

## DEALER ALERT

**TO:** EHS Coordinator & Sales Manager  
**FROM:** Sam Celly, MS JD CSP  
**SUBJECT:** **Death of a Salesman – And Means to Avoid It**  
**DATE:** March 15, 2016

**Accident 1:** On the afternoon of February 22, 2016, a test drive of a Corvette from a dealership in Ontario, CA became a tragedy. Reportedly, the driver was driving at 70 MPH before the crash took place, which resulted in the salesperson losing his life. LA Times reported that the customer was treated for injuries at a local hospital and arrested on suspicion of vehicular manslaughter and driving under the influence of drugs.

**Solution 1:** While it may be difficult to recognize a customer being under the influence of drugs, salespersons should remain attentive to inebriated customers and decline any test drive in which drugs or alcohol may become a factor. Also, the dealership must constantly reiterate: “All test drives must be safe and within posted speed limits.”

**Accident 2:** A fatal accident occurred during a test drive when a prospective customer crashed into a car taking a left turn in front of the dealership vehicle. The customer test driving the vehicle was found to be driving at an unsafe speed. During the trial proceedings, the customer stated that the salesperson’s aggressive driving during the first part of the test drive induced the customer to speed, which resulted in the accident. The salesperson had stated that they should drive fast and “see what this car can do.” The jury found negligence on part of the dealership and awarded **more than \$12 million in damages** to the family of the deceased.

**Solution 2:** Utilize the Safe Demo Drive Training Memo from CSI to train the sales staff to never drive in an unsafe manner and to obey all traffic laws, especially speed limits when out on a test drive.

**Accident 3:** A customer and his pregnant wife were on a test drive. The customer asked the salesperson where the “overdrive” button was located. The salesperson from the backseat was showing the driver the location of the button when an accident occurred. It is stated that the pregnant woman went into premature labor as a result of the accident and delivered a baby with lifetime birth defects. Consequently, the dealership paid \$1.5 million in damages.

**Solution 3:** Utilize the Safe Demo Drive Training Memo from CSI to train sales staff to never distract the driver during the test drive. Also, ensure that sales employees are familiar with the features of the automobile they sell and **review them prior to going on a test drive or after the drive!**

**Accident 4:** During a test drive, an accident occurred when the automobile being driven by the salesperson crashed into a school bus, which resulted in the customer receiving life-disabling head injuries. The school bus driver stated that the driver was speeding. Residents in the neighborhood stated that the dealerships treat the neighborhood like “Indy 500 tracks.”

**Solution 4:** The dealership must constantly reiterate: “All test drives must be safe and within posted speed limits.”

**Accident 5:** A customer on a test drive pulled out of the dealership and took a left turn going beyond the double yellow line. A driver was coming down a hill in the lane closest to the dealership and collided with the dealership vehicle. While the driver coming down the hill was charged with driving at a high speed, the dealership was questioned regarding the test drive route.

**Solution 5:** Draw a test drive route and review with sales staff. Use a route that involves protected rights, if possible. Always ask the salesperson to take the car out of the dealership and exchange seats with the customer (with keys removed from ignition) at a safe stop.

**Accident:** Proper documentation is a must. At times, it may make the difference between being held liable or not. To ensure that accidents are properly documented, we have provided an accident to-do list that must be completed by dealership staff in the event of an accident. A copy has been circulated to clients.

**Documents:** Test drive training of sales staff should include a review of documents as follows:

- Demo Drive Safety Training Program
- Driver License Information Form & Privacy Issues
- Safe Driving Tips
- Demo Drive Route Map (to be prepared by Sales Manager)

*Sam has been helping automobile dealers comply with EPA & OSHA regulations since 1987. Sam is the past-Chair of the Law Committee & the Environmental Issues Committee of the AIHA and currently the President of the Southern California AIHA. Sam has a BE & MS in Chemical Engineering followed by a JD from Southwestern University School of Law. Send your comments to [sam@cellyservices.com](mailto:sam@cellyservices.com).*