

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
IN RE:

GENERAL MOTORS LLC IGNITION SWITCH  
LITIGATION

14-MD-2543 (JMF)  
14-MC-2543 (JMF)

**ORDER NO. 122**

*This Document Relates to All Actions*

-----x  
JESSE M. FURMAN, United States District Judge:

**[Regarding the February 10, 2017 Status Conference]**

The Court, having held a Status Conference on February 10, 2017, and having given counsel an opportunity to be heard on the agenda items set forth in the parties' February 4, 2017 tentative agenda letter (Docket No. 3673), issues this Order to memorialize the actions taken and rulings made at the Status Conference.

**I. NEXT STATUS CONFERENCE**

A Status Conference will be held **Friday, March 31, 2017, at 9:30 a.m. EDT** in Courtroom 1105 of the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, New York.

**II. SUPREME COURT, SECOND CIRCUIT, AND BANKRUPTCY PROCEEDINGS**

The parties should continue to keep the Court apprised of proceedings in the Bankruptcy Court that may be related to the MDL Proceeding and New GM's petition for a writ of *certiorari* to the U.S. Supreme Court regarding the Second Circuit decision.

**III. COORDINATION IN RELATED ACTIONS**

The parties should continue their coordination efforts in Related Actions pursuant to Order No. 15 (Docket No. 315) and keep the Court apprised of emerging coordination issues through their joint letter updates (*see* Order No. 8 § V, Docket No. 249) or in separate letter

updates, as circumstances require.

**IV. CLASS CERTIFICATION IDENTIFICATION**

Consistent with the Court's comments on the record at the Status Conference, by no later than **Friday, February 24, 2017**, Lead Counsel shall identify the states and plaintiffs for whom Lead Counsel currently intends to move for class certification.

**V. ABSENT CLASS MEMBER SURVEY DISPUTE**

Consistent with the Court's comments on the record at the Status Conference and the parties' letter of February 16, 2017 (Docket No. 3693), Section IV of Order No. 117 (Docket No. 3543) is modified to read as follows:

Consistent with the Court's comments on the record at the November 10, 2016 Status Conference, the parties are permitted to communicate with absent class members, subject to the agreed-upon voluntarily safeguards. Among other things, the parties should inform absent class members that more information can be found on the MDL website (<http://gmignitionmdl.com>), including contact information for the lawyers are handling the litigation. Notwithstanding the forgoing, the parties' retained experts (but not the parties or their counsel or other representatives) may contact absent class members—without providing the voluntary safeguards — solely for the purpose of conducting consumer surveys relating to claims in, defenses to, and issues raised by the Fourth Amended Consolidated Complaint (Docket No. 3356).

**VI. PHASE TWO BELLWETHER CATEGORY B DAUBERT SCHEDULE**

Consistent with the Court's comments on the record at the Status Conference, the parties shall submit consolidated summary judgment/*Daubert* briefs to address both of the Phase Two Bellwether Category B cases according to the following schedule: (i) a consolidated motion including dispositive motions and any *Daubert* motion that New GM believes is necessary to the resolution of New GM's summary judgment motion shall be filed on or before **Friday, February 20, 2017** and shall be limited to no more than 50 double-spaced pages: (ii) plaintiffs' consolidated opposition to New GM's dispositive and *Daubert* motions, as well as any opening *Daubert* motion that plaintiffs believe is necessary to the resolution of New GM's dispositive motion, shall be filed on or

before **Monday, March 23, 2017** and shall be limited to no more than 50 double-spaced pages; (iii) New GM's consolidated reply in support of its dispositive and *Daubert* motions and opposition to plaintiffs' opening *Daubert* motion, shall be filed on or before **Monday, April 6, 2017** and shall be limited to no more than 50 double-spaced pages; and (iv) plaintiffs consolidated reply in support of their *Daubert* motion shall be filed on or before **Friday, April 17, 2017** and shall be limited to no more than 20 double-spaced pages. The parties are highly encouraged to use less than their allotted pages. Attached hereto as Exhibit 1 is an updated deadline chart showing all of the outstanding deadlines for the Phase Two Bellwether Category B and C cases.

**VII. ACCELERATED MOTION IN LIMINE BRIEFING FOR PHASE TWO BELLWETHER CATEGORY C CASES**


Consistent with the Court's comments on the record at the Status Conference, New GM should identify the evidence it seeks to exclude and file its motion and accompanying memorandum (not to exceed 20 double-spaced pages) by no later than **Wednesday, March 1, 2017**. Plaintiffs' response (not to exceed 20 double-spaced pages) will be filed by no later than **Tuesday, March 21, 2017**. New GM's reply (not to exceed 10 double-spaced pages) will be filed by no later than **Tuesday, March 28, 2017**. Notwithstanding the foregoing briefing schedule, neither party will be prevented from filing additional motions *in limine* in the Category C cases.

**VIII. SETTLEMENT**

Consistent with the Court's comments on the record at the Status Conference, the parties will keep the Court apprised of developments regarding settlement. Additionally, New GM will provide the Court with a report detailing the remaining inventory of MDL cases by no later than **Friday, February 24, 2017**.

SO ORDERED.

Dated: February 17, 2017  
New York, New York

  
\_\_\_\_\_  
JESSE M. FURMAN  
United States District Judge

**EXHIBIT 1: PHASE TWO BELLWETHER CATEGORY B AND C DEADLINES**

<b>Deadline</b>	<b>Relevant Category</b>	<b>Submission</b>	<b>Party or Parties</b>
February 20, 2017	Category B	Consolidated Brief re Dispositive and <i>Daubert</i> Motions	New GM
March 1, 2017	Category C	Accelerated Motions <i>in Limine</i>	New GM
March 17, 2017	Plaintiffs' Category C Replacement Cases	Fact Discovery Concludes	Both Parties
March 20, 2017 at 5:00 p.m. EDT	Plaintiffs' Category C Replacement Cases	Strike of Either <i>Dodson</i> or <i>McPhail</i>	New GM
March 21, 2017	Category C	Accelerated Motion <i>in Limine</i> Opposition	Lead Counsel
March 23, 2017	Category B	Consolidated Opposition Brief re Dispositive and <i>Daubert</i> Motions/ <i>Daubert</i> Motion	Lead Counsel
March 28, 2017	Category C	Accelerated Motion <i>in Limine</i> Reply	New GM
April 6, 2017 <sup>1</sup>	Category B	Consolidated Reply to Dispositive <i>Daubert</i> Motions/Response to <i>Daubert</i> Motion	New GM
April 7, 2017	Category C	Proposal re Deadlines for <i>Daubert</i> Motions, Dispositive Motions, and Motions <i>in Limine</i> for Trial Nos. 9-10	Both Parties
April 17, 2017	Category B	<i>Daubert</i> Reply	Lead Counsel
April 26, 2017	Plaintiffs' Category C Replacement Case	Disclosure of Experts and Reports	Lead Counsel

<sup>1</sup> Within **two weeks** of the Court's summary judgment ruling, the parties will report to the Court regarding whether and to what extent the ruling should apply to similar cases in the MDL personal injury pool and absent agreement will propose a process for the Court to make this determination. (See Order No. 107 ¶¶ 23-24, Docket No. 3081.)

May 22, 2017	New GM's Category C Replacement Cases	Fact Discovery Concludes	Both Parties
May 25, 2017 at 5:00 p.m. EDT	New GM's Category C Replacement Cases	Strike of Either <i>Thompson</i> or <i>Tupper/Greene</i>	Lead Counsel
May 26, 2017	Plaintiffs' Category C Replacement Case	Last Day for Depositions of Plaintiffs' Experts	Lead Counsel
June 2, 2017	Plaintiffs' Category C Replacement Case	Disclosure of Experts and Reports	New GM
July 6, 2017	Plaintiffs' Category C Replacement Case	Last Day for Depositions of New GM's Experts	New GM
July 6, 2017	Plaintiffs' Category C Replacement Case	Expert Discovery Concludes	Both Parties
July 7, 2016	New GM's Category C Replacement Case	Disclosure of Plaintiffs' Expert Witnesses and Reports	Lead Counsel
August 7, 2017	New GM's Category C Replacement Case	Last Day for Depositions of Plaintiffs' Experts	Lead Counsel
August 14, 2017	New GM's Category C Replacement Case	Disclosure of New GM's Experts and Reports	New GM
September 14, 2017	New GM's Category C Replacement Case	Last Day for Depositions of New GM's Experts	New GM
September 14, 2017	New GM's Category C Replacement Case	Expert Discovery Concludes	Both Parties
October 30, 2017	Plaintiffs' Category C Replacement Case	Trial No. 9 Commences	Both Parties
January 15, 2018	New GM's Category C Replacement Case	Trial No. 10 Commences	Both Parties