

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. 114**

*This Document Relates to All Actions*

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JESSE M. FURMAN, United States District Judge:

**[Regarding Schedule for Motion Practice and Discovery  
Related to the Fourth Amended Consolidated Complaint]**

The Court, having received and reviewed the parties’ letter briefs (Docket Nos. 3413, 3414), HEREBY ORDERS, ADJUDGES, AND DECREES that proceedings concerning the appeals from the Bankruptcy Court’s December 4, 2015 Judgment and plaintiffs’ Fourth Amended Consolidated Complaint (“FACC”), including motion practice and New GM’s discovery of the named plaintiffs (the individuals and entities that are plaintiffs in the FACC) and absent putative class members (members of the putative class that have not been named in the FACC) in Phase Three, shall proceed as follows.<sup>1</sup>

**I. Plaintiffs’ Appeals from December 4, 2015 Bankruptcy Court Judgment**

Plaintiffs shall file one consolidated brief for the appeals from the December 4, 2015 Bankruptcy Court Judgment by **Monday, November 14, 2016**. New GM shall file its opposition brief by **Wednesday, December 21, 2016**. Plaintiffs shall file their consolidated reply brief by

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<sup>1</sup> Nothing in this order shall be construed to waive any of the parties’ preserved arguments, objections or rights with respect to the Second Circuit’s July 13, 2016 Opinion. *In re Motors Liquidation Co.* (829 F.3d 135 (2d Cir. 2016)). To the contrary, all such arguments, objections, and rights are expressly preserved.

**Monday, January 16, 2017.** Plaintiffs' memorandum and New GM's opposition memorandum are limited to thirty (30) pages and plaintiffs' reply memorandum is limited to twelve (12) pages.

**II. Motions to Dismiss Under the Laws of Eight Additional States in the FACC**<sup>2</sup>

Motion to dismiss practice shall be limited to the claims of the FACC named plaintiffs in the following jurisdictions: Alabama, Illinois, Massachusetts, Michigan, New York, Pennsylvania, Texas, and Wisconsin. New GM's memorandum in support of its motion to dismiss and plaintiffs' opposition memorandum are limited to sixty (60) pages, and New GM's reply memorandum is limited to thirty (30) pages. New GM's motions to dismiss must be filed by **Friday, December 2, 2016**. Plaintiffs' oppositions must be filed by **Friday, January 20, 2017**. New GM's replies must be filed by **Friday, February 17, 2017**. No later than three weeks after the Court rules on New GM's motion to dismiss described in this Paragraph, the parties shall meet and confer and advise the Court of their views with respect to whether and how the Court's rulings apply (or, if not yet issued, will apply) to jurisdictions that have not been the subject of full briefing.<sup>3</sup> Any submissions should address a briefing schedule and process if either side believes that additional briefing or motion practice (whether full briefing or some sort of show-cause procedure) is appropriate. Nothing in this Paragraph shall preclude New GM from conducting additional motion to dismiss practice on the claims of named plaintiffs in states other than those listed above;

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<sup>2</sup> As discussed on the record at the status conference held on October 13, 2016, Lead Counsel shall respond to New GM's arguments concerning the re-pleaded brand devaluation claim by letter no later than October 18, 2016.

<sup>3</sup> As discussed on the record at the status conference held on October 13, 2016, the parties are encouraged to begin meeting and conferring on these issues well before the deadline — if appropriate, even before New GM's motion to dismiss the FACC. The deadline set forth above, in other words, is just an outside deadline.

however, any such additional motion to dismiss practice shall not occur until further order from the Court.

**III. Motion Practice on Successor Liability**

Motion practice on the validity of successor liability claims of named plaintiffs in the FACC will advance the resolution of remaining bankruptcy-related issues following the Second Circuit's July 13, 2016 Opinion and provide important guidance to the parties in this litigation and related actions pending in other courts. The Court addressed such motion practice in Order No. 113 (Docket No. 3427).

**IV. No Answer to the FACC Required**

New GM shall not be required to file an answer or any other response to the FACC unless and until further order of the Court.

**V. Plaintiff Fact Sheets**

By **Friday, November 11, 2016**, each of the named plaintiffs in the following jurisdictions that were the subject of motion to dismiss practice on the TACC shall provide to New GM a substantially complete Plaintiff Fact Sheet and the documents requested therein: California, the District of Columbia, Florida, Louisiana, Maryland, Missouri, Oklahoma, and Virginia. (*See* Order No. 25 PDF pages 56-77 (Consumer Plaintiff Fact Sheet), 78-100 (Non-Consumer Plaintiff Fact Sheet).) By **Monday, January 9, 2017**, each of the named plaintiffs in the following jurisdictions that will be the subject of motion to dismiss practice on the FACC shall provide to New GM a substantially complete Plaintiff Fact Sheet and the documents requested therein: Alabama, Illinois, Massachusetts, Michigan, New York, Pennsylvania, Texas, and Wisconsin. Named plaintiffs other than those in the jurisdictions listed above shall not be required to submit Plaintiff Fact Sheets until ordered by the Court to do so.

**VI. New GM's Discovery of Named Plaintiffs**

New GM may conduct any form of discovery allowed under the Federal Rules of Civil Procedure ("FRCP") with respect to the named plaintiffs required to provide Plaintiff Fact Sheets under Paragraph 5 above, including document requests, interrogatories, and depositions, as well as requests for admission — except that, absent agreement by the other side or leave of Court, such discovery shall not be conducted until after the named plaintiff has submitted his or her Plaintiff Fact Sheet and documents requested therein. Unless otherwise agreed to by the parties, the deadlines in the FRCP shall apply regarding named plaintiffs' responses.

**VII. Depositions of Named Plaintiffs**

Depositions of named plaintiffs required to provide Plaintiff Fact Sheets under Paragraph 5 shall be governed by the Orders previously entered by this Court, including Order No. 36, except that New GM may depose up to 25 named plaintiffs in any calendar month.

**VIII. Communications with Absent Putative Class Members**

By separate order, the Court will address whether and to what extent the parties and their counsel may communicate with, or pursue discovery from, absent putative class members.

**IX. Fact Discovery Deadline**

Fact discovery contemplated under Order No. 84 and under this order shall be completed by no later than **Friday, September 1, 2017**.

**X. Expert Discovery**

By no later than **Friday, September 15, 2017**, Lead Counsel shall disclose any experts (including, but not limited to class and merits experts) and serve expert reports. By **Thursday, November 2, 2017**, New GM shall depose plaintiffs' experts, disclose any experts (including, but not limited to class and merits experts) and serve expert reports. The parties are highly encouraged

to discuss deposition scheduling as soon as experts are disclosed so as to avoid delays in the schedule. By **Thursday, December 14, 2017**, plaintiffs shall depose New GM's experts, serve any expert reports strictly limited to rebuttal of New GM's experts, and expert discovery shall be completed. No sur-rebuttal expert reports shall be allowed, absent an order from the Court upon a showing of good cause.

**XI. Summary Judgment Motion Practice**

Unless modified by the Court, New GM shall file any motion for summary judgment by **Friday, January 19, 2018**. Plaintiffs shall file their opposition by **Wednesday, February 28, 2018**. New GM shall file its reply by **Wednesday, March 28, 2018**. New GM's memorandum to its motion for summary judgment and plaintiffs' opposition memorandum are limited to seventy-five (75) pages, and New GM's reply memorandum is limited to thirty-five (35) pages. Summary judgment motion practice shall, at a minimum, address any remaining claims of the named plaintiffs in jurisdictions that were the subject of New GM's motions to dismiss the TACC and FACC. The parties shall meet and confer about, and raise with the Court at future status conferences, whether summary judgment motion practice should address claims of the named plaintiffs from other jurisdictions.

**XII. Class Certification Motion Practice**

Plaintiffs shall file any motion for class certification by **Friday, January 19, 2018**. New GM shall file their opposition by **Wednesday, February 28, 2018**. Plaintiffs shall file their reply by **Wednesday, March 28, 2018**. Plaintiffs' memorandum to their class certification motion and New GM's opposition memorandum are limited to ninety (90) pages, and plaintiffs' reply memorandum is limited to fifty (50) pages. Class certification motion practice shall, at a minimum, address any remaining claims of the named plaintiffs in jurisdictions that were the subject of New

GM's motions to dismiss the TACC and FACC. The parties shall meet and confer about, and raise with the Court at future status conferences, whether class certification motion practice should address claims of the named plaintiffs from other jurisdictions.

**XIII. Future Motion Practice**


Nothing in this Order shall preclude the parties from proposing or agreeing to additional motion practice; however, no party shall file motions to dismiss, summary judgment motions, or class-certification motions except as set forth above without leave of the Court.

**XIV. Summary of Economic Loss Claims Deadlines**

For ease of reference, the chart attached as Exhibit 1 to this Order summarizes all of the deadlines set forth above and in Order No. 113 for next steps related to the economic loss claims in the MDL. 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

Date: October 14, 2016  
New York, New York

  
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JESSE M. FURMAN  
United States District Judge

# Exhibit 1

**ECONOMIC LOSS DEADLINES**

<b>Deadline</b>	<b>Submission</b>	<b>Party or Parties</b>
October 18, 2016	Letter re Re-pleading of Brand Devaluations Claims	Lead Counsel
November 11, 2016	Motion to Dismiss or Summary Judgment Motion re Successor Liability Claims in the FACC	New GM
November 11, 2016	Plaintiff Fact Sheets for Named Plaintiffs in Jurisdictions Subject to TACC Motion Practice	Lead Counsel
November 14, 2016	Consolidated Brief re Appeals from 12/4/2015 Judgment	Lead Counsel
December 2, 2016	12(b)(6) Motion to Dismiss	New GM
December 21, 2016	Opposition Brief re Appeals from 12/4/2015 Judgment	New GM
December 23, 2016	Opposition re Successor Liability Claims in the FACC	Lead Counsel
January 9, 2017	Plaintiff Fact Sheets for Named Plaintiffs in Jurisdictions Subject to FACC Motion Practice	Lead Counsel
January 13, 2017	Reply Brief re Successor Liability Claims in the FACC	New GM
January 16, 2017	Reply Brief re Appeals from 12/4/2015 Judgment	Lead Counsel
January 20, 2017	12(b)(6) Opposition Brief	Lead Counsel
February 17, 2017	12(b)(6) Reply Brief	New GM
September 1, 2017	Fact Discovery Deadline	Both Parties
September 15, 2017	Plaintiffs' Expert Disclosures and Reports	Lead Counsel
November 2, 2017	Deadline to Depose Plaintiffs' Experts	Both Parties



November 2, 2017	New GM's Expert Disclosures and Reports	New GM
December 14, 2017	Deadline to Depose New GM's Experts	Both Parties
January 19, 2018	Summary Judgment Motion	New GM
January 19, 2018	Class Certification Motion	Lead Counsel
February 28, 2018	Summary Judgment Opposition Brief	Lead Counsel
February 28, 2018	Class Certification Opposition Brief	New GM
March 28, 2018	Summary Judgment Reply Brief	New GM
March 28, 2018	Class Certification Reply Brief	Lead Counsel