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May 10, 2010

Hon. Ray LaHood  
Secretary of Transportation  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, D.C., 20590

David Strickland  
Administrator  
NHTSA  
1200 New Jersey Avenue, SE  
Washington D.C., 20590

Re: *Request for Timeliness Query of Toyota Safety Recall 05V389*

Dear Hon. LaHood and Administrator Strickland:

We are writing to request that you open a timeliness query into Toyota Recall 05V389 for defective steering relay rods in Toyota pickups and 4Runners. Our request is based on evidence obtained during litigation that Toyota failed to meet both its Part 573 regulatory obligation to notify the agency of a motor vehicle defect within five days of determining a defect or noncompliance, as well as its Part 579 obligations to inform the National Highway Traffic Safety Administration ("NHTSA") why Toyota issued a recall in Japan but not in the United States.

**Japan Only Recall for Steering Rods in Pickups and 4Runners**

In August 2004, a 4Runner's steering rod snapped in Japan causing the driver to lose control, cross a median and strike another vehicle, injuring five people. Like the Saylor accident in San Diego, the Kumamoto crash was highly publicized. Soon after on October 26, 2004, Toyota recalled in Japan, but not in the United States, Toyota pickups and 4Runners for defective steering relay rods that were prone to snap and cause a loss of steering.<sup>i</sup> At that time, Toyota informed the agency that it would not be recalling the substantially similar Toyota 4Runner and pickups because:

"TMC has received field information from the Japanese market, **but no similar information from the U.S. market has been received...**"<sup>ii</sup>

Materials obtained during our investigation and produced by Toyota in litigation, however, show that the company had been receiving complaints from U.S. customers about **fatigued** relay rods breaking during driving maneuvers since at least 2000.<sup>iii</sup> By the time Toyota initiated the October 2004 relay rod recall in Japan, Toyota had received

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approximately 44 reports that U.S. customers' steering relay rods failed in their pickups (regular and T-100) and 4Runners. As early as 2001, Toyota received notice that Paul Elliot was hospitalized after a rollover when the relay rod broke in his Toyota truck. (See Exhibit C, page TOY003486-9.)

Some customers, such as Yigal Schacht of Queens, New York, wrote directly to Toyota's legal department warning them of this hazardous defect. In his March 2002 letter, Schacht described the failure that occurred on his 1997 T100 and implored Toyota to take action:

"I bring this evidence to your attention because of the obvious safety hazard. Had this fracture in the center link occurred even 10 minutes later, I would have been traveling on the Long Island Expressway, and without steering, surely a horrific tragedy would have ensued. Accordingly, I am sure you will want to conduct an appropriate investigation." (See Exhibit C2)

Likewise, warranty records indicate that Toyota had ample warning that relay rods were failing in substantially similar U.S. models well before it recalled the component on its models in Japan.<sup>iv</sup>

#### **Toyota Issued the Recall Nearly a Year Later in the US in September 2005**

On September 6, 2005, Toyota filed a Part 573 Defect Notice to recall the steering relay rods on nearly one million Toyota 4Runners (1990-1995), Toyota Trucks (1989-1995) and Toyota T100s (1993-1998).<sup>v</sup> Toyota claimed it only determined that a defect existed in 4Runner, Truck and T100 vehicles in the United States at that time.

We are encouraged by NHTSA's recent actions to initiate timeliness queries into Toyota recalls for floor mats and sticky gas pedals. It is imperative that the agency do likewise for Recall 05V389. The parallels between the Japanese relay rod campaign and the November floor mat campaign in the U.S. are striking. In both cases, the automaker issued recalls in response to high-profile crashes. In both cases, the automaker publicly pledged to improve its response to customers.

While Toyota's newfound commitment is laudable, it does not excuse the manufacturer from its legal obligation to report defects to NHTSA in a timely fashion.

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The company's internal records show that it was aware of many relay rod failures occurring in the U.S. **before** it recalled the same component in only Japan. U.S. consumers had to wait another year before Toyota took action. The agency should investigate the wide chronological gaps and apparent falsehoods Toyota has provided about the relay rod defect.

Should you have any questions, please feel free to contact our office at your convenience.

Very truly yours,



John P. Kristensen

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<sup>i</sup> Exhibit "A" - The Toyota pickup and Toyota 4Runners were marketed as Toyota Hilux and Hilux Surf in Japan. See Relay Rod Foreign Safety Recall/Other Safety Campaign Report; Christopher Tinto; Toyota Motor Corporation; October 26, 2004

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<sup>iii</sup> Exhibits "B" and "C" - Respectively customer complaints to Toyota from the United States and 4 specific claims made on or about November 26, 2001 (Elliot-C1), March 28, 2002 (Schact-C2), January 8, 2004 (Biddinger-C3) and June 13, 2004 (Chapman-C4)

<sup>iv</sup> Exhibit "D" - warranty records identify steering relay rods being replaced in the United States since at least 1998.

<sup>v</sup> Exhibit "E" - Recall 05V389; 1989 - 1995 MY Toyota 4Runner, Toyota Truck, and 1993 - 1998 MY Toyota T100 Steering Relay Rod; Part 573, Defect Information Report; Christopher Tinto; Toyota Motor Corporation; September 6, 2005