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# DAILY REPORT

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## Columbus Lawyer Sues GM Again Over Exploding Pickups

R. ROBIN MCDONALD

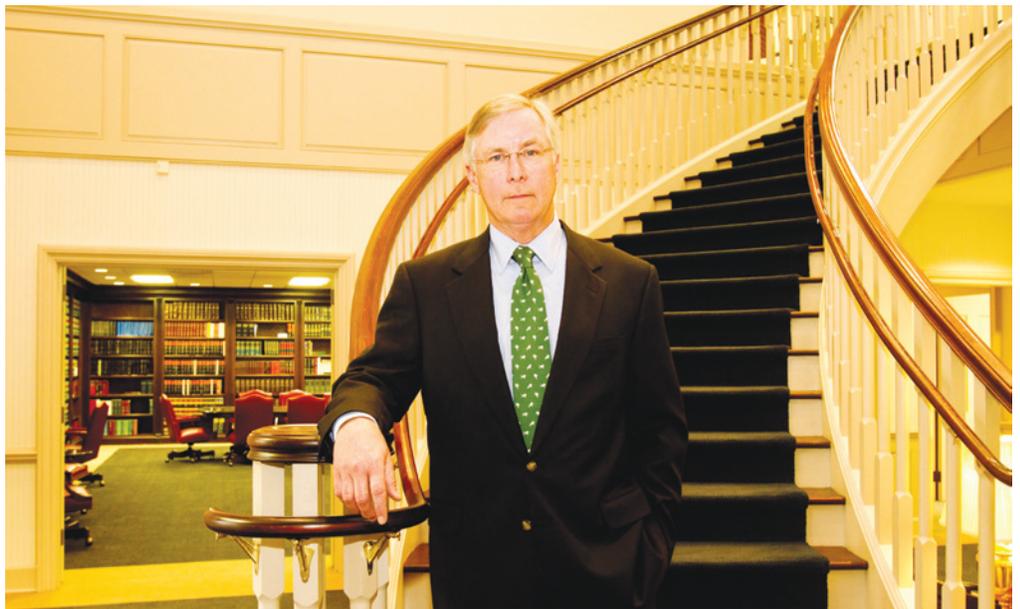
rmcdonald@alm.com

THE COLUMBUS LAWYER WHO won a \$105 million jury verdict against General Motors in 1993 over exploding gas tanks in a pickup has sued the automotive company again because it has failed to take hundreds of thousands of the same trucks off the roads.

Two suits in federal court in Atlanta contend that GM—after more than two decades of litigation over the fuel tanks—has detailed knowledge of hundreds of injuries and deaths stemming from fires that erupted because of the location of the pickups' fuel tanks.

Yet, according to suits filed by Columbus attorney Jim Butler of Butler Wooten Cheeley & Peek, GM has made no effort to recall trucks that are still in circulation. The company also has refused to publicly acknowledge or warn about the dangers of 5 million pickups that rolled off the assembly line from 1973 to 1987 with gas tanks strapped to the side of the vehicles in a location known as “the crush zone,” the suits contend.

Those sidesaddle gas tanks were particularly vulnerable to damage, and a



JOHN DISNEY/DAILY REPORT

**Jim Butler, who won a 1993 verdict over an exploding gas tank in a GM pickup, has filed two new suits and says the company has done nothing to fix the trucks.**

resulting explosion, during an accident because they were in a part of the truck most likely to sustain a side impact, according to the complaints. The pickup gas tanks also had virtually no protection, other than a thin sheet metal, to shield them in case of a collision, according to the suits.

Butler's firm has settled 15 cases confidentially with GM on behalf of pickup truck occupants who were burned alive

or gravely injured after the trucks' tanks exploded. Those settlements included the case in which he had secured a \$105 million Fulton County verdict on behalf of the parents of teenager killed in an accident when his 1985 GM pickup's fuel tanks exploded on impact. That verdict was overturned by the Georgia Court of Appeals in 1994, and Butler was preparing to retry it when GM made a confidential settlement offer that Butler said

he could not in good conscience advise his clients to refuse.

GM settled four cases that day, all involving faulty fuel tanks, that Butler was preparing to try.

“It’s the same product, the same defect, and the same result—people who are burned to death,” Butler told the Daily Report on Monday. The automotive company, he said, “has had hundreds of lawsuits and paid out hundreds of millions of dollars on these trucks.”

“It doesn’t matter whether the trucks are sold as new or used,” he said. “They are still GM trucks; they are GM’s responsibility.”

“It was a stupid design,” Butler continued. Asked by Butler during a deposition in the earlier litigation whether there was any worse location for a fuel tank than the side of the truck, GM system design engineer Edward Ivey replied, “You could put it on the front bumper.”

Butler filed the new suits at a time when GM is wrestling with national publicity and multiple suits stemming from faulty ignition switches in its compact cars. Earlier this year, GM recalled 2.6 million small cars that had been fitted with the faulty switches. Congressional hearings in April included revelations from a GM engineer that GM could have repaired the defect at a cost of 57 cents a car.

But GM never recalled an estimated 5 million pickups with side-mounted tanks.

The Daily Report was unable to reach two GM spokesmen for comment. King & Spalding attorney Philip Holladay Jr., who represented GM against Butler in the 1993 Fulton County case on the gas tanks, also could not be reached. GM has not yet

notified the court who will represent the company in the current cases.

The two suits both stem from the death earlier this year of Costanza Williams. One personal injury suit was filed on behalf of Williams’ mother, Linda Williams. The second suit, a wrongful death claim, names Synovus Trust Co. as the plaintiff, acting as a conservator for Williams’ three surviving children.

Williams was driving a 1983 GM pickup with sidesaddle gas tanks on Feb. 12 in Dougherty County when he lost control, according to the claims. The pickup veered off the road and struck a tree on the driver’s side, rupturing the gas tank and causing an explosion and fire that killed Williams.

The suits claim that when Williams died in February, GM had “known for decades” that its pickups with side-mounted gas tanks were dangerous to any truck occupant involved in a collision and were particularly vulnerable in cases of side impact. The company has “actual knowledge of hundreds of examples of injuries from fires and deaths” as a result of side impacts in those pickups and since 1993 has settled hundreds of personal injury and wrongful death cases. But, the suits claim, GM has refused to recall the pickups to fix the defect and “has failed to warn the American public but has insisted that there is no danger at all.”

In the early 1990s, the National Highway Traffic Safety Administration called on GM to voluntarily recall the pickups, according to the consumer advocacy organization Public Citizen. GM refused, prompting then-Secretary of Transportation Federico Peña in 1994 to make an initial determination of a safety defect that should have led

to a mandatory recall. But, according to the consumer group, GM took its case to the U.S. Justice Department, eventually cutting a deal in which the company agreed instead to spend \$52 million for “research and safety programs” that it distributed to state highway safety offices, national and state Safety Councils, the Safe America foundation and Safe Kids.

Relying on information that surfaced during earlier litigation, the new suits claim that GM tried to hide from the courts and the public the dangers posed by the side-mounted fuel tanks. GM went to “extensive lengths” to hide a 1973 cost-benefit analysis that design systems engineer Ivey had produced on the cost of making design changes to eliminate the risk of fuel-fed fires due to ruptured gas tanks, the suits contend.

That analysis determined it would cost GM \$2.20 a vehicle to modify the vehicles but would cost the company \$2.40 per vehicle sold if it paid an average of \$200,000 each for claims stemming from death by fire.

GM lawyers, according to the current suits, then embarked on a “systematic search” for any documents “that might be dangerous to GM.”

One GM lawyer, according to the current suits, soon concluded that “Ivey is not an individual whom we would ever, in any conceivable situation, want to be identified to the plaintiffs in a [post-collision fuel-fed fire] case, and the documents he generated are undoubtedly some of the potentially most harmful and most damaging were they ever to be produced.” ®