

1 of 1 DOCUMENT

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Front airbags don't inflate in hundreds of head-on crashes

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Brooke Katz died three months pregnant.

A hit-and-run motorist slammed into the front of the 2005 Dodge Caravan she was driving, spinning it 180 degrees.

"It's one that sticks with me," Atlanta Police Officer Shane Keller said recently. The crash was so violent that rescuers needed the Jaws of Life to free Katz, 27, a Georgia wife and mother who had just buckled herself in to go to work.

*Then they saw something "curious," as the officer put it. The Caravan's **airbags** had not deployed.*

A front-end collision in 2005 in Atlanta killed Brooke Katz and her unborn child, leaving Gregg Katz a widower and Addisyn Katz motherless. The **airbag** in the 2005 Dodge Caravan minivan that Brooke Katz was driving did not deploy.

It's a fatal mystery repeated in hundreds of traffic accidents, an investigation by *The Kansas City Star* found: front **airbags** that did not inflate in deadly front-end crashes.

Analyzing a National Highway Traffic Safety Administration database of all traffic fatalities over a six-year period, the newspaper discovered that far more people had died from wrecks where **airbags** didn't deploy than all of those who died from injuries caused by **airbags** that fired too easily or too forcefully.

A decade ago, deaths blamed on overly aggressive **airbags** triggered congressional action, which brought about the "smart bags" of today. About 300 people have died from improper **airbag** deployments since 1990.

But *The Star* found those deaths are dwarfed by another body count just as disturbing. At least 1,400 drivers and front-seat passengers died from 2001 through 2006 in front-impact crashes involving vehicles whose **airbags** - smart or otherwise - never deployed.

"I have to say I'm shocked," said Joan Claybrook, former chief of NHTSA and current

president of the consumer advocacy group Public Citizen. "These **airbags** should deploy."

To be sure, even when **airbags** work, people still die in serious accidents. In the six-year span analyzed by *The Star*, head-on crashes killed roughly 14,000 drivers and front-seat passengers, even though their **airbags** deployed.

But in that same period, the federal government has estimated, **airbags** saved 15,000 lives.

Nobody knows how many more lives could have been saved if the **airbags** had deployed in the cases reviewed by *The Star*. And because of insufficient data gathered by NHTSA, speeds for many of those wrecks also are unknown, raising questions as to whether those vehicles were going fast enough to activate the **airbags**.

For those reasons and others, current NHTSA officials disputed *The Star's* findings and don't consider uninflated **airbags** to be a significant problem.

"There is never an acceptable failure rate," said agency spokesman Rae Tyson. However, he insisted that it is impossible to draw any conclusions about the lack of deployments based on the agency's data.

In a written statement, NHTSA warned that "*The Kansas City Star* is doing a grave disservice to its readers, by implying - through an improper analysis of our own data - that air bags are not performing as intended. Nothing could be further from the truth."

A spokesman for the auto industry, Charles Territo of the Alliance of Automobile Manufacturers, said that "no two accidents are alike" and that conclusions can't be drawn from the analysis without knowing more about each accident.

However, another former NHTSA administrator disagreed, calling the database the "best in the world."

"Yes, it's flawed. But it is the best you've got," said Ricardo Martinez, who led the agency during the Clinton administration.

He said the newspaper's findings point NHTSA "to an area that warrants investigation to see if there is an opportunity to improve safety."

In its database analysis, *The Star* eliminated thousands of fatalities in an attempt to produce as conservative a finding as possible. The newspaper's analysis focused on head-on crashes into the front ends of other vehicles and objects such as trees and embankments.

If the newspaper includes front-end crashes into the side or rear of other vehicles - the type of crash that killed Brooke Katz - the number of deaths climbs to 1,900.

The Star also did not include fatal crashes identified in the database that involved principal impacts to the left or right fenders. Nor did it include victims who were ejected or died when their vehicles rolled over, crashed and caught fire or were submerged in water. And the newspaper excluded victims in vehicle models where **airbags** were not standard equipment.

Those steps eliminated at least 3,000 fatalities.

Finally, the newspaper consulted with automotive safety researchers, statisticians and other experts - including former NHTSA officials - in formulating its methodology for the analysis. All found it acceptable. And the National Institute

for Computer-Assisted Reporting in Columbia, Mo., examined the same database and confirmed *The Star's* numbers.

Moreover, the NHTSA database reveals that the annual number of deaths in nondeployment crashes grew dramatically - about 50 percent - since 2001. In 2006 alone, the deaths rose by 14 percent from the previous year - despite a 2 percent drop in all traffic fatalities.

NHTSA declined to make top agency officials available for interviews.

Although its spokesman discounted *The Star's* findings, he added that 1,400 deaths, if true, were not that alarming.

"If it's a real number, it's not a surprise to us," Tyson said.

Indeed, the problem of noninflating front **airbags** cannot come as a surprise to NHTSA officials. In complaints filed with NHTSA by the public following injury and fatal accidents, uninflated **airbags** outranked any other complaint about components. In fact, *The Star* found that nondeployments represented nearly one-fourth of the thousands of gripes lodged with the agency over severe accidents.

A former NHTSA official said the analysis raises serious questions. After reviewing NHTSA crash records at the newspaper's request, George Washington University engineering professor Kennerly Digges said, "You see things here that can cause you a lot of worry."

Especially in a "terrible crash you don't understand why you didn't get a deployment," said Digges, a former NHTSA director of vehicle safety research.

Claybrook, who led NHTSA during the Carter administration, said the agency and Congress needed to investigate the nondeployment problem.

Problems in most models

The analysis of NHTSA fatality data showed that **airbags** didn't deploy in virtually every make of auto that Americans drive, both foreign and domestic. And the nondeployments ranged from aging models to new cars fresh off the lot.

For instance, at least 100 drivers and front-seat passengers died while traveling in model-year vehicles 2004 through 2006. They included Hilton Thompson and Pansy Evans, elderly siblings from southeast Missouri. They died in 2004 in a Cadillac that Thompson had bought new just the day before.

GM declined to comment on that accident or any other specific crash.

"The conventional wisdom is that **airbags** save lives. Do they save every life? Unfortunately, no (but) **airbags** are helping" avoid fatalities, said Alan Adler, GM spokesman for product safety.

Among other findings by *The Star*:

About 25 percent of the 1,400 deaths where **airbags** didn't deploy resulted from vehicles smashing into trees or poles. Automakers and some owner's manuals acknowledge that the **airbags** might not deploy in crashes into trees and poles.

Some critics have blamed that problem on too few crash sensors. But auto industry spokesman Territo disagreed that there could be too few sensors, adding that "manufacturers are working to enhance safety in all types of vehicle accidents."

NHTSA has paid relatively little attention to **airbags** that don't deploy. Since 1996, investigators have launched about 600 inquiries into how well *activated* frontal **airbags** performed. But probes into nondeployments have totaled only about 50, according to records that NHTSA gave *The Star*, plus documents the newspaper found.

Indeed, records show that agency investigators examined at least 20 nondeployment crashes in which 12 people were killed and found initial signs of **airbag** failure. But records show only three of those crashes became part of in-depth agency investigations, and only one led to a recall.

In a written statement, NHTSA said inspectors have focused instead on new **airbag** systems to make sure the safety devices meet updated regulations. The agency said it monitors hundreds of safety issues that never lead to in-depth investigations.

In the database of fatal accidents, an important factor - crash speeds - was difficult to nail down. Estimated speeds, from police reports, were available for just under 40 percent of the accident victims in *The Star's* analysis. The average speed was 55 mph. Experts said **airbags** should deploy at speeds of 10 mph to 16 mph in head-on crashes into an immovable barrier.

However, because so many of the actual speeds were not recorded, NHTSA maintains that many cars may not have been traveling fast enough for the **airbags** to deploy, even if all of the impacts were severe enough to kill.

NHTSA spokesman Tyson also noted that **airbags** are only considered supplemental safety devices. They are thought to save one-sixth the number of lives that fastened seat belts save.

If you're not belted, "the **airbag** is meaningless," Tyson contended. "I am dismissing half of your (1,400 fatality) number anyway because the occupants were not belted and, as far as I'm concerned, bets are off."

Experts agree that seat belts are the best and primary safety system for drivers and passengers. But they said NHTSA's own data prove that **airbags** are far from being meaningless and have saved thousands of lives. In fact, federal regulations require **airbags** in crash tests to protect both belted *and* unbelted occupants.

"Failure to wear your belt should not mean a death sentence," Claybrook said.

Regardless, nearly half of the people killed in *The Star's* examination were wearing seat belts when their **airbags** didn't deploy.

They included the Ohio driver of a 2004 Ford F-150 pickup truck that last year sheared off a pole, hit a culvert, struck a small tree and finally smashed into a bigger tree. Police estimated his speed at 60 mph.

Even though Lloyd Holland, 63, wore both lap and shoulder restraints, he jackknifed into the steering wheel hard enough to bend the top flat - just inches above the inactivated **airbag**.

A NHTSA inquiry did not reach a conclusion about the nondeployment. Ford spokesman Daniel Jarvis said the company investigated and determined that the various impacts did not generate enough force to trigger the **airbag**.

Fairfield Township Police Chief Richard St. John remains unconvinced.

"The front end of the truck was destroyed," he said. "I have no idea why (the **airbags**) didn't deploy."

Debate over 'why?'

Automakers contend that the most likely reason that front **airbags** don't inflate is that, in many wrecks, they're not supposed to and could even injure you if they did.

Their task is tricky. Experts said sensors often located in the front of the vehicle are designed to detect the force of a crash and send a signal to a microcomputer that decides whether the wreck is serious enough to fire the **airbags** - all in less than the blink of an eye.

"**Airbags** may or may not deploy depending on how much angle you have in a frontal collision," said Robert Yakushi, director of product safety for Nissan North America Inc. "Hitting a tree, or (a vehicle) going off road, doesn't guarantee that the **airbag** will deploy every time."

In a fatal **airbag** nondeployment lawsuit pending in Texas, Chrysler officials said front **airbags** were calibrated to fire when its 2006 minivans struck an immovable barrier at 16 mph or more, head-on.

"However," the company acknowledged in a legal response to plaintiffs' questions, "all deployment thresholds are probabilistic in nature."

That is, not foolproof.

"Thus it is unlikely, but possible," that **airbags** wouldn't deploy at even higher speeds, the carmaker stated. It cited "factors such as the angle of impact, direction, size, weight, relative stiffness of the subject vehicle as well as corresponding attributes of the object struck "

"This would be true for all vehicles, whether made by Daimler Chrysler Company LLC or others."

Recall records reveal a variety of other reasons for **airbags** not deploying or not inflating sufficiently: Loose bolts. Faulty welds. Missing parts. Cracked components.

Since 1990, **airbags** at risk of failing have led to 45 recalls involving at least 3.5 million vehicles, *The Star* found. The recalls affected more than 100 models of cars and light trucks, from pricey Italian sports cars to environmentally friendly hybrids.

One recall of 240 Ford Escorts and Mercury Tracers cited a six-week period in 1994 when poorly welded inflator canisters were installed in the cars. Ford said in recall documents it happened only at an assembly plant in Mexico.

Ford quickly identified the problem, recalled the vehicles and worked with its supplier to correct it, Jarvis said. The process took less than three months.

Nissan and the federal government logged what one motorist called "an indicator light problem" with a 2002 Nissan Xterra. There were nearly 50 complaints about the **airbag** warning lights recorded through the end of August 2002, according to NHTSA records.

In fact, the light was indicating a potential danger. Nissan discovered that **airbag**-related wiring could come loose and told the government in early 2003 that the driver's side **airbag** "will not deploy in the event of a crash."

Still, Nissan initially didn't treat the problem as requiring a safety recall

because the light alerted motorists to a possible malfunction, said company spokesman Tony Pearson. Nissan at first issued only what's called a "service bulletin." But after a nearly yearlong NHTSA investigation, the automaker agreed to the safety recall of about 27,000 Xterras and 37,000 Altimas.

Nobody yet understands why the **airbags** stayed put in the practically new Caravan driven by Brooke Katz in March 2005.

DaimlerChrysler denied any link to past fatalities when it recently sent recall notices to 270,000 owners of 2005-model Caravan and Chrysler Town & Country vehicles. The company, now known as Chrysler, said a problem it found in **airbag** sensors would still allow bags to deploy.

"There are no confirmed reports of accidents or injuries related to any failure in the subject minivans," Chrysler assured NHTSA in an agreement that ended a federal inquiry into its minivan **airbags** earlier this year.

A key word in that statement is "confirmed." A company spokesman, Michael Palese, told *The Star* that litigation has kept the carmaker from running tests on the event data recorders in the Katz minivan - or in another Chrysler minivan, this one a 2006 model, which also is tied up in court. Its **airbags** didn't deploy in a 2006 head-on fatality in Texas.

Palese said the company can't verify the cause of the nondeployments or that the **airbag** systems even failed. Nonetheless, he said Chrysler is "confident the **airbags** worked exactly as designed" by not going off.

Judging from the worst area of damage to the Katz vehicle, he said the driver may have been thrown "out of position" to a degree that the **airbag** system decided against deploying. In many wrecks, Palese said an **airbag** that deploys too late or too close to the occupant can do more harm than good.

Gregg Katz, however, cannot imagine how his wife's fate could have been any worse.

"How many people buy cars based on those five-star crash ratings they see advertised on TV, expecting them to perform the way they're supposed to?" he said in an interview.

"And when they fail how do you say to a 3-year-old that her mother is gone?"

In her princess-style bedroom, daughter Addisyn, now 6, points to framed snapshots of a clowning Brooke Katz and passively tells visitors, "Mommy died."

Deadly delays

When a nondeployment problem does come to light, regulators and carmakers can spend months - even years - looking into possible defects before issuing a recall. Sometimes, people perish on the roads in similar accidents while investigations drag on.

NHTSA said that there is no "typical" time for ordering a recall but that it's not unusual for investigations to last 18 months.

Consider the case of Phillip A. Howell, 40, whose pickup crashed on a slushy highway near Syracuse, N.Y.

It was Oct. 27, 2001. A teenage driver lost control of her Toyota truck and collided head-on with Howell's 2000 Chevrolet Silverado. Both drivers were wearing seat belts, but only one survived.

The teenager's **airbag** fired. Howell's didn't.

"The circumstance of the **airbag** failure to deploy remains unknown," the accident's investigating officer wrote.

Howell's wife, Kelly, said she remembers watching him bleed in the hospital, a dent in his head the size of a peach, and sobbing to herself: "Why didn't his **airbag** go off? Why didn't his **airbag** go off?"

Earlier tests indicated to GM something may be wrong. In fact, the automaker suspected as early as October 1999 that an "anomaly" in the front **airbags** of many of its 2000-model pickups could potentially lead to nondeployments in some wrecks, records show

However, it wasn't until June 2002 that GM ordered a safety recall.

A letter signed that month by GM's director of product investigations, Lyndon R. Lie, revealed the snail's pace of the recall. The letter informed federal regulators that "both front air bags failed to deploy" in a 1999 test of a 2000-model pickup hitting a barrier at 30 mph.

GM and its supplier, Delphi Corp., analyzed a possible "bouncing" problem in the sensor system. But the **airbags** had worked in a follow-up crash test.

For more than 30 months, engineers "continued to conduct extensive investigation and testing to determine the causes of this complex condition," GM's letter to NHTSA stated.

Just weeks before the company decided to recall its trucks, a Silverado driver died without an **airbag** going off in a head-on collision in south Texas. Daniel A. Farias, who was 17, lost control of his Silverado on a highway. As in Howell's case, the **airbags** of the oncoming vehicle fired, police records showed.

Unlike Howell's truck, however, Farias' pickup was built shortly *after* GM had recalibrated sensor modules in newly built trucks in a factory effort to correct the anomaly, according to records.

Another Silverado driver was seriously injured east of Dallas in February 2002, also after GM had recalibrated the sensor modules. He sued GM over the nondeployment, and the carmaker ultimately paid a \$500,000 settlement, records show.

In addition to the 2000-model Silverados, the recall involved **airbag** systems in Chevrolet Tahoes and Suburbans, and GMC Sierras and Yukons - some 525,000 vehicles in all.

The recalibration took only 15 minutes at the dealership.

GM declined to comment on the recall or on the crash that killed Phillip Howell.

"This was our first vehicle with **airbags**," his widow tearfully recalled. "That was very important to us when we were shopping."

Like many crash victims' families whom *The Star* interviewed in its investigation, Kelly Howell hasn't gone to court to try to prove what may have gone wrong.

Now a single mother, she couldn't afford the tens of thousands of dollars that automotive experts wanted to analyze or replicate the crash and to appear in a courtroom. Just storing the truck as evidence, which she did for a year, cost \$12 a

day.

To this day, she said, "I keep getting recall notices addressed to my husband."

Inside A look at the anatomy of an **airbag** recall, and at some crash victims whose **airbags** didn't inflate. | A10-12

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1 of 1 DOCUMENT

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As airbag recall process drags on, crash kills another driver

BYLINE: RICK MONTGOMERY and MIKE CASEY, The Kansas City Star

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A bureaucratic back-and-forth dragged on for months after the March 2005 death of Brooke Katz, pulled from the wreckage of a new Dodge Caravan.

Were the **airbags** defective? Was a safety recall in order?

In the time it took federal safety regulators and DaimlerChrysler to explore those questions, another woman would die.

In 2006, Jessica Engelbrecht was driving a 2006 Chrysler Town & Country, above, when it collided head on with a pickup truck. The minivan's **airbags** didn't inflate. The pickup's **airbags**, at left, did. Engelbrecht died the day after the crash.

In a DaimlerChrysler minivan much like Katz's, an equally destructive collision produced the same result - the **airbags** didn't deploy.

Public records detail the pace of the inquiry:

Nov. 17, 2005: About eight months after Katz died in a front-end collision in Atlanta, the National Highway Traffic Safety Administration's Office of Defects Investigation tells the automaker that it had opened a "Preliminary Evaluation to investigate allegations of front air bag crash sensor failures on model year 2005 DaimlerChrysler Minivans."

Jan. 27, 2006: Responding to regulators, Stephan J. Speth, the company's director of vehicle compliance and safety affairs, writes: "The alleged defect under investigation is corrosion of the front crash sensor, resulting in loss of communication with the remainder of the **airbag** system. As to the causal or contributory factors of the corrosion itself, DCC (DaimlerChrysler Corp.) is still working on the analysis of this question."

The company reported 221 consumer complaints, six lawsuits and "an additional non-deployment 'claim' involving a fatality" related to **airbags** in the 2005 Dodge Caravan and Grand Caravan, and the Chrysler Town & Country.

The incidents ranged from **airbag** warning lights illuminating on dashboards to 29

reported crashes, including five alleging injury.

Chrysler concluded, "The alleged defect does not present an unreasonable risk to motor vehicle safety. Despite a subject vehicle population of over 622,000 vehicles, not a single complaint of **airbag** non-deployment, injury or fatality can reliably be attributed" to sensor problems.

April 19, 2006:The Office of Defects Investigation expands the investigation to include 2006-model minivans.

May 13, 2006:On a highway south of Houston, a drunken driver collides head-on with a 2006 Chrysler Town & Country driven by Jessica Engelbrecht, 32, who is wearing her seat belt.

But her **airbags** don't fire. Luck instead is with the drunken driver, who was on probation for a DWI conviction. His bags do deploy, and he lives.

Engelbrecht died from her injuries the next day.

May 17, 2006:Federal regulators write to Robert Bosch Corp., which supplied the sensors on the DaimlerChrysler minivans:

"At this time, it is our assessment that the front crash sensor failures can potentially result in either no deployment or delayed deployment," particularly when the fronts of vehicles were struck at an angle. "This office has received 26 reports of alleged front air crash sensor failures or frontal **airbag** non-deployment since we last wrote to DaimlerChrysler."

Yet another year would pass before the carmaker issued notices to replace its minivans' **airbag** sensors - and even then the company scaled back the number of vehicles affected. Only the 2005-model Caravan and Town & Country in 27 cold-weather states, including Kansas and Missouri, needed to be brought in for repair.

The culprit: brass sensor components that could crack and leak.

As early as mid-2004, records show, the carmaker had seen a high rate of warranty replacements of the sensors. So it switched in January 2005 to steel components "to minimize the possibility of failures due to corrosion" in upcoming 2005 and 2006 models.

The risk appeared highest in states where lots of salt is applied on icy roads, DaimlerChrysler said.

As for its minivans elsewhere that were equipped with the same brass parts, DaimlerChrysler pledged to NHTSA that it "will offer a lifetime free replacement of any (**airbag** sensor) that fails."

The government's investigation was thus resolved.

DaimlerChrysler insists that nobody was endangered because of redundancies built into the **airbag** design.

"Even if one sensor goes down, a backup sensor takes over," said Chrysler spokesman Michael Palese. He also noted that the company's action to replace the sensors did not constitute a safety recall.

"NHTSA never raised this to the level of a safety recall because it didn't consider (the problem) a risk to public safety," he said.

As for the Katz and Engelbrecht tragedies, both of which are in litigation, Palese said he thought the **airbags** worked as designed.

Diagnostic tests haven't been run to know for sure, but Palese speculated that the angles and severity of impact may have been such that the **airbag** systems sensed deployment would do more harm than good.

"The last thing you want is for **airbags** to deploy late in an accident sequence and cause greater injury," Palese said.

Then again, the "unfortunate reality is that you can't design perfect safety," Palese said. "It's just too dangerous out there."

Atlanta prosecutors unloaded on Allen D. Norwood for the crimes he committed at the wheel of the Chevrolet Caprice that plowed into the Katz minivan.

They charged him with 13 counts, from hit and run to driving without a license, to vehicular homicide and even killing Katz's unborn baby. Norwood, 25, was sentenced to 15 years in prison.

In the cruelest of ironies - even though the impact was to the side of his vehicle - his front **airbags** deployed.

Norwood's car was 11 years old.

The Caravan in which Katz and her fetus died had been on the road only three months.

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1 of 1 DOCUMENT

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Lawsuits reflect what can go wrong with devices intended to save lives

BYLINE: MIKE CASEY and RICK MONTGOMERY, The Kansas City Star

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Three lawsuits over **airbag** nondeployments reveal what can go wrong with the potentially lifesaving systems.

In South Carolina, the son of Lynda Guyton sued over an accident involving a 2003 Ford Crown Victoria. The car's passenger-seat sensor showed no one sitting there, said the son's attorney, Johnny Parker.

Guyton, who weighed about 120 pounds, was sitting there. The violent crash threw her forward, and she suffered serious internal injuries from her seat belt, Parker said. Her **airbag** didn't deploy during the March 1, 2004, accident, and she died on March 9, court records stated.

Ford maintained that the "subject vehicle was state of the art" and met all industry and governmental standards. The carmaker settled, but such agreements are not an admission of wrongdoing, said company spokesman Daniel Jarvis.

"Our heartfelt concern goes to her family," Ford said in response to *The Star's* inquiry.

In Texas, Sharon Bittner sued after the front **airbag** in her 1996 GMC Sonoma didn't deploy when the truck hit a guardrail at around 33 mph. Bittner was wearing her seat belt at the time of the 2003 crash, according to the accident report. She suffered numerous injuries, including ones to her neck, knee and ribs, the lawsuit stated.

At a trial, an expert witness for Bittner - Sal Fariello of Eastern Forensic Science Group, an accident reconstruction firm in Gainesville, Fla. - reviewed internal General Motors records. He testified that the automaker raised the crash speed thresholds too high for firing the **airbag**.

"They were looking for ways to immunize this truck against expected off-road and snowplow use," Fariello explained.

So GM set the bags to inflate at a near instantaneous speed change of 16 mph, he testified. Other experts Fariello cited thought **airbags** should fire at a near instantaneous speed change of only 12 mph.

Bittner and the carmaker settled before the trial ended.

GM attorney Karl Viehman maintains that had the trial continued, the expert

witnesses for the company would have testified that the **airbag** in Bittner's pickup performed as it was designed. Experts also would have said lowering the threshold for firing **airbags** would have led to unnecessary deployments and perhaps injuries, he said.

In settling the case, GM did not admit any wrongdoing, he added.

In Florida, a lawsuit filed by the widow of Robert Foster, who died after a wreck that occurred driving his 2002 Buick Century, alleged the Century's **airbag** system had only one sensor under the front seat.

But unlike **airbag** systems in some earlier models - or the Century's sister cars, the Chevrolet Monte Carlo and Impala - the 2002 Century lacked an additional sensor near the radiator.

At the factory, holes had even been drilled into the Century's radiator support for mounting such a sensor, the lawsuit alleged, suggesting to the plaintiff's attorney that plans were changed late in the design process.

A sensor costs automakers \$10 to \$40 per vehicle, experts estimated.

GM faulted Foster for the accident and said **airbags** wouldn't have prevented his neck injury.

"If any defect existed in the 2002 Buick Century, which GM denies, then the condition of the vehicle was not the same as when it left the possession, custody or control of General Motors," the company responded in court records.

The carmaker settled anyway.

Agreements in many of the **airbag** cases contain provisions to keep settlements amounts and company records secret. The practice has drawn criticism from some law professors.

If other accident victims knew the amounts of the settlements, they could make better decisions on whether it was worth suing, said Gregory Travalio, an Ohio State University law professor.

Courts sealing company records raises another issue.

"These documents, if disclosed, might allow consumers to have better information about the dangers of products," Travalio said, "and might be useful information to government regulators as well."

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Taking airbag cases to court can be tricky

BYLINE: RICK MONTGOMERY and MIKE CASEY, The Kansas City Star

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The public doesn't know a lot about fatal failures involving **airbags** largely because only a handful of the many complaints about nondeployments ever wind up in court.

And that's because they're tough cases to win, since most states' laws require plaintiffs to prove the **airbag** system was defective, rather than making car companies prove it wasn't.

Douglas Prier was badly injured when his police cruiser, above, and another auto collided head on. The police car's **airbag** did not inflate.

Often, accident victims or surviving relatives must pay thousands of dollars for experts to run diagnostics on a wrecked vehicle - if the evidence hasn't already been sent to the salvage yard. Then they must convince a judge or jury that a working **airbag** would have changed the outcome.

"You or your lawyer can expect to pay \$80,000 to \$150,000 out of pocket - maybe \$200,000 - just to get to trial," said lawyer George McNally of Reno, Nev.

Consider the case of Hoyt and Hilda Forbes v. General Motors, which has languished seven years and counting.

Before a jury could decide in 2003, a county judge threw out the lawsuit on grounds that the couple, who hadn't hired experts, failed to prove their Oldsmobile's **airbags** failed in a 1997 crash on a 55-mph highway. Hilda Forbes, 70, sustained a serious head injury.

General Motors cited the criterion stated in the owner's manual and contended that the impact wasn't "hard enough" to fire the bags.

The Mississippi Supreme Court overturned the county judge's decision. But last spring the same county judge dismissed the lawsuit again, on a different point of law.

"I'm 80 years old, and it looks like they're just going to wait for me to die" before the lawsuit - now heading back up the appeals ladder - is resolved, said Hoyt Forbes. "But when I believe in something, I fight for it."

For his wife the fight is over. A retired bank executive who taught driver-safety courses before she was injured, Hilda Forbes died two years ago from health complications that her husband alleges were related to the wreck.

Certainly, some frivolous cases make their way through the courts, and juries or judges fault the drivers, not the **airbag** systems.

That was not the case with Douglas Prier, a police officer in Maize, Kan.

In September 2003, Prier responded to a call that the Kansas Highway Patrol was chasing a car heading the wrong way on a divided highway.

Prier wheeled his Ford Crown Victoria - a model popular among many law enforcement agencies - onto the westbound lane in hopes of stopping the disoriented driver.

Instead, the two cars collided. The frontal impact shrunk the length of the patrol car by five feet.

Still, its **airbags** didn't deploy.

Prier spent a month in an induced coma while his broken body healed. He suffered a fractured femur and sternum, seven broken ribs, a collapsed pair of lungs and a brain bleeding in two places. Medical bills totaled nearly \$500,000.

In all his years at the wheel of a police cruiser, Prier, 38, "never thought about my **airbags**notgoing off," he said. "I've got friends who've seen **airbags** go off and leave rug burns on their face.

"Then when I saw how badly this car was wrecked, it amazed me. We don't know what went wrong. But how good do **airbags** have to be to know they should fire in a crash like that?"

Prier sued Ford and several other companies that had supplied parts for the **airbag** system.

The defendants settled for an undisclosed sum after an **airbag** expert hired by Prier's lawyer researched warranty replacements of the **airbag** system's black box, which decides whether to fire the **airbags**. The expert determined that "1.5 out of 100 similar vehicles are at risk for a defective **airbag** system," according to court records.

"That's an alarming return rate for a safety feature," said Prier's attorney, Marc A. Powell, citing the expert's findings.

In court records, Ford denied responsibility for Prier's injuries and said the company met all regulatory standards. Ford spokesman Daniel Jarvis pointed out that such settlements are not an admission of any wrongdoing.

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