

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)

ORDER NO. 152

This Document Relates to All Actions

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JESSE M. FURMAN, United States District Judge:

**[Regarding Next Steps for Certain Plaintiffs Subject to
Order No. 148 Notices or Motions]**

On April 12, 2018, the Court entered an order that (1) directed New GM to file notices or motions to dismiss identifying certain pre-Sale personal injury and wrongful death plaintiffs whose claims New GM believes should be dismissed pursuant to the Court’s orders or for other specific reasons; and (2) required a response from the plaintiffs subject to New GM’s notices or motions indicating generally whether plaintiffs would dismiss or press their claims. (*See* Am. Order No. 148, Docket No. 5373). The order also required Lead Counsel for plaintiffs and counsel for New GM to submit a joint letter proposing next steps regarding any remaining disputes, which they did on June 14, 2018. (Docket No. 5694). The Court, after reviewing the parties’ positions, issued an order adopting the parties’ agreed-upon procedures and adopting the procedures proposed by New GM with respect to Airbag Dispute Plaintiffs, and directed the parties to file a joint proposed order. (Docket No. 5697). The Court hereby adopts and orders the following procedures to address remaining disputes with respect to certain of these claims.¹

1. **Air Bag Dispute Plaintiffs**. Attached as Exhibit A is a list of ten plaintiffs subject

¹ New GM and Lead Counsel have agreed to defer briefing regarding those claims that New GM has contested are barred by the applicable statutes of limitations or repose. (Docket No. 5694 §§ D, E). This Order therefore does not set forth any next steps as to those claims.

to New GM's Pre-Sale Air Bag Deployment Notice who are not seeking leave to amend their complaints, but who contend there is a genuine issue of material fact that precludes dismissal of their claims and as to whom New GM currently intends to move for summary judgment pursuant to the Court's December 28, 2017 Opinion and Order. (Docket No. 4979). By **Friday, July 6, 2018**, each of the plaintiffs listed in Exhibit A shall file a notice on the main MDL docket including admissible evidence that he or she believes creates a disputed issue of fact as to whether the air bag(s) deployed during the subject incident. The claims of any affected plaintiff who fails to comply will be dismissed without prejudice upon the filing of a notice of non-compliance by New GM. Any such dismissal will, upon the filing of a second notice of non-compliance by New GM, convert to a dismissal with prejudice without further notice or hearing if plaintiff does not comply with his or her obligations under this Paragraph by **Monday, August 6, 2018**.

By **Friday, August 10, 2018**, New GM may file a consolidated summary judgment motion against any of the plaintiffs in Exhibit A whose claims New GM continues to believe are subject to summary judgment because there is no genuine issue of triable fact on air bag deployment. By **Friday, September 7, 2018**, Lead Counsel will file a consolidated summary judgment opposition brief on behalf of the plaintiffs subject to New GM's motion for summary judgment. Individual counsel for any plaintiff in Exhibit A may file on the main MDL docket a supplemental opposition with leave of Court (for good cause shown) by **Friday, September 14, 2018**. By **Friday, September 28, 2018**, New GM may file a consolidated reply.

2. **Air Bag Deployment Show Cause Plaintiffs**. Exhibit B identifies the two plaintiffs subject to New GM's Pre-Sale Air Bag Deployment Notice who contend that the driver air bar deployed during the crash sequence but intend to pursue their claims on the basis that the passenger air bag allegedly did not deploy. By **Monday, July 2, 2018**, the plaintiffs in Exhibit B

shall show cause on the main MDL docket as to why their ignition switch and/or key rotation defect claims should not be dismissed. Failure to show cause by that date shall result in dismissal with prejudice of each plaintiff's ignition-switch and/or key rotation defect claims.

By **Monday, July 23, 2018**, each of the plaintiffs identified on Exhibit B shall file in this District, in the form of a new lawsuit, an amended and severed complaint and shall pay the filing fee associated with filing a complaint pursuant to 28 U.S.C. § 1914(a) and in accordance with Order No. 144. Failure to file a severed and amended complaint shall result in dismissal without prejudice upon the filing of a notice of non-compliance by New GM without further notice or hearing. Any such dismissal without prejudice will convert to a dismissal with prejudice upon a second notice of non-compliance filed by New GM without further notice or hearing unless, by **Wednesday, August 22, 2018**, each plaintiff files a severed and amended complaint and pays the required filing fee.

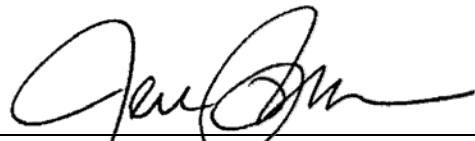
3. **Rule 12(b)(6) Motion / "Not-Plausibly Pled" Plaintiffs.** Attached as Exhibit C is a list of the eight plaintiffs who have indicated that they intend to amend their complaints. By **Monday, July 23, 2018**, each of the plaintiffs in Exhibit C shall (1) for plaintiffs whose claims are not pending in a consolidated or multiple plaintiff complaint, file an amended complaint; or (2) for plaintiffs whose claims are pending in a consolidated or multiple-plaintiff complaint, file in this District, in the form of a new lawsuit, an amended and severed complaint and shall pay the filing fee associated with filing a complaint pursuant to 28 U.S.C. § 1914(a). Plaintiffs who file an amended and severed complaint shall do so in accordance with Order No. 144 (Docket No. 5296). Any plaintiff who fails to file an amended or severed and amended complaint will be dismissed without prejudice upon the filing of a notice of non-compliance by New GM. Any such dismissal without prejudice will convert to a dismissal with prejudice upon a second notice of non-

compliance filed by New GM without further notice or hearing unless any such dismissed plaintiff in Exhibit C refiles his or her amended complaint and pays the required filing fee by **Wednesday, August 22, 2018**.

4. **Amending Plaintiffs**. Within two weeks of the first date upon which any plaintiff in Exhibit B or Exhibit C is dismissed with prejudice, Lead Counsel and counsel for New GM shall meet and confer and submit joint or competing letters to the Court proposing the next steps for plaintiffs who filed amended and severed complaints.

SO ORDERED.

Dated: June 22, 2018
New York, New York



JESSE M. FURMAN
United States District Judge

Exhibit A - *Plaintiffs subject to Order No. 148 Pre-Sale Air Bag Deployment Notice against whom New GM currently intends to move for summary judgment pursuant to the Court's December 28, 2017 Opinion and Order.*

Plaintiff Last Name	Plaintiff First Name	Plaintiff's Counsel	Plaintiff's Case and Case Number
Bradfield	Annette	The Potts Law Firm, LLP	Dunlap, et al., v. General Motors LLC; 1:17-cv-01050
Coviello	Rebecca	Bailey Peavy Bailey PLLC	Atz, et al. v. General Motors LLC; 1:15-cv-05222
Davis	Terry	The Potts Law Firm, LLP	Olufs, et al., v. General Motors LLC; 1:16-cv-06828
Farley	Rhonda (OBO Wanda Farley)	The Potts Law Firm, LLP	Dunlap, et al., v. General Motors LLC; 1:17-cv-01050
Fritze	David (OBO Dean Fritze)	Weller Green Toups & Terrell LLP	Bachelder, et al. v. General Motors LLC; 1:15-cv-00155
Fritze	David (OBO Mineva Fritze)	Weller Green Toups & Terrell LLP	Bachelder, et al. v. General Motors LLC; 1:15-cv-00155
Green	Sederick	Bailey Peavy Bailey PLLC	Atz, et al. v. General Motors LLC; 1:15-cv-05222
Kearney	LaToya	Bailey Peavy Bailey PLLC	Atz, et al. v. General Motors LLC; 1:15-cv-05222
Mays	Robert (OBO Joshua Mays)	The Potts Law Firm, LLP	Dunlap, et al., v. General Motors LLC; 1:17-cv-01050
Mungo	Ella (OBO Ernest Mungo)	The Potts Law Firm, LLP	Dunlap, et al., v. General Motors LLC; 1:17-cv-01050

Exhibit B - *Plaintiffs subject to Order No. 148 Pre-Sale Air Bag Deployment Notice who do not dispute driver air bag deployment but have stated their intent to amend their complaints and/or press their claims on the basis that the passenger air bag did not deploy.*

Plaintiff Last Name	Plaintiff First Name	Plaintiff's Counsel	Plaintiff's Case and Case Number
Champagne	Debbie (OBO Dustin Champagne)	Weller Green Toups & Terrell LLP	Bachelder, et al. v. General Motors LLC; 1:15-cv-00155
Sherman	Corinne (OBO Chelsea Sherman)	The Potts Law Firm, LLP	Dunlap, et al., v. General Motors LLC; 1:17-cv-01050

Exhibit C - 12(b)(6) *plaintiffs who have indicated that they intend to amend their complaints.*

Plaintiff Last Name	Plaintiff First Name	Plaintiff's Counsel	Plaintiff's Case and Case Number
Clark	Johnnie (IARE Teresse Clark)	Bailey Peavy Bailey PLLC	Atz, et al. v. General Motors LLC; 1:15-cv-05222
Edwards	Pamela (IARE Paul Adams)	Motley Rice LLC	Edwards v. General Motors LLC; 1:15-cv-05959
Eubank	Betty	Bailey Peavy Bailey PLLC	Atz, et al. v. General Motors LLC; 1:15-cv-05222
Hayes	Thomas	Sanders Law Firm, LLC	Campbell, et al., v. General Motors LLC; 1:15-cv-07445
Peete	Getta	Hilliard Muñoz Gonzalez LLP	Edwards et al. v. General Motors LLC; 1:14-cv-06924
Perkins	Crystal	Brent Coon & Associates; Bailey Peavy Bailey PLLC	Adesanya, et al. v. General Motors LLC; 1:16-cv-00925
Thomas	Frank	Hilliard Muñoz Gonzalez LLP	Edwards et al. v. General Motors LLC; 1:14-cv-06924
Wells	Frederick	Bailey Peavy Bailey PLLC	Atz, et al. v. General Motors LLC; 1:15-cv-05222