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Lawsuit Over a Crash Adds to Toyota's Difficulties

By [BILL VLASIC](#)

FLINT, Mich. — The trip was one that Guadalupe Alberto had made many times before, just a few miles through her neighborhood to the small grocery store her family had owned for years.

It was a Saturday afternoon, April 19, 2008, and Mrs. Alberto, a 77-year-old former autoworker, was driving her 2005 [Toyota Camry](#). Within blocks of her home, witnesses told police, the car accelerated out of control, jumped a curb and flew through the air before crashing into a tree.

Mrs. Alberto was killed instantly, leaving her family stunned at how such an accident could happen to someone who was in good health, never had a speeding ticket and so hated driving fast that she avoided taking the freeway.

Her car was not among the millions of Camry models and other Toyotas recently recalled for sticky accelerator pedals. And it also did not have floor mats at the time, which were part of a separate recall.

Instead, the crash is now being looked at as a possible example of problems with the electronic system that controls the throttle and engine speed in Toyotas.

Such computerized systems are part of a broader inquiry by federal regulators into problems with sudden, unintended acceleration in Toyotas, beyond the issues that have led to the company's recent recalls. [Toyota](#) denies there is a problem with such systems.

In a lawsuit filed in Circuit Court in Genesee County, Mich., Mrs. Alberto's family claims that Toyota and one of its suppliers, the Japanese firm Denso, were negligent in manufacturing an electronic throttle system that caused her death.

"We think Toyota has a safety problem with the electronic throttle control system in Camrys and other Toyota models," said Eric Snyder, a lawyer for the family.

The case materials include a rare deposition from a Toyota executive about how the company and the [National Highway Traffic Safety Administration](#) agreed to categorize different accidents when the agency investigated throttle control issues in 2004 on certain models.

For example, according to the deposition, the 2004 investigation excluded incidents of high-speed acceleration lasting several seconds from a larger universe of low-speed incidents of engine speed increasing briefly.

In his deposition — part of the public case file provided to The New York Times by the Albertos' lawyer —

the Toyota executive, Christopher Santucci, said the company did not provide details of high-speed incidents because federal regulators had not requested them.

He also testified that the electronic throttle control system in Mrs. Alberto's 2005 Camry was similar to the computer equipment in other Toyotas now under recall for sticky pedals and unsecured floor mats.

Toyota said on Monday that it had found no problems with its throttle control system, which it began using in 2002. "It is not an electronics issue," said James E. Lentz III, president of Toyota's United States sales division.

But Transportation Secretary [Ray LaHood](#) has said that federal regulators will "continue to look" into whether Toyota's electronic systems pose a safety concern.

Mrs. Alberto's accident has drawn comparisons to the fiery crash that killed an off-duty California Highway Patrol officer, Mark Saylor, and three members of his family in August. In that case, witnesses said that the Lexus sedan that Mr. Saylor was driving was going more than 100 miles an hour before crashing near San Diego.

In both cases, witnesses said the cars appeared to be steadily increasing in speed until the accident.

Lilia Alberto, a daughter of Mrs. Alberto, said her mother was a cautious driver who never had a traffic violation. "Something caused this car to trigger the throttle to open all the way and make the car start speeding," she said in an interview.

In response to the lawsuit, Toyota wrote that it "denies any and all allegations of defect" and that the company was in any way responsible for her death. A company spokesman declined to comment on Thursday.

Mrs. Alberto was a Honduran immigrant who settled in Flint with her husband, Abraham, and family in the 1960s. Mr. Alberto worked for 26 years for [General Motors](#) at its huge Buick City factory, and his wife worked for 15 years at a G.M. truck plant.

After the couple left G.M. in the early 1990s, they ran a small, neighborhood grocery in a downtrodden section of Flint. The store has a large piece of bulletproof glass separating the customers from family members working the cash register.

The Camry was a Christmas present to Mrs. Alberto from one of her daughters, who thought her mother should stop driving her older-model Buick.

At first, Mrs. Alberto and her husband were chagrined to own a Toyota because of their deep ties to G.M. "I said, 'We don't want Toyota because we are from G.M.,'" Mr. Alberto, 82, said. "But they gave it to her as a present, and it was cheaper than the [Buick LeSabre](#)."

Despite her age, Mrs. Alberto worked regular hours in the store. "The day before the accident, she was in the store carrying cases of soda and stacking them," Douglas Alberto, a son, said.

At about 2 p.m. on that April day, Mrs. Alberto loaded her Camry with pots of spaghetti and shrimp to take

to the store, where she planned to make dinner for her husband.

As she drove down her street, witnesses said her car began going faster and faster. The Camry ran at least three stop signs and then crossed a busy four-lane street, swerving to avoid oncoming traffic.

When the car hit the tree, neighbors told Douglas Alberto that it sounded “like a cannon had been shot off.” He also said the speedometer on the Camry was stuck at 80 miles per hour.

The car, which is now impounded as evidence, had only 17,000 miles on it and had never needed service except for three oil changes, Lilia Alberto said.

In December, Mr. Santucci, Toyota’s manager of technical and regulatory affairs, was deposed by the Alberto family’s lawyers in Washington. He was asked about Toyota’s role in cooperating with the national safety agency in a 2004 investigation of throttle control concerns.

Mr. Santucci, who had previously worked for the safety agency, said the company had discussions with the agency about limiting the type of acceleration incidents to be investigated.

“I recall them saying to us, Toyota, myself, that they were not interested in reports alleging uncontrolled acceleration that occurred for a long duration,” Mr. Santucci testified.

In fact, the safety agency had decided to look only at cases of unintended acceleration in which drivers had not applied their brakes — ostensibly to rule out potential braking concerns from the scope of the investigation.

A spokeswoman for the Transportation Department, Olivia Alair, said on Thursday that incidents in which the brakes were applied raised questions of whether the driver had mistakenly stepped on the accelerator instead of the brake.

“The shorter incidents without brake use seemed to involve pure cases of engine surging due to a possible defect,” she said.

Mr. Santucci testified that limiting the vehicles to short-duration incidents was beneficial for both Toyota and the safety agency. “I think it worked out well for both the agency and Toyota, meaning Toyota provided what they were looking for,” he said.

The government closed the investigation a few months later without any finding of a vehicle defect. “A defect trend has not been identified at this time, and further use of agency resources does not appear to be warranted,” the agency said in a document dated July 22, 2004.

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