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PERSPECTIVE

## The shocking truth about automobile rentals and recalls

By Jonathan Michaels

On July 9, 2010, an Alameda County jury returned a verdict of \$15 million against Enterprise Rent-A-Car for the tragic death of Raechel and Jacqueline Houck, two sisters in their early 20s who had rented a defective car from the company. The Chrysler PT Cruiser they were driving experienced a power steering fluid leak, which caught fire and caused them to lose control, hitting a semi-truck head on.

The untimely death of the girls was sorrowful, as is the case with any life interrupted, but the true tragedy of the event stems from the fact that Enterprise had received a recall notice from Chrysler about the very defect that caused their death, and knowingly rented the vehicle anyway. As the Enterprise Northern California manager testified, the company's policy was "you've got to keep booking," even if that meant putting consumers in unsafe, recalled cars. As he stated, "It was a given. The whole company did it."

The passing of Raechel and Jacqueline Houck, while undeniably tragic, served to expose an issue that had been lurking in the shadows of commerce for years: Rental car companies are under no obligation to fix a car that has been recalled before renting or selling it, and they are under no obligation to notify consumers that the car they are renting has been recalled.

In the public outrage that followed the Enterprise wrongful death trial, the National Highway Traffic and Safety Administration (NHTSA) launched an investigation into how rental car companies were handling recall notices. In 2011, the U.S. Government Accountability Office released a report which detailed the manner in which recalls were addressed.

The report found that rental car companies had generally developed a two-tier system for recalls: Recalls that were determined to be serious safety issues were sidelined from operation, and all other recalled vehicles were kept in service, with the



AP Photo  
Cally Houck with a photo of her two daughters, Feb. 24, 2012, in Ojai.

recall being addressed at the convenience of the company, if at all. However, there was no standard calculus used to determine what constituted a safety defect serious enough to take car out of operation — and out of the company's profits.

Cally Houck, the mother of Raechel and Jacqueline Houck, sought to change all this by pushing for legislative change that would standardize the industry; in July 2012, the Raechel and Jacqueline Houck Safe Rental Car Act of 2012 (H.R. 6094) was introduced to Congress. The premise of the bill was simple: Rental car companies would be required to conduct recall repairs before they could rent or sell a car, and if the car was already in the hands of a consumer when the recall notice was received, they would be required to notify the user.

Yet, the rental car industry is big business, and profitable companies like to keep their profits. Hertz alone had \$10.8 billion in revenue in 2013, with \$663 million in profit. So, the consortium of companies (Hertz, Enterprise, Avis, National, Advantage, Alamo and Budget) defeated the legislation, and put in its place a "pledge" among themselves to not rent vehicles that have been recalled for a "safety" defect.

In truth, the only evolution in the rental car companies' approach is that it now has a label attached to it, worthy of a PR campaign. The companies are still self-prescribing what is needed to take the vehicles out of operation, with no regulatory oversight.

Given what has occurred this year with manufacturer recalls, the issue has never been larger. As of August 2014, manufacturers had recalled 44 million U.S. vehicles — far more than any other full year in history, and with numbers con-

tinuing to rise. With many of these vehicles being owned by rental car companies, the problem is far from solving itself. Hertz, for instance, owns 490,000 vehicles in the U.S., most of which are General Motors products. If Hertz were to sideline all of its recalled vehicles, it may just go dark.

And there is little reason for optimism. GM continues to issue recalls at an astonishing clip, and it has little ability to fix the vehicles it calls defective. GM has recalled 30 million U.S. vehicles this year (by way of comparison, it sells about 2.7 million vehicles in the U.S. annually), and the company does not have nearly enough parts to service the recalls. The process for addressing the issue is arduous and lengthy. It must ramp up the supply chain, source and manufacturer the parts, ship the parts, train the dealer personnel on how to install them, and then repeat this process for each of the 66 recalls it has issued.

To show just how cumbersome it is, of the 2.6 million vehicles impacted by the February 2014 ignition switch recall, only 7 percent have been repaired to date. Add another 28 million recalled vehicles to the mix, and continue to issue further recall campaigns, and it is uncertain if all of the cars will ever be fixed.

To complicate matters, as an accommodation to consumers with recalled vehicles, GM has offered to provide consumers with loaner vehicles while they wait for their vehicle to be fixed. This exposes a whole other issue about who pays for the insurance, maintenance and repair on the vehicle while being used for months on end, but the more immediate issue is that the "loaner" vehicles are actually rental cars themselves. GM is pulling its loaner vehicles from Avis, Hertz and Enterprise — calling into question whether the consumers are really any better off.

The financial impact on rental car companies of legislation to fix the problem would undoubtedly be great. Avis is estimating that its loss this year from voluntarily pulling cars to be "an eight figure number." And it is probably right. But the rental car companies were free to negotiate financial claw-backs in their large purchases of inventory from manufacturers in the event of recalls. Consumers, on the other hand, don't have a chance at fairness, when they are put into a defective vehicle with no advance warning, all in the name of profit. This is simply a cost that our society cannot bear.



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