

## Takata Air-Bag Victims Seek to Delay \$1 Billion Settlement

by Margaret Cronin Fisk

People injured by [Takata Corp.](#)'s exploding air bags asked a judge to delay approving the \$1 billion settlement with the U.S. hours before the car-parts maker was due to appear in court to plead guilty as part of the accord.

The Tokyo-based company is scheduled to appear Monday in Detroit before U.S. District Judge George Caram Steeh to plead guilty to one count of wire fraud for falsifying data and reports provided to automakers. Takata agreed last month to pay a \$25 million criminal fine and establish a \$125 million fund to pay victims, as well as reimburse carmakers \$850 million for recalls.

The agreement is full of inaccurate or "mischaracterized" assertions, which may be used as a shield by automakers to avoid paying accident victims, lawyers Kevin Dean and Craig Hilborn said in court papers filed Monday, asking Steeh to delay approval of the plea until after he has reviewed a pre-sentencing report and any victim-impact statements.

Earlier Monday, car owners and injured parties filed papers in Miami federal court in lawsuits claiming automakers knowingly bought the faulty bags to save money. In the criminal case in Detroit, plaintiffs' lawyers said it was wrong for the agreement in that case to refer to carmakers as victims. "The evidence and the documents being developed show the opposite," they said, citing the Miami filing.

### Metal Shards

The air bags, which can malfunction sending shards of metal at drivers and passengers, have been linked to at least 17 deaths worldwide. The Takata products have been the subject of the biggest product recall in history, expected to cover more than 100 million air bags.

Takata admitted in its plea agreement with the U.S. to hiding the deadly risks of its exploding air bags for about 15 years. The settlement fully resolved the Justice Department investigation into Takata and all of its subsidiaries, the company said last month. Jared Levy, a Takata spokesman, declined to immediately comment on the request to delay the plea deal.

The U.S. has also charged three former Takata executives for their alleged roles in hiding the risk since 2000. The three -- Hideo Nakajima, Tsuneo Chikaraishi and Shinichi Tanaka -- are Japanese citizens who worked at Takata until about 2015, according to court papers.

### Sale Obstacle

The criminal settlement was seen as removing a major obstacle to Takata's sale, which the company has said it needs to continue operations and complete the recalls. Any eventual acquirer would have to ensure a stable supply of replacement parts even as uncertainties surround its exposure to future liabilities, including the costs for replacing the air bags.

Takata has said that it wants to avoid a court-led bankruptcy that could disrupt its ability to continue to supply parts to automakers.

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The explosions have been blamed on the base ingredient of Takata's inflator propellant, ammonium nitrate, which is almost as explosive as the chemical in dynamite. It can degrade over time depending on exposure to moisture or high temperatures. At least 11 deaths and 180 injuries in the U.S. have been linked to the faulty bags, according to the [National Highway Traffic Safety Administration](#).

### Stalled Recalls

Takata has been sued by dozens of drivers and passengers in the U.S. claiming shrapnel injuries caused by the bags. The lawsuits allege that the company knew the air bags could fail, hid negative test results and stalled recalls.

The company is also facing complaints by injured plaintiffs who allege that the propellant can cause excessive-force deployments, often in low-speed collisions, without releasing shrapnel. Injuries and deaths claimed in those accidents aren't included in the NHTSA total. Most of the shrapnel cases have been settled, according to court filings reviewed by Bloomberg News.

Kevin Dean, who filed Monday's objection to the plea agreement, represents victims of 17 separate air-bag accidents, including shrapnel and excessive force claims. Another objection was filed Monday by lawyer Tom Willingham, who is also asking for a delay. Both are seeking to speak at the plea hearing.

Most of the injury and death lawsuits are combined before a Miami federal judge, who is also handling car owners' claims for economic losses related to the defects and recalls. Lead lawyers for the combined suits claimed Monday that [Honda Motor Co.](#), Toyota Motor Corp. and other automakers bought Takata air bags for years despite knowing they could rupture and injure people.

The carmakers "were well aware of the risks" but were "focused on the low price" of Takata's products, according to documents produced in lawsuits over the air bags, the lawyers said in a status report on the litigation. After one rupture in 2009, the lawyers said, an unidentified automaker defendant described the event as "one in which a passenger protection device was transformed into a killing weapon."

The criminal case is U.S. v. Takata Corp., 16-cr-20810, U.S. District Court, Eastern District of Michigan (Detroit). The civil suits are combined in In re: Takata Airbag Product Liability Litigation, 15-md-02599, U.S. District Court, Southern District of Florida (Miami).