Products Liability Law Daily Wrap Up, NHTSA NEWS—ODI INVESTIGATIONS—ODI engineering analysis will evaluate scope and efficacy of recalls and remedies concerning Hyundai and Kia engine fires, (Jan. 12, 2022)

Products Liability Law Daily Wrap Up

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The long-term viability of programs and non-safety field actions conducted by the automakers relating to engine failures will be included in the investigation.

The National Highway Traffic Safety Administration's (NHTSA) Office of Defects Investigation (ODI) has opened an Engineering Analysis (EA) in a continuing examination of engine fires caused by engine failures in certain model year (MY) 2011-2016 Hyundai and Kia vehicle models. ODI estimates that 3,000,000 vehicles are affected (*NHTSA ODI Investigation*, No. EA21-003, December 22, 2021).

Initial recall queries. In 2017, ODI opened two Recall Queries (RQ17-003 and RQ17-004) following multiple recall actions initiated by Hyundai and Kia for "Theta II" engine-equipped vehicles. The RQs were opened to investigate both the timeliness and scope of the recalls, as well as the compliance of each company to meet its reporting requirements established under the National Traffic and Motor Vehicle Safety Act. Numerous violations of the requirements were found for both companies, and on November 20, 2020, both companies entered into consent orders with NHTSA to resolve NHTSA's assertions of violations of law [see *Products Liability Law Daily*'s November 30, 2020 analysis]. Both consent orders remain in effect.

CAS petition. In 2018, the Center for Automotive Safety (CAS) petitioned NHTSA under Defect Petition (DP) 18-003 to investigate non-crash fires in various Hyundai and Kia models, citing 120 Vehicle Owner Questionnaires (VOQs) alleging vehicle fires at varying points of origin and occurring under various non-crash related circumstances-including key-off fires [see *Products Liability Law Daily*'s August 28, 2018 analysis]. In opening DP18-003, ODI noted that many of the 120 fire incidents appeared to originate in the engine compartment area and referenced the two open RQ investigations as likely pertinent. ODI issued information request (IR) letters to Hyundai and Kia and several peer original equipment manufacturers (OEMs) in its efforts to evaluate and dispose of CAS's petition.

After reviewing responses to the DP requests, ODI granted CAS's petition and in 2019 opened two Preliminary Evaluations (PE19-003 and PE19-004, one for each company) to broadly investigate incidents of non-crash fires, regardless of origin or operational status of the vehicle, in various model year Hyundai (Sonata and Santa Fe) and Kia (Optima, Sorento and Soul) models [see *Products Liability Law Daily*'s April 2, 2019 analysis]. ODI issued additional, more broadly scoped IR letters to both Hyundai and Kia, which upon review, identified certain vehicle populations exhibiting higher rates of non-crash fires for various defects and points of origin, including some due to engine failure.

Recalls and remedies. Hyundai and Kia have issued several recalls to date addressing vehicle fires, including those due to engine failure involving various engine types (Theta II GDI, Theta II MPI, Theta II MPI HEV, Nu GDI, and Gamma GDI). The recall remedies for the engine failures typically involve engine inspection (to detect existing damage) and, if necessary, engine replacement. In addition, both manufacturers are installing an engine control software modification known as Knock Sensor Detection Software (KSDS), which is intended to detect impending engine failure, alert the driver, and limit engine power (to lessen the likelihood of engine failure). KSDS is being installed under recalls and non-safety field actions, and both companies have extended limited

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engine warranties. The two automakers even have replaced engines if the KSDS software detects an impending engine failure.

The 78 VOQs cited in the EA21-003 opening report-all of which involve fires that were likely caused by engine failure-consist of 36 remedy-related and 42 scope-related incidents. The report's injury allegations involve eye and burn injuries not requiring medical treatment. Including the 83 other VOQs referenced in the report, ODI is aware of 161 fires that potentially were caused by engine failures.

The following recalls, involving approximately 2.5 million affected vehicles, have been identified as displaying potential remedy concerns: Hyundai-related recall numbers 15V568, 17V226, 20V746, and 21V727; and Kia-related recall numbers 17V224, 19V120, 20V750, and 21V-844.

Engineering analysis. Therefore, ODI is opening the EA for two primary purposes. First, the investigation will continue to evaluate the scope of recalls initially begun under prior ODI actions and also will include other recalls for fires due to engine failures launched subsequently by Hyundai and Kia, many of which were influenced by ODI investigations. Second, the investigation will monitor and evaluate the efficacy of the recall remedies for engine fire-related recalls, as well as the long-term viability of related programs and non-safety field actions being conducted by Hyundai and Kia.

Companies: Kia Motors America; Hyundai Motor America

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