



Big Win for Toyota Whistleblower

Former Toyota Attorney Dimitrios Biller Says Secret Company Docs Show Automaker Hid Evidence; Ruling Allows Biller To Use Docs In Court

By JOSEPH RHEE

Sept. 13, 2010 —

An arbitrator has ruled that a former top Toyota attorney turned whistleblower can submit internal Toyota documents in court in order to prove his claim that the company asked him to hide evidence of product defects from the public.

Dimitrios Biller, former managing counsel for Toyota, handled product liability suits for the automaker, and claims it regularly hid evidence of safety defects from regulators and the public. As part of a "civil racketeering" suit against Toyota, Biller had sought to place into evidence what he claims are four boxes full of internal Toyota documents that will show he was asked to hide facts from plaintiffs during product liability lawsuits.

The automaker had sought to keep the documents under seal, saying attorney-client privilege meant that former company lawyer Biller had no right to disclose their contents. However, retired judge Gary Taylor, the arbitrator in the case, ruled last Thursday that the documents were admissible under a so-called "crime-fraud" exception.

While Taylor did not state that a crime or fraud had taken place, he said a "prima facie" showing had been made by Biller that would permit the use of "otherwise-privileged material" in the case. Under California law, an exception to attorney-client privilege exists "if the services of the lawyer were sought or obtained or enabled to aid anyone to commit or plan to commit a crime or fraud."

In his ruling, Taylor noted that the exception is "very limited, and requires extreme caution in its application." Taylor did not allow all of Biller's documents to be admitted, stating that the ruling only applies on a "document to document analysis basis."

Biller applauded the ruling. "The irony here," he said, "is that Toyota feeds off a reputation of respectability and integrity, while simultaneously deceiving plaintiffs and the American judicial system in litigation." In a statement, Toyota emphasized that the arbitrator's ruling was not a finding of fraud. "The recent ruling in arbitration with Mr. Biller is strictly limited to issues of evidence admissibility during discovery and at the final hearing in this matter," said a company spokesperson. "There has been no finding that any misconduct has occurred or that any discovery fraud took place. Further, although the ruling allows certain documents to be used in the arbitration, the order specifically requires that the attorney-client privileged materials remain confidential."

Biller Sued Toyota In 2007

Biller served as managing counsel for Toyota's U.S. operations from 2003 to 2007. In an interview with

ABC News in February, Biller claimed that Toyota hid evidence of safety defects from consumers and regulators and fostered a culture of "hypocrisy and deceit."

After leaving Toyota in 2007, Biller filed suit against his former employer, alleging that Toyota "engaged in improper and illegal activities, including concealing and destroying evidence, perjury, violation of court orders, obstructing justice, mail fraud, wire fraud, and conspiracy to commit crimes."

Toyota has also sued Biller, claiming that he had violated a non-disclosure agreement he made when he left the company. Both suits are currently in arbitration.

Biller said he has four boxes worth of documents that he claims were deliberately withheld from plaintiffs' lawyers suing Toyota in product liability lawsuits, despite court orders requiring that the automaker disclose the information.

"They were hiding evidence, concealing evidence, destroying evidence, obstructing justice," said Biller.

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Toyota said in an earlier statement that "Mr. Biller continues to make inaccurate and misleading allegations about Toyota's conduct, which we strongly dispute and will continue to fight vigorously."

Biller turned over the documents to Congress as part of its investigation into Toyota's sudden acceleration controversy. However, until last week's ruling, he had been prohibited from using the documents in court.

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