

The Herald

Starr's GM work is back to haunt him

Records suggest he condoned lie

By David Kidwell
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A Broward County judge presiding over a tedious wrongful-death case in a small Hollywood courtroom has unwittingly uncorked a national tempest to discredit the man who would take down a president.

Long-concealed records ordered opened in the case against car manufacturer General Motors suggest that one of the company's lead defense attorneys – Kenneth Starr – may have allowed a GM engineer to lie on the witness stand in previous cases.

Starr, whose firm Kirkland & Ellis still represents GM in other cases, is the independent counsel now investigating President Clinton on charges of obstructing justice and suborning perjury – allegations that Starr now faces himself. GM lawyers call the allegations baseless and “ridiculous”.

Based on the records released last month in the wrongful-death case of 13-year-old Shane McGee of Pembroke Pines, a South Carolina attorney suing GM in a previous case has filed formal complaints against Starr with U.S. Attorney General Janet Reno and the three –judge panel that appointed Starr as independent counsel.

The U.S. attorney in South Carolina said he intends to investigate.

It is against the law for attorneys knowingly to allow their clients to lie under oath or to conceal evidence that they have lied. If an attorney does allow false

testimony by his client, he can face criminal charges.

In a written statement Tuesday, General Motors spokesman Kyle Johnson said “Mr. Starr and Kirkland & Ellis' representation of General Motors...was proper in every respect.” Starr representatives referred calls to GM.

General Motors has faced hundreds of lawsuits across the country on grounds that faulty fuel tanks in trucks and cars built in the 1970s and '80s are to blame for deadly fires after crashes. GM has persistently maintained the cars are well-tested and safe.

One of the most damaging documents to surface against GM in more than a decade of litigation is the infamous Ivey memo, written by rookie engineer Edward Ivey in 1973. The memo is a “Value Analysis of Auto Fuel Fed Fire Related Fatalities,” which suggests it would not be worthwhile to General Motors to redesign the fuel tanks since “each fatality has a value of \$ 200,000.”

“This analysis indicated that for GM, it would be worth approximately \$ 2.20 per new model auto to prevent a fuel-fed fire in all accidents,” Ivey wrote.

For years, General Motors attorneys have sought to keep that memo from jurors on grounds it was written without authority, did not reflect GM policy and was in no way condoned by the company – suggestions mirrored by Ivey's testimony in all cases in which he has testified.

But Broward Senior Judge Arthur J. Franza last month ordered GM lawyers to turn over another internal document that suggests otherwise. A 1981 summary of an interview of Ivey by GM lawyers suggests Ivey told them he did the analysis “for Oldsmobile management” and that he “probably circulated copies of the report” to several named GM officials.

Starr and other GM lawyers have fought hard to keep the interview document from public scrutiny in fuel-fed fire civil cases for years, citing attorney-client privilege.

On Feb. 18, 76-year-old Franza – a colorful and outspoken judge who last year skewered one of the nation’s largest railroad companies for saving money at the expense of safety – said no way.

“It’s just too, too much to – I don’t know how to say this even – sweep it under the rug, hide behind the façade of legal procedure and not look at the substantive things that it has and says,” Franza said of the internal document. “It can’t be a party to – a just out-and-out lie.”

GM lawyers on Monday asked Franza to remove himself from the case on grounds he is biased against the large corporation. The judge refused.

Franza said Tuesday he was unaware of the political implications of his order, first made public in a Feb. 27 article in *Mother Jones*, an investigative magazine with a liberal bent.

“Geez, I had no idea,” Franza said Tuesday. “I didn’t even know Starr was part of the case.”

In an impromptu meeting with lawyers after Tuesday’s testimony had concluded, Franza expressed concern that looming publicity over Starr could irreparably harm a trial now in its 14th expensive week.

“I just hope the jurors don’t read this stuff,” he said.

The Pembroke Pines parents of 13-year-old Shane McGee argue their son died in the family’s 1983 Oldsmobile Cutlass station wagon because GM rejected design changes to save money. Shane’s mother, Constance, 52, underwent weeks of therapy for burns she suffered in the July 21, 1991 accident.

As the Hollywood trial continues, newspapers and prime-time news magazines have begun to hone in on the potential irony of a story suggesting that Starr may have suborned perjury and obstructed justice himself.

“He’s pointing the finger at the president when he should be pointing at a mirror,” said Joe McCray, a San Francisco attorney who has represented two dozen plaintiffs against GM.

In documents filed with the U.S attorney’s office, South Carolina attorney J. Kendall Few said Starr “has taken active, energetic and successful steps to conceal and cover up such perjury.”

Starr law partner Jay Lefkowitz, who worked closely with Starr in previous fuel-fed fire cases, is expected to testify in the McGee case starting Thursday.