

1 JOSEPH P. WOHRLE, ESQ. (STATE BAR NO. 143550)  
JEFFREY F. ALLEN, ESQ. (STATE BAR NO. 204042)  
2 ALLEN + WOHRLE, LLP  
2800 28TH STREET, SUITE 321  
3 SANTA MONICA, CA 90405  
Telephone: (310) 392-3355  
4 Facsimile: (310) 392-8059

5 DIMITRIOS P. BILLER, Esq. (STATE BAR NO. 142730)  
906 Kagawa Street  
6 Pacific Palisades, CA 90272  
Telephone: (310) 459-9870  
7 Facsimile: (310) 459-9879  
biller\_ldtconsulting@verizon.net  
8

9 Attorneys for Plaintiffs

10 UNITED STATES DISTRICT COURT  
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
12  
13

14 DIMITRIOS P. BILLER;  
15 LITIGATION DISCOVERY &  
16 TRIAL CONSULTING, INC., a  
17 California corporation;

18 Plaintiffs,

19 v.

20 TOYOTA MOTOR CORPORATION;  
21 TOYOTA MOTOR SALES,  
22 U.S.A., INC.; CHRISTOPHER  
23 REYNOLDS; JANE HOWARD  
24 MARTIN; ERIC TAIRA; DIAN  
OGILVIE; ALICIA McANDREWS;

25 Defendants.  
26  
27  
28

Case No.

**CV09-5429 CAS (JEMx)**

ORIGINAL COMPLAINT FOR:  
(1) VIOLATION OF CIVIL  
RACKETEER INFLUENCED  
CORRUPT ORGANIZATION ACT;  
(2) CONSTRUCTIVE WRONGFUL  
TERMINATION IN VIOLATION OF  
PUBLIC POLICY; and (3)  
INTENTIONAL INFLECTION OF  
EMOTIONAL DISTRESS

**DEMAND FOR JURY TRIAL**

BY \_\_\_\_\_  
CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT CALIF  
LOS ANGELES

2009 JUL 24 PM 3:33

FILED

1  
2 Plaintiffs, DIMITRIOS P. BILLER and LITIGATION  
3 DISCOVERY & TRIAL CONSULTING, INC., allege:  
4

5 **I. INTRODUCTION**

6 1. For years, Defendants Toyota Motor Corporation  
7 ("TMC"), its United States subsidiaries, and key Toyota  
8 executives, have conspired, and continue to conspire,  
9 to unlawfully withhold evidence from plaintiffs and  
10 obstruct justice in lawsuits throughout the United  
11 States against Toyota. Many of the plaintiffs in these  
12 lawsuits sustained catastrophic and fatal injuries in  
13 rollover accidents involving Toyota vehicles.  
14  
15  
16

17 Plaintiff Dimitrios P. Biller, the former National  
18 Managing Counsel in charge of Toyota's National  
19 Rollover Program, became aware of Toyota's conspiracy  
20 to conceal, withhold, and destroy evidence and  
21 information, and obstruct justice, during his  
22 employment at Toyota. As Toyota's in-house counsel in  
23 charge of managing some of the very cases in which  
24 Toyota was concealing evidence, Mr. Biller was in a  
25  
26  
27  
28

1 unique position to know the relevance of the evidence  
2 and information that was concealed in the cases in  
3 which it was requested by plaintiffs in discovery. As  
4 Toyota's managing counsel in those cases, Mr. Biller  
5 was ethically and legally obligated to turn over the  
6 evidence that Toyota had been concealing and  
7 withholding, and which it continues to conceal and  
8 withhold.  
9  
10  
11

12 Mr. Biller repeatedly confronted Toyota executives  
13 about the need to turn over the evidence it was  
14 concealing and withholding, and repeatedly was told by  
15 Toyota executives, including in-house counsel, that  
16 Toyota would not comply with its legal duty to do so.  
17 Despite Toyota's resistance, Mr. Biller persisted in  
18 his efforts to convince Toyota to meet its ethical and  
19 legal obligations to turn over the evidence it was  
20 concealing and withholding.  
21  
22  
23

24 When it became clear to Toyota and its executives  
25 that Mr. Biller could not be dissuaded in his  
26 insistence, Toyota and its executives made every effort  
27  
28

1 to prevent Mr. Biller from turning over, and even  
2 preserving, the damaging evidence the company so  
3 desperately sought to conceal. Mr. Biller was  
4 subjected to intimidation, harassment, and an uncertain  
5 future, both at Toyota and elsewhere, as a result of  
6 his efforts to comply with the legal and ethical  
7 obligations.  
8

9  
10 Mr. Biller suffered a complete mental and physical  
11 breakdown as a result of Toyota's campaign to quiet his  
12 efforts. Mr. Biller was forced to resign, enter into a  
13 Severance Agreement during a time in which he was on  
14 medical leave from Toyota due to his compromised mental  
15 and physical condition, and subjected to lawsuits and  
16 further harassment, intimidation, and retaliation by  
17 Toyota following his departure from the company.  
18  
19  
20  
21

22 Toyota's campaign of intimidation and harassment of  
23 Mr. Biller in the months prior to, and years following,  
24 his forced resignation from the company are part of  
25 Toyota's calculated conspiracy to prevent the  
26 disclosure of damaging evidence that it has been  
27  
28

1 concealing and withholding for years from plaintiffs,  
2 the judicial system, the United States National Highway  
3 Traffic Safety Administration ("NHTSA"), and the  
4 American public. Mr. Biller's life, both  
5 professionally and personally, has been irreparably  
6 injured by Toyota's ruthless conspiracy and relentless  
7 effort to prevent evidence of its vehicles' structural  
8 shortcomings from becoming known. By this action, Mr.  
9 Biller seeks to end the conspiracy of illegal and  
10 obstructive practices of Toyota aimed at him, and  
11 redress for the nearly immeasurable damages he and his  
12 family have suffered as a result.  
13  
14  
15  
16  
17  
18

19 **II. FACTS COMMON TO ALL CLAIMS FOR RELIEF**

20 **A. Parties.**

21 Plaintiffs.

22  
23 2. Plaintiff DIMITRIOS P. BILLER ("BILLER") is,  
24 and was at all relevant times, a resident of the County  
25 of Los Angeles, California and an active Member of The  
26 State Bar of California, Bar No. 142730. BILLER has  
27  
28

1 been licensed to practice law in the State of  
2 California since December 11, 1989, and is in good  
3 standing with the State Bar of California. BILLER has  
4 been employed solely as an attorney since that time.  
5

6 3. Plaintiff LITIGATION DISCOVERY & TRIAL  
7 CONSULTING, INC. ("LDT CONSULTING") is, and since  
8 October 9, 2008 has been, a California corporation with  
9 its principal place of business located in Los Angeles  
10 County, California. BILLER is, and since October 9,  
11 2008 has been, a fifty-percent shareholder of, and the  
12 President of LDT CONSULTING.  
13  
14  
15

16  
17 Defendants.  
18

19 4. Defendant, TOYOTA MOTOR CORPORATION ("TMC")  
20 is, and at all relevant times was, a Japanese  
21 corporation with its headquarters in Toyota City, Aichi  
22 Prefecture, Japan.  
23

24 5. Defendant, TOYOTA MOTOR SALES, U.S.A., INC.  
25 ("TMS") is, and at all relevant times was, a California  
26 corporation with its principal place of business and/or  
27  
28

1 headquarters in Los Angeles County, California. TMS is  
2 a wholly owned subsidiary of TMC. TMS is affiliated  
3 with other entities such as TOYOTA NORTH AMERICA MOTOR  
4 CORP. ("TMA") and TOYOTA TECHNICAL CENTER U.S.A. INC.  
5 ("TTC"), now known as TOYOTA MOTOR ENGINEERING &  
6 MANUFACTURING NORTH AMERICA, INC. ("TEMA"). TMC, TMS,  
7 TMA, TEMA, and TTC collectively sometimes are referred  
8 to herein as "Toyota Entities."  
9  
10  
11

12 6. Defendant Christopher Reynolds ("REYNOLDS")  
13 is, and at all relevant times was, a resident of Los  
14 Angeles County, California. REYNOLDS is the Vice  
15 President and General Counsel of TMS. REYNOLDS was and  
16 continues to be the immediate supervisor of all  
17 managing counsel in the Legal Services Group at TMS.  
18  
19 As the Managing Counsel for TMS, REYNOLDS is fully and  
20 completely responsible for the acts, actions,  
21 omissions, conduct, agreements and decisions that  
22 managing counsel make in managing litigation.  
23  
24  
25

26 7. Jane Howard Martin ("MARTIN") is, and at all  
27 relevant times was, a resident of Los Angeles County,  
28

1 California. MARTIN is the Assistant General Counsel in  
2 the Legal Services Group of TMS. MARTIN is, and at all  
3 relevant times was, responsible for directing,  
4 coordinating, and approving the conduct of outside  
5 counsel (including, but not limited to, the law firm  
6 Littler Mendelson, P.C.) engaged by TMS, and jointly  
7 managing and participating with outside counsel  
8 litigation in which TMS is engaged.  
9  
10  
11

12 8. Defendant Eric Taira ("TAIRA") is the  
13 Assistant General Counsel for TMS and was the immediate  
14 supervisor of BILLER during the time period in which  
15 BILLER was employed by TMS. Upon information and  
16 belief, TAIRA resides in Los Angeles County,  
17 California.  
18  
19

20 9. Defendant Dian Ogilvie ("OGILVIE") was at  
21 the time BILLER worked at TMS the Senior Vice-President  
22 and General Counsel for TMS. OGILVIE had the same  
23 duties and responsibilities as REYNOLDS when she worked  
24 at TMS. Upon information and belief, TAIRA resides in  
25 Los Angeles County, California.  
26  
27  
28

1           10.     Defendant Alicia McAndrews ("McANDREWS") is  
2 a managing counsel in the Product Liability Group at  
3 TMS. She was and continues to be responsible for  
4 managing airbag litigation and serves as counsel to TMA  
5 by providing advice to Christopher Tinto. Upon  
6 information and belief, MCANDREWS resides in Los  
7 Angeles County, California.  
8  
9

10           - 11.     With respect to all allegations in this  
11 Complaint, one or more Defendants knowingly  
12 participated in, approved, cooperated in, directed,  
13 and/or had actual or constructive knowledge of all  
14 activities alleged, acted in concert with all other  
15 named and unnamed Defendants pursuant to a common  
16 design with them, and/or gave substantial assistance or  
17 encouragement to other Defendants in carrying out all  
18 alleged activities. One or more Defendants profited  
19 through the unlawful acts alleged herein and willfully  
20 caused injury to the business and property interests of  
21 Plaintiffs.  
22  
23  
24  
25  
26  
27  
28

1                   **B. Jurisdiction.**

2                   12. This court has jurisdiction over this  
3 action pursuant to 28 U.S.C. Sec. 1331, which bestows  
4 upon the District Courts original jurisdiction of all  
5 civil actions arising under the Constitution, laws, or  
6 treaties of the United States. This court also has  
7 jurisdiction over this action pursuant to 18 U.S.C.  
8 Sec. 1962. This court also has supplemental  
9 jurisdiction over the state law claims pursuant to 28  
10 U.S.C. Sec. 1367.  
11  
12  
13  
14  
15

16                   **C. Venue.**

17                   13. Venue is proper in the Central District of  
18 California pursuant to 28 U.S.C. Sec. 1391(a) and 28  
19 U.S.C. Sec. 1391(b)(2) because all Plaintiffs and at  
20 least one Defendant reside in this judicial district,  
21 and a substantial part of the events and omissions  
22 giving rise to Plaintiffs' claims occurred in this  
23 district.  
24  
25  
26  
27  
28

1                   **D. General Background.**

2                   14. Plaintiff BILLER holds a Bachelor's degree  
3 from UCLA and a Juris Doctor degree from Loyola Law  
4 School, Los Angeles, California.  
5

6                   15. Upon graduating from Loyola Law School in  
7 1989, BILLER began practicing law at the Los Angeles  
8 law firm Lillick, McHose & Charles. That firm later  
9 merged with a San Francisco-based law firm called  
10 Pillsbury, Madison & Sutro. Pillsbury, Madison & Sutro  
11 later changed its name to Pillsbury Winthrop.  
12  
13

14                   16. In 1997, BILLER was elevated from  
15 Associate to Senior Associate at Pillsbury Winthrop.  
16

17                   17. In 1998, BILLER was elevated from Senior  
18 Associate to Partner at Pillsbury Winthrop. As a  
19 Partner at Pillsbury Winthrop, BILLER became well  
20 versed and knowledgeable regarding the laws and  
21 forensic computer system search requirements pertaining  
22 to E-discovery and Electronically Stored Information  
23 ("ESI") while litigating against major corporations  
24 that had no protocol for dealing with such issues.  
25  
26  
27  
28

1           18.    On April 15, 2003, BILLER resigned from  
2 Pillsbury Winthrop after being hired by Defendant, TMS,  
3 as National Managing Counsel in charge of TMS's  
4 National Rollover Program.  
5

6           19.    BILLER also was hired to advise generally,  
7 and defend the Toyota Entities in discovery proceedings  
8 in product liability cases and to manage cases in which  
9 these entities were named defendants. In this  
10 capacity, BILLER was responsible for advising the  
11 Toyota Entities regarding the information those  
12 entities were required to produce in discovery to  
13 adversaries in active and future litigation. Plaintiff  
14 also was hired to receive and review discovery requests  
15 served on TMC, send draft responses to TMC for  
16 approval, finalize responses and submit the responses  
17 for signature on the verification page. BILLER was  
18 hired to keep this process in place and make sure  
19 discovery responses in rollover litigation were  
20 consistently issued.  
21  
22  
23  
24  
25  
26  
27  
28

1           20.     When BILLER started working in the Product  
2 Liability Group at TMS, he immediately was surprised  
3 and alarmed that the Toyota Entities were not producing  
4 ESI in the discovery process. BILLER's concern  
5 stemmed, in part, from the fact that E-discovery issues  
6 were becoming increasingly important in cases across  
7 the United States.  
8  
9

10  
11  
12           Changes in the Law Regarding "E-discovery" and ESI

13           21.     BILLER was aware that changes were afoot in  
14 the laws governing E-discovery and discovery of ESI,  
15 such as e-mails and documents stored on computers.  
16 Even though, for example, Federal Rules of Evidence,  
17 Rule 1001 had long defined "writings" as "letters,  
18 words, or numbers, or their equivalent, set down by  
19 handwriting, typewriting, printing, photostating,  
20 photographing, magnetic impulse, mechanical or  
21 electronic recording, or other form of data  
22 compilation," the rise in the use of computers, the  
23 internet, and e-mail in society triggered commentators  
24  
25  
26  
27  
28

1 and, ultimately, courts, to reassess discovery and  
2 evidence laws in light of these technological changes  
3 in society.  
4

5 22. In 2003, four seminal decisions analyzing  
6 E-discovery and discovery of ESI were rendered in the  
7 United States District Court for the Southern District  
8 of New York: Zubulake v. UBS Warburg, 217 F.R.D. 309  
9 (S.D.N.Y. 2003); Zubulake v. UBS Warburg, 2003 WL  
10 21087136 (S.D.N.Y.); Zubulake v. UBS Warburg, 216  
11 F.R.D. 280 (S.D.N.Y. 2003); Zubulake v. UBS Warburg,  
12 220 F.R.D. 212 (S.D.N.Y. 2003). In early 2004, the  
13 final Zubulake decision was issued, Zubulake v. UBS  
14 Warburg, 229 F.R.D. 422 (S.D.N.Y. 2004). These cases  
15 established a framework governing E-discovery and  
16 discovery of ESI.  
17  
18

19 23. Additionally, in January 2004, "The Sedona  
20 Principles for Electronic Document Production" was  
21 published by The Sedona Conference, a think-tank  
22 devoted to promoting consideration and discussion of  
23 cutting-edge issues in the areas of antitrust law,  
24  
25  
26  
27  
28

1 complex litigation, and intellectual property rights  
2 among leading jurists, lawyers, experts, academics, and  
3 others. The Sedona Conference was in large part  
4 comprised of United States District and Circuit Judges  
5 and Federal practitioners. In 2006, the amendments to  
6 the Federal Rules of Civil Procedure regarding E-  
7 discovery were implemented and required all litigants  
8 in Federal Court to comply with them in the discovery  
9 process.  
10  
11  
12

13           24. Prior to and during his employment by  
14 TMS, BILLER undertook to further his knowledge of E-  
15 discovery and ESI and the new and emerging case law and  
16 theories regarding its production and use. BILLER also  
17 developed knowledge regarding the duties of attorneys  
18 regarding the production, recovery, storage,  
19 management, and use of E-discovery given the developing  
20 landscape on these topics.  
21  
22  
23

24 ///

25 ///

26 ///

1 Criminal and Illegal Acts the Toyota Entities Committed  
2 in Product Liability Cases in Federal & State Courts

3 25. Defendants are, and have, engaged in a  
4 systematic pattern and practice of discovery abuses and  
5 criminal acts in the discovery process against  
6 plaintiffs in litigation against the Toyota Entities.  
7 Starting in or about 2004, plaintiffs in product  
8 liability cases against the Toyota Entities started to  
9 serve discovery on the Toyota Entities demanding  
10 electronically stored information ("ESI"). Some of  
11 these cases included: Witherow v. Toyota; Hunsberger  
12 v. Toyota; Kurylowzic v. Toyota; Sears v. Toyota; Green  
13 v. Toyota; Campaigna v. Toyota; and Butterfield v.  
14 Toyota. Additionally, prior to 2004, plaintiffs in  
15 product liability cases against the Toyota Entities  
16 served Requests for Production of Documents that should  
17 have resulted in the production of ESI that was  
18 available to and in the possession of the Toyota  
19 Entities. In at least two cases, Kurylowic v. Toyota  
20 and Grenn v. Toyota, the United States District Court  
21  
22  
23  
24  
25  
26  
27  
28