



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

This Document Relates To All Actions
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14-MD-2543 (JMF)
14-MC-2543 (JMF)

ORDER NO. 16

JESSE M. FURMAN, United States District Judge:

[Regarding Order No. 15, the Coordination Order]

In Section V of Order No. 8 (14-MD-2543, Docket No. 249), and Section IX of Order No. 12 (14-MD-2543, Docket No. 296), the Court directed the parties to confer and submit letter briefs regarding what, if any, steps the Court should take, including any orders the Court should enter, to promote coordination with related actions in other courts. Thereafter, the parties submitted proposed orders and letters briefs for the Court’s consideration. (14-MD-2543, Docket Nos. 299, 300, 302).

Although the parties agreed on the wisdom of having an order and the vast majority of the language of the proposed order, they disagreed in one critical respect. New GM proposed provisions stating that, to the extent a court in a related action adopted the Coordination Order, the plaintiff or plaintiffs in that action should be permitted to take discovery only upon leave of the court in which the action is pending, obtained on noticed motion for good cause shown, including why the discovery sought could not have been obtained in coordinated discovery in the MDL. (14-MD-2543, Docket No. 302, Ex. B, ¶¶ 5, 20, 26). By contrast, Plaintiffs proposed that the burden should be placed on the parties in the MDL to petition the court in a related action for a protective order from any discovery that the party believes is duplicative of discovery taken or served in the MDL. (14-MD-2543, Docket No. 302, Ex. A, ¶¶ 20, 26).

Upon review of the parties' submissions and proposed orders, and after consultation with both Judge Gerber and the judges presiding over related cases in other courts, the Court agrees with New GM's proposed approach. In the Court's view, that approach is more efficient and sensible insofar it places the burdens on the plaintiffs in a related action to articulate, based on facts and circumstances specific to their claims and circumstances, why they need the proposed discovery and why it cannot be readily obtained through the MDL. In addition, the Court believes that New GM's proposed approach is more likely to promote efficient coordination of this MDL with the related cases pending elsewhere, a central goal of this Court and many of the courts presiding over the related actions. Accordingly, the Court has signed today a Coordination Order (Order No. 15) based substantially on Defendant's proposed order.

Per its terms, the Court's Coordination Order applies to any "Related Action" (defined as an "action[] involving the same subject matter as the MDL Proceeding") in which the court presiding over the action adopts the Coordination Order. In the Court's view, that definition plainly applies to the actions listed in Category I of Exhibit B to the parties' letter of September 12, 2014 (14-MD-2543, Docket No. 301), identifying related cases not consolidated in the MDL, and any similar cases — and the parties should take reasonable steps to encourage the judges presiding over those actions to adopt the Coordination Order. Per its terms, the Coordination Order does not apply to the cases listed in Categories II and III of Exhibit B to the parties' letter of September 12, 2014 — namely, "related" ignition switch securities and derivative actions and "unrelated" actions seeking ignition switch-related discovery, respectively. With respect to those cases, the Court believes that it is more efficient and sensible to place the burden on an MDL party, if and when appropriate, to seek appropriate relief from the appropriate tribunal (through a motion for a protective order or otherwise) in the event that discovery sought is duplicative of

discovery taken or anticipated in the MDL. The parties are directed to confer with respect to the need, if any, to enter a separate order governing coordination in those cases, and should be prepared to discuss that question at the October 2, 2014 status conference. If the parties believe that a separate order should be entered beyond this Order, they should submit a proposed order (or orders) in accordance with the procedures set forth in Section VII of Order No. 8.

SO ORDERED.

Dated: September 24, 2014
New York, New York



JESSE M. FURMAN
United States District Judge