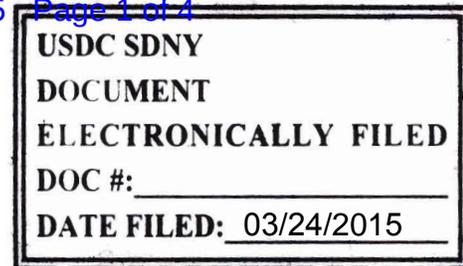


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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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. 41

JESSE M. FURMAN, United States District Judge:

On March 2, 2015, New GM filed a motion to dismiss, without prejudice, the claims of personal injury and wrongful death plaintiffs who had not submitted plaintiff fact sheets or related documentation as required by the Court’s Bellwether Trial Order (Order No. 25 (14-MD-2543 Docket No. 422) ¶¶ 10-25). (14-MD-2543 Docket No. 625). Several individual Plaintiffs objected to dismissal of their claims on the ground that they had, in fact, submitted the required documents. (*See, e.g.*, 14-MD-2543 Docket No. 647). Lead Counsel then submitted a response to New GM’s motion, contending that certain other Plaintiffs (listed on Exhibit A to their response) had also submitted the required documents, and that others (listed on Exhibit B to their response) had not but were expected to do so in the next thirty days. (Docket No. 664, at 2). Accordingly, Lead Counsel argued “that dismissal of [the claims of those listed on Exhibit B] without prejudice at this time is unwarranted in light of the parties’ continuing cooperation and the imminent submission of a completed PFS for each of the Plaintiffs identified on Exhibit B.” (*Id.*). New GM then submitted a reply along with an amended Exhibit A listing all the plaintiffs who had, as of March 18, 2015, still not submitted the documentation required by Order No. 25 (a list that included all of the plaintiffs named in Exhibit B to Lead Counsel’s response, but also a handful of others who, to the Court’s knowledge, have not objected to dismissal of their claims). (14-MD-2543 Docket No. 672). New GM asserts that dismissal of those plaintiffs

without prejudice is warranted in light of their failure to comply with the plain terms of Order No. 25, despite notice that doing so would result in dismissal of their claims. (*Id.* at 1-2).

In general, the Court agrees with New GM. In creating a procedure for the selection of personal injury and wrongful death cases eligible for bellwether trials, Order No. 25 requires, in turn, the participation of all personal injury and wrongful death plaintiffs in submitting certain limited documentation. (Order No. 25 ¶¶ 10-16). And all Plaintiffs' counsel were placed on notice — upon entry of Order No. 25 in mid-November 2014; upon filing of New GM's Notice of Overdue Discovery in late January 2015 (14-MD-2543 Docket No. 559); and upon filing of New GM's Motion to Dismiss — that their cases could and would be dismissed if they failed to comply with Order No. 25's directives. Further, if Plaintiffs do, in fact, submit all required documentation within the next thirty days, Order No. 25 provides an avenue for relief from dismissal: They can move to vacate the dismissal without prejudice pursuant to Paragraph 25 of the Order. Accordingly, the Court is not persuaded by Lead Counsel's argument that dismissal is "unwarranted" with respect to certain Plaintiffs who have not yet submitted the required documentation, despite the opportunities to have done so. (14-MD-2543 Docket No. 664, at 2).

Nevertheless, the Court does have concerns regarding dismissal of the claims of one Plaintiff — Darlene Robinett — whose case was transferred to this MDL in early December and who appears to be proceeding *pro se*. (*See* 14-CV-9466; *see also* 14-MD-2543 Docket No. 672, Ex. A at 7). Pursuant to Order No. 1, it is the duty of Lead Counsel and/or Plaintiffs' liaison counsel to provide copies of orders, motions, and related filings "to any party/counsel who does not receive service of the order through the ECF system." (Order No. 1 (Docket No. 19) at 3). On the present record, however, it is unclear whether and to what extent Ms. Robinett received notice of the procedures set forth in Order No. 25, let alone of New GM's Motion to Dismiss.

Accordingly, Lead Counsel and/or Plaintiffs' liaison counsel is directed to serve Ms. Robinett — if they have not done so already — with a copy of this Order, Order No. 25, New GM's Notice of Overdue Discovery (Docket No. 559), and New GM's motion to dismiss Ms. Robinett's claims (along with Lead Counsel's response and New GM's reply) no later than **March 25, 2015**, and to promptly file proof of such service on the dockets of both 14-MD-2543 and 14-CV-9466. Ms. Robinett shall file any objection to dismissal with this Court's *Pro Se* office no later than **April 8, 2015**; New GM's reply, if any, shall be filed (and served on Ms. Robinett) no later than **April 13, 2015**. Ms. Robinett is cautioned that failure to respond to New GM's motion (or to obtain an extension to do so) will result in dismissal without prejudice of her claims, and may result in dismissal with prejudice pursuant to the terms of Order No. 25 (*see* Order No. 25 ¶¶ 25).

Finally, should Ms. Robinett's case go forward, the Court recognizes — as it has in the past — that mailing copies of past and future Orders to an individual litigant is at best impractical and at worst unfeasible in a proceeding of this nature and scale. Accordingly, as part of this Court's inherent authority to manage its caseload, Ms. Robinett is directed to become an ECF user — and take all necessary steps to do so — no later than **May 13, 2015**. In order to assist Ms. Robinett in this regard, Lead Counsel and/or Plaintiffs' liaison counsel are further directed to mail a copy of the model Motion for Permission for Electronic Case Filing for *pro se* plaintiffs and a copy of "A Manual for Pro Se Litigants Appearing Before the United States District Court for the Southern District of New York" — both available on the Court's website — to Ms. Robinett, and to promptly file proof of such service on the docket of 14-CV-9466.

In conclusion, and for the foregoing reasons, the claims of all plaintiffs appearing on Exhibit A of New GM's reply (Docket No. 672, Ex. A), **with the exception of Ms. Robinett**, are dismissed without prejudice pursuant to Order No. 25.

The Clerk of Court is directed to terminate 14-MD-2543 Docket No. 625.

SO ORDERED.

Dated: March 23, 2015
New York, New York



JESSE M. FURMAN
United States District Judge