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1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2 -----x

3 In re GENERAL MOTORS LLC
IGNITION SWITCH LITIGATION

14 MD 2543 (JMF)
Telephone Conference

4 -----x

New York, N.Y.
July 18, 2016
2:30 p.m.

8 Before:

9 HON. JESSE M. FURMAN,

District Judge

12 APPEARANCES

14 HAGENS BERMAN SOBOL SHAPIRO LLP
Co-Lead Plaintiff Counsel

15 BY: STEVE W. BERMAN
-and-

16 LIEFF CABRASER HEIMANN & BERNSTEIN LLP
BY: RACHEL GEMAN

17 -and-

18 HILLIARD MUNOZ GONZALEZ LLP
BY: ROBERT C. HILLIARD

-and-

19 GOODWIN PROCTER LLP
BY: WILLIAM P. WEINTRAUB

21 KIRKLAND & ELLIS LLP
Attorneys for Defendant

22 BY: ROBERT C. BROCK
ANDREW B. BLOOMER

23 ALSO PRESENT: William Gorta
Reporter, Law 360

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1 (In chambers)

2 THE COURT: Good afternoon. This is Judge Furman.

3 Who is on the line for plaintiffs?

4 MR. HILLIARD: Judge, Bob Hilliard. Good afternoon.

5 THE COURT: Good afternoon. Anyone else with you?

6 MR. BERMAN: Yes. Steve Berman. Good afternoon, your
7 Honor.

8 MS. GEMAN: Good afternoon, your Honor. Rachel Geman.
9 Elizabeth apologizes she can't be here. She had a death of a
10 family friend.

11 THE COURT: I'm sorry to hear that.

12 Anyone else on the plaintiff's side?

13 MR. WEINTRAUB: Yes. Good afternoon, your Honor.
14 William Weintraub of Goodwin Procter. I work with
15 Mr. Hilliard.

16 MS. FORNECKER: And Anne Fornecker from Hilliard Munoz
17 Gonzalez also on the line.

18 THE COURT: All right. Is that it?

19 All right. On the defense side, maybe one person can
20 just indicate who is present and then we can go from there.

21 MR. BROCK: Judge Furman, this is Mike Brock. Good
22 afternoon. There are a number of folks on for GM. I expect
23 that Andrew Bloomer and myself will address the issues the
24 Court has raised. I guess we could try to go through the
25 others who are on the call, although I'm not sure I have a

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1 complete list.

2 THE COURT: If you anticipate being the only ones who
3 speak, I'm happy to just take your appearances and everyone
4 else can basically listen in, if that's OK.

5 MR. BROCK: OK. Yes, sir. That's fine with us.

6 THE COURT: Just a reminder to make sure you identify
7 yourselves when you're speaking. I think at this point I
8 recognize your voices, but we are on the record, so for the
9 court reporter's benefit, please say who you are.

10 I also want to note that we are not only on the record
11 but we have an actual reporter here from Law 360, who contacted
12 my chambers with an interest in attending this conference. It
13 was not my intention in scheduling it as a telephone conference
14 to make it unavailable to the press or the public; that was
15 merely for convenience and speed, so I welcomed him to my
16 chambers. He is sitting here, listening in and obviously not
17 going to participate, but I wanted to make sure you were all
18 aware he is here.

19 With those preliminaries, let's talk about what
20 implications the Second Circuit's ruling have for the next
21 bellwether. Obviously there is a much larger issue of what
22 implications it has on the MDL writ large. I'd like to table
23 those until the conference a week from Thursday to give you an
24 opportunity to think about it and talk about it more and for me
25 to do the same, but I thought that there was an interest in our

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1 having a conversation sooner rather than later with respect to
2 the next bellwether on the theory that if there was a dispute
3 with respect to the implications for the case that we figured
4 out a way to resolve it sooner rather than later with the trial
5 date looming and many motions already pending. That was the
6 idea behind scheduling this conference. I'd like to limit it
7 to Cockram and see if we can do that.

8 With that, why don't I first turn to plaintiffs. I
9 don't know who wants to speak on your side, but what are your
10 thoughts?

11 MR. HILLIARD: Judge, Mike Brock and I have met and
12 conferred a couple of times on this issue. The big theory is
13 maybe the Court is reading something in the opinion that we
14 don't see, but the bottom line is for us we don't think that
15 the Second Circuit opinion affects Cockram substantively or
16 procedurally, and since an hour ago when we last conferred, we
17 thought that it would probably make this a pretty short
18 conference, unless you had a feeling there was a place in the
19 opinion you wanted to direct us to and we'll reevaluate.

20 My fear, quite frankly, unless I must be missing
21 something, but as far as Cockram and Virginia law, it looks
22 like we're still on track and it's pretty straightforward.

23 THE COURT: All right. I'm not interested in
24 generating controversies or issues where there are none, but I
25 will tell you not having done a deep dive to think this

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1 through, at least on the surface the question occurred to me
2 whether this had any bearing on Judge Gerber's ruling that
3 punitive damages were available only for independent claims,
4 that is, claims arising from new GM's own conduct. Obviously
5 he had ruled that he assumed liabilities did not include
6 punitive damages with respect to accidents and incidents as to
7 which New GM had assumed compensatory damages, and it candidly
8 wasn't clear to me on a quick read whether the Second Circuit's
9 ruling affected or had any bearing on that aspect of his
10 rulings, but I certainly thought there might be that
11 possibility or you might argue that and therefore wanted to
12 make sure.

13 That was at least a little bit of my thinking.

14 MR. BROCK: I was just going to say in our
15 discussions, I think we are in agreement that Judge Gerber's
16 December opinion that held that New GM did not assume the
17 liability for punitives is still the law of the case and that
18 we would go forward on that basis, so I appreciated that
19 decision was not appealed and so for the Cockram case, New GM
20 would continue to not be responsible at least from a punitive
21 perspective for old GM conduct.

22 THE COURT: All right. I think it's the November
23 decision, not December, but that's neither here nor there.

24 MR. BROCK: Yes, sir, maybe November. Thank you.

25 THE COURT: Mr. Hilliard.

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1 MR. HILLIARD: We agree with that, Judge. That issue
2 wasn't appealed. That's why I invited Ms. Fornecker to be on
3 the call just in case I had misstated or forgotten the date.
4 Mr. Brock, I believe, is right.

5 THE COURT: Great. Then it may be that there isn't
6 much to discuss here, but better safe than sorry.

7 Anything else from plaintiffs' side?

8 MR. HILLIARD: No, your Honor.

9 THE COURT: What about from New GM's side?

10 MR. BROCK: That's it for us, your Honor.

11 THE COURT: All right. Well, that made it easy. I
12 will continue wading my way through the motions and get you
13 decisions as I can make them, and I will see you a week from
14 Thursday where we will have our broader discussion about the
15 implications of the Second Circuit's ruling not to mention my
16 own ruling on Friday. Sorry to dump that on you right before
17 the weekend, but I was relieved to get it off my hands.

18 MR. BROCK: Still a lot of work, your Honor, by the
19 way. That was quite an effort.

20 THE COURT: I don't know whether I got it right or
21 wrong, but it certainly did involve a lot of work. That's
22 something that probably can be said for everybody in this case.

23 All right. I will see you a week from Thursday.
24 Thank you very much.

25 (Adjourned)