



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

14-MD-2543 (JMF)
14-MC-2543 (JMF)

This Document Relates To:
McKnight v. General Motors LLC, 18-CV-3247

ORDER NO. 155

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JESSE M. FURMAN, United States District Judge:

[Regarding Pretrial Deadlines for Bellwether Trial No. 12, Jury Selection Matters, Scheduling of the Final Pretrial Conference, And Application of Certain Pretrial Orders in MDL Bellwether Trial Nos. 1, 2, 5, 7, and 9 to MDL Bellwether Trial No. 12 (McKnight)]¹

- 1. **Courtroom:** Bellwether Trial No. 12 will begin on **Monday, January 28, 2019.**

The Court plans to hold the trial in Courtroom 1105 of the Thurgood Marshall United States Courthouse. As with past trials, the parties should contact the District Executive’s Office as trial approaches to see if “war rooms” in the Courthouse can be provided.

- 2. **Pretrial Deadlines:** The following schedule and the chart at the end of this Order summarize all upcoming pretrial deadlines for Bellwether Trial No. 12:

- a. **Amended Complaint:** Plaintiff filed an Amended Complaint on **Tuesday, August 14, 2018.** New GM filed an Answer on **Tuesday, September 18, 2018.**

- b. **Dispositive McKnight Motions:** Dispositive motions will be due on **Tuesday, November 6, 2018.** Responses will be due on **Wednesday December 5, 2018,** and replies will be due on **Wednesday, December 19, 2018.** Unless the Court orders otherwise, memoranda shall

¹ The Court apologizes to counsel for the delay in entering this Order. The reason for the delay was the Court’s consideration (for reasons unrelated to this case) of whether to change the trial to begin on **Tuesday, January 22, 2019.** The Court is still considering whether to make that change (in which case some of the deadlines, particularly those closer to the trial date, would be modified accordingly) — and will advise the parties as soon as possible one way or another. In the meantime, no later than **October 2, 2018,** the parties shall file letters advising the Court if there is any unavoidable conflict that would prevent them from beginning trial on January 22, 2019.

comply with the page limits and other requirements set forth in this Court's Local Rules, except that reply briefs shall not exceed 15 double-spaced pages.

c. **OSI Disputes:** In accordance with the Court's guidance in Order No. 86 Section XV (Docket No. 1772) and at the February 23, 2016 Status Conference, plaintiff shall disclose her proposed OSIs and file her supporting brief by **Friday October 5, 2018**. Any response from New GM will be due on **Friday, October 19, 2018**. The parties' respective briefs shall not exceed 35 double-spaced pages. Plaintiff shall file her reply brief, not to exceed ten double-spaced pages, by **Friday, October 26, 2018**.

d. **Motions *in Limine*:** The parties shall file all motions *in limine*, not to exceed 15 double-spaced pages per opening brief, by no later than **Friday, November 9, 2018**. Responses, not to exceed 15 double-spaced pages per brief, will be due on **Tuesday, November 20, 2018**, and replies, not to exceed five double-spaced pages, will be due on **Friday November 30, 2018**.

e. **Daubert Motions:** Omnibus *Daubert* motions, not to exceed 50 double-spaced pages per brief, will be due on **Tuesday, November 6, 2018**. Responses, not to exceed 50 double-spaced pages per brief, are due **Wednesday, December 5th**. Replies, not to exceed 20 double-spaced pages per brief, are due **Wednesday, December 19, 2018**.

f. **Joint Pretrial Order:** The parties shall submit their joint proposed pretrial order (consistent with the Court's Individual Rules and Practices for Civil Cases, except to the extent modified herein) by no later than **Friday, January 11, 2019**.

g. **Witness Lists:** By no later than **Friday, December 14, 2018**, the parties shall disclose their respective good faith lists of all witnesses whom they may potentially call at trial (“Initial Witness List”). The parties will not be permitted to call a witness not included on the Initial Witness List, absent extraordinary circumstances. By no later than **Friday, January 11, 2019**, the parties shall make available for deposition any witness from their Initial Witness List who has not previously been deposed in this matter. The parties will disclose their respective good faith lists of witnesses whom they intend to call at trial (“Will Call Witness List”) and their respective good faith lists of additional witnesses whom they may call at trial (“May Call Witness List”) as part of the Joint Proposed Pre-Trial Order due **January 11, 2019**.

h. **Exhibit Lists:** Trial exhibit lists must be exchanged no later than **Friday, December 14, 2018**. Branded copies of the parties’ trial exhibits must be exchanged by no later than **Friday, January 4, 2019**. The parties may by mutual agreement add or subtract additional trial exhibits at any time after. Each party may add up to 20 exhibits to its exhibit list by **Wednesday, January 9, 2019** without a showing of good cause or mutual agreement (“Free Exhibits”). Copies of all exhibits shall be submitted to the Court by **Tuesday, January 22, 2019**. Finally, stipulations regarding authenticity and non-hearsay of exhibits are due on **Friday, January 11, 2019**.

i. **Disclosure of Valukas Report and Statement of Fact Excerpts:** Plaintiff will disclose the Valukas Report and Statement of Facts excerpts she intends to use at trial by **Friday, December 28, 2018**. Any disputes shall be submitted to the Court by **Wednesday, January 9, 2019**.

j. **Deposition Designations:** Each party shall submit deposition designations by no later than **Friday, December 21, 2018**. Counter-designations and objections to the original designations shall be submitted by no later than **Wednesday, January 15, 2019**. Letter briefs regarding categorical objections to deposition designation and counter-designations and objections to counter-designations shall be submitted by no later than **Friday, January 18, 2019**.

k. **Stipulations of Law and Fact:** The parties are encouraged to enter into stipulations of law and fact, if any, by **Friday, January 11, 2019**.

l. **Proposed Jury Questionnaire:** The parties shall exchange a proposed summary of the case, a list of names, and any proposed modifications to the questionnaires used in Bellwether No. 1 by no later than **Friday, December 7, 2018**. Jury questionnaire disputes, along with the parties' proposed questionnaires, shall be submitted to the Court by no later than **Friday, December 14, 2018**.

m. **Proposed Jury Instructions and Verdict Form:** Proposed jury instructions and a proposed verdict form, whether a joint proposal or competing proposals, must be exchanged by no later than **Friday, December 14, 2018**. Jury instruction and verdict form disputes, along with the parties' proposed instructions and verdict forms, shall be submitted to the Court by no later than **Wednesday, January 9, 2019**. As with previous Bellwether Trials, the parties need not submit proposed language for standard and/or introductory instructions (on the role of the jury, burden of proof, etc.).

n. **Demonstrative Aides:** The parties shall exchange demonstrative aides reasonably anticipated to be used during opening statements (that is, anything that a party proposes to show the jury, whether it is likely to come into evidence or otherwise) by no

later than **Tuesday, January 22, 2019, at 2:00 p.m. EDT** and shall raise any objections by **Tuesday, January 22, 2019, at 10:00 p.m. EDT**. Any dispute shall be submitted to the Court by no later than **Thursday, January 24, 2019, at 7:00 p.m. EDT**.

3. **Final Pretrial Conference:** The Court will hold the Final Pretrial Conference in Courtroom 1105 of the Thurgood Marshall Courthouse on **Wednesday, January 23, 2019 at 9:00 a.m.** (taking a break, as needed, to address the prospective jurors in connection with the written questionnaire discussed below). At the final pretrial conference, the parties should be prepared to discuss, among other things, how much time each side should be allocated at trial.

4. **Jury Selection:** In light of the Court's experience with jury selection in the earlier Bellwether Trials, it intends to summon fewer jurors for Bellwether Trial No. 12 — a venire of approximately 65 members. With one minor modification discussed below, the Court will use the same jury selection procedures for Bellwether Trial No. 12 that it used for Bellwether Trial No. 1. (See Docket No. 1380.) In accordance with those procedures, written jury questionnaires will be completed by prospective jurors on **Wednesday, January 23, 2019**, and the parties will have until **Friday, January 25, 2019 at 10:00 a.m. EDT**, to review the questionnaires and to submit a list of jurors that both sides agree should be excused for cause. At that same time, the parties shall also submit a list of jurors that only one party believes should be excused for cause (with a brief explanation of the basis for such belief). The Court will review the parties various lists and will decide which, if any, of those jurors should be excused for cause. The Court will then conduct oral *voir dire* of the remaining prospective jurors on **Monday, January 28, 2019**, beginning at **9:30 a.m. EDT**.

5. **Extensions:** Given that **Monday, January 28, 2019**, is (subject to the caveat in the footnote above) a firm trial date, the Court is unlikely to grant any extensions of the foregoing dates and deadlines absent extraordinary circumstances or confidence that the extension

would have no effect on the trial date. The parties may also by agreement extend deadlines provided that any such extensions would have no effect on the trial date. In accordance with the Court's Individual Rules and Practices for Civil Cases, any request for an extension shall be filed as a letter motion on ECF.

6. **Application of Certain Pretrial Orders in Bellwether Trial Nos. 1, 2, 5, 7 and 9 to Bellwether Trial No. 12:** The parties will submit a joint show cause proposal and any competing letter briefs regarding the applicability of certain non-exhibit and non-deposition designation pretrial rulings (including the Court's rulings on motions *in limine*) from Bellwether Trial Nos. 1, 2, 5, 7 and 9 by **Friday, November 16, 2017**.

7. **Effect of This Order on Other Rules and Orders:** To the extent not explicitly modified herein, the Court's Individual Rules and Practices in Civil Cases and Rules and Procedures for Trials and all other applicable Orders of this Court remain in full force and effect. The Court may enter additional and/or modified orders regarding the pretrial schedule of Bellwether Trial No. 12 as circumstances require.

8. **Summary of Pretrial Deadlines:** For ease of reference, the chart attached as Exhibit 1 to this Order summarizes all of the pretrial deadlines set forth above for Bellwether Trial No. 12. If any party should later move to amend any of these deadlines, that party shall submit as part of the letter motion requesting the extension a revised version of this chart with the proposed amendments.

SO ORDERED.

Dated: September 28, 2018
New York, New York



JESSE M. FURMAN
United States District Judge

MDL 2543 (CATEGORY C): McKNIGHT PRETRIAL DEADLINES

Deadline	Submission	Party or Parties
Tuesday, August 14, 2018	Filing of Amended Complaint	Plaintiff
Tuesday, September 18, 2018	Response to Amended Complaint	New GM
Tuesday, October 2, 2018	Letters Regarding Conflicts with an Earlier Trial Date	Both Parties
Friday, October 5, 2018	New GM's Expert Reports due	New GM
Friday, October 5, 2018	OSI Disclosure and Opening OSI Brief	Plaintiff
Friday, October 19, 2018	Response to OSI Brief	New GM
Friday, October 26, 2018	Depositions of New GM Experts Completed	Plaintiff
Friday, October 26, 2018	OSI Reply Brief	Plaintiff
Tuesday, November 6, 2018	Dispositive Motions and <i>Daubert</i> Motions	Both Parties
Friday, November 9, 2018	Last Day to File Motions <i>in Limine</i>	Both Parties
Friday, November 16, 2018	Joint Show-Cause Briefing & Proposal on non-dep designation and non-exhibit rulings	Both Parties
Tuesday, November 20, 2018	Oppositions to Motions <i>in Limine</i>	Both Parties
Friday, November 30, 2018	Replies to Final Motions <i>in Limine</i>	Both Parties
Wednesday, December 5, 2018	Oppositions to <i>Daubert</i> Motions and Dispositive Motions	Both Parties
Friday, December 7, 2018	Exchange of Proposed Modifications to Jury Questionnaires	Both Parties
Friday, December 14, 2018	Exchange of Proposed Jury Instructions and Verdict Form	Both Parties
Friday, December 14, 2018	Initial Witness Lists	Both Parties
Friday, December 14, 2018	Trial Exhibit Lists	Both Parties
Friday, December 14, 2018	Letter Briefs re Proposed Modifications to Jury Questionnaires Disputes	Both Parties
Wednesday, December 19, 2018	Replies to <i>Daubert</i> Motions and Dispositive Motions	Both Parties
Friday, December 21, 2018	Deposition Designations	Both Parties
Friday, December 28, 2018	Disclosure of Valukas Report and SOF Excerpts	Plaintiff
Friday, January 4, 2019	Branded Trial Exhibit Exchange	Both Parties

Deadline	Submission	Party or Parties
Wednesday, January 9, 2019	Letter Briefs re Valukas Report and SOF Excerpt Disputes	Both Parties
Wednesday, January 9, 2019	Letter Briefs re Proposed Jury Instructions and Verdict Form Disputes	Both Parties
Wednesday, January 9, 2019	Free Trial Exhibit Disclosure	Both Parties
Friday, January 11, 2019	Deadline to Complete Depositions of Initial Witness List Witnesses Who Have Not Previously Been Deposed	Both Parties
Friday, January 11, 2019	Joint Proposed Pretrial Order	Both Parties
Friday, January 11, 2019	Stipulations for Authenticity/Non-hearsay	Both Parties
Friday, January 11, 2019	Stipulations of Law and Fact	Both Parties
Wednesday, January 15, 2019	Deposition Counter- Designations/ Designation Objections	Both Parties
Friday, January 18, 2019	Letter Briefs re Categorical Objections to Deposition Designations (including scope and number)/Counter- Designation Objections	Both Parties
Tuesday, January 22, 2019 at 2:00 p.m. EDT	Deadline for Parties to Exchange Opening Demonstratives	Both Parties
Tuesday, January 22, 2019	Copies of Trial Exhibits Submitted to Court	Both Parties
Tuesday, January, 22, 2019 at 10:00 p.m. EDT	Objections to Opening Demonstratives	Both Parties
Wednesday, January 23, 2019, at 9:00 a.m. EDT	Final Pretrial Conference and Beginning of Jury Selection Process (i.e. Completion of Jury Questionnaires)	Both Parties
Thursday, January 24, 2019 at 7:00 p.m. EDT	Opening Demonstrative Disputes Submitted to Court	Both Parties
Thursday, January 24, 2019 at 12:00 p.m. EDT	List of Jurors to be Excused for Cause by Agreement and Proposed Strikes	Both Parties
Friday, January 25, 2019 at 10:00 a.m. EDT	Deadline for Parties to Review Jury Questionnaires and Submit a Joint List of Jurors to be Excused for Cause	Both Parties
Monday, January 28, 2019 at 9:30 a.m. at EDT	Trial Begins	Both Parties