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## From Asbestos to Pesticides to Pork

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The Fall

of Icarus is the Greek myth about a youth who gets a pair of wax-and-feather wings but soars too close to the sun—melting the wings and casting him into the sea.

In the 1990s, a consulting firm called Failure Analysis Associates ran tongue-in-cheek ads aimed at corporate lawyers that retold the myth as a courtroom drama. The arty-looking promos boasted that Failure's expert testimony in "Icarus vs. Wax Aviation" would put the onus on pilot error, getting the company off the hook.

The formula has turned the firm, now named Exponent, Inc., into a publicly traded giant in litigation defense and regulatory science. It's a go-to destination for major industries with liability problems—even as it is derided by critics as a hired gun whose findings are for sale.

While not a household name, its cases often are drawn from the headlines, such as the National Football League's "Deflategate" controversy; the General Motors ignition switch litigation; and most recently, the investigation of battery fires in Samsung Galaxy Note 7 smartphones. Other Exponent clients have included BP, ExxonMobil and Dow Chemical, powerful trade groups such as

the American Chemistry Council and the Alliance of Automobile Manufacturers, and government agencies including the Defense Department.

The auto industry in particular has long provided a fortune in fees to the Menlo Park, Calif.-based firm. According to court records, Ford Motor Co. paid Exponent more than \$106 million from 1999 through 2011. Toyota ponied up more than \$33 million from 2010 through the first nine months of 2013—mostly for helping to challenge claims of sudden unintended acceleration. In testimony this year, Jeffrey Croteau, the director of Exponent's vehicle practice, said he had been involved in about 500 automotive lawsuits without once concluding that any component of any vehicle was defective.

## They're Everywhere ...

Exponent in recent years has provided corporate clients with analysis and testimony on a vast range of topics, including these products and substances:

2-4D, Agent Orange, acrylamide, airbags, allyl alcohol, amusement park rides, arsenic, asbestos, atrazine, battery fires, benzene, beryllium, caffeine, candy, cellphones, chlorpyrifos, cyanoacrylates, decamethylcyclopentasiloxane, diesel exhaust, dioxin, drones, eggs, electromagnetic fields, e-cigarettes, endocrine disrupting chemicals, fatty alcohols, fiberglass, flame retardants, footballs, formaldehyde, glyphosate, GMO crops, hexavalent chromium, medical devices, mercury, motorcycle helmets, MTBE, nanotechnology, naphthalene, neonicotinoid insecticides, n-propyl bromide, offroad vehicles, oil pollution, organochlorine pesticides, paraquat, pavement sealers, PCBs, perfluorooctanoate, polycyclic aromatic hydrocarbons, power plant emissions, pyrethroid insecticides, red and processed meat, seat belts, shoe types, silica, soft drinks, tertiary-butyl acetate, toxaphene, trichloroethylene, vehicle roofs, vehicle seats, vehicle rollovers.

Opponents say Exponent's scientists and engineers routinely bend conclusions to the needs of clients, noting that the company in the 1990s supported the tobacco industry in denying the lung cancer risk of secondhand smoke. The firm's forte, they say, is "doubt science"—muddying the waters by attacking research showing evidence of harm, highlighting or exaggerating scientific uncertainties about health hazards, and calling for more research to delay action. The result, critics say, is a pro-industry imprint on scientific literature.

A FairWarning analysis of technical databases turned up more than 1,850 peer-reviewed articles, letters and book chapters written or co-authored by Exponent scientists and engineers since the start of 2000. Because there is no single, all-inclusive index of technical writings, the count is certain to be low. Many Exponent articles focused on biomedical topics, such as the design of medical devices. Hundreds more were funded by corporations and trade groups seeking to sway regulators and juries by questioning concerns about everything from asbestos and pesticide exposure, to oil and chemical pollution, to consumption of sugary sodas, candy, eggs and red meat.

## Full disclosure?

Industry sponsorship of research is typically disclosed in science and engineering journals, but at the end of articles. That's problematic, critics say, because many people— students, journalists and others—read only the brief summaries, called abstracts, that are available online at no cost. Most never see the full articles with disclosure statements because they usually cost about \$35 apiece, an issue previously examined by the [Center for Public Integrity](#).

Earlier this year, five Democratic U.S. Senators [called on the National Library of Medicine](#) to disclose funding sources or other potential conflicts in all articles in its free online database, PubMed. The senators' letter stated that PubMed users should be provided "with the basic information necessary to form their own judgments about any research article's scientific objectivity and impartiality."

Exponent officials refused FairWarning's interview requests, but the firm has staunchly defended its scientific credibility. [According to its website](#): "The Exponent name is recognized for its integrity, objectivity, independence, and professionalism...We employ the best and the brightest from the major academic institutions around the world as well as technical specialists from a variety of industries."

Or as Fiona Mowatt, an Exponent toxicologist, [testified in an asbestos case in 2015](#): "I believe that we aren't in the business of exonerating the industry; I'm in the business of looking at what the science says."

Critics counter that this quest for truth leads down predictable paths. In his 2008 book, ["Doubt is Their Product,"](#) David Michaels, now assistant Secretary of Labor for Occupational Safety and Health, criticized Exponent and several of its science-for-hire rivals. "While some might exist," Michaels wrote, "I have yet to see an Exponent study that does not support the conclusion needed by the corporation or trade association that is paying the bill."

The drive for repeat business is not the only reason. Clients who fund research often own the data that is generated, and must approve the publication of results, said Roger L. McCarthy, a former Exponent CEO and chairman who retired from the company in 2009, and who agreed to speak with FairWarning.

## Bearers of bad news

At times the firm has had to deliver "bad news," prompting clients to order recalls or take other remedial steps, McCarthy said. He cited a 1996 [propane gas](#)

explosion in Puerto Rico that killed 33 people. The propane supplier—the now-defunct energy firm Enron—wanted to blame the blast on natural gas. When Failure Analysis explained that it was “absolutely unmistakable that propane caused this explosion,” McCarthy said, Enron “fired us.”

Even so, publishing only results that are favorable to clients can tilt the evidence on a given topic.

The risk of bias is not confined to industry-sponsored science. People on the other side—such as plaintiffs lawyers and environmental groups—also fund studies they hope will influence verdicts and policy decisions. However, they have far less financial means to do it.

Said Christopher P. Weis, toxicology liaison for the National Institute of Environmental Health Sciences: “The idea is that truth rules,” and it “doesn’t necessarily matter the source if the science is sound.

“Unfortunately, we’re living in this regulatory world where bias is rampant,” Weis said. “You get paid to put forward a cogent argument...It happens on both sides,” but the financial imbalance “is extremely lopsided.”

Exponent’s devotion to clients has backfired on occasion. In October, 2014, a federal judge in Ohio excluded the testimony of one of the firm’s scientists in a class action suit against Whirlpool Corp. The case involved a line of clothes washers that plaintiffs said accumulated residue, leading to mold and foul odors. The Exponent scientist did a study for Whirlpool that concluded there were no problems with its washers. However, the judge ruled that she had excluded results of odor sampling unfavorable to Whirlpool, and booted her from the case.

Still, Exponent’s fortunes hinge on the amount of legal trouble facing its clients—as the company has candidly acknowledged in shareholder reports.

The firm’s 2015 annual report stated, under “Risk Factors,” that if legal or regulatory changes “reduce the exposure of manufacturers, owners, service providers and others to liability, the demand for our services may be significantly reduced.”

# # #



Roger L McCarthy, former CEO and chairman of Exponent, Inc., and a member of the National Academy of Engineering.





Exponent headquarters in Menlo Park, California. A publicly-traded science and engineering consulting firm, Exponent has offices in 20 U.S. cities and five foreign countries. (Kristopher Tripplaar/Alamy Stock Photo)

Exponent has more than \$300 million in annual revenues, offices in 20 U.S. cities and five foreign countries. It has about 1,000 employees—more than two thirds with advanced degrees in science, engineering or medical fields. Like other heavyweights in Silicon Valley, it rose from humble beginnings.

It was founded as a partnership by three Stanford professors and two engineers from the Stanford Research Institute over lunch in 1967 at The Oasis, a beer and burger joint in Menlo Park. As the story goes, co-founder Alan S. Tetelman joked that Failure Analysis was an apt name for

a California startup because one-third of Californians were failures, and the other two-thirds were in analysis.

### **Success out of failure**

In fact, the name perfectly captured the firm's original purpose—to investigate the cause of major structural and system failures. In its early years, the firm got lucrative assignments to find the cause of piping leaks at nuclear power plants. It has since been retained by insurers and others to investigate such disasters as the deadly failure in 1981 of skywalks at the Hyatt Regency Hotel in Kansas City, Mo.; the 1995 collapse of the bombed Murrah Federal Building in Oklahoma City; and the destruction of the World Trade Center's Twin Towers on 9/11.

In 1978, the company experienced a tragedy of its own when Tetelman, its president, while en route to investigate the crash of a Navy aircraft, perished along with 143 others in a mid-air collision over San Diego.

A few years later, the firm purchased a 147-acre vehicle test site in Phoenix, cementing its status as the leading defender of auto and off-road vehicle manufacturers. It changed its name to Exponent in 1998. Through hiring and acquisitions, it expanded into the health and environmental fields, including chemical regulation, food safety and medical devices. According to company figures, it is involved in about 6,000 cases a year.

Its growth has been spurred by society's rising intolerance of risk, according to McCarthy—though other forces also are at work. Beginning with President Reagan in the early 1980s, a series of executive orders and laws required that tough cost-benefit scrutiny be applied prior to adoption of new regulations. That encouraged deep-pocketed opponents to retain experts to poke holes in the evidence supporting such rules. The growing complexity of civil litigation—and the role of judges in screening the reliability of scientific evidence—also put a premium on expensive testing and expert testimony.

And when major industries have sought help in health and environmental battles, Exponent, over and over, has answered the call.

In 2011, when university researchers reported elevated rates of birth defects near coal mines using the controversial technique called mountaintop mining, the National Mining Assn. quickly drafted Exponent scientists to dispute the findings.

According to their critique, the study lacked “the quality or type of data required to support the conclusions made by the authors.”



In western Montana, where residents of small communities are in court trying to force the cleanup of yard soil contaminated by a former arsenic smelter, Exponent is advising the owner of the smelter site—the ARCO unit of oil giant BP—which is resisting the demands. Arsenic is a carcinogen, and the residents want levels of the toxic metal to be reduced to natural background. An Exponent toxicologist serving as expert witness for ARCO contends that arsenic levels, though well above background, are too low to harm the residents.

Exponent scientists reviewed studies linking consumption of red and processed meat to colorectal, breast and prostate cancer. They found there was insufficient evidence of a causal connection. The research was supported by beef and pork industry groups. (iStock photo)

### **Standing up for red meat**

Trade groups for beef and pork producers hired Exponent to dispel cancer fears relating to

consumption of their products. Although the International Agency for Research on Cancer has classified processed meat as carcinogenic to humans, and red meat as “probably” carcinogenic, a series of papers co-authored by Exponent scientists from 2009 to 2014 found no conclusive evidence of causal links. At least one article had a promotional ring. “Lean pork makes important nutritional contributions to the diet,” the report for the National Pork Board said.

With funding from Chevron Corp., Exponent scientists have produced at least two papers (here and here) rejecting claims that pollution from oil production sites in Ecuador may have raised cancer rates.

And after a 2012 study by university and government scientists found what they called “compelling evidence” that the massive Deepwater Horizon oil spill in the Gulf of Mexico had damaged coral formations, an Exponent scientist and another consultant for oil giant BP advanced the theory that natural oil seeps could be the cause.

The firm consulted for ExxonMobil for more than two decades after the 1989 Exxon Valdez oil spill in Alaska. Exponent scientists also issued expert reports for defense attorney Theodore V. Wells when he defended an oil pollution lawsuit filed against ExxonMobil by the state of New Jersey. Later, as attorney for the National Football League, Wells retained Exponent to produce the “Deflategate” research that led to star quarterback Tom Brady being suspended for his alleged role in tampering with footballs in a playoff game.



Exponent scientists and co-authors produced a string of reports concluding that health risks from TCDD, the most toxic form of dioxin, have been overrated. Although health agencies have classified TCDD as a human

Other Exponent studies have challenged research on health risks from glyphosate, which has been described as the world’s most widely used herbicide and is classified by the International Agency for Research on Cancer as a probable human carcinogen.

A 2012 paper by three Exponent scientists found no dietary risk from glyphosate residues on food crops, and “no solid evidence” that exposure at “environmentally realistic” levels could cause birth defects or developmental problems for children. Glyphosate is the active ingredient in

carcinogen, one of the studies concluded that it was not carcinogenic to humans at low levels and “may not be carcinogenic to them even at high levels.” The work was supported by Dow, Monsanto and other chemical producers. (iStock photo)

weed-killers such as Roundup, made by Monsanto, which sponsored the research, along with DowAgroSciences and other producers.

## Honeybee deaths

Even as the European Commission was halting use of a class of insecticides called neonicotinoids as a likely culprit in massive honeybee deaths, [a 2014 paper](#) by Exponent scientists found “no clear indication” that these or other pesticides “are the root cause of such losses.” The work was sponsored by Bayer Crop Science, a top producer of neonicotinoids, which also funded Exponent to host an expert workshop on bee deaths. Exponent’s [written summary](#) of the workshop said neonicotinoids “were judged to be ‘unlikely’ as the sole cause of this reduced survival, although they could possibly be a contributing factor.”

Dow AgroSciences and the trade group CropLife America enlisted Exponent to challenge a pending EPA proposal to bar use of the insecticide chlorpyrifos on food crops. The proposal stems from concern by the agency and farm worker and environmental groups that residues on crops and in rural water supplies could cause [neurodevelopmental effects](#) in children, including reduced IQs. In at least five published articles and a series of technical comments to the EPA, Exponent scientists have questioned the rationale for tougher restrictions. “Overall, the available evidence does not establish that low-level exposures...cause adverse birth outcomes or neurodevelopmental problems in humans,” [a 2015 paper said](#).

Or, as senior managing scientist Ellen Chang in April told an [EPA scientific advisory panel](#) in quintessential Exponent-speak: “I wouldn’t say that we can absolutely reject a causal conclusion, but ... the persisting questions give us insufficient evidence to establish a causal relationship between chlorpyrifos and these neurodevelopmental outcomes.”

## Trash talk

Trash-talking erupted when Exponent challenged [the 2013 report](#) of a World Health Organization panel on the state of science on endocrine-disrupting chemicals. The report said that certain pesticides, flame retardants and plastics ingredients could affect the hormonal systems of people and wildlife.



In response, four Exponent scientists along with several other industry consultants rebuked the WHO report as “one-sided.” It “does not provide a balanced perspective, nor does it accurately reflect the state of the science on endocrine disruption,” said their review—which was funded by the American Chemistry Council, the European Chemical Industry Council and other trade groups.

Two dozen other scientists, including editors of the original WHO report, fired back in a commentary, calling the industry critique “misleading,” and “not particularly erudite.” It was “not intended to be convincing to the scientific community, but to confuse the scientific data.” In an interview with FairWarning, Thomas Zoeller, a University of Massachusetts biology professor and member of the WHO panel, described the industry response as “a paid advertisement and negative campaigning.”

That drew a parting shot from the industry scientists, who said that “specious accusations that we are merely conducting an industry-funded disinformation campaign only underscores their lack of substantive responses to our critique.”

Court documents show that Exponent has been paid more than \$33 million by top automakers to help defend claims by former brake mechanics that they contracted mesothelioma, a deadly asbestos-related cancer, from years of breathing dust generated by changing asbestos brakes.

The fees—paid mostly by Ford from 2001 to 2014—funded a stream of research articles concluding, among other things, that brake mechanics do not suffer increased rates of mesothelioma; that dust levels from brake work were too low to be harmful; and that the type of asbestos used in brakes does not cause mesothelioma.

### **Are Australians different?**

When a study showed elevated disease rates in Australian mechanics, Exponent scientists pounced. In an article titled “Mesothelioma in vehicle mechanics: is the risk different for Australians?” They wrote: “There seem to be several errors in the ... data, and in the assumptions used to calculate relative risk.”

In an interview, Christian Hartley, a lawyer for mesothelioma victims, denounced the Exponent



Jennifer Sass, senior scientist  
Natural Resources Defense  
Council.

research. “All these publications are simply litigation reports dressed up as science—not to answer scientific questions but to help lawyers in the courtroom persuade judges and juries.”

An Exponent scientist and two co-authors also attacked [a 2005 study](#) showing higher rates of mesothelioma in areas of California’s Sierra foothills with naturally occurring asbestos in rocks and soil. In [a letter](#) to the American Journal of Respiratory and Critical Care Medicine, they said the study had serious limitations that made meaningful conclusions impossible. The letter acknowledged that Exponent had received funding from the top trade group for sand and gravel firms, the National Stone, Sand and Gravel Association.

The authors of the study, from the University of California at Davis, acknowledged the need for further research. But [they wrote](#): “Do we really want to perform the ultimate test of whether environmental asbestos is associated with mesothelioma in California and elsewhere in the United States by waiting the very long latency for this untreatable malignancy, and counting the deaths? ”



Stephen A. Batzer of Batzer Engineering in Fife Lake, Michigan

Health and environmental advocates largely concede that there are uncertainties about health risks from low-level toxic exposures that may never be completely resolved. Whether to delay health measures while waiting for more data—or take action and risk over-regulating— may be more a political or ethical decision than a scientific one.

Scientists who “need more time and study to know more and more and more—they are often not the ones taking the risks,” remarked Jennifer Sass, a senior scientist with the Natural Resources Defense Council. “The ones that are taking the exposure are often workers and community members.”

### **Speaking a different language**

In an Exponent [report](#) to the EPA in 2012, the firm’s language seemed out of character. The report backed a petition to add n-propyl bromide (nPB), a toxic chemical used in industrial adhesives and in dry cleaning, to a list of hazardous air pollutants requiring the tightest emission controls.

The chemical “is marketed as ‘non-hazardous,’” Exponent said, yet “there have been a number of case reports of reproductive and neurotoxic effects in exposed workers. Moreover, the National

Toxicology Program (NTP) recently concluded that nPB is carcinogenic.” As if written by environmental advocates, it stressed potential risks, not uncertainties.

As it turned out, Exponent’s client was the Halogenated Solvents Industry Alliance. Members of that group produce chemicals that compete with nPB.

# # #

Exponent’s most lucrative and enduring relationship is with the auto industry. In helping the industry fight lawsuits blaming deaths and injuries on flawed vehicle designs, the firm’s engineers over the years have taken some controversial and contrarian positions.

Shoulder belts, along with lap belts, are standard equipment in rear seats of all passenger vehicles for obvious safety reasons—but that wasn’t always the case. In 1992, while helping defend a lawsuit involving a catastrophic injury to a backseat passenger, Failure Analysis engineers published [a paper](#) challenging the value of shoulder belts, claiming they appeared to make no “measurable difference” in reducing injuries and deaths.

That same year, the firm helped GM avert the threat of a horrendously costly recall of pickup trucks that, due to a unique fuel system design, were unusually susceptible to [catching fire in a crash](#). Although hundreds of people had survived crashes of the pickups—only to be burned to death in the resulting fires—Failure Analysis produced a report showing lower overall death rates in crashes of the GM trucks than for competing Ford and Dodge models. In fact, the fatality risk of the GM trucks was somewhat higher than that of their full-size rivals.

In November, 1992, GM’s general counsel sent a [letter of apology](#) to the head of the National Highway Traffic Safety Administration (NHTSA). “An analysis obviously submitted to the agency in an attempt to clarify our position—may unfortunately have obfuscated it,” the letter said. “There was absolutely no intention to mislead anyone.”

### Successful sleuthing

But about the same time, Failure Analysis’ sleuthing aided GM by exposing deception at NBC News. The network’s “Dateline” show



Reports by Exponent scientists and co-authors found no conclusive evidence of an increased risk of Parkinson’s disease and cancer among pesticide applicators. The studies were

had aired a report on the fire-prone pickups that showed one sponsored by pesticide catching fire when a car struck it on the side. Acting on a tip from manufacturers. (iStock photo) a fire fighter who witnessed the test, GM assigned Failure Analysis to investigate. It turned out that the network's contractor, taking no chances, had rigged the truck with rocket motors to make sure it would catch fire. The scandal triggered a shakeup at NBC News, including the resignation of then president Michael Gartner.

Over the years, Exponent has helped defend many hundreds of lawsuits stemming from deaths and catastrophic injuries in rollovers of light trucks– both SUVs and pickups. With Ford's Bronco II and, later, the Explorer, leading the SUV revolution, the high-riding vehicles were flying off sales lots by the 1990s. But there was a problem: Their high center of gravity and narrow track width made them much less stable than passenger cars, and therefore more prone to flip over in emergency steering maneuvers. Rollover deaths rose above 10,000 per year.

Facing a rising tide of lawsuits, manufacturers and their experts aggressively wielded the nut-behind-the-wheel defense, asserting that the vehicles were well-designed and performed just as intended—and that driver errors were solely to blame for rollovers.

Courtroom results have been mixed, with victories for defendants and plaintiffs, and many claims being settled. But Steve Batzer, a Michigan-based engineer who has squared off against Exponent as a plaintiffs' expert, said that all cases considered, Exponent has "done an excellent job for the auto industry in diminishing their liability."

### **Remarkable and brilliant**

In an interview, Alan C. Donelson, a former Exponent scientist involved in vehicle cases from 1989 to 2005, said it was an opportunity to work with "remarkable and brilliant people," in "a fantastic environment in which to hone one's skills as an engineer and scientist, and to get a lot of battle time." The main drawback: "I could never accept a case for a plaintiff," Donelson said.

The Exponent expert was "not your ivory tower academic who can ponder this and that," said Donelson, who now has his own consulting business. "It's a life and death struggle" in which companies "are literally being asked to pay millions of dollars for injuries that result from use of their products...This is a fight, and so the adversarial nature of litigation does indeed give rise to the...experts who can present the best case—and that's true of both sides. You just find a higher quality on the defense side," Donelson said, because they have more money.

Exponent has fought for the industry in the regulatory arena as well as the courts. To reduce the





Exponent scientists co-authored a 2014 report that found that candy consumption was responsible for just a “small proportion of calories, added sugars, and saturated fat” in the American diet. The work was supported by the National Confectioners Assn.. (iStock photo)

1989, four Failure Analysis engineers, led by McCarthy, then the firm’s CEO, produced a paper calling the stability factor “highly simplistic” and a poor predictor of rollover risk—which instead is “strongly associated with driver related factors such as driver age, alcohol involvement, and prior speeding convictions.”

In 2000, as the debate continued, the Alliance of Automobile Manufacturers submitted to NHTSA another Exponent paper disputing the reliability of the SSF. But the agency rejected the arguments, and added the measure to the star rating system. Said a NHTSA document: “We believe that...SSF is very important in describing rollover risk.”

Related to the rollover danger was the prevalence of flimsy vehicle roofs, which could collapse onto the heads and necks of passengers when vehicles tipped over. For decades, the industry had successfully resisted calls to beef up the federal roof strength standard, widely considered weak even when it was adopted in 1971. The industry’s main argument: When a vehicle flips, passengers tumble violently into the roof as it strikes the ground, often suffering severe head and neck injuries whether the roof holds up or not.

### **In defense of weak roofs**

Exponent engineers repeatedly pushed this line, including in a 2008 report to NHTSA. “This research does not support the

toll of rollover deaths, federal regulators long considered setting a minimum stability standard for cars and trucks. Facing powerful industry resistance, NHTSA abandoned the idea in the 1990s, explaining that such a rule could limit consumer choice by eliminating whole classes of vehicles. The agency settled instead on giving consumers information on rollover risks of different models by including a measure called Static Stability Factor, or SSF, in its star rating system.

The SSF focused on design, and not just driver error, as a factor in rollovers, and the industry hated it. In

hypothesis that increasing roof strength will prevent occupant injury or roof deformation,” the paper said. Brian O’Neill, former president of the Insurance Institute for Highway Safety, called the argument “patently nonsense.” Said Batzer, the Michigan engineer: “Nobody who’s outside of the pay of the auto industry holds the opinion that the strength of the roof is inconsequential in rollover crashworthiness.” NHTSA ultimately adopted a tougher roof strength standard for 2012 and later models.



Exponent scientists were retained by oil giants ExxonMobil and BP to report on environmental recovery after major oil spills, and by Chevron to debunk claims of increased cancer risks from oil production activities in Ecuador. (iStock photo)

Today rollover death rates for newer SUVs are much lower than for models sold in the 1990s and early 2000s, according to Insurance Institute data.

In many cases, the newer models have a lower and wider stance, increasing their stability; electronic stability control; better seatbelts and stronger roofs, and more airbags. Drivers still make mistakes, yet rollover deaths have come down with changes in design.

Exponent recently was enlisted for the defense of lawsuits over defective ignition switches in GM cars. The suits alleged that switch failures cut off power steering, braking and airbags, resulting in injuries and deaths.

Separate from the lawsuits, GM in September 2015 settled a criminal probe of the ignition switch problem, paying \$900 million as part of a deferred prosecution agreement.

In the agreement, GM admitted that it had “failed to disclose a deadly safety defect to its U.S. regulator, the National Highway Traffic Safety Administration,” and “falsely represented to consumers that vehicles containing the defect posed no safety concerns.”

But when she testified in March in an ignition switch case in federal court in New York, Exponent engineer Jennifer Yaek seemed unaware or unwilling to concede what GM had already admitted.

When a lawyer questioned Yaek about the defective switches, she rejected the premise. “I am aware that there was a recall,” she said, “not a defect.”

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