SUPERIOR COURT OF DECATUR COUNTY
STATE OF GEORGIA

JAMES BRYAN WALDEN and LINDSAY NEWSOME STRICKLAND, Individually and on Behalf of the Estate of Their Deceased Son, REMINGTON COLE WALDEN,	*	
Plaintiffs,	*	CIVIL ACTION
v.	*	FILE NO. 12-CV-472
CHRYSLER GROUP, L.L.C., n/k/a FCA US LLC and BRYAN L. HARRELL,	*	
Defendants.	*	

PLAINTIFFS' RESPONSE TO CHRYSLER GROUP'S MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION FOR A NEW TRIAL

TABLE OF CONTENTS

I. INTRODUCTION

FCA[1] complains that the verdict entered against it was too high and for that it blames the jury, the Court, and Plaintiffs' counsel. FCA should look in the mirror. FCA's problem at trial was the fact its product is indefensible but FCA defended that product by making things up—from proclaiming that these rear-tank Jeeps are "absolutely safe" to demeaning Georgia's wrongful death statute as a "crazy little concept."[2] FCA's trial tactics may have been off-putting to jurors, but FCA cannot blame anyone else if they were. From voir dire through closing arguments, FCA's approach was mean-spirited, blame-based, and disrespectful of the witnesses, the law, and the jurors' intelligence.

FCA's post-trial brief continues that same approach. The reason for the verdict was that FCA was forced to trial—for the first time ever—on an absolutely indefensible product. If FCA really seeks an explanation for the jury's conclusions, it should look underneath one of its Jeeps. The contrast between that gas tank and "absolutely safe" tells the whole story of this case.

FCA requests a new trial on the grounds that the jury was motivated by "passion." Plaintiffs respond in three ways. *First*, Plaintiffs do not believe the jury's verdict was motivated by "passion," but if it was to any extent, that arose not from anything Plaintiffs did, but from

---

[1] This Defendant calls its brief "Chrysler Group's Memorandum of Law," and within that document calls itself "Chrysler" 39 times. That is not this defendant's name, and has not been since December 16, 2014, when FCA N.V., the parent corporation, announced that the word "Chrysler" had been dropped from this defendant's name altogether, and that the U. S. subsidiary was henceforth to be called "FCA US LLC." *See* Plaintiffs' Exhibit 33 (exhibit to Marchionne deposition). Plaintiffs will refer to this defendant *by its real name* - "FCA US" or, shorthand, "FCA." Before trial Plaintiffs stipulated that they would use the word "Chrysler" to refer to this defendant at trial in a deliberate attempt to try to avoid the kind of post-trial accusations FCA now makes in its motion for new trial. It is now time to call this defendant by its real name.

[2] TT, 04/02/2015 (am, 63:__) (line numbers are not available for this part of the transcript). Note: references are to the rough draft of the trial transcript, as the final, official trial transcript is not yet available. For some sections of the draft transcript, line numbers are not available.

FCA's refusal to admit the obvious: *FCA put the public at risk, then lied about it.* FCA cannot justify a new trial on the basis of some supposed "passion" that its own defense created. *Second*, accusing Plaintiffs of impassioned argument is disingenuous. In order to meet the requirements of Georgia's statute of repose, which was passed at the behest of large manufacturers like Chrysler, *Plaintiffs had to prove* that FCA's conduct was "reckless," "wanton," or amounted to a deliberate failure to warn of a known danger. That's a high standard. To meet that standard, a plaintiff *has to* introduce evidence and make argument that by its very nature can lead to manufacturers doing just what FCA does now – arguing that the plaintiff's presentation was "impassioned." *Third*, it is a dead certainty that FCA does not really want a new trial—what it seeks is a remittitur.

Plaintiffs agree with FCA about one thing: remittitur lies in the sound discretion of the Court. O.C.G.A. § 51-12-12(b). *Plaintiffs defer to the Court*, and *do not oppose* a reasonable remittitur that this Court deems appropriate.

Plaintiffs here make only two main points in that regard, although we respond in greater detail below.

First, as to the full value of a life and compensation for pain and suffering, Georgia law gives juries broad discretion. "[J]ury verdicts, in general, are to be given great deference." *Williams v. Worsley*, 235 Ga. App. 806, 809 (1998). That is because no two lives are alike and no two deaths are alike. *AT Sys. SE, Inc. v. Carnes*, 272 Ga. App. 671, 671 (2005) (courts are reluctant to interfere with jury verdicts). "This difficulty is necessarily compounded when a jury must place a value on the life of a child . . . ." *Williams*, 235 Ga. App. at 808. For that reason, "[the Court of Appeals] has recognized that comparison between cases [i.e., verdicts] should not be made because no two cases are precisely alike." *Reliance Ins. Co. v. Bridges*, 168 Ga. App.

874, 889-90 (1983) (physical precedent only); *accord St. Paul Fire & Marine Ins. Co. v. Dillingham*, 112 Ga. App. 422, 424 (1965).

Second, there is a very practical reason that past verdicts do not provide guidance to this Court. This was a case that FCA manifestly did not want to try. FCA and Chrysler had never tried a Jeep fire case before this one: they had settled them all, confidentially. That alone makes this verdict exceptional. The evidence also showed that Remington Walden was an exceptional child who died in the worst way imaginable. FCA has not cited any verdicts that involve all those circumstances. Whether the defendant in some other non-Jeep fire case actually wanted to try the case is not stated by FCA. Unless some other verdict cited by FCA also involved an indefensible product, and a trial the defendant wanted to avoid, and an exceptional child who suffered then died from fire, then that verdict cannot be fairly used for comparison. FCA's argument about other verdicts therefore adds nothing to this Court's analysis.

As one could predict based upon FCA's pre-trial motions, FCA's new trial motion is largely based on the old adage, "If the facts are against you, hammer the law. If the law is against you, hammer the facts. If the facts and the law are against you, hammer opposing counsel."[3] FCA's brief is a hyperventilated polemic against Plaintiffs' counsel, replete with accusations that are untrue, not supported by the Record, and contrary to the Record. Without question FCA intended from the outset to take post-trial advantage of the dilemma confronting Plaintiffs because this was a statute of repose case. To prove that this defendant's conduct was "reckless," "wanton" and amounted to a deliberate failure to warn of a known danger – all concepts found in the standards for proving punitive damages – Plaintiffs had to submit evidence

[3] This adage has been attributed to a lot of people going back nearly 100 years.

and make argument that FCA now tries to argue amounted to seeking 'punishment.' It was certainly clear to Plaintiffs' counsel that FCA would try to make that argument post-trial. *See e.g.* 2015-02-23 Plaintiffs' Response to CG MIL 9. That is why Plaintiffs' counsel were careful to refrain from asking the jury to 'send a message' or to 'punish' FCA.

Plaintiffs' counsel also anticipated that in its ardor to attack Plaintiffs' counsel personally, post-trial FCA would not resist making a "xenophobia" argument too. *See* 2015-02-23 Plaintiffs' Response to CG MIL 4. That is why, to try to head that off, Plaintiffs' counsel *stipulated* that they would refer to this defendant at trial in the presence of the jury as "Chrysler" or "Chrysler Group" – despite the fact that was no longer its real name. Transcript, 03/04/2015 Motions Hearing 7:01-13. That was a deliberate, calculated decision, based on predicting FCA's post-trial strategy. Plaintiffs' counsel never referred to "FCA" or "Fiat" in closing argument – yet in Plaintiffs' closing arguments Jeb Butler used the word "Chrysler" 54 times, and Jim Butler used the word "Chrysler" 106 times.[4]

Yet, contrary to the Record, FCA has launched a "xenophobia" attack, *anyway*. Just for example, FCA accuses Plaintiffs' counsel of trying to "stir up bias against a foreign corporation," even criticizing references by Plaintiffs' counsel to "American citizens" as "a transparent effort *to highlight the fact* that Fiat (which owns Chrysler Group) is an *Italian* corporation." FCA's

[4] The first mention of the word "FCA" in the presence of the jury was when the Court called the case. TT, 03/23/2015 (am, 2:22). The first mention of the word "Fiat" in the presence of the jury was when the Court referred to "FCA" standing for "Fiat Chrysler Automobiles." TT, 03/23/2015 (am, 4:19-20). The only references to the word "Fiat" by Plaintiffs' counsel in voir dire or opening statement were when identifying Marchionne and Teets as employees of Fiat Chrysler, when asking if any jurors have an relationship with Fiat, and when observing that neither Fiat nor Chrysler make passenger cars with rear gas tanks anymore. TT, 03/23/2015 (am, 22:17-18); TT, 03/23/2015 (am, 67:12-15, 18-21); TT, 03/23/2015 (pm, 65:6-8); TT, 03/24/2015 (am, 73, 86 (line designations not yet available)); TT, 03/24/2015 (am, 84, 89).

Br. at 14 (emphasis added).[5] That argument is both obnoxious and false. The word "Italian" occurs only twice in the trial transcript, *spoken both times by FCA*.[6] *Had* Plaintiffs' counsel wanted to inject "Italian" into the case they could have done so readily enough; after all the defendant's proper name *is* "FCA-US," an acronym historically based on "Fiat-Chrysler," and "Fiat" *is* an Italian automaker. The word "Chrysler" is, by contrast, an *American* name, and "Chrysler" is a well-recognized *American brand. That* was the word was used by Plaintiffs' counsel to describe this defendant in closing argument a total of 160 times – the words "FCA," "Fiat," and "Italian" were used not once.

FCA owes this Court the duty of sticking to the truth, instead of making false arguments based upon made-up caricatures and false stereotyping of others.

II. THE JURY DID NOT IMPERMISSIBLY "PUNISH" FCA.

FCA's contention that the jury impermissibly "punished" it lacks merit for three reasons. *First*, the Court expressly told the jury *not* to punish FCA, and Georgia law presumes that the jurors followed those instructions. *Second*, binding law establishes the wrongful death statute is punitive in nature, so even if the *effect* of the verdict was to punish FCA, that is not grounds for a

---

[5] Actually, FCA's statement is false: "Fiat" does not "own" Chrysler Group. "Chrysler Group" has not existed since December 16, 2014. "FCA, N.V." owns "FCA-US LLC." There's no "Fiat" and no "Chrysler" in either name.

[6] TT, 3/23/2015 (pm, 39:06-08) (emphasis added) – FCA counsel Kirbo: "I had no choice but to be a Georgia Bull Dog football fan and that's because my mom, who was a full **Italian** was rabid, and my dad went there." TT, 4/02/2015 (am, 36: __) (emphasis added) (line numbers are not available on this part of the transcript) – FCA counsel Bell: "And, of course, we know that the Germans and the Swedes, the French, and **Italians** and some of these other folks, the English, they manufactured vehicles and they had a rear collision test, rear crash test as well, and then, of course, we have the Japanese and Europeans with their manufacturers." Perhaps the FCA lawyers were trying to bait Plaintiffs' counsel into uttering that word, "Italian," as part of FCA's strategy to create arguments to use post–trial. Certainly FCA knew it was going to lose this trial.

new trial. *Third*, despite FCA's written rhetoric, Plaintiffs' counsel did not ask the jury to punish FCA.

First, the Court's final charge alone defeats FCA's "punishment" argument. *The last words* that this jury heard before retiring to deliberate came from the Court, and those words expressly instructed the jury *not* to punish FCA. Specifically, the Court told the jury:

> The law authorizes you to award damages solely in an attempt to make a damaged party whole. *You may not by your verdict and any award of damages seek to punish, penalize or deter a defendant from future similar conduct.* You *may not* award a verdict to send a message or teach a lesson to any party. Should you award damages to the Plaintiffs, the amount of your award is limited by the instructions that I previously gave you as to the proper measure of damages.

TT, 04/02/2015 (pm, 76:8-18) (emphasis added) (That last charge was FCA's own, its "supplemental charge number 42," which FCA's appellate lawyer asked the Court to give *after* the Court had already charged the jury. TT, 04/02/2015 (pm, 74:18-24, 75:4-12, 76:25-77:15) (no exceptions by FCA to the giving of FCA's supplemental request to charge number 42)). "'[Q]ualified jurors under oath are presumed to follow the trial court's instructions.'" *Bd. of Regents v. Ambati*, 299 Ga. App. 804, 808 (2009). Because the Court told the jury not to punish FCA, and the jurors are presumed to have followed that instruction, FCA's argument fails.

Second, even if the *effect* of the verdict was to "punish" FCA, that is not impermissible and is not grounds for a new trial. That is because Georgia courts have long acknowledged that the wrongful death statute "is itself punitive" to a certain extent. *Ford Motor Co. v. Stubblefield*, 171 Ga. App. 331, 340 (1984); *accord Miles v. Ashland Chem. Co.*, 261 Ga. 726, 731 (1991) ("penal in nature"). In fact, even if Plaintiff's counsel had expressly discussed the punitive nature of a wrongful death claim—which Plaintiffs' ***did not do***—there would be no error. *Reliance Ins. Co.*, 168 Ga. App. at 889 (addressing "the question as to whether counsel's

argument with reference to the punitive nature of the damage was incorrect" and affirming verdict).[7]

Third, Plaintiffs' counsel did not ask the jury to "punish" FCA. Those words were not spoken, and thus they do not appear in the trial transcripts. Plaintiffs' counsel did say that Defendant Chrysler should be in Reidsville alongside Defendant Harrell. That is, frankly, true.

---

[7]The applicable Georgia case law goes back at least 100 years. *See also Carringer v. Rogers,* 276 Ga. 359, 364 (2003) ("The wrongful death statutes impose a monetary penalty upon the wrongdoer in favor of the person who is authorized to sue for the homicide."); *Brock v. Wedincamp*, 253 Ga. App. 275, 281 (2002) ("the wrongful death statute is a legislative imposition of a penalty upon the person who causes the death of another by negligence, the penalty to go to the person injured."); *Belluso v. Tant*, 258 Ga. App. 453, 454 (2002) ("'By making homicide expensive,' the person who causes the wrongful death of another is forced to suffer a monetary 'penalty to go to the person who is authorized to sue for the negligent homicide.'"); *Roseberry v. Brooks*, 218 Ga. App. 202, 209 (1995) (recovery for wrongful death of a child "is nevertheless penal because it is not necessarily related to the 'real value to the person in whom the cause of action is vested.'"); *Miles*, 261 Ga. at 731 (recognizing that Georgia's wrongful death statute is "penal in nature"); *Gielow v. Strickland*, 185 Ga. App. 85, 86 (1987) ("the [wrongful death] statute is itself punitive"); *Donson Nursing Facilities v. Dixon*, 176 Ga. App. 700, 701 (1985) (Georgia's wrongful death statute "'is itself punitive.'"); *Reliance Ins. Co.*, 168 Ga. App. at 889 (the damages recovered in a wrongful death action are intended "'primarily to punish the defendant for its negligence in bringing about the death of a human being.'") (quoting *Savannah Elec. Co. v. Bell*, 124 Ga. 663, 53 S.E. 109, 112 (1906)); *W. & Atl. R. Co. v. Michael*, 175 Ga. 1, 165 S.E. 37, 43 (1932) ("The state does not exhaust its power to compel redress for a wrongful death by providing for recovery of the loss sustained by the dependents of the decedent. It may go further and exact penalties in addition."); *Engle v. Finch*, 165 Ga. 131, 139 S.E. 868, 869 (1927) ("This is a legislative imposition of a penalty upon the person who causes the death of another by negligence, the penalty to go to the person injured. It is penal, in that the measure of the recovery is the full value of the life of the deceased, irrespective of its real value to the person in whom the cause of action is vested."); *Savannah Elec. Co.*, 124 Ga. 663, 53 S.E. at 112("The [wrongful death] statute is, however, one that it intended to inflict a punishment upon wrongdoers who bring about the death of a human being by negligence. Lord Campbell's act and the various statutes in this country based upon it are nothing more than a method of punishing negligence by civil action."); *Atl., V. & W. R. Co. v. McDilda*, 125 Ga. 468, 54 S.E. 140, 141 (1906) ("[Wrongful death statute] is penal in that the measure of the recovery is the full value of the life of the deceased, irrespective of its real value to the person in whom the cause of action is vested."); *Coney v. Mylan Pharm., Inc.*, No. 6:11-CV-35, 2011 WL 3607166, at *6 (S.D. Ga. Aug. 16, 2011) ("In *Engle, [supra,]* the court held that the damages provided by Georgia's wrongful death act are themselves punitive and thus a plaintiff collecting wrongful death damages could not also collect punitive damages.").

But Plaintiffs' counsel did not ask the jury to *send* FCA there. From start to finish in this trial, FCA's primary 'defense' was to try to blame everything on Harrell; for that reason responding by comparing FCA to Harrell was entirely legitimate argument.

III. THE JURY WAS NOT AT FAULT.

In an attempt to explain the verdict without accepting any responsibility, FCA blames the jury. Specifically, FCA asserts that the jurors were not "acting rationally" and were merely "motivated by passion and prejudice." FCA's Br. at 10.

That argument fails for three reasons.

First, FCA did not timely object to the composition of the jury.[8] FCA cannot sit quietly while a jury is empaneled and sworn, then fault the composition of the jury after a verdict is entered against it. *Neidlinger v. Mobley*, 76 Ga. App. 599, 603 (1948).

Second, the *foreperson* of the jury described FCA's lawyer as "*my personal attorney.*" TT, 03/23/2015 (am, 72:18-19). FCA cannot credibly accuse a jury with such a foreperson of being "motivated by . . . prejudice." FCA's Br. at 10. The Court will recall that when, after the verdict, the Court on its own motion polled the jurors, each and every one of them, including the FCA lawyer's client and jury foreperson Ms. McIntyre, emphatically embraced their verdict.

Third, there is simply no evidence whatsoever that the jury was not "rational," acted with "passion," or was motivated by "prejudice." FCA has offered no such evidence—despite the fact FCA's lawyers talked to jurors after the trial. The jury found against FCA because FCA was wrong.

---

[8] FCA's only objection to the petit jury was the denial of FCA's motion to "realign" the parties, which is not at issue here. TT, 03/23/2015 (pm, 122:15-17, 123:07-16).

IV. THE COURT'S JURY INSTRUCTIONS WERE NOT AT FAULT.

FCA blames the Court's jury instructions, asserting that the jury was "not given any meaningful guidance." FCA's Br. at 19. That argument fails for three reasons. *First*, FCA failed to timely object to the charges about which it now complains. *Second*, the charges about which FCA now complains were correct. *Third*, the Court gave FCA's requested supplemental charges.

First, FCA may not complain now about charges to which it did not object before the jury rendered its verdict. O.C.G.A. § 5-5-24(a) ("in all civil cases, no party may complain of the giving or the failure to give an instruction to the jury unless he objects thereto before the jury renders its verdict, stating distinctly the matter to which he objects and the grounds for his objection."). As to both charges about which FCA now complains—*i.e.*, the Court's charges on the "full value" of Remington Walden's life and the standard for measuring pain and suffering[9]—FCA failed to timely object. TT, 04/02/2015 (pm, 72:22-75:11; 77:11-15). Therefore, any objection to those charges is *waived*.[10]

Second, both of the complained-of charges were correct statements of the law. As to the full value of Remington's life, the Court charged that the jury's verdict should reflect "the value

---

[9] FCA's Br. at 22-23.

[10] *See Goody Products, Inc. v. Dev. Auth. of City of Manchester*, 320 Ga. App. 530, 535 (2013) (citing O.C.G.A. § 5-5-24(a); "Goody has waived appellate consideration of the relevant charge because Goody failed to object to same."); *Georgia Clinic, P.C. v. Stout*, 323 Ga. App. 487, 496 (2013), *reconsideration denied* (July 29, 2013) ("However, at the conclusion of the jury charges when called upon by the trial court for their exceptions, the defendants raised no objections to that charge. Because the record discloses no objection at trial on this ground and because the complained-of charge does not amount to a substantial error as a matter of law, defendants have waived any right to assert error in the trial court's charge."); *Singleton v. Terry*, 262 Ga. App. 151, 155 (2003); *Karoly v. Kawasaki Motors Corp., U.S.A.*, 259 Ga. App. 225, 226 (2003); *Smithson v. Parker*, 242 Ga. App. 133, 136 (2000).

of Remington Walden's life to himself." TT, 04/02/2015 (pm, 63:04). That is a correct statement of the law. *Brock v. Wedincamp*, 253 Ga. App. 275, 280 (2002) ("It is clear, also, that under Georgia's wrongful death statute, damages are measured from the decedent's point of view."); *accord Park v. Nichols*, 307 Ga. App. 841, 846 (2011) (approving similar charge). As to evaluating pain and suffering, the Court's charge that the compensatory amount rested in the "enlightened conscience" of the jury was also correct. TT, 04/02/2015 (pm, 64:04-06). That has been Georgia's standard for pain and suffering awards since 1877, and it remains the standard today. *Cent. R.R. & Banking Co. v. Kelly*, 58 Ga. 107, 111 (1877); *Georgia Clinic, P.C. v. Stout*, 323 Ga. App. 487, 496-97 (2013), *reconsideration denied* (July 29, 2013) ("'The measure of damages for pain and suffering is within the enlightened conscience of the jurors.'").[11]

Third, the Court gave two supplemental charges at FCA's request (one of which was quoted in full above). Those charges instructed the jury not to punish FCA, not to send a message, and to limit the verdict to the measures of damages that the Court had already described.

In sum, the jury was adequately and correctly instructed.

---

[11] *See also Cent. R.R. v. Senn*, 73 Ga. 705, 712-13 (1884); *W. & Atl. R.R. v. Abbott*, 74 Ga. 851, 856 (1885) ("[T]he enlightened conscience of an impartial juror was the only legal guide by which the measure of such damages could be ascertained."); *Parker v. Lanier*, 82 Ga. 216, 8 S.E. 57, 58 (1888) ("The law furnishes no measure of damages for pain and suffering but the enlightened conscience of impartial jurors."); *S. Bell Tel., Etc., Co. v. Jordan*, 87 Ga. 69, 13 S.E. 202, 203 (1891); *W. & A.R. Co. v. Burnham*, 123 Ga. 28, 50 S.E. 984, 986 (1905); *S. Ry. Co. v. Williams*, 146 Ga. 200, 91 S.E. 46, 48 (1916); *W. & A. R. R. v. Dobbs*, 36 Ga. App. 516, 137 S.E. 407, 408 (1927); *Rentz v. Collins*, 51 Ga. App. 782, 181 S.E. 678, 678-79 (1935); *Brock v. Cato*, 75 Ga. App. 79, 79 (1947); *Yellow Cab Co. v. McCullers*, 98 Ga. App. 601, 612 (1958); *Hogan v. Malcom*, 107 Ga. App. 241, 243 (1963); *Maloy v. Dixon*, 127 Ga. App. 151, 165 (1972); *Coker v. Casey*, 178 Ga. App. 682, 683 (1986); *Stubbs v. Harmon*, 226 Ga. App. 631, 633 (1997); *Lee v. Thomason*, 277 Ga. App. 573, 577 (2006).

V. EVIDENCE OF MARCHIONNE'S INCOME WAS PROPERLY ADMITTED.

Evidence of Marchionne's income was properly admitted for two reasons. *First*, Marchionne was a witness at trial, so evidence of his interest in the outcome of the trial was admissible. *Second*, as FCA's own witness *admitted without objection*, Marchionne's salary was relevant to the full value of Remington Walden's life.

First, because Marchionne testified, any interest he had in the outcome of the trial was admissible on the question of his credibility. *Presswood v. Welsh*, 271 Ga. App. 459, 460 (2005). Because Marchionne's income was based on bonuses, and because his continued employment by FCA as Chairman and CEO depends upon the company generating profits, he had a clear interest in preventing any large plaintiffs' verdict. *See* TT, 04/01/2015 (am, 22:12 – 24:25). Georgia law has long recognized that a witness's interest in the outcome of the case is admissible. *Presswood*, 271 Ga. App. at 460; *Georgia S. & F. Ry. Co. v. Stanley*, 1 Ga. App. 487, 57 S.E. 1042, 1043 (1907); O.C.G.A. § 24-6-622 ("The state of a witness's feelings towards the parties *and the witness's relationship to the parties* may *always* be proved for the consideration of the jury.") (emphasis added); Georgia Pattern Charge 02.130 (jury may consider witness's "interest or lack of interest in the outcome of the case"). Therefore, even if evidence of Marchionne's pay was relevant only to his credibility but *not* for some other purpose, the evidence was nonetheless admissible. *Presswood*, 271 Ga. App. at 460 ("[W]hen disputed evidence is admissible for any reason, a trial court does not abuse its discretion in denying a motion in limine and admitting it.").

Second, because of FCA's own admissions, Marchionne's salary was relevant to the full value of Remington Walden's life. Although FCA now complains that "the jury had no evidentiary basis for awarding wrongful death damages based on lost earnings" (FCA's Br. at 8),

FCA's own witness Mark Chernoby testified *without objection* that Remington could have grown up to become the CEO of an automaker like Sergio Marchionne. TT, 04/01/2015 (am, 12:11-13). When, after FCA had made one of its motions for mistrial, this Court noted that Chernoby *had so testified*, FCA did not deny it. TT, 04/01/2015 (pm, 116:21-25). Because it was undisputed that Remington could have become the CEO of an automaker, the salary of this automaker's CEO was admissible on the issue of the full value of Remington's life. *FCA admitted in closing argument* that the Marchionne compensation pertained to future earnings, telling the jury that "[w]e know a little about the income of Sergio." TT, 04/02/2015 (am, 66:__).[12] In sum, evidence of Marchionne's income constituted exactly the type of evidence that FCA now claims was lacking—evidence of Remington's potential earnings capacity—and the point was argued by both Plaintiffs and FCA. Its admission was not error.

FCA argues in passing that admitting Marchionne's income was error because "arguments concerning a defendant's wealth" are irrelevant. FCA's Br. at 13-14 (emphasis omitted). That argument is misplaced. Plaintiffs introduced evidence of *Marchionne's income*, but not evidence of a "*defendant's wealth*"— Marchionne was not a party, as this Court noted during the trial when FCA made this same argument. TT, 04/01/2015 (pm, 117:18-21). FCA concedes in its brief that the evidence concerned not FCA's assets but Marchionne's "personal income." FCA's Br. at 2.

VI. THE WRONGFUL DEATH VERDICT WAS NOT "ARBITRARY," "IRRATIONAL," OR "GROSSLY EXCESSIVE."

FCA's decisions about how to "defend" its indefensible gas tank location showed little

[12] Line numbers are not available on this part of the transcript.

respect for the jurors' intelligence. FCA shows no more respect now. Although FCA demeans the verdict by labeling it "arbitrary," "irrational," and "grossly excessive," Georgia law views jury verdicts differently. When it comes to measuring "the full value of the life," Georgia courts show deference and respect to jury verdicts.

"[J]ury verdicts, in general, are to be given great deference." *Williams*, 235 Ga. App. at 809. That is especially true in the context of wrongful death, and especially-especially true when the decedent was a child. *Id.* As the Court of Appeals has written, "[w]e recognize the difficulty faced by any jury in determining the value of human life. This difficulty is necessarily compounded when a jury must place a value on the life of a child . . . ." *Id.* Importantly, there are no "caps" that constrain a jury's valuation of human life, whether intangible or tangible. A jury must and should reach a verdict by relying on its "enlightened conscience . . . as applied to the evidence in the case." *Id.* at 808. Like that of any jury, this jury's verdict is entitled to deference and respect.

The jury considered all the correct factors. In a minor's wrongful death case, a jury should base its verdict upon "'testimony as to such child's age, life expectancy, precocity, health, mental and physical development, family circumstances, and from the experience and knowledge of human affairs on the part of the jury.'" *Id.* All of that evidence was admitted here. Remington Walden's age was discussed and was undisputed. His life expectancy was established by the annuity mortality tables. TT, 03/31/2015 (am, 03:__).[13] Remington's "precocity" was established by testimony about his performance and interest in school. TT, 03/30/2015 (pm, 80:08-14). Remington's health and development were addressed by multiple

[13] Line numbers are not available on this part of the transcript.

witnesses who described him as energetic, active, happy, and socially engaged. TT, 03/30/2015 (pm, 45:23-46:02, 59:03-08, 66:02-03). Remington's family circumstances were established by the testimony of his mother, father, and aunt. TT, 03/30/2015 (pm, 77:08-13, 63:03-07, 39:21-23). That evidence, considered alongside the jury's "experience and knowledge of human affairs," provided the proper basis for the verdict. "[H]uman affairs" of the last few months have been revealing—a Picasso painting has sold for $179 million[14] and Floyd Mayweather has been paid $180 million for 45 minutes of boxing.[15] If after hearing about Remington Walden, this jury determined that the "full value" of his life was something less than those figures, that conclusion cannot reasonably be called "arbitrary," "irrational," or "grossly excessive."

In addition to the above-described evidence about the intangible value of Remington's life, Plaintiffs presented evidence and argument as to lost earnings. As mentioned above, FCA's own witness admitted upon cross examination, without objection, that Remington could have become the CEO of an automaker. TT, 04/01/2015 (am, 12:11-13). The income of FCA's CEO therefore constituted evidence of Remington's potential earnings. FCA's post-trial complaint that "the jury had no evidentiary basis for awarding wrongful death damages based on lost earnings" is simply not true. *See* FCA's Br. at 8. Not only was lost earnings evidence admitted, but FCA *expressly argued the point* in closing argument—FCA told the jury "we know a little bit about the income of Sergio" and then urged the jury to apply what it deemed "an average wage . . . in Decatur County" instead. TT, 04/02/2015 (am, 66:__).[16] Further, ***if FCA had wanted to introduce additional evidence as to average wages or lost earnings, it could have done so***—it is

[14] http://money.cnn.com/2015/05/11/luxury/picasso-auction-results/
[15] http://nypost.com/2015/03/24/mayweather-expected-to-make-180m-off-pacquiao-fight/
[16] Line numbers are not available on this part of the transcript.

common for defendants in wrongful death cases to hire testifying economists, but FCA chose not to present any such witness. In sum, FCA's complaint that there was no evidence as to lost earnings is meritless because (1) there *was* evidence of lost earnings, (2) FCA and Plaintiffs *both* argued to the jury about lost earnings, and (3) if FCA had wanted to introduce additional evidence about lost earnings, it could have done so.

FCA spends much of its brief reciting verdicts from other cases in an attempt to make this jury's verdict look like an aberration. That is a dubious tactic for legal and practical reasons. As to the legal reasons, "[the Court of Appeals] has recognized that comparison between cases should not be made because no two cases are precisely alike." *Reliance Ins. Co.*, 168 Ga. App. at 889-90; *accord St. Paul Fire & Marine*, 112 Ga. App. at 424. Phrased differently, "[a]mounts awarded in other cases are of slight use in determining excessiveness because 'to make any comparison of the verdict in this case with any other verdict that would be of any substantial evidentiary value, we would have to find a case practically similar in all essential details . . . .'" *Nat'l Trailer Convoy, Inc. v. Sutton*, 136 Ga. App. 760, 762 (1975). FCA effectively concedes that its method of comparing verdicts is of limited utility, admitting that the verdict cannot be "deemed excessive merely because it is larger than awards in comparable cases." FCA's Br. at 9. The usefulness of FCA's method is especially limited here because Remington Walden died as a child—meaning that, to a greater extent than most wrongful death victims, he had lots of time left to live and deference to the jury's verdict is especially important. *Williams*, 235 Ga. at 809.

FCA's comparative-verdict tactic is also dubious for two practical reasons. *First*, as noted above, this was a case in which FCA was *forced to trial*. The case is therefore different than the verdicts that FCA asks the Court to use as benchmarks, most of which were tried

because the defendant, for one reason or another, wanted to try the case. *Second*, in making its comparisons, FCA has put a thumb on the scales—FCA has included only *affirmed* verdicts in its comparisons. *Because most large verdicts settle* before the appellate courts rule, FCA's comparative tactic artificially removes comparable verdicts. Cases involving large verdicts often settle for purely economic reasons, or because the defendant does not want a new trial at all, or because defendant fears an adverse ruling on appeal and the consequent reinforced bad "PR." Plaintiffs do not know what database FCA used to come up with its numbers, but just the experiences of Plaintiffs' lead counsel include cases that were settled after large verdicts, without remittitur, and before any appellate court ruling.

Finally, FCA writes that "[c]ompensatory damages 'are intended to redress the concrete loss that the plaintiff has suffered.'" FCA's Br. at 17-18. In the context *of a wrongful death claim*, that is literally not true. *First*, in Georgia, a wrongful death claim has a punitive component because "**it permits recovery of more than the actual loss to the survivor**." *Stubblefield*, 171 Ga. App. at 340 (emphasis added). *Second*, "the concrete loss that the plaintiff has suffered" is clearly irrelevant as a matter of law in this wrongful death context. FCA's Br. at 17-18. "The plaintiff[s]" in this case were Remington's parents. As a matter of law they were not entitled to recover their own "loss" occasioned by Remington's death.[17] FCA's attempt to

[17] It has been long been the law of Georgia that the measure of damages in a wrongful death case is the loss to the decedent, as though he or she had lived. *See, e.g., Engle*, 165 Ga. 131, 139 S.E. at 869 ("This is a legislative imposition of a penalty upon the person who causes the death of another by negligence, the penalty to go to the person injured. It is penal, in that the measure of the recovery is the full value of the life of the deceased, irrespective of its real value to the person in whom the cause of action is vested."); *Atl., V. & W. R. Co.*, 125 Ga. 468, 54 S.E. at 141 ("[Wrongful death statute] is penal in that the measure of the recovery is the full value of the life of the deceased, irrespective of its real value to the person in whom the cause of action is vested."); C. Frederick Overby & James E. Butler, Jr., *What's a Human Life Really Worth?* 7 GA. ST. U. L. REV. 439, 439-40 (1991) ("Like Georgia's original wrongful death statute, the

conflate and confuse two separate things—the measure for "compensatory" damages generally and the measure of damages in wrongful death cases—is contrary to Georgia law. Even if the *effect* of the verdict is to punish FCA and not merely to "compensate" Remington's parents, that is consistent with Georgia's wrongful death law. It is not grounds for a new trial.

VII. THE PAIN AND SUFFERING VERDICT WAS NOT "ARBITRARY," "IRRATIONAL," OR "GROSSLY EXCESSIVE."

The jury's pain and suffering verdict should reflect the amount necessary to compensate Remington himself for the pain he experienced inside the burning Jeep. The dispositive question is: **how much money would you have to pay a reasonable person before he would consent to being burned alive over every inch of his body for up to one minute?** Georgia law requires that this question be answered by the "'enlightened conscience of fair and impartial jurors.'" *Phillips v. Singleton*, 245 Ga. App. 788, 789 (2000). It was. In this context, the jury's answer of $30 million is reasonable. It is certainly more reasonable than the $50,000 that FCA proposed. TT, 04/02/2015 (am, 74:__).[18]

FCA described—and *continues* to describe—Remington's suffering as "mercifully short." TT, 03/24/2015 (pm, 17:3-8, 24:1-3) (FCA Opening Statement); TT, 04/02/2015 (am, 73:__) (FCA Closing Argument); FCA's Br. at 11 ("mercifully brief"). That is not a smart thing to say, then or now, because it is false. That argument by FCA was foolish – and was unlikely to diminish the jury's verdict. It does not entitle FCA to a new trial. As defined by Merriam-Webster, "merciful" means "treating people with kindness and forgiveness," "not cruel or

---

present statute treats the decedent as if she had survived the tortious injury and were bringing the case in her own name," *citing* F. ELDRIDGE, GEORGIA WRONGFUL DEATH ACTIONS §§ 1-10, 6-1 (1987) (former Superior Court and Georgia Court of Appeals Judge Frank Eldridge).

[18] Line numbers are not available on this part of the transcript.

harsh," "having or showing mercy," or "giving relief from suffering."[19] When a person is conscious burning alive, there is nothing "merciful" about one minute.

In the context of the pain and suffering verdict, FCA's case-comparison tactic suffers from the same legal and practical limitations as it does in the wrongful death context (discussed above). There is an additional problem—as best Plaintiffs can tell, the cases FCA describes *do not involve burning alive while trapped in a car and fully conscious*. As the GBI Medical Examiner Dr. Gaffney-Kraft testified without refutation by FCA, Remington was conscious as he burned. TT, 03/26/2015 (am, 76:22-77:12; 126:18-127:2) The undisputed evidence at trial confirmed what common sense tells us—there is no worse way to die. TT, 03/26/2015 (am, 78:13-23).

It must be noted that FCA had a witness to call who could have addressed the arguments it now makes about compensatory damages for pain and suffering: the supposed "expert" Thomas Bennett. FCA told the jury in opening statement that Bennett would testify that "Remi passed away before the flames reached him"—meaning Remi had *no* pain and suffering. TT, 03/24/2015 (pm, 17:13-14). But FCA elected not to call Bennett to the stand. FCA should not be heard to now contest a verdict—for pain and suffering—*which it elected not to contest at trial*.

FCA's attacks on the jury's pain and suffering verdict lack merit.

VIII. FCA'S REMAINING ARGUMENTS LACK MERIT.

The jury's verdict was not unconstitutional. In making this argument, FCA demeans Bryan Walden and Lindsay Strickland, insults Remington Walden, criticizes the Court, and

[19] http://www.merriam-webster.com/dictionary/merciful

misconstrues the evidence. Specifically, FCA asserts that the verdict was "astronomically beyond any amount necessary to fully compensate Plaintiffs" for the death of their only son, that the income of a CEO has "no conceivable relevance" to the life of Remington Walden, that "the jury was given little guidance" by the Court, and that the verdict was "not supported by the evidence." FCA's Br. at 18-19, 22, 23. Missing in FCA's assignments of blame is any meritorious substantive argument. This jury was not asked to "punish" FCA; as noted above, the jury was expressly instructed by this Court *not* to do that – just as FCA requested. It was undisputed that Remington could have become a CEO. TT, 04/01/2015 (am, 12:11-13). A verdict is not unconstitutional merely because it is large. *Time Warner Entm't Co. v. Six Flags Over Georgia*, 254 Ga. App. 598, 604 (2002). The Court's instructions were correct, as noted above, and jury instructions provide a recognized constitutional "check" on verdicts, as FCA concedes. *Honda Motor Co. v. Oberg*, 512 U.S. 415, 433 (1994); FCA's Br. at 22 (concession). The verdict *was* "supported" by the voluminous evidence that FCA wantonly and recklessly put it customers at risk and then deliberately elected not to warn of a known danger.

Despite FCA's assertions to the contrary, Plaintiffs could permissibly ask FCA witness Mark Chernoby on cross examination how many failures it would take before he would admit that a vehicle was defective. FCA itself brought Chernoby to trial; he was the only FCA witness defendant brought to trial. FCA brought him to trial to tell the jury that the subject Grand Cherokee was not defective (i.e. it "d[id] not present an unreasonable risk to safety") and that FCA's duty "is to warn the customer *if* there's a defect to the vehicle"—which he, of course, denied. TT, 03/31/2015 (pm, 115:24-25; 138:14-15) (emphasis added). Since Chernoby testified that a "duty to warn" arose only when there was a "defect," the jury had a right to know at what point Chernoby would admit that a "defect" existed. That question related to Chernoby's

credibility—if Chernoby would not even concede that a design had to be considered defective after a certain number of failures, the jury could reasonably refuse to credit Chernoby's testimony that the Grand Cherokee was non-defective. On cross-examination, Chernoby *refused to admit* that after a large number of product failures, a warning is necessary. His refusal to admit that obvious truth revealed that no matter how regularly a vehicle failed, Chernoby would *never* admit that a warning was necessary. *See generally* TT, 03/31/2015 (pm, 139:14-142:06) (this line of questioning). Chernoby's refusal to admit that regular failures necessitate a warning undermined his own credibility. This Court observed witness Chernoby and his evasions; the cross examination was entirely appropriate. Undermining credibility is a permissible and customary goal of cross-examination. Georgia law recognizes that "'[g]enerally, a party may show anything which in the slightest degree affects the credit of an opposing witness.'" *Hand v. South Georgia Urology Center, P.C.*, 769 S.E.2d 814, 818 n.7 (2015) (quoting *Smith v. State*, 190 Ga. App. 6, 7 (1989)). FCA has no grounds to challenge this credibility-based questioning. That it was damaging to FCA is no grounds for post-trial complaint by FCA.

IX. FCA'S MISCONDUCT CONTINUES.

After the trial, Plaintiffs learned that FCA had willfully concealed further evidence of its misconduct. There were dozens of material emails that FCA wrongfully withheld from discovery. The withheld emails reveal, for example, that in June of 2013, FCA was urging NHTSA to announce that there was "no determination of defect"—**but NHTSA refused to say it**. 06/18/13 Strickland email (Ex. 1). That is precisely the opposite of what FCA and its lawyers tried to lead the Court and jury to believe: FCA argued at trial that the closing of the investigation by NHTSA meant the Jeeps were not defective.

Other wrongfully withheld emails reveal that after the secret Chicago meeting on June

10, 2013, it was *Marchionne himself* who initiated two follow-up calls with NHTSA Administrator David Strickland and one with Secretary of Transportation Ray LaHood. 06/13/13 Trapasso email; 06/14/13 Trapasso email; 06/17/13 Trapasso email. Another email shows that Strickland informed FCA that this recall was his "first priority." 06/17/13 Strickland email. Still another reveals that in addition to the secret meetings in Chicago and Washington DC, FCA had Administrator Strickland visit *FCA's factory* for a *third* secret meeting about the recall. 09/24/13 Pisanelli email (referring to JNAP, or "Jefferson North Assembly Plant").[20]

Hiding discoverable, admissible, damaging evidence should earn FCA a default judgment. That misconduct certainly destroys the credibility of any argument FCA might make to any court.

Incredibly, FCA's reckless and wanton misconduct continues. FCA remains unrepentant in the real world as well as in this litigation. FCA has been unforgivably slow in putting its so-called "recall" into effect, such that many customers are taking their rear-tank Jeeps to dealers seeking the trailer hitch assemblies[21] that FCA has promised—only to be turned away because FCA *still* has not produced enough parts.[22] Even those few who are able to obtain the promised trailer hitch assemblies are in danger—because if a customer actually inserts a hitch and ball into the towing receiver, the ball mount "**increase[s]** the chances of ripping open the gas tanks in

---

[20] All of the emails referenced in this paragraph are collectively attached as Ex. 2.

[21] Contrary to what FCA has said, and some press has reported, FCA is not installing "trailer hitches" on rear gas tank Jeeps. A "trailer hitch" denotes use to pull things. Instead FCA is installing only "trailer hitch assemblies." FCA and NHTSA has warned consumers they may not use insert a bar-and-ball into the "trailer hitch assemblies" and use them to actually tow things. The "trailer hitch assembly" looks just like the "structural cage" Chrysler put around the rear gas tank in that 1999 Grand Cherokee in that November 18, 1999 crash test, which was much in evidence at trial as Plaintiffs' Exhibit 15a.

[22] http://www.cbsnews.com/news/fiat-chrysler-answers-criticism-surrounding-handling-of-recalls/

rear-end accidents." *Id.* Meanwhile, the death toll continues to rise. NHTSA's Office of Defect Investigation has now discovered 90 wrecks, 75 deaths, and 58 injuries caused by FCA's rear-tank Jeeps.[23] FCA has still not admitted that the Jeeps are anything less than "absolutely safe."

It is outrageous.

X. CONCLUSION

If FCA wants an explanation of the jury's verdict, it should examine its own conduct and "defenses." Making things up, blaming others, demeaning witnesses, and dismissing the law are neither good policies nor good trial tactics. The driving force behind this verdict was not a "prejudice[d]" jury, an inadequate charge, or plaintiffs' lawyers. It was FCA and its indefensible product.

FCA now seeks a remittitur, although it declines to suggest any amount. The appropriateness of a remittitur lies in the discretion of this Court. O.C.G.A. § 51-12-12(b).

Plaintiffs defer to the Court, and do not oppose a reasonable remittitur.

This 8th day of June, 2015.

Respectfully submitted,

BUTLER WOOTEN CHEELEY & PEAK LLP

BY: _____

JAMES E. BUTLER, JR.
Georgia Bar No. 099625
DAVID T. ROHWEDDER
Georgia Bar No. 104056

2719 Buford Highway
Atlanta, Georgia 30324
(404) 321-1700

[23] http://www.ibtimes.com/nhtsa-chief-holding-hearing-long-delays-how-fiat-chrysler-automobiles-handles-its-1947335

BUTLER TOBIN LLC

BY: _____
JAMES E. BUTLER III
Georgia Bar No. 116955

1932 N. Druid Hills Rd. NE
Suite 250
Atlanta, Georgia 30319
(404) 587-8423

FLOYD & KENDRICK, LLC

BY: _____
GEORGE C. FLOYD
Georgia Bar No. 266350

P.O. Box 1026 (39818)
415 S. West Street
Bainbridge, Georgia 39819
(229) 246-5694

BY: _____
L. CATHARINE COX
Georgia Bar No. 192617

P.O. Box 98
Young Harris, Georgia 30582

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel of record with a copy of the foregoing pleading by email and by depositing it in the United States Mail with adequate postage affixed thereon and addressed as follows:

M. Diane Owens, Esq.
Terry O. Brantley, Esq.
Alicia A. Timm, Esq.
Anandhi S. Rajan, Esq.
Swift, Currie, McGhee & Hiers, LLP
1355 Peachtree Street NE, Suite 300
Atlanta, GA 30309

Karsten Bicknese, Esq.
Robert Betts, Esq.
Seacrest, Karesh, Tate & Bicknese, LLP
56 Perimeter Center East, Suite 450
Atlanta, GA 30346

Erika Z. Jones, Esq.
Mayer Brown LLP
1999 K Street, N.W.
Washington, DC 20006-1101

Sheila Jeffrey, Esq.
Miller, Canfield, Paddock and Stone, PLC
101 North Main, 7th Floor
Ann Arbor, MI 48104-1400

Brian S. Westenberg, Esq.
Miller, Canfield, Paddock and Stone, P.L.C.
840 W. Long Lake Road, Suite 200
Troy, MI 48098

Bruce W. Kirbo, Jr., Esq.
Bruce W. Kirbo, Jr. Attorney at Law, LLC
Post Office Box 425
Bainbridge, GA 39818

Brian W. Bell, Esq.
Anthony J. Monaco, Esq.
Andrew J. Albright, Esq.
Swanson, Martin & Bell, LLP
330 N. Wabash, Suite 3300
Chicago, IL 60611

This 8th day of June, 2015.

BUTLER WOOTEN CHEELEY & PEAK LLP

BY: James E. Butler Jr.
JAMES E. BUTLER, JR.
Georgia Bar No. 099625
DAVID T. ROHWEDDER
Georgia Bar No. 104056

Exhibit 1

From: Strickland, David (NHTSA)
Sent: Tuesday, June 18, 2013 6:13 PM
To: 'Jody Trapasso'
Cc: Aldana, Karen (NHTSA); Keck, Meghan (OST)
Subject: RE: Call with Sergio

Follow Up Flag: Follow up
Flag Status: Completed

Perfect. Jody, thank you for your patience, and again convey my appreciation to Sergio for finding a way forward.

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

-----Original Message-----
From: Jody Trapasso [jody.trapasso@chrysler.com]
Sent: Tuesday, June 18, 2013 06:10 PM Eastern Standard Time
To: Strickland, David (NHTSA)
Cc: Aldana, Karen (NHTSA); Keck, Meghan (OST)
Subject: RE: Call with Sergio

David,

Thanks for your quick reply. I appreciate the clarification and it tracks with our understanding.

All the best,

Jody

From: david.strickland@dot.gov [mailto:david.strickland@dot.gov]
Sent: Tuesday, June 18, 2013 5:57 PM
To: Jody Trapasso
Cc: Karen.Aldana@dot.gov; Meghan.Keck@dot.gov
Subject: RE: Call with Sergio

Sure Jody. But I have to be a legally correct here, in that the Agency has not made a "final" determination regarding a defect, and I told Sergio we would state that at the appropriate time, but I can't vitiate the fact that the agency made a preliminary finding, which Chrysler addressed voluntarily.

So we can't say that there is no determination of defect. We will say the agency has made no final determination of a defect finding, pending the 573 and 577.

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

-----Original Message-----
From: Jody Trapasso [jody.trapasso@chrysler.com]
Sent: Tuesday, June 18, 2013 05:51 PM Eastern Standard Time
To: Strickland, David (NHTSA)
Subject: RE: Call with Sergio

David,

As I understand it, NHTSA will soon receive Chrysler's 573 and 577 submissions. We look forward to seeing NHTSA's public statement regarding no determination of defect shortly thereafter.

Thanks, again, for all the personal time you invested in helping reach a resolution of this matter. Please let me know if you need any additional information.

All the best,

Jody

From: david.strickland@dot.gov [mailto:david.strickland@dot.gov]
Sent: Tuesday, June 18, 2013 8:51 AM
To: Jody Trapasso
Subject: RE: Call with Sergio

Yes. 9:30 is fine, I will call him then.

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

-----Original Message-----
From: Jody Trapasso [jody.trapasso@chrysler.com]
Sent: Tuesday, June 18, 2013 08:49 AM Eastern Standard Time
To: Strickland, David (NHTSA)
Subject: RE: Call with Sergio

OK, just to make sure I'm clear, you prefer keeping it at 9:30?

Exhibit 2

From: david.strickland@dot.gov<mailto:david.strickland@dot.gov> [mailto:david.strickland@dot.gov]
Sent: Thursday, June 13, 2013 3:19 PM
To: Jody Trapasso
Subject: RE: Call with Sergio

Hey Jody. Trying to make it out of NYC, can shoot you a note when I am in a place where I can talk or can set a time later this evening.

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

-----Original Message-----
From: Jody Trapasso [jody.trapasso@chrysler.com<mailto:jody.trapasso@chrysler.com>]
Sent: Thursday, June 13, 2013 02:00 PM Eastern Standard Time
To: Strickland, David (NHTSA)
Subject: Call with Sergio
David,

I hope all is well with you.

If possible, Sergio would like to speak with you by phone later today. Can you please advise if you are available for a call?

Thanks in advance for your consideration.

All the best,

Jody

Jody Trapasso
Senior Vice President, External Affairs
Chrysler Group LLC
1401 H St., NW, Suite 700
Washington, DC 20005
Tel: 202-414-6756
Cell: (b)(6)
email: jody.trapasso@chrysler.com<mailto:jody.trapasso@chrysler.com>

From: Jody Trapasso <jody.trapasso@chrysler.com>
Sent: Friday, June 14, 2013 1:21 PM
To: Brammer, Georgette (OST); Strickland, David (NHTSA)
Subject: RE: Changing development

Follow Up Flag: Follow up
Flag Status: Flagged

Georgette,

Thanks so much for your quick response.

Sergio is also available now, but soon about to get on a plane. If agreeable to you, I would suggest your office calling Sergio's cell phone to connect the call at Secretary LaHood's convenience -- (b)(6)

Thanks, again.

Jody

-----Original Message-----
From: georgette.brammer@dot.gov [mailto:georgette.brammer@dot.gov]
Sent: Friday, June 14, 2013 1:10 PM
To: Jody Trapasso; david.strickland@dot.gov
Subject: Re: Changing development

Hi Jody,

He is available now until about 6pm. Also Monday, 3:45-4:30 or 5:45-6:30pm.

Georgette Brammer
US Dept of Transportation
Director of Scheduling & Advance
(202)360-9670

----- Original Message -----
From: Jody Trapasso [mailto:jody.trapasso@chrysler.com]
Sent: Friday, June 14, 2013 01:06 PM
To: Brammer, Georgette (OST); Strickland, David (NHTSA)
Subject: RE: Changing development

Georgette,

I hope all is well with you.

Thanks again for helping arrange the recent meeting between Secretary LaHood and Chrysler CEO Sergio Marchionne. If possible, Sergio would like to do a follow-up call with Secretary LaHood. At your convenience, can you please advise if Secretary LaHood is available for a call?

Thanks in advance for your consideration.

All the best,

Jody

-----Original Message-----
From: georgette.brammer@dot.gov [mailto:georgette.brammer@dot.gov]
Sent: Friday, June 07, 2013 6:07 PM
To: Jody Trapasso; david.strickland@dot.gov
Subject: RE: Changing development

Sorry to push already. But any idea when we might hear back?

-----Original Message-----
From: Jody Trapasso [mailto:jody.trapasso@chrysler.com]
Sent: Friday, June 07, 2013 5:39 PM
To: Brammer, Georgette (OST); Strickland, David (NHTSA)
Subject: RE: Changing development

I'll check and get back to you. Thanks.

-----Original Message-----
From: georgette.brammer@dot.gov [mailto:georgette.brammer@dot.gov]
Sent: Friday, June 07, 2013 5:36 PM
To: Jody Trapasso; david.strickland@dot.gov
Subject: RE: Changing development

10am- 2pm

-----Original Message-----
From: Jody Trapasso [mailto:jody.trapasso@chrysler.com]
Sent: Friday, June 07, 2013 5:36 PM
To: Brammer, Georgette (OST); Strickland, David (NHTSA)
Subject: RE: Changing development

Georgette, I am happy to check. Are their specific times that work well for Secretary LaHood? Thanks.

-----Original Message-----
From: georgette.brammer@dot.gov [mailto:georgette.brammer@dot.gov]
Sent: Friday, June 07, 2013 5:32 PM
To: david.strickland@dot.gov; Jody Trapasso
Subject: RE: Changing development

Hi Jody,

Would Mr. Marchionne be available to meet any earlier on Monday in Chicago?

Georgette Brammer

From: Strickland, David (NHTSA)
Sent: Monday, June 17, 2013 10:13 PM
To: 'Jody Trapasso'
Subject: RE: Call with Sergio

Follow Up Flag: Follow up
Flag Status: Completed

I just landed in Chicago. Give me times tomorrow for a call. This is my first priority.

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

-----Original Message-----
From: Jody Trapasso [jody.trapasso@chrysler.com]
Sent: Monday, June 17, 2013 09:37 PM Eastern Standard Time
To: Strickland, David (NHTSA)
Subject: Re: Call with Sergio

David,

I hope all is well.

Before Chrysler submits a response tomorrow (Tuesday), Sergio would appreciate the opportunity to have another phone call with you. If you are open to a call, please feel free to call Sergio directly on his cell phone (b)(6) in the morning, or alternatively we can set a time for a call. Please let me know your preference.

Unfortunately, due to his travel schedule, Sergio is not available for a call tonight.

Thanks in advance for your consideration.

All the best,

Jody

----- Original Message -----
From: david.strickland@dot.gov [mailto:david.strickland@dot.gov]
Sent: Friday, June 14, 2013 05:19 PM
To: Jody Trapasso
Subject: Re: Call with Sergio

No problem.

From: Jody Trapasso <jody.trapasso@chrysler.com<mailto:jody.trapasso@chrysler.com>>
Date: Friday, June 14, 2013 1:02 PM

From: Kristina Pisanelli <Kristina.Pisanelli@chrysler.com>
Sent: Tuesday, September 24, 2013 6:14 PM
To: Lieu, Chan (NHTSA)
Subject: Re: Checking in re: Chrysler Mtg on Thursday

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Lobbyist

Hi Chan. Yes, we heard from Heather after I reached out to you. Both Jody and I will be at the mtg with David and at JNAP the next morning. Please don't hesitate to let us know if you guys need anything. My cell is (b)(6) Thanks for all your help.

----- Original Message -----
From: chan.lieu@dot.gov [mailto:chan.lieu@dot.gov]
Sent: Tuesday, September 24, 2013 04:43 PM
To: Kristina Pisanelli
Subject: Re: Checking in re: Chrysler Mtg on Thursday

David's traveling alone. I understand Heather Laca from NHTSA has already reached out to you re: logistics details.

Thanks for your help in pulling this together. Will you or Jody be joining this meeting?

From: Kristina Pisanelli <Kristina.Pisanelli@chrysler.com<mailto:Kristina.Pisanelli@chrysler.com>>
Date: Monday, September 23, 2013 10:20 AM
To: Chan Lieu <chan.lieu@dot.gov<mailto:chan.lieu@dot.gov>>
Subject: Checking in re: Chrysler Mtg on Thursday

Hi Chan –

Wanted to touch base re: logistics about the Administrator's visit to Chrysler from 3-5 pm this Thursday. Who would be the best person for us to connect with re: logistics (arrival at the building, where to park, etc.)? Also, who will be joining him for the meeting? I am heading out shortly and will be traveling so email or my cell will be best for the next few days – (b)(6)

Thanks!

Kristina

Kristina M. Pisanelli
Vice President, Federal and State Affairs Chrysler Group LLC
1401 H Street, NW, Suite 700
Washington, DC 20005
P: 202.414.6763
C: (b)(6)