

legations that an HMO that overloads its doctors with patients might cause harm. He wrote, "HMOs contract with primary care physicians in order to provide and arrange for medical care for their enrollees. It is thus reasonably foreseeable that assigning an excessive number of patients to a primary care physician could result in injury, as that care may not be provided."

Jones has also filed a medical malpractice case against Jordan. □

—Rebecca Porter

Judge orders GM to produce black box information

Plaintiff attorneys say a Georgia judge is the first to order General Motors Corp. to produce documents that will help a plaintiff in a crash injury case translate information stored in a vehicle's collision data recorder, known as the "black box."

In April, Cobb County Judge Toby Proddgers ordered the automaker to produce documents and an expert to help the plaintiff in *Anderson-Barahona v. General Motors Corp.* translate an alphanumeric printout that had been downloaded from a 1997 Chevrolet Cavalier's Sensing and Diagnostic Module (SDM) recorder. (No. 99A19714 (Ga., Cobb County Ct. Apr. 5, 1999).) Plaintiff attorneys want the information so that their own black box expert can translate the data. =

"We just don't trust GM to provide the translation," said Matt Flournoy of Marietta, Georgia, one of a group of attorneys representing the plaintiff. "I don't know of any other case where the judge ordered the automaker to produce the documents."

Flournoy and his colleagues believe an independent translation may provide the evidence as to why the car suddenly accelerated to more than 90 mph and killed two people—the driver and a passenger—and permanently injured a third person, said Larry Wight of Roswell, Georgia, who is a member of the plaintiff's legal team. The attorneys represent the driver's mother, Donna Anderson-Barahona, in the sudden-acceleration case against GM.

The automaker's lawyers said this particular SDM provides limited information

about the change in the vehicle's speed leading up to the deployment of the air bag.

After Proddgers issued his ruling, GM produced the information—a year after the plaintiff had requested it, Flournoy said.

According to Bill Rosenbluth, an expert who often works with plaintiff attorneys on black box issues, attorneys often need a judge's order that instructs the automaker to produce black box information. Automakers usually request that the information be released under a confidentiality agreement.

"These documents are always exchanged under a protective order because General Motors and certain manufacturers have more precise technical data than [other manufacturers]," said Rosenbluth of Automotive Systems, Inc., in Reston, Virginia.

Flournoy believes automakers should not be using encrypted data.

"There shouldn't be any code. It should be easily available to the owner of the car, and it should be in simple English," Flournoy said. □

—Lisa Gelhaus

Fourth Circuit says plaintiff does not need air bag expert to establish defect

An injured plaintiff does not need to provide an expert to explain an air bag defect in order to establish a products liability case under New York law, the Fourth Circuit stated in April. (*Silvestri v. General Motors Corp.*, 210 F.3d 240 (4th Cir. Apr. 21, 2000).)

The court vacated the lower court's decision to grant summary judgment to General Motors Corp. and remanded Mark Silvestri's breach of warranty and products liability case to the lower court for trial. Silvestri's suit claims that he was injured when the air bag in the 1995 Chevrolet Monte Carlo he was driving failed to deploy in a collision. The suit says GM guaranteed that the air bag would deploy when the vehicle struck an object head-on at speeds between 9 and 15 mph.

On November 5, 1994, Silvestri was driving the Monte Carlo at about 72 mph when he lost control of the vehicle, ran off

