



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:
Stephanie Cockram v. General Motors LLC, 14-CV-8176

ORDER NO. 100

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JESSE M. FURMAN, United States District Judge:

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

1. **Courtroom:** Bellwether Trial No. 5 will begin on **Monday, September 12, 2016.**

The Court plans to hold the trial in Courtroom 1105 of the Thurgood Marshall United States Courthouse, with a room reserved to accommodate any overflow of spectators. The Court will consider conducting certain trial proceedings — such as jury selection, opening statements, and closing arguments in a larger courtroom, but would arrange an overflow room for spectators regardless. The parties would still have access to “war rooms” on the fifth floor of the Thurgood Marshall Courthouse (assuming such rooms are available). By no later than **Friday, July 1, 2016**, the parties shall advise the Court by joint letter if they believe Courtroom 1105 is not a suitable location for the trial.

2. **Pretrial Deadlines:** Order No. 91 (Docket No. 2001, as modified by Order No. 97 (Docket No. 2396) and Docket No. 2682) set pretrial deadlines for Bellwether Trial No. 5. The Court now believes some of those deadlines should be modified. The following schedule and the chart at the end of this Order summarize all upcoming pretrial deadlines for Bellwether Trial No. 5, with modifications to the existing schedule underlined and modifications to the parties’ proposed schedule italicized:

- a. **Amended Complaint:** Plaintiff filed her second amended complaint on April 13, 2016. New GM shall respond to plaintiff's second amended complaint by no later than **Wednesday, May 25, 2016**.
- b. **Dispositive Cockram Motions:** Dispositive motions will be due on **Friday, June 3, 2016**. Responses are due fourteen (14) days after filing of the respective motions. Replies are due seven (7) days after responsive briefs are filed. Unless the Court orders otherwise, memoranda shall 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 by **Thursday, May 5, 2016** and file her supporting brief by no later than **Thursday, May 12, 2016**. Any response from New GM will be due on **Thursday, May 26, 2016**. The parties' respective briefs shall not exceed 35 double-spaced pages.
- 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, June 10, 2016**. Responses, not to exceed 15 double-spaced pages per brief, are due fourteen (14) days after the filing of the respective motions. Replies, not to exceed five double-spaced pages, are due ten (10) days after responsive briefs are filed for the respective motions.
- e. **Daubert Motions:** Omnibus *Daubert* motions, not to exceed 50 double-spaced pages per brief, will be due on **Thursday, May 12, 2016**. Responses, not to exceed 50 double-spaced pages per brief, are due fourteen (14) days after filing of the

respective motions. Replies, not to exceed 20 double-spaced pages per brief, are due seven (7) days after responsive briefs are filed.

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 **Tuesday, July 26, 2016**.

g. **Witness Lists:** By no later than **Monday, June 20, 2016**, 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 **Wednesday, July 20, 2016**, the parties shall make available for deposition any witness from their Initial Witness List who has not previously been deposed in this matter. By no later than **Tuesday, July 26, 2016**, 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").

h. **Exhibit Lists:** Trial exhibit lists must be exchanged by no later than **Tuesday, July 26, 2016**. Branded copies of the parties' trial exhibits must be exchanged by no later than **Friday, August 5, 2016**. The parties may by mutual agreement add or subtract additional trial exhibits at any time after. The parties shall exchange objections to the identified trial exhibits on **Wednesday, August 17, 2016**. Each party may add up to ten (10) exhibits to its exhibit list by **Wednesday, August 17, 2016** without a showing of good cause or mutual agreement ("Free Exhibits"). The parties reserve their rights to make evidentiary objections to the Free Exhibits by **Wednesday, August 24, 2016**. The

parties are expected to meet and confer on any exhibit objections by **Wednesday, August 24, 2016**. Copies of all exhibits shall be submitted to the Court by **Wednesday, August 31, 2016**. Finally, stipulations regarding the authenticity of exhibits are due on **Wednesday, August 17, 2016**.

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, July 29, 2016**. Any disputes shall be submitted to the Court by **Wednesday, August 10, 2016**.

j. **Deposition Designations:** Each party shall submit deposition designations by no later than **Tuesday, July 26, 2016**. Counter-designations and objections to the original designations shall be submitted by no later than **Tuesday, August 9, 2016**. Letter briefs regarding categorical objections to deposition designation and counter-designations shall be submitted by no later than **Tuesday, August 16, 2016**. Any remaining deposition designation disputes shall be submitted to the Court by no later than **Friday, August 26, 2016 or three days after the Court rules on the categorical objections, whichever is later**.

k. **Stipulations of Law and Fact:** The parties are encouraged to enter into stipulations of law and fact, if any, by **Wednesday, August 17, 2016**.

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. 2 by no later than **Wednesday, August 3, 2016**. Jury questionnaire disputes, along with the parties' proposed questionnaires, shall be submitted to the Court by no later than **Friday, August 12, 2016**.

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 **Wednesday, August 3, 2016**. 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 **Friday, August 12, 2016**. As with Bellwether Trial No. 1, 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, September 6, 2016, at 6:00 p.m. EDT** and shall raise any objections by **Thursday, September 8, 2016 at 10:00 a.m. EDT**. Any dispute shall be submitted to the Court by no later than **Friday, September 9, 2016, at 12:00 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, September 7, 2016, at 9:00 a.m. EDT** (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 Bellwether Trial Nos. 1 and 2, it intends to summon a venire of approximately 75 members for Bellwether Trial No. 5. The Court will use the same jury selection procedures for Bellwether Trial No. 5 that it used for Bellwether Trial No. 2. (*See* Order No. 94 (Docket No. 2183)). In accordance with those procedures, written jury questionnaires will be completed by prospective

jurors on **Wednesday, September 7, 2016**, and the parties will have until **Friday, September 9, 2016 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, September 12, 2016**, beginning at **9:30 a.m. EDT**.

5. **Extensions:** Given that **Monday, September 12, 2016**, is 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 written agreement extend deadlines to exchange information or documents 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 and 2 to Bellwether Trial No. 5:** The parties will submit a joint show cause proposal and any competing letter briefs regarding the applicability of certain pretrial rulings from Bellwether Trial Nos. 1 and 2 by **Friday, May 6, 2016**.

7. **Show Cause Briefing With Respect to the Applicability of Other Evidentiary Rulings in Bellwether Trial Nos. 1 and 2:** The parties are ordered to meet and confer and, by no later than **Monday, June 6, 2016**, to submit a joint proposal regarding a deadline to submit show cause briefing regarding the applicability of the Court's other evidentiary rulings from

Bellwether Trial Nos. 1 and 2 to Bellwether Trial No. 5 (including the Court's rulings on deposition designations, exhibits, and demonstratives).

8. **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. 5 as circumstances require.

9. **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. 5. 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: May 3, 2016
New York, New York



JESSE M. FURMAN
United States District Judge

PRETRIAL DEADLINES FOR *COCKRAM*

Deadline	Submission	Party or Parties
May 5, 2016	OSI Disclosure	Plaintiff
May 6, 2016	Joint Show-Cause Proposal and Letter Briefs	Both Parties
May 12, 2016	<i>Daubert</i> Motions	Both Parties
May 12, 2016	Opening OSI Brief	Plaintiff
May 25, 2016	Response to Complaint	New GM
May 26, 2016	Oppositions to <i>Daubert</i> Motions	Both Parties
May 26, 2016	Response to Plaintiff's OSI Brief	New GM
June 2, 2016	Replies to <i>Daubert</i> Motions	Both Parties
June 3, 2016	Dispositive Motions	Both Parties
June 6, 2016	Joint Show-Cause Briefing Proposal re Other Evidentiary Rulings	Both Parties
June 10, 2016	Last Day to File Motions <i>in Limine</i>	Both Parties
June 17, 2016	Oppositions to Dispositive Motions	Both Parties
June 20, 2016	Initial Witness Lists	Both Parties
June 24, 2016	Oppositions to Final Motions <i>in Limine</i>	Both Parties
June 24, 2016	Replies to Dispositive Motions	Both Parties
July 1, 2016	Joint Letter (If Concerned About Using Courtroom 1105)	Both Parties
July 5, 2016	Replies to Final Motions <i>in Limine</i>	Both Parties
July 20, 2016	Deadline to Complete Depositions of Initial Witness List Witnesses Who Have Not Previously Been Deposed	Both Parties
July 26, 2016	Joint Proposed Pretrial Order	Both Parties
July 26, 2016	Will Call and May Call Witness Lists	Both Parties
July 26, 2016	Trial Exhibit Lists	Both Parties
July 26, 2016	Deposition Designations	Both Parties

July 29, 2016	Disclosure of Valukas Report and SOF Excerpts	Plaintiff
August 3, 2016	Exchange of Proposed Modifications to Jury Questionnaires	Both Parties
August 3, 2016	Exchange of Proposed Jury Instructions and Verdict Form	Both Parties
August 5, 2016	Branded Trial Exhibit Exchange	Both Parties
August 9, 2016	Deposition Counter-Designations	Both Parties
August 10, 2016	Letter Briefs re Valukas Report and SOF Excerpt Disputes	Both Parties
August 12, 2016	Letter Briefs re Proposed Modifications to Jury Questionnaires Disputes	Both Parties
August 12, 2016	Letter Briefs re Proposed Jury Instructions and Verdict Form Disputes	Both Parties
August 16, 2016	Letter Briefs re Categorical Objections to Deposition Designations/Counter-Designations	Both Parties
August 17, 2016	Trial Exhibit Objection Exchange	Both Parties
August 17, 2016	Free Trial Exhibit Disclosure	Both Parties
August 17, 2016	Stipulations for Authenticity	Both Parties
August 17, 2016	Stipulations of Law and Fact	Both Parties
August 24, 2016	Free Trial Exhibit Objections	Both Parties
August 24, 2016	Trial Exhibit Objection Meet and Confer Deadline	Both Parties
August 26, 2016	Letter Briefs re Any Other Deposition Designation Disputes	Both Parties
August 31, 2016	Copies of Trial Exhibits Submitted to Court	Both Parties
September 6, 2016 at 6:00 p.m. EDT	Deadline for Parties to Exchange Opening Demonstratives	Both Parties
September 7, 2016 at 9:00 a.m. EDT	Final Pretrial Conference and Beginning of Jury Selection Process (<i>i.e.</i> Completion of Jury Questionnaires)	Both Parties
September 8, 2016 at 10:00 a.m. EDT	Objections to Opening Demonstratives	Both Parties
September 9, 2016 at 10:00 a.m. EDT	List of Jurors to be Excused for Cause by Agreement and Proposed Strikes	Both Parties
September 9, 2016 at 12:00 p.m. EDT	Opening Demonstrative Disputes Submitted to Court	Both Parties
September 9, 2016	Exchange of Exhibits for Use on Monday, September 12 (Order No. 97)	Both Parties
September 12, 2016	Trial Begins	Both Parties