

GM Truck Owners Say Dim Headlights Are A Real Danger

By **Steven Trader**

Law360, New York (November 3, 2016, 5:02 PM EDT) -- GMC Sierra owners suing General Motors over an alleged lack of headlight strength in their vehicles told a California federal judge Wednesday that the risk of accidents and the money they spent on replacement parts provide an adequate basis for their proposed class action and overcome the automaker's dismissal motion.

In a July motion to dismiss, GM argued the GMC Sierra headlights at issue have not malfunctioned and that no accidents have occurred, therefore the vehicle owners lack a foundation for their defect claims. But the owners struck back Wednesday that they're at a greater risk for crashes, have in some cases avoided driving at night and have paid out of their own pockets for brighter beams, all of which constitute injuries that give them standing in the suit.

"Contrary to GM's own conclusory contention that plaintiffs have received the 'benefit of their bargain,' no plaintiff or proposed class member received the cars they bargained for because each class vehicle suffers from a headlight defect that renders its actual performance deficient," the owners wrote.

Since filing their amended complaint in April, more than 62 new complaints have been lodged with the National Highway Traffic Safety Administration concerning the Sierras, the owners said. The volume of the complaints, as well as technical bulletins issued by GM, reflect the fact that the automaker knows about the headlight problem but chooses to do nothing, they contended.

"This is not a case about speculative future harm or a product defect that has not yet manifested," the vehicle owners wrote. "The inadequate headlights and the dangers associated with them are causing problems right now."

Armando Becerra and Guillermo Ruelas brought the suit in October 2015, saying GM has long known that Sierras — the 2014 and 2015 GMC Sierra 1500, and the 2015 GMC Sierra 2500HD and 3500HD — have headlights that don't do the job.

Becerra's headlights have given him repeated trouble, he said, and a dealership hasn't been able to fix them. He said he spent \$400 to \$500 for a new headlight assembly to improve illumination.

Ruelas described the same situation, in which a dealership was powerless to help. He said when he eventually traded his 2014 model for a 2015, in hopes that the newer model would be defect-free, he was disappointed.

Though its cars have traditionally used separate bulbs for high and low beams, a new headlight system that GM rolled out in 2014 uses just one bulb for both high and low, court documents said. Despite allegedly widespread online complaints, GM expanded the new headlight system to all its Sierra models for 2015, the consumers contended.

Owners Robert Stewart and Steve Wilson were added to the amended complaint in April, alleging violations of California's Consumer Legal Remedies Act, Unfair Competition Law and Song-Beverly Consumer Warranty Act, as well as Texas' Deceptive Trade Practices Act, also including claims for breach of express and implied warranty and fraudulent concealment.

In its July 29 **motion to dismiss**, GM argued the suit contained no actual allegation of suffered injury or malfunction, and therefore must be dismissed.

But on Wednesday, the owners said they had pled economic damages, "since a vehicle with adequate headlights is worth more than one without them," loss of use, repair costs and risk of accidents. On top of that, the drivers argued they have adequately pled the headlight defect was material and that GM had a duty to disclose it.

Their warranty claims work, too, because GM has not replaced the defective parts and each vehicle suffers from a headlight defect that renders its actual performance "deficient, unsafe and unreliable," the owners contend.

A representative for the automaker on Thursday didn't immediately return a request for comment.

The plaintiffs are represented by Barbara A. Rohr and David Bower of Faruqi & Faruqi LLP, Adam Gonnelli of The Sultzner Law Group PC, Bonner Walsh of Walsh PLLC, Steven Marchbanks of Premier Legal Center APC and Craig Patrick of Patrick Law Firm PC.

GM is represented by Robyn Bladow of Kirkland & Ellis LLP.

The case is Becerra et al. v. General Motors LLC et al., case number 3:15-cv-02365, in the U.S. District Court for the Southern District of California.

--Additional reporting by Cara Salvatore. Editing by Catherine Sum.