



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. 39

This Document Relates to All Actions
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JESSE M. FURMAN, United States District Judge:

[Regarding the March 13, 2015 Status Conference]

The Court, having held a Status Conference on March 13, 2015 and having given Lead Counsel for Plaintiffs (“Lead Counsel”) and counsel for Defendants an opportunity to be heard on the agenda items set forth in the Court’s March 11, 2015 Memo Endorsement (14-MD-2543 Docket No. 630), issues this Order to memorialize the actions taken and rulings made at the Status Conference.

I. ADDITIONAL STATUS CONFERENCE DATES

The Status Conference previously scheduled for April 8, 2015 has been CANCELLED. Unless and until the Court orders otherwise, the Court will conduct additional Status Conferences on the following dates: **Friday, April 24, 2015; Friday, June 26, 2015; and Friday, August 28, 2015.** Unless the Court orders or indicates otherwise, all Status Conferences will begin at **9:30 a.m. EDT** and will be held in Courtroom 1105 of the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, New York.

II. COORDINATION IN RELATED ACTIONS

The parties are to continue their coordination efforts in Related Actions pursuant to Order No. 15 (14-MD-2543 Docket No. 315) and to keep the Court apprised of emerging coordination issues through their biweekly joint letter updates (*see* Order No. 8 § V, 14-MD-2543 Docket No. 249) or in separate letter updates, as circumstances require. In particular, the parties should advise the Court by no later than **Monday, March 23, 2015**, as to whether they have reached agreement regarding informal coordination of depositions with counsel in the *Szatkowski* Related Action (*see* 14-MD-2543 Docket No. 633) and the details of the proposed agreement (if any). If the parties do not reach agreement, they should submit their respective proposals for the relief they seek.

III. PHASE ONE CUSTODIAL FILE SEARCHES

Having considered the parties' submissions regarding Phase One custodial file searches (*see* 14-MD-2543 Docket Nos. 642 and 646), the Court agreed with Plaintiffs' position regarding the Order No. 20 Phase One search terms, without prejudice to New GM's ability to move for reconsideration by Tuesday, March 17, 2015, consistent with the Court's comments at the March 13 Status Conference. New GM having failed to move to reconsideration by the required deadline, Plaintiffs' proposed custodial file search terms are hereby adopted with respect to Phase One discovery. Further, as indicated on the record at the March 13 Status Conference, Plaintiffs' motion to seal Exhibit B to 14-MD-2543 Docket No. 642 is GRANTED. (*See* 14-MD-2543 Docket No. 643). The parties are advised to consult the Court's Individual Rules and Practices in moving to seal or redact documents in the future.

IV. CONSOLIDATED DOCUMENT REQUESTS

By **Tuesday, March 17, 2015**, Lead Counsel are to serve Superseding Consolidated Document Requests to Counsel for New GM. By **Wednesday, March 25, 2015**, the parties shall submit an agreed-upon proposal with respect to Plaintiffs' Superseding Consolidated Document Requests, including a reasonable schedule for responding to Plaintiffs' specific requests and the nature and procedures for any production of documents, in accordance with Order No. 31 (14-MD-2543 Docket No. 526). If the parties are unable to reach an agreement, Lead Counsel and counsel for New GM shall each submit a letter brief (not to exceed five single-spaced pages) setting forth their positions and attaching their proposed orders.

V. DEPOSITION TIME ALLOCATION ORDER

By **Thursday, March 19, 2015**, the parties shall submit a revised agreed-upon proposed order addressing deposition time allocation, examination sequencing, and a deadline for Plaintiffs in the MDL and Coordinated Actions to request more than seven hours examination time for Defendants' witnesses, consistent with the Court's comments at the March 13 Status Conference. If the parties are unable to reach an agreement, Lead Counsel and counsel for Defendants shall each submit a letter brief (not to exceed five single-spaced pages) setting for their positions and attaching their proposed orders.

VI. COMMON BENEFIT ASSESSMENT ORDER

By **Thursday, March 19, 2015**, the parties shall submit a revised agreed-upon proposed common benefit order consistent with the Court's comments during the March 13 Status Conference. If the parties are unable to reach an agreement, Lead Counsel and counsel for Defendants shall each submit a letter brief (not to exceed five single-spaced pages) setting for their positions and attaching their proposed orders.

VII. THE BLEDSOE, ELLIOTT, AND SESAY PLAINTIFFS' OBJECTIONS TO AND MOTION TO RECONSIDER ORDER NO. 29

For the reasons stated on the record, the objections of the *Bledsoe*, *Elliott*, and *Sesay* Plaintiffs to dismissal of their claims (14-MD-2543 Docket No. 494), and the complaints in *Elliott et al. v. General Motors LLC et al.*, 14-CV-8382; *Sesay et al. v. General Motors LLC et al.*, 14-CV-6018, and *Bledsoe et al. v. General Motors LLC et al.*, 14-CV-7631, are reinstated pursuant to Order No. 29. (14-MD-2543 Docket No. 477, at 2-3). Additionally, for the reasons stated on the record (and perhaps to be supplemented in a written opinion), the *Bledsoe*, *Elliott*, and *Sesay* Plaintiffs' motion for reconsideration with respect to Order No. 29 is GRANTED. By **Friday, March 27, 2015**, the parties shall submit an agreed-upon proposed amended order regarding the effect of the consolidated complaints consistent with the Court's comments during the March 13 Status Conference. Lead Counsel and counsel for Defendants should include counsel for the *Bledsoe*, *Elliott*, and *Sesay* Plaintiffs in their meet and confer. If the parties are unable to reach an agreement, Plaintiffs (Lead Counsel, together with counsel for the *Bledsoe*, *Elliott*, and *Sesay* Plaintiffs — unless there is a material difference of opinion between Lead Counsel and counsel for the *Bledsoe*, *Elliott*, and *Sesay* Plaintiffs, in which case separately) and counsel for Defendants shall each submit a letter brief (not to exceed five single-spaced pages) setting for their positions and attaching their proposed orders.

VIII. REDACTION OF BOARD OF DIRECTORS-RELATED DOCUMENTS

The parties should continue to meet and confer regarding their dispute over redacted documents consistent with Order No. 37 (14-MD-2543 Docket No. 628).

IX. PRODUCTION OF ADDITIONAL DOCUMENTS THAT NEW GM HAS PRODUCED TO THE U.S. GOVERNMENT

The parties should continue to meet and confer regarding Plaintiffs' March 6, 2015 Second Consolidated Request for the Production of Documents and the potential production of additional documents that New GM has produced to the U.S. government.

X. PLAINTIFF FACT SHEET ISSUES

By **Wednesday, March 18, 2015**, Plaintiffs subject to New GM's Plaintiff Fact Sheet Motion to Dismiss (*see* 14-MD-2543 Docket No. 625) shall file certifications of compliance. By **Thursday, March 19, 2015**, the parties should notify the Court regarding any Plaintiffs who fail to comply or whether there remains a dispute between New GM and Plaintiffs on how to handle Plaintiffs who fail to certify Plaintiff Fact Sheet compliance.

By **Friday, March 27, 2015**, the parties shall submit an agreed-upon proposed order regarding the appropriate mechanism and timetable, similar to that for the personal injury Plaintiff Fact Sheets, to dismiss without prejudice (and if still not cured, with prejudice), the claims of economic loss Plaintiffs alleging vehicles manufactured by New GM who have failed to submit substantially complete economic loss Plaintiff Fact Sheets.

XI. ISSUES REGARDING USE OF 502(d) DOCUMENTS AT DEPOSITIONS

By **Friday, March 20, 2015**, the parties will inform the Court if they have reached an agreement regarding the use of 502(d) documents during depositions. If the parties cannot reach agreement regarding these privilege issues, the parties should submit letter briefs (not to exceed ten single-spaced pages) by **Friday, March 27, 2015**.

XII. SETTLEMENT

The parties should be prepared to discuss possible alternative dispute resolution options at the April 24, 2015 Status Conference, consistent with the Court's comments during the March 13 Status Conference.

XIII. POST-SALE CONSOLIDATED COMPLAINT AND CHOICE OF LAW BRIEFING

At the March 13 Status Conference, Plaintiffs advised the Court that the parties had reached a tentative agreement regarding the choice of law issues on which the Court had ordered briefing (Order No. 30 § III (14-MD-2543 Docket No. 478)). Notwithstanding the parties' agreement, the parties' responsive briefs on choice of law issues remain due on **March 23, 2015**. If, however, the parties submit a stipulation and proposed agreed-upon order on or before that date, they need not file responsive briefs unless and until ordered otherwise.

XIV. PROCESS FOR SUBMITTING PROPOSED ORDERS

Order No. 8 Section VII is hereby amended to read as follows: Any and all proposed orders should be e-mailed to the Orders and Judgments Clear of the Court (judgments@nysd.uscourts.gov) as a .pdf attachment. At the same time, counsel should e-mail the proposed order, as a .docx (*i.e.*, Microsoft Word) attachment, to the Court (Furman_NYSDChambers@nysd.uscourts.gov). Any such e-mail shall state clearly in the subject line: (1) the caption of the case, including the lead party names and docket number; and (2) a brief description of the contents of the document. Counsel shall not include substantive communications in the body of the e-mail. (The sender of an e-mail will ordinarily receive an auto-reply e-mail appearing to come from the Courtroom Deputy stating that substantive communications in the body of the e-mail will be disregarded. Parties need not, and should not, respond to the auto-reply message.). To the extent the parties are submitting competing proposed

orders, the parties should also submit to the Court a redline comparison of the proposed orders in Microsoft Word, with Plaintiffs' position reflected in deletions and Defendants' position reflected in additions. Finally, proposed orders — joint or competing — should also be filed via ECF, with the exception of post-conference proposed orders (*see* Order No. 8 § IV(C)).

The Clerk of Court is directed to terminate 14-MD-2543 Docket No. 643 (*see* Item III above); 14-MD-2543 Docket No. 499 and related docket entries in member cases (*see* Item VII above); and 15-CV-772 Docket No. 6 and 15-CV-776 Docket No. 5 (*see* Item VIII above).

SO ORDERED.

Dated: March 19, 2015
New York, New York



JESSE M. FURMAN
United States District Judge