

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: Ward v. General Motors LLC, 14-
CV-8317*
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ORDER NO. 120

JESSE M. FURMAN, United States District Judge:

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

1. **Courtroom:** Bellwether Trial No. 7 will begin on **Monday, July 10, 2017**. The Court plans to hold the trial in Courtroom 1105 of the Thurgood Marshall United States Courthouse, with a room reserved (if necessary) 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 their “war rooms” on the fifth floor of the Daniel Patrick Moynihan Courthouse (if such rooms are available). By no later than **Friday, May 5, 2017**, 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:** The following schedule and the chart at the end of this Order summarize all upcoming pretrial deadlines for Bellwether Trial No. 7:

a. **Amended Complaint:** By no later than **Friday, February 24, 2017**, plaintiff shall file his first amended complaint or inform New GM in writing that he does not intend to amend his complaint. New GM shall respond to plaintiff’s operative complaint by no later than **Friday, March 24, 2017**.

b. **Dispositive *Ward* Motions:** Dispositive motions will be due on **Thursday, April 13, 2017**. Responses will be due on **Friday, May 12, 2017**, and replies will be due on **Friday, May 26, 2017**. 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 his proposed OSIs by **Friday March 10, 2017** and file his supporting brief by no later than **Friday, March 17, 2017**. Any response from New GM will be due on **Friday, April 7, 2017**. The parties' respective briefs shall not exceed 35 double-spaced pages. Plaintiff shall file his reply brief, not to exceed ten double-spaced pages, by **Friday, April 14, 2017**.

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 **Wednesday, May 2, 2017**. Responses, not to exceed 15 double-spaced pages per brief, are due ten (10) days after the filing of the respective motions. Replies, not to exceed five double-spaced pages, are due seven (7) 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 **Monday, April 10, 2017**. Responses, not to exceed 50 double-spaced pages per brief, are due **Monday, May 8, 2017**. Replies, not to exceed 20 double-spaced pages per brief, are due **Friday, May 19, 2017**.

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 **Monday, June 22, 2017**.

g. **Witness Lists:** By no later than **Monday, May 22, 2017**, 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 **Thursday, June 22, 2017**, 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 **Thursday, June 22, 2017**, 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 no later than **Friday, May 26, 2017**. Branded copies of the parties’ trial exhibits must be exchanged by no later than **Wednesday, June 7, 2017**. 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 **Monday, June 19, 2017**. Each party may add up to 20 exhibits to its exhibit list by **Monday, June 19, 2017** 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 **Monday, June 26, 2017**. The parties are expected to meet and confer on any exhibit objections by **Monday, June 26, 2017**. Copies of all exhibits shall be submitted to the Court by **Friday, July 7, 2017**. Finally, stipulations regarding the authenticity of exhibits are due on **Wednesday, June 28, 2017**.

i. **Disclosure of Valukas Report and Statement of Fact Excerpts:** Plaintiff will disclose the Valukas Report and Statement of Facts excerpts he intends to use at trial by **Friday, June 2, 2017**. Any disputes shall be submitted to the Court by **Wednesday, June 14, 2017**.

j. **Deposition Designations:** Each party shall submit deposition designations by no later than **Friday, June 2, 2017**. Counter-designations and objections to the original designations shall be submitted by no later than **Wednesday, June 14, 2017**. Letter briefs regarding categorical objections to deposition designation and counter-designations shall be submitted by no later than **Wednesday, June 21, 2017**. Any remaining deposition designation disputes shall be submitted to the Court by no later than **Friday, June 30, 2017**, 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, June 28, 2017**.

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, June 9, 2017**. Jury questionnaire disputes, along with the parties' proposed questionnaires, shall be submitted to the Court by no later than **Friday, June 16, 2017**.

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, June 16, 2017**. 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, June 23, 2017**. 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 **Monday, July 3, 2017, at 6:00 p.m. EDT** and shall raise any objections by **Wednesday, July 5, 2017 at 2:00 p.m. EDT**. Any dispute shall be submitted to the Court by no later than **Thursday, July 6, 2017, 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 **Thursday, June 29, 2017, 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 No. 1, it intends to summon fewer jurors for Bellwether Trial No. 7 — a venire of approximately 70 members. With one minor modification discussed below, the Court will use the same jury selection procedures for Bellwether Trial No. 7 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 **Thursday, June 29, 2017**, and the parties will have until **Wednesday July 5, 2017, at 12 p.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, July 10, 2017**, beginning at **9:30 a.m. EDT**.

5. **Extensions:** Given that **Monday, July 10, 2017**, 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 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, and 5 to Bellwether Trial No. 7:** The parties will submit a joint show cause proposal and any competing letter briefs regarding the applicability of certain pretrial rulings (including the Court's rulings on motions *in limine*) from Bellwether Trial Nos. 1, 2, and 5 by **Monday, May 1, 2017**.

7. **Show Cause Briefing With Respect to the Applicability of Other Evidentiary Rulings in Bellwether Trial Nos. 1, 2, and 5:** The parties are ordered to meet and confer and, by no later than **Monday, May 1, 2017**, 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, 2, and 5 to Bellwether Trial No. 7 (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. 7 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. 7. 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: January 25, 2017
New York, New York



JESSE M. FURMAN
United States District Judge

Deadline	Submission	Party or Parties
February 24, 2017	Filing of Amended Complaint	Plaintiff
March 10, 2017	OSI Disclosure	Plaintiff
March 17, 2017	Opening OSI Brief	Plaintiff
March 24, 2017	Response to Complaint	New GM
April 7, 2017	Response to OSI Brief	New GM
April 10, 2017	<i>Daubert</i> Motions	Both Parties
April 13, 2017	Dispositive Motions	Both Parties
April 14, 2017	OSI Reply Brief	Plaintiff
May 1, 2017	Joint Show-Cause Briefing & Proposal	Both Parties
May 2, 2017	Last Day to File Motions <i>in Limine</i>	Both Parties
May 5, 2017	Joint Letter (If Concerned About Using Courtroom 1105)	Both Parties
May 8, 2017	Oppositions to <i>Daubert</i> Motions	Both Parties
May 12, 2017	Oppositions to Dispositive Motions	Both Parties
May 16, 2017	Oppositions to Final Motions <i>in Limine</i>	Both Parties
May 19, 2017	Replies to <i>Daubert</i> Motions	Both Parties
May 22, 2017	Initial Witness Lists	Both Parties
May 26, 2017	Replies to Final Motions <i>in Limine</i>	Both Parties
May 26, 2017	Replies to Dispositive Motions	Both Parties
May 26, 2017	Trial Exhibit Lists	Both Parties
June 2, 2017	Disclosure of Valukas Report and SOF Excerpts	Plaintiff
June 2, 2017	Deposition Designations	Both Parties
June 7, 2017	Branded Trial Exhibit Exchange	Both Parties

June 9, 2017	Exchange of Proposed Modifications to Jury Questionnaires	Both Parties
June 14, 2017	Letter Briefs re Valukas Report and SOF Excerpt Disputes	Both Parties
June 14, 2017	Deposition Counter-Designations	Both Parties
June 16, 2017	Exchange of Proposed Jury Instructions and Verdict Form	Both Parties
June 16, 2017	Letter Briefs re Proposed Modifications to Jury Questionnaires Disputes	Both Parties
June 19, 2017	Trial Exhibit Objection Exchange	Both Parties
June 19, 2017	Free Trial Exhibit Disclosure	Both Parties
June 21, 2017	Letter Briefs re Categorical Objections to Deposition Designations/Counter-Designations	Both Parties
June 22, 2017	Deadline to Complete Depositions of Initial Witness List Witnesses Who Have Not Previously Been Deposed	Both Parties
June 22, 2017	Joint Proposed Pretrial Order	Both Parties
June 22, 2017	Will Call and May Call Witness Lists	Both Parties
June 23, 2017	Letter Briefs re Proposed Jury Instructions and Verdict Form Disputes	Both Parties
June 26, 2017	Free Trial Exhibit Objections	Both Parties
June 26, 2017	Trial Exhibit Objection Meet and Confer Deadline	Both Parties
June 28, 2017	Stipulations for Authenticity	Both Parties
June 28, 2017	Stipulations of Law and Fact	Both Parties
June 29, 2017	Final Pretrial Conference and Beginning of Jury Selection Process (<i>i.e.</i> Completion of Jury Questionnaires)	Both Parties
July 3, 2017 at 6:00 p.m. EDT	Deadline for Parties to Exchange Opening Demonstratives	Both Parties

July 5, 2017 at 12 p.m. EDT	List of Jurors to be Excused for Cause by Agreement and Proposed Strikes	Both Parties
July 5, 2017 at 2:00 p.m. EDT	Objections to Opening Demonstratives	Both Parties
July 6, 2017 at 7:00 p.m. EDT	Opening Demonstrative Disputes Submitted to Court	Both Parties
July 7, 2017	Copies of Trial Exhibits Submitted to Court	Both Parties
July 10, 2017	Trial Begins	Both Parties