

**U.S. District Court
Southern District of New York**

In re: General Motors LLC Ignition Switch Litigation

Case Number: 1:14-md-02543-JMF

Document Number: 2056 (No document attached)

Date: January 10, 2016

Docket Text:

ORDER with respect to [2040] and [2047] Letters Concerning Deposition

Designation Disputes. The Court rules on the deposition designation disputes as follows. With respect to Category A of New GM's Categorical Objections, the Court sees no problem with general references to the outside counsel case evaluations and New GM's legal department's response to potential claims, but -- consistent with the Court's rulings on the SOF and Valukas Report redactions (see Docket Nos. 2018-19) -- holds that references to what juries could or might conclude and the possibility that juries might award punitive damages come too close to what the jury will be asked to find in this case and should be excluded under Rule 403. Consistent with the foregoing, New GM's objections to most or all of the excerpts from the Palmer deposition at Tr. 45, 170-171, 172-174, 192-193, 207-209, 209-210, 213-214, and 226 are SUSTAINED, and New GM's objections to Tr. 46-47, 117-118, and 151-52 are OVERRULED. Turning to Category B, New GM's objection to the Barra testimony is SUSTAINED if -- but only if -- there is other admissible evidence (e.g., a stipulation) establishing that New GM admits and stipulates that the facts set forth in the SOF are true and accurate; if there is no other such evidence, and New GM is unwilling to enter a stipulation, Plaintiff may offer the testimony as a means of authenticating the SOF. (New GM's other categorical objections -- to the Buonomo, Kemp, and Schroeder testimony -- are moot in light of Plaintiff's representation that he does not intend to introduce the testimony at issue. (See Docket No. 2047, at 2 & n.1).) Next, New GM's objections to the Andres testimony are OVERRULED substantially for the reasons stated in Plaintiff's letter. (See *id.* at 3-4). New GM's objections to the Kelley deposition, on the other hand, are SUSTAINED on Rule 403 grounds. Kelley's speculation that he was retaliated against for voicing safety concerns about unrelated vehicle components has little probative value in light of other evidence of GM's corporate culture (including, for example, the Andres testimony), and raises a real risk of confusing the issues and wasting time; in addition, his testimony concerning the ignition switch defect and recalls is problematic insofar as it is based on what he read in the media rather than any personal knowledge or involvement. Finally, the Court agrees with the parties' joint proposal that objections to deposition designations be raised with the Court no fewer than 48 hours before the testimony is to be offered at trial; the Court reiterates, however, that the parties should try to present their disputes even earlier than that, especially where there is any reason to believe that the Court would need or want more time. (Among other things, the parties should be mindful that they will not be able to introduce a witness's deposition testimony as long as there are unresolved disputes concerning that testimony.) (HEREBY ORDERED by Judge Jesse M. Furman) (Text Only Order) (Furman, Jesse)