



Legislative Issues

# DaimlerChrysler Bites Back

When three unscrupulous Texas lawyers targeted DaimlerChrysler, the carmaker didn't flinch. It fought back—and won.

By Ralph Wayne

## IN BRIEF

In a case that reads like a movie script, trial lawyers:

- Plotted to cash in on a company's voluntary service action
- Tampered with evidence and attempted to bribe witnesses
- Were eventually fined \$865,000 by the court

Evidence tampering. Attempts to bribe and intimidate witnesses. A \$2 billion lawsuit with the potential for a payout in the hundreds of millions of dollars for the lawyers. Exonerative evidence mailed anonymously to the opposing law firm that helped the good guys crack the case. No, this isn't the plot line from the latest John Grisham novel. It's the all-too-real tale of three Texas lawyers who symbolize the lottery mentality that has gripped America's civil justice system.

While the facts of this case are singular in their brazenness, every company in America faces abusive litigation from trial lawyers who subject them to the roulette wheel of the courtroom. The trial lawyer industry—and it is an industry—is big, powerful, and plays for keeps. Taking it on isn't easy, but it can be done. A recent article in *Forbes* magazine tells the story of one

company that fought back—DaimlerChrysler Corporation.

The episode began after a multiple fatality automobile accident in Mexico just south of the Texas border. Immediately after the wreck, the plaintiff told Mexican police officials and rescue personnel that her husband, the driver, had fallen asleep and veered into the path of an

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oncoming truck. A violent attempt to steer the car back to the correct lane resulted in the fatal crash. This was a very tragic accident that should elicit sympathy for the victims but hardly provides the basis for a products liability lawsuit.

This is where our legal trio came into play. Three San Antonio, Texas, attorneys—

Robert Kugle, Andrew Toscano, and Robert "Trey" Wilson III—got wind of the accident and sensed the potential for a big payoff. The attorneys filed a lawsuit blaming a broken steering decoupler, not the driver, for the accident. Why the steering decoupler? Because DaimlerChrysler had initiated a voluntary service action to fix this component on some of its vehicles. Without any evidence, the lawyers filed a claim for which they eventually demanded \$2 billion in damages.

Unfortunately for the trio, when their own investigators examined the vehicle they found the decoupler "unremarkable"—in other words, not broken. They even took photographs of the decoupler intact. A few months later, however, the lawyers brought back a new investigator, took new photos, and—you guessed it—the decoupler was now broken. But

## EVIDENCE OF TAMPERING

Plaintiffs' lawyers claiming a steering decoupler caused a multiple fatality accident didn't drop the lawsuit when their first investigators found the decoupler intact (left). Instead, they hired another investigator, who somehow found the decoupler broken (right).

apparently the lawyers didn't believe tampering with evidence was enough. The firm hired an investigator who tried to bribe police officers and a paramedic, promising a payoff if they would "forget" what they'd been told.

Everything was falling into place—except the mark wasn't playing its role. Daimler-Chrysler refused to submit to this attempted fleeing. The company vigorously defended the litigation, turning up evidence of fraud. They uncovered the photographs taken by the plaintiffs' own investigator that showed the steering decoupler intact. They secured testimony that revealed witness and evidence tampering.

The trial court expressed shock at the conduct of Kugle, Toscano, and Wilson and fined the three lawyers \$865,000. Their conduct was denounced by an appellate court as "an egregious example of the worst kind of abuse of the legal system." The FBI launched its own investigation.

Today, Toscano and Wilson continue to practice law, while Kugle decided to take up residence in Mexico. According to *Forbes*, only \$289,000 of the penalty has been paid. While many companies would just drop the issue, DaimlerChrysler is seeing this through to the end. The company is prepared to file a civil suit against the trio, alleging fraud. According to *Forbes*, one of the company's lawyers, Steven Hantler, "decided Chrysler needed to take a stance [against lawsuit abuse] after a particularly galling case in Alabama in 1993. A jury awarded the owner of a 10-year-



PHOTOS COURTESY OF DAIMLERCHRYSLER

old Chrysler New Yorker \$225,000 because the passenger seat vibrated at high speeds. That one case made me realize that the legal system had spun out of control," Hantler said. (Hantler is a regular contributor to *Litigation Management*; his column appears on p. 16.)

DaimlerChrysler is setting an example, and here is its battle cry: Fight corrupt lawyers anytime, anyplace. The strategy is working. The carmaker won an \$850,000 judgment against two St. Louis lawyers who used confidential information gained while working on retainer for the company, then left their law firm and used the information to file bogus lawsuits against DaimlerChrysler.

The company is also spearheading an attempt to repeal state laws that prevent automakers from submitting evidence that an accident victim wasn't wearing a seat belt. That's right.

The trial lawyers have fixed it so that in several states, if you fail to put on a seat belt and get injured in a car accident, the fact that you didn't buckle up can't be mentioned in court. Why? Because it would decimate many injury cases brought forward by attorneys, who try to blame all injuries on car manufacturers.

It's time to take back our legal system from the abusers in the trial bar. That means supporting political candidates and judges who have had enough—and it means recognizing the efforts of individuals and companies who are helping rescue the law from unscrupulous lawyers.

**Ralph Wayne** is a former member of the Texas legislature and president of the Texas Civil Justice League, a coalition that seeks to enact legislation to combat frivolous and outrageous lawsuits in Texas. E-mail him at [ralph@tcjl.com](mailto:ralph@tcjl.com).

**An appellate court dubbed the lawyers' conduct "an egregious example of the worst kind of abuse of the legal system."**