

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
IN RE:

GENERAL MOTORS LLC IGNITION SWITCH
LITIGATION

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

ORDER NO. 156

This Document Relates to All Actions

-----x
JESSE M. FURMAN, United States District Judge:

**[Regarding Next Steps for Pre-Sale Non-Ignition Switch Plaintiffs Subject to
Order No. 148 Motions or Notices]**

On June 22, 2018, the Court entered Order No. 152, directing Lead Counsel and counsel for New GM to meet and confer and submit joint or competing letters to the Court regarding next steps for certain Pre-Sale plaintiffs who filed amended and severed complaints pursuant to the Order No. 148 motions and notices process. (See Order No. 152, Docket No. 5789, at ¶ 4.) On September 26, 2018, after meeting and conferring, Lead Counsel and counsel for New GM submitted a joint letter proposing next steps for these plaintiffs. The Court hereby adopts and orders the following procedures.

Identification of “Non-Ignition Switch Plaintiffs”¹

1. By **Thursday, October 25, 2018**, New GM and Lead Counsel shall file on the main MDL docket a joint list of “Pre-Sale Non-Ignition Switch Plaintiffs,” which may include (i) the Plaintiffs who filed amended complaints pursuant to Order No. 148 and whose complaints no longer allege any ignition-switch or key-rotation claims; and (ii) additional Pre-Sale personal injury claimants whose complaints (as currently pleaded, including through amendment if

¹ For purposes of this Order only, “Pre-Sale Non-Ignition Switch Plaintiff” means a Pre-Sale Order plaintiff whose complaint purports to allege that his or her accident or injuries were caused by a defect other than an ignition switch or key rotation defect.

necessary) do not allege any ignition-switch or key-rotation claims. These plaintiffs are referred to herein as the “Pre-Sale Non-Ignition Switch Plaintiffs.”

Motion and Notice Practice

2. “No Plausibly Pleaded Defect/Causation” Cases: By **Wednesday, December 5, 2018**, with respect to the Pre-Sale Non-Ignition Switch Plaintiffs’ operative complaints, New GM may file on the main MDL docket motions to dismiss the claims of those Pre-Sale Non-Ignition Switch Plaintiffs (if any) that New GM believes fail to state a claim under Federal Rule of Civil Procedure 12(b)(6). By **Wednesday, January 9, 2019**, counsel for Pre-Sale Non-Ignition Switch Plaintiffs included in the motions shall file on the main MDL docket (1) a list of the plaintiffs who agree to voluntarily dismiss their claims; (2) a list of plaintiffs as to whom counsel plans to move to withdraw; and (3) a list of the plaintiffs who intend to press their claims (specifically identifying which plaintiffs intend to amend their complaints). By **Tuesday, January 29, 2019**, those Pre-Sale Non-Ignition Switch Plaintiffs who agree to dismiss their claims will file voluntary dismissals, and counsel for Pre-Sale Non-Ignition Switch Plaintiffs who intend to withdraw will file motions to withdraw.

3. Statute of Limitations/Repose Cases: By **Wednesday, December 5, 2018**, with respect to the Pre-Sale Non-Ignition Switch Plaintiffs’ operative complaints, New GM may file on the main MDL docket a notice identifying which claimants (if any) it believes are barred by the applicable statutes of limitation or repose. By **Wednesday, January 9, 2019**, counsel for Pre-Sale Non-Ignition Switch Plaintiffs included in the notice shall file on the main MDL docket (1) a list of the plaintiffs who agree to voluntarily dismiss their claims; (2) a list of plaintiffs as to whom counsel plans to move to withdraw; and (3) a list of the plaintiffs who intend to press their claims, along with the basis as to why those plaintiffs believe their claims are not barred. By

Tuesday, January 29, 2019, those Pre-Sale Non-Ignition Switch Plaintiffs who agree to dismiss their claims will file voluntary dismissals, and counsel for Pre-Sale Non-Ignition Switch Plaintiffs who intend to withdraw will file motions to withdraw.

4. By **Tuesday, February 12, 2019**, Lead Counsel and New GM will file a joint letter identifying the number of and proposing next steps to address any remaining disputed claims addressed in paragraphs 2 or 3 above, including whether such cases should remain in the MDL.

Settlement Consideration

5. In order to determine eligibility for and to facilitate potential settlement of Pre-Sale Non-Ignition Switch Plaintiffs, the Court adopts the following procedures.

6. Plaintiff Fact Sheet Compliance: By **Wednesday, December 19, 2018**, New GM will file a notice identifying Pre-Sale Non-Ignition Switch Plaintiffs that it believes have not submitted a substantially complete Plaintiff Fact Sheet (“PFS”) or have PFS deficiencies.² Subsequent to New GM’s notice identifying the Pre-Sale Non-Ignition Switch Plaintiffs, the parties shall meet and confer to resolve any disputes. No earlier than **Thursday, January 24, 2019**, New GM shall file a notice of non-compliance identifying any Pre-Sale Non-Ignition Switch Plaintiff who it believes has still failed to submit a substantially complete PFS or has PFS deficiencies. The claims of any Pre-Sale Non-Ignition Switch Plaintiff who has failed to comply with this paragraph will thereupon be dismissed without prejudice. Any such dismissal will, upon the filing of a second notice of non-compliance by New GM no sooner than thirty days

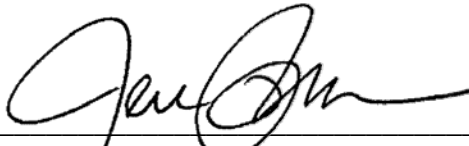
² Order No. 148 separately imposes upon pre-Sale plaintiffs (including those subject to this Order) the duty to produce certain documents. (14-MD-2543, Docket No. 5373 ¶ II.3.) Order No. 148 also includes procedures for the identification and potential dismissal of claimants who have not complied therewith. (*Id.* ¶¶ II.7–11.) Nothing in this Order shall relieve any pre-Sale plaintiff of his or her obligations under Order No. 148, nor shall this Order prevent New GM from moving for dismissal of any plaintiff who has not complied with Order No. 148, as provided therein.

after the affected plaintiff's dismissal without prejudice, convert to a dismissal with prejudice without further notice or hearing if the plaintiff does not comply with his or her obligations or seek to vacate his or her dismissal without prejudice.

7. Settlement Window: In parallel with the motion and notice practice described above, the parties may consider potential eligibility for and settlement of certain Pre-Sale Non-Ignition Switch Plaintiffs' claims. On **Wednesday, March 6, 2019**, New GM and Lead Counsel shall file a joint letter apprising the Court of the status of the Pre-Sale Non-Ignition Switch Plaintiffs' claims and proposing next steps for remaining Pre-Sale Non-Ignition Switch Plaintiffs (if any) whose claims have not been resolved through the motion and notice practice or settlement, including whether such claims should remain in the MDL.

SO ORDERED.

Dated: October 4, 2018
New York, New York



JESSE M. FURMAN
United States District Judge