We take the safety of the products we manufacture very seriously."

The company says it will work with the FHWA on further crash testing and will not ship any more ET-Plus units until testing is completed.

The announcement came at the end of a week that saw more states suspend the installation of the popular end terminal pending further investigation, a demand by the FHWA to further crash test the ET-Plus, and a mammoth jury verdict in the federal whistleblower case in Marshall, Texas. In that case, Trinity was found to have defrauded the federal government and has been ordered to pay \$175 million.

At the center of the case were modifications made by Trinity Industries in 2005 to the design of guardrail end terminals used alongside many roads from coast to coast, and the company's failure at the time to disclose all the changes to the federal government or any state transportation departments.

The modified guardrail, called the ET-Plus, was the subject of an [ABC News 20/20](#) investigation in September that looked into allegations from crash victims that the modified guardrail can malfunction when struck from the front by their vehicles. Rather than ribboning out and absorbing the impact as designed, the guardrails "locked up" and speared straight through the cars, severing the motorists' limbs in some cases.

The whistleblower in the case against Trinity, a competitor of the company's who uncovered damning documents indicating the company made the changes to its guardrail end terminal to save money, told ABC News today that he believes the company's decision to stop selling the ET-Plus is just one more

step to a total recall of the product from all U.S. highways.

"We are getting closer to that product recall," said Josh Harman. "A product recall is something that just has to happen, because too many lives have already been lost."

In addition to their promise to work with the government, Trinity has indicated it will appeal the Texas court's decision in the whistleblower case, saying the ruling "will not withstand legal scrutiny."

Copyright © 2014 ABC News Internet Ventures

To whom it may concern:

My name is [REDACTED], on August 4, 2011 while driving on a highway in Massachusetts I hit the end of a guardrail. The guardrail entered my Cadillac cts4 on the driver side through the floor fire wall, (please see police report), it then went through the middle of my car between both the driver seat and passenger seat and exiting the back seat on the passenger side, still fully attached like a spear. It then went out the trunk. This is just a brief summary of what happened that day.

Let me now tell you the reality:

The guardrail known as the ET Plus severed my leg about several inches above my ankle, then ripped up my upper thigh and fracturing my hip. I lost an extreme amount of blood during this accident. I was fully awake during this entire horrific and life changing ordeal. While sitting there in my vehicle bleeding I grabbed what was left of my lower leg with my left hand, clinging onto my tibia (large bone) and my calf muscle that was hanging there, my fibula was not there anymore. I also took my right hand and grabbed ahold of my upper thigh because all my muscle and what I called stuff was hanging out of my thigh. There was so much blood and tissue everywhere it looked like I lost my entire leg. I stayed calm and amazingly felt no pain at all. I knew it was bad and I knew I might not make it. My first thought was my kids, [REDACTED] who was 27 at the time and newly married and my son [REDACTED] who was 9. Then I realized... my god, if my son who was normally with me would have been in the back seat on the passenger side, he would not have made it. There was the guardrail where he would have been sitting. I stayed fully awake and calm, even cracking jokes (as I am always a glass half full woman). A state police officer was one of the first on scene speaking with me and holding my bloody hands. I even apologized for getting him bloody. I tell you this because I have always been a strong woman, always thinking of others first. I knew it was bad. The EMT's worked on me and called life flight from the University of Massachusetts Hospital (umass), only to be told that their helicopter was not available. They then called medflight and was told they were 30 minutes out and the EMT's told medflight that I would not make it 30 minutes and they would transport me. That conversation was hard to listen to.

I was brought to umass and stabilized, prepared for an operation. My many family and friends, I guess were in the waiting area approx. 35 of them. My son was on vacation and being brought back immediately. The thought was I may not make it. I was in a 7 ½ hour operation and came through. But my leg was still gone, and this was not a bad dream. I could go on and on and detail what I went through but I will save that for another day.

Now the aftermath, I have had several operations, several blood transfusions, scars, pain, and hospital for 8 days and rehab for almost two months. Today I live with the pain, the scars both physical and emotional. I live with the fact that I will never look like I did, I will never have my leg back, I will never get the feeling back in my upper thigh because of the scar and nerve damage, I will never go a day without reliving or being reminded of that day. There is not a day that goes by that I don't think of my son being with me. It kills me to think if he was. There is not a day that goes by that I'm not reminded of my limitations and the reality of this accident. Getting up in the middle of the night to use the bathroom and having to sit in a wheelchair to go from my bed to the master bath. Sitting in a shower chair to take a shower, walking up and down stairs and having my leg swing out almost jolting me. Fighting back tears when I look at all the shoes in my closet that I will never be able to wear again. Is it being vein, NO, it is my reality, my reminder of how I was and how I am now. The sores on my residual limb that causes me to sometimes be bound to a wheelchair and the fear of infection and when that infection happens the fear of losing more of my leg. I have had a sore on my residual limb for over two and a half years. The skin on the residual limb is skin grafted from my left leg and breaks down easily.

The reality is my accident could have been avoided. I recently attended a trial in Marshall Texas, where I learned just how big companies can get a "free pass" on procedures and this was not just Trinity that got the free pass. I learned that the NHTSA did not follow procedures, TTI, did not follow procedures and as a result of those facts along with greed I am what I am today. I also learned separate from the guardrail that my vehicle was recalled for the ignition and that recall should have been made far before it was made public. Another example of big companies not doing what they should and not taking responsibility.

I am not a number, I am not a big company, and I am not a politician..... I am a human being that on August 4, 2011 lost her life as she knew it, I am not whole, and I struggle with this every day. But, I am a fighter, I am a woman with determination and I want answers, I want someone held accountable for what I am today. No one should go through what I went through that day and every day thereafter. It's very simple, people needed to do their job and they need to do it now. Government and those in it should look into what is being done regarding these guardrails. As I stated, I am not a politician but I will reach out to as many as I can to help me with my fight.

General Motors has put together a guideline of their settlement. I think any loss of limb or any death should not be measured. I live with limb loss but GM says I am only a tier 2, but if I lost two limbs I would be a tier 1. I am insulted by that. They also make mention strict guidelines regarding deployment of air bags. My vehicle, a Cadillac which was recalled for ignition, has battery power and can still deploy the airbags if the ignition was in the neutral position. My vehicle would not turn and my brakes did not work. This caused me to head for the guardrail. There are many problems with what happened that day. But none of which were caused by me.

I am not going to be silent, why should I, the image I see in a mirror speaks volumes and the pain both physically and mentally reminds me not to be silent!