

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 All Actions
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ORDER NO. 110

JESSE M. FURMAN, United States District Judge:

**[Regarding Procedures to Address Plaintiffs Who Fail
To Comply With Order No. 108]**

On July 13, 2016, the Court entered an order requiring all MDL 2543 plaintiffs alleging personal injury or wrongful death claims arising out of motor vehicle accidents occurring on or after July 10, 2009, to produce specified core documents relevant to their claims. (*See* Order No. 108, Docket No. 3115). Order No. 108 further required Lead Counsel for plaintiffs and New GM to confer with respect to whether the Court should establish procedures to address any MDL 2543 plaintiffs who fail to comply with the terms of that order. (*Id.* at ¶ 5).

Upon consideration of the parties' agreed-upon proposed order, with the modifications discussed at the July 28, 2016 status conference, and for good cause shown, it is hereby ORDERED that:

1. Any plaintiff who fails to comply with his or her obligations under Order No. 108 may be subject to having his or her claims dismissed. For plaintiffs whose claims were pending in MDL 2543 as of July 13, 2016, plaintiffs must comply with Order No. 108 within 90 days of the entry of Order No. 108. For plaintiffs whose claims are subsequently transferred and/or consolidated to MDL 2543, plaintiffs must comply with Order No. 108 within 90 days of his or her claims being transferred to and/or consolidated in MDL 2543.

2. If plaintiff has not submitted the information required under Order No. 108 within fourteen (14) days following the due date set forth in Order No. 108, New GM may serve on plaintiff (if *pro se*) or plaintiff's counsel a Notice of Overdue Discovery identifying the discovery overdue and stating that, unless plaintiff complies with the Court's discovery orders, the case may be subject to dismissal. If plaintiff fails to submit the information required under Order No. 108 within fourteen (14) days after service of the Notice of Overdue Discovery, New GM may move the Court for an Order dismissing the relevant Complaint without prejudice. Plaintiff shall have fourteen (14) days from the date of New GM's motion to file a response either (a) certifying that the plaintiff has submitted the information required under Order No. 108 or (b) opposing New GM's motion for other reasons. If a plaintiff certifies that he or she has submitted the information required under Order No. 108, the plaintiff's claims shall not be dismissed (unless the Court finds that the certification is false or incorrect). If any plaintiff files a response to a motion to dismiss his or her claims without prejudice pursuant to the terms of this Order, New GM shall file a reply, no later than **seven days** following the deadline for objections to New GM's motion, indicating which plaintiffs' claims (if any) it still moves to dismiss.

3. If the Court dismisses a Complaint without prejudice under the previous paragraph, the Order will be converted to a Dismissal With Prejudice upon New GM's motion — to be filed no earlier than thirty (30) days after the Court's entry of the Order of Dismissal without Prejudice — unless a plaintiff submits the information required under Order No. 108 or moves to vacate the dismissal without prejudice within that same time period.

4. If any plaintiff files a motion to vacate the dismissal of his or her claims, New GM shall file a consolidated opposition to any motions arising out of the same dismissal without prejudice **two weeks** after those plaintiffs' deadline for submitting such motions (thirty days


after the Court granted the motion to dismiss). Each plaintiff's reply, if any, shall be due **one week** thereafter. If the Court denies any plaintiff's motion, New GM may move for dismissal with prejudice at any point thereafter.

6. If New GM files a motion to dismiss with prejudice, any opposition shall be filed **two weeks** after the motion's filing. New GM's reply, if any, shall be filed **one week** thereafter.

7. Counsel is advised to file all documents related to motions to dismiss pursuant to Order Nos. 25 and 45 in 14-MD-2543 and to "spread" the filings to any relevant individual member case or cases.

SO ORDERED.

Dated: July 28, 2016
New York, New York



JESSE M. FURMAN
United States District Judge