

February 23, 2010 Committee on Oversight and Investigations

Testimony by Rhonda and Eddie Smith

We would like to begin by thanking each of the Honorable Members of this committee for inviting us to testify today regarding the much publicized "sudden unintended acceleration"(SUA) that has been, and is currently being experienced by Toyota drivers not only in the United States, but all over the world. SUA has been the cause of numerous deaths and will continue to be, unless addressed by this committee, Toyota and NHTSA. We truly appreciate this opportunity to share our story now, since we have attempted numerous times to bring this deadly problem to Toyota and NHTSA's attention since October, 2006.

My name is Eddie G. Smith and I reside in Sevierville, TN. I am a senior vice president with Citizens National Bank in Sevierville, TN. This is my wife of 38 years, Rhonda Smith. She is a retired social worker with the State of Tennessee. We have 2 children and 2 grandchildren.

We would like to share our experience with you concerning a SUA incident experienced by my wife on October 12, 2006 in our new Lexus 350 ES. This car had 2728 miles on it when this occurred. The vehicle has a keyless, push button ignition and requires a key fob to be present inside the car in order for it to start. My wife was driving the car and called me on my cell phone at work during most this horrifying experience. Rhonda wrote down this experience October 13, 2006, as we knew this was a potential deadly malfunction that could possibly affect many other Toyota drivers. She is going to read her experience to you, as written by her that day.

" I am writing these words to try and convey some of my feelings of a near death experience, which occurred on October 12, 2006 between approximately 10:50 and 11:00 a.m.

On this Thursday, I had planned on visiting my 85 year old father in Knoxville. I was driving my 2007 Lexus 350 ES from my home in Sevierville down Hwy 66 to I-40 East. Upon entering I-40 I accelerated with everyone else, into the flow of traffic. At this point, I merged over into the second lane, NOT going into passing gear.

It is at this time I lost all control of the acceleration of the vehicle. The car goes into passing gear and the cruise light comes on. At this time, I am thinking that maybe the cruise is what has caused the car to accelerate, as my foot is NOT on the gas pedal. I take off the cruise control. The car continues to accelerate. The car is now up to 80 mph. The brakes do not slow the car at all. Now I am at 85-90 mph. I push the car into NEUTAL and it makes a revving noise. I push the emergency brake on... nothing helps. I continue hitting and slamming the brakes. Now I am at 85-90 mph. I look at the traffic ahead to see if I can maneuver in and out of the upcoming cars and trucks, or if I am going to need to put the car into the guardrail and into the trees.

The last time I looked at the speedometer it read 100 mph. At this time, I had the emergency brake on while frantically shifting between ALL the gears (besides park) but mainly had it in REVERSE and with the emergency brake on. I finally figured the car was going to go to its maximum speed and was praying to God to please help me. After about 3 miles had passed, I thought it was my time to die, and I called my husband (on bluetooth). I knew he couldn't help me in this particular situation, but I just needed to hear his voice. What an awful 911 call he received at work.

At almost exactly 6 miles God intervened. I had not tried anything different that I had frantically tried before to slow the vehicle, yet the car began to slow down ever so slowly. It slowed enough for me to pull to the left median, with the motor still revving up and down. At 35 mph it would not shut off. Finally, at 33 mph I was able to turn the engine off. However, the radio remained on and I was not about to touch ANY button on that car, or ever again."

Rhonda C. Smith

Eddie arrived approximately 5-10 minutes later at my location, still on the phone with me. After trying to calm me down he inspected the vehicle to make sure it was turned off and secure. At this time he made a visual inspection for anything out of the ordinary that might have caused this. There was nothing unusual concerning the accelerator or anything that might have jammed it open. The car radio and inside lights were still on, even though I had exited way away from the car and had turned it off. He immediately called a wrecker, as I knew I was never going to drive that car again. After the wrecker arrived, the wrecker driver was given the key fob and asked to tow it back to Sevierville. When he hooked to the car and prepared to winch it onto the rollback, he asked my husband to put the car in neutral so he could start his winch. The driver was standing 20-25 feet away at the rollback controls. Without thinking, my husband sat down in the car with no fob on him and was able to pull the car from park to neutral. This should not have happened. As the car went into neutral, the car actually tried to start by itself with the engine turning over several times. This shocked my husband and he immediately exited the vehicle. At that time the wrecker driver walked back and they were dumbfounded as to how the vehicle could try to start with no key fob inside the vehicle. We have a notarized statement from Tommy Clayton, the driver with Baker's Wrecker Service, stating this fact to be true. The vehicle was then towed back to Sevierville and then to the dealership in Kingsport, TN. The dealership was told this story and they advised they would thoroughly check it out. After several weeks we were advised they could find nothing wrong with the car. We refused to accept this answer and attempted to contact Toyota by phone to let them know that we felt they had an electronics issue that could lead to serious injury and death. Toyota advised they would check on our situation and contact us. After a week to 10 days we had not received a call back. We called again and got the same story of "we will check on it and contact you as soon as possible". This happened the same way several times over the next few weeks and we finally forced a written reply from them that stated, and I quote, "when properly maintained, the brakes will always override the accelerator". Once again we contacted our dealer and expressed our disgust with Toyota's handling of this and they advised us to contact NCDS (National Center for dispute Settlement) and ask for an arbitration hearing. We were eventually set up by NCDS to have a hearing in Gatlinburg, TN, on March 1, 2007. The representative for Lexus was Mr. Leonard St. Amand, their TN District Field Technician. Mr. St. Amand, although in Kingsport at the time (a 1 hour drive), did not bother to show up but chose to attend via speaker phone. This turned out to be a farce with Mr. St. Amand stating he could not re-create the incident and that we had more than likely caused this problem by standing on the brakes while spinning the tires. Of course we were insulted and furious over being called liars. Needless to say, NCDS denied our claim for a total refund of our money for this "possessed" car, and for the record we did not owe any money on this vehicle.

During this time we had contacted NHTSA and after some prodding, we were contacted by Mr. Steve Chan and Mr. D. Scott Yon, Safety Defects Engineers. This was about the middle of March, 2007.

Mr. Yon took over our claim and seemed to be very receptive of our concerns for this SUA (Sudden Unintended Acceleration) causing serious injury and possibly death. We furnished pictures of the car and documentation of what had transpired since October, 2006. On April 11, 2007, Mr. Yon flew to Knoxville, TN, and drove to Sevierville to inspect our vehicle. The vehicle had been towed to a local Sevierville car dealer's lot and secured for Mr. Yon's inspection. He seemed to arrive with the pre-conceived idea to sell to us, that it was a floor mat problem. We continually insisted that it was not the mats, but instead somewhere in the electronics. Mr. Yon, along with my husband, took the vehicle on a short test drive. Mr. Yon performed several tests at a speed of 50 mph or less. These tests included placing the car in neutral while accelerating, and trying to stop the vehicle with the accelerator engaged and the foot brake fully applied. The transmission did disengage when put in neutral, but the car would not come to a complete stop with the foot brake engaged. Upon returning to the car lot, Mr. Yon and my husband placed the vehicle on a hydraulic lift and removed the wheels and tires. All of the brake pads were totally burnt up and the rotors and drums were ruined. Eventually this was something we had to pay to repair ourselves.

After insisting it was "probably" floor mats, Mr. Yon issued his final report and put the blame on the floor mats. These floor mats were a heavy gauge rubber mat placed on top of the summer mats by the dealer. It would have taken a magic trick for this mat to turn up enough or slide forward enough to cause this SUA. The report was issued on May 2, 2007. In it Mr. Yon claimed to have performed a test with the floor mat in our presence that would show cause for the floor mat to be blamed. This was never demonstrated to us or shown to us that it could ever happen accidentally. Once again we advised NHTSA and Mr. Yon that this SUA problem was going to eventually cause the loss of life and serious injury.

At this point we contacted numerous news agencies across the United States, only to have one local station take an interest in our claim of Toyota and NHTSA ignoring this potential deadly problem.

Don Dare with WATE-TV, Channel 6 News, Knoxville, TN called and did a full broadcast interview with us, showing where Toyota and NHTSA claimed that SUA was caused by floor mats. He also showed that we believed it to be somewhere in the electronics and not the floor mats. This was aired in the spring of 2007. WATE-TV did another broadcast interview in February, 2010 showing the first interview along with the current interview and showcasing the highway patrolman and his family's horrible 911call shortly before their deaths. The 2010 interview seemed to confirm our 2007 assertion that it was not floor mats, but in the electronics. We did forward this 2010 video to Toyota and NHTSA and received no response.

This was all done by the news station and us to hopefully warn the American public that there was a tremendous and possibly deadly issue with Toyota vehicles, and that Toyota and NHTSA were aware of SUA at least since 2006 but chose to blatantly ignore it.

Eventually in early 2008, due to the traumatizing effect this had taken on Eddie and me, we decided to give up our mission to get Toyota and NHTSA to address this electronics problem in the hopes that they had somehow corrected it. Unfortunately, it took almost 4 years, a mass of injuries and numerous lives being lost for Toyota and NHTSA to confess their sins in this joint dismissal, or cover up, whichever the case may be.

In summary, we would like to inform this committee and the American public that we feel we put forth our best effort in 2006 and 2007 to inform Toyota Motor Company and NHTSA of the potential for SUA to become a deadly issue.

Our hopes were that our efforts might help spare the unnecessary injury and loss of innocent lives. However, we failed miserably, all due to Toyota and NHTSA's uncaring attitude and total disregard for human life.

One would think that Toyota, along with NHTSA's help, would have stepped up and used some of their massive profits to address this now major, deadly problem.

It is our hope that this testimony will in some way help the families of those killed and those that sustained serious injuries from SUA. We also hope they will somehow benefit from the knowledge that we provided critical information to Toyota and NHTSA showing that the problem was not floor mats but in the electronics of their vehicles at least 3 ½ years ago.

Once again, we would like to thank this committee for taking the time to hear our story and hope that somehow Toyota and NHTSA will be held accountable for choosing the path of not preventing the unnecessary loss of life. We would also like to ask this committee to set a higher standard for NHTSA to be held accountable for in the future.

Thank you,

Rhonda and Eddie Smith

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