



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. 131**

*This Document Relates to All Actions*

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JESSE M. FURMAN, United States District Judge:

**[Regarding Amended Schedule for Motion Practice, Discovery, and Bellwether  
Procedures Related to and Proposed Amendment of the  
Fourth Amended Consolidated Complaint]**

Order No. 114 set forth the Court’s schedule for motion practice and discovery related to the plaintiffs’ Fourth Amended Consolidated Complaint (“FACC”). (See Docket No. 3431.) Pursuant to Order No. 130, the parties submitted competing proposals addressing, among the other issues discussed at the August 11, 2017 Status Conference: (1) the timing and briefing schedule for plaintiffs’ proposed motion for leave to amend the FACC; (2) and which states the parties believe should be the subject of the economic loss bellwether procedure, along with a jointly agreed proposed schedule or competing proposed schedules addressing class certification motion and summary judgment motion practice. (See Docket No. 4443 at § III.) The Court, having received and reviewed the parties’ letter briefs (Docket Nos. 4459, 4460), hereby amends Order No. 114 as follows.

1. **Plaintiffs’ Motion for Leave To Amend the FACC.** Consistent with the Court’s comments at the August 11, 2017 Status Conference, plaintiffs shall file their motion for leave to amend the FACC to add additional plaintiffs by **Friday, September 8, 2017**. New GM shall file its opposition brief by **Friday, October 6, 2017**. Plaintiffs shall file their reply brief by **Friday, October 20, 2017**. Plaintiffs’ memorandum and New GM’s opposition memorandum are limited

to thirty (30) pages and plaintiffs' reply memorandum is limited to ten (10) pages. Plaintiffs' proposed new named plaintiffs must submit substantially complete Plaintiff Fact Sheets, declarations, authorizations (where applicable), and requested documents by no later than **Friday, September 29, 2017**.

2. **Bellwether State Selection Process.** As it did with the personal injury bellwether programs in Order Nos. 25 and 107, the Court finds that the most effective process for populating the bellwether case pool is to allow both plaintiffs and New GM to play at least some role in selecting the cases, or in this instance, the states for inclusion in the economic loss bellwether program (the "Bellwether States"). (*See, e.g.*, Order No. 25 ¶¶ 26-28, 32, 34, Docket No. 422; Order No. 107 ¶ 4, Docket No. 3081.) In light of the Court's agreement to entertain New GM's proposed motion for summary judgment on benefit of the bargain in sixteen states (*see* Paragraph 3), the Court concludes that Plaintiffs should be permitted to select two Bellwether States and New GM only one. For similar reasons, the Court agrees with Plaintiffs that, with the exception of the motion for summary judgment on benefit of the bargain (and the motion for summary judgment on successor liability, currently under advisement), summary judgment practice should be limited in the first instance to the Bellwether States. The Bellwether States shall be California, Missouri, and either New York or Texas. No later than **Thursday, September 7, 2017**, New GM shall file a letter indicating whether it selects New York or Texas as the third Bellwether State.

3. **Motion for Summary Judgment on Benefit of the Bargain in the Sixteen FACC Motion Practice Jurisdictions.** By **Friday, October 6, 2017**, New GM shall file a motion for summary judgment (limited to the issue of plaintiffs' benefit of the bargain damages theory) against the claims of the remaining FACC named plaintiffs in the following jurisdictions: Alabama, California, the District of Columbia, Florida, Illinois, Louisiana, Maryland,

Massachusetts, Michigan, Missouri, New York, Oklahoma, Pennsylvania, Texas, Virginia, and Wisconsin. New GM's memorandum in support of its motion for summary judgment and plaintiffs' opposition memorandum are limited to sixty (60) pages, and New GM's reply memorandum is limited to thirty (30) pages. Plaintiffs' opposition must be filed by **Thursday, November 2, 2017**. New GM's reply must be filed by **Friday, November 10, 2017**. Nothing in this paragraph shall preclude New GM from filing additional motions for summary judgment on the claims of named plaintiffs in states other than those listed above; however, any such additional summary judgment motion practice shall not occur until further order from the Court after the Court rules on the summary judgment motion described in this paragraph and/or in Paragraph 7 below.

4. **Unjust Enrichment, Incidental Damages, and Manifest Defect.** By **Friday, December 1, 2017**, the parties shall meet and confer regarding the application of the Court's prior motion to dismiss opinions on the issues of (i) unjust enrichment, (ii) incidental damages, and (iii) manifest defect to the 35 jurisdictions that have not been the subject of dismissal motion practice. By **Friday, December 15, 2017**, the parties will submit an agreed plan and/or briefing proposal (or competing proposals) with respect to resolving any differences in the parties' positions.

5. **Fact Discovery Deadline.** Fact discovery contemplated under Order No. 84 and Order No. 114 for the plaintiffs' claims in the Bellwether States shall be completed by no later than **Friday, December 15, 2017**. Discovery related to FACC plaintiffs and FACC plaintiffs' claims outside of the Bellwether States shall be stayed until further order of the Court (except as required by Paragraph 1 above). For the avoidance of doubt, nothing in this paragraph is intended to abrogate or expand the permissible scope of discovery under Order Nos. 84 and 114.

6. **Expert Discovery.** By no later than **Friday, November 10, 2017**, Lead Counsel shall disclose any experts (including, but not limited to class and merits experts) and serve expert reports related to the plaintiffs' claims in the Bellwether States. By **Friday, December 22, 2017**, New GM shall depose plaintiffs' experts. By **Friday, February 2, 2018**, New GM shall disclose any experts (including, but not limited to class and merits experts) and serve expert reports. By **Friday, March 2, 2018**, Lead Counsel shall disclose any experts and reports limited strictly to rebuttal of New GM's experts. By **Friday, March 16, 2018**, plaintiffs shall depose New GM's experts, New GM shall depose plaintiffs' rebuttal 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. The parties are highly encouraged to discuss deposition scheduling as soon as experts are disclosed so as to avoid delays in the schedule.

7. **Bellwether State Summary Judgment Motion Practice.** New GM shall file any motion for summary judgment by **Tuesday, April 3, 2018**. Plaintiffs shall file their opposition by **Tuesday, May 15, 2018**. New GM shall file its reply by **Tuesday, June 12, 2018**. Unless and until the Court orders otherwise, New GM's memorandum to its motion for summary judgment and plaintiffs' opposition memorandum are limited to sixty (60) pages, and New GM's reply memorandum is limited to thirty (30) pages. Summary judgment motion practice shall be limited to the claims of the remaining named plaintiffs in the Bellwether States.

8. **Bellwether State Class Certification Motion Practice.** Plaintiffs shall file any motion for class certification by **Tuesday, April 3, 2018**. New GM shall file its opposition by **Tuesday, May 15, 2018**. Plaintiffs shall file their reply by **Tuesday, June 12, 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 forty-five (45) pages.

Class certification motion practice shall be limited to the claims of the remaining named plaintiffs in the Bellwether States.

9. **Future Motion Practice.** Nothing in the paragraph shall preclude the parties from proposing or agreeing to summary judgment or class certification motion practice on the claims of named plaintiffs in jurisdictions other than the Bellwether States; however, any such additional motion practice shall not occur until further order of the Court after the Court rules on the motions for summary judgment and class certification described in Paragraphs 2, 7, and 8.

10. **Hearing on Summary Judgment and Class Certification.** The Court will hold a hearing on the summary judgment and class certification motion practice contemplated herein in September 2018 or as soon thereafter as is reasonably practical.

11. **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. If any party moves to amend any deadlines for good cause, that party shall submit as part of the letter motion requesting the extension a revised version of this chart with the proposed amendments.

12. **Continuing Force of Court's Orders.** To the extent not expressly modified herein, all deadlines in Order No. 114 (and any other previous order modifying Order No. 114) remain in full force and effect.

SO ORDERED

Date: August 30, 2017  
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> |
|--------------------|---|-------------------------|
| September 7, 2017  | New GM Selection of New York or Texas as Third Bellwether State   | New GM                  |
| September 8, 2017  | Plaintiffs File Motion for Leave to Amend the FACC  | Lead Counsel            |
| September 29, 2017 | Plaintiff Fact Sheets Provided for New Plaintiffs   | Lead Counsel            |
| October 6, 2017    | Summary Judgment Motion on Benefit of the Bargain in 16 States  | New GM                  |
| October 6, 2017    | Opposition to Motion for Leave to Amend FACC  | New GM                  |
| October 20, 2017   | Reply on Motion for Leave to Amend FACC   | Lead Counsel            |
| November 2, 2017   | Summary Judgment Benefit of the Bargain Opposition Brief  | Lead Counsel            |
| November 10, 2017  | Summary Judgment Benefit of the Bargain Reply Brief   | New GM                  |
| November 10, 2017  | Plaintiffs' Expert Disclosures and Reports for Bellwether Claims  | Lead Counsel            |
| December 1, 2017   | Meet and Confer re Unjust Enrichment, Incidental Damages, and Manifest Defect in Remaining 35 Jurisdictions | Both Parties            |
| December 15, 2017  | Joint Proposal for Briefing Disputes re Unjust Enrichment, Incidental Damages, and Manifest Defect          | Both Parties            |
| December 15, 2017  | Fact Discovery Deadline for Class Certification and Summary Judgment Bellwether States                      | Both Parties            |

| <b>Deadline</b>   | <b>Submission</b>  | <b>Party or Parties</b> |
|-------------------|--|-------------------------|
| December 22, 2017 | Deadline to Depose Plaintiffs' Experts                               | Both Parties            |
| February 2, 2018  | New GM's Expert Disclosures and Reports                              | New GM                  |
| March 2, 2018     | Plaintiff Expert Rebuttal Reports                                    | Lead Counsel            |
| March 16, 2018    | Deadline to Depose New GM's Experts and Plaintiffs' Rebuttal Experts | Both Parties            |
| April 3, 2018     | Summary Judgment Motion  | New GM                  |
| April 3, 2018     | Class Certification Motion   | Lead Counsel            |
| May 15, 2018      | Summary Judgment Opposition Brief                                    | Lead Counsel            |
| May 15, 2018      | Class Certification Opposition Brief                                 | Lead Counsel            |
| June 12, 2018     | Summary Judgment Reply Brief   | New GM                  |
| June 12, 2018     | Class Certification Reply Brief                                      | Lead Counsel            |
| September 2018    | Class Certification/Summary Judgment Hearing                         | Both Parties            |