



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)

ORDER NO. 98

*This Document Relates to: Yingling v. General Motors LLC,
14-CV-5336*

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JESSE M. FURMAN, United States District Judge:

[Regarding Pretrial Deadlines for Bellwether Trial No. 3 (*Yingling*), Jury Selection Matters, Scheduling of the Final Pretrial Conference, and Application of Certain Pretrial Orders in MDL Bellwether Trial Nos. 1 and 2 to MDL Bellwether Trial No. 3]

1. **Courtroom:** Bellwether Trial No. 3 will begin on **May 2, 2016**. The Court plans to hold the trial in Courtroom 1105 of the Thurgood Marshall United States Courthouse, with a room reserved to accommodate any overflow of spectators. The Court will consider conducting certain trial proceedings—such as jury selection, opening statements, and closing arguments in a larger courtroom, but would arrange an overflow room for spectators regardless. The parties would still have access to their “war rooms” on the fifth floor of the Thurgood Marshall Courthouse. By no later than **Monday, March 28, 2016**, the parties shall advise the Court by joint letter if they believe Courtroom 1105 is not a suitable location for the trial.¹

2. **Pretrial Deadlines:** Order Nos. 91 (Docket No. 2001, as modified by Docket No. 2177) and 97 (Docket No. 2396) set pretrial deadlines for Bellwether Trial No. 3. The Court now believes some of those deadlines should be modified slightly. The following schedule and the

¹ At the status conference held on February 23, 2016, New GM indicated that it might want to use a car (or part thereof) as an exhibit in Bellwether Trial No. 3. New GM shall advise the Court no later than March 28, 2016, if it wants to do so and, if so, shall show cause why it should be permitted to do so given other options as well as the inconvenience and expense involved (including the need to hold trial in a different courtroom). If Plaintiff wants to use a car or part thereof, she shall do the same.

chart at the end of this Order summarize all upcoming pretrial deadlines for Bellwether Trial No. 3, with modifications to the existing schedule underlined:

a. **Dispositive *Yingling* Motions:** Dispositive motions were due on **Friday, March 4, 2016**. Plaintiff's response to New GM's dispositive motion shall be filed no later than **Friday, March 18, 2016**. Any reply shall be filed no later than **Monday, March 28, 2016**.

b. **OSI Disputes:** Pursuant to Order No. 91, Plaintiff disclosed her proposed OSIs on **February 5, 2016**. Plaintiff does not plan on calling any live OSI fact witnesses at trial. Plaintiff filed her opening brief on **February 26, 2016** (Docket No. 2371). Any response from New GM will be due on **Friday, March 18, 2016**.

c. **Motions *in Limine*:** The parties shall file all motions *in limine*, not to exceed 15 double-spaced pages per opening brief, by no later than **Monday, March 14, 2016**. Responses, not to exceed 15 double-spaced pages per brief, are due ten (10) days after the filing of the respective motions. Replies, not to exceed five double-spaced pages, are due seven (7) days after responsive briefs are filed for the respective motions.

d. ***Daubert* Motions:** The parties filed *Daubert* motions on **Friday, March 4, 2016**. Responses, not to exceed 50 double-spaced pages per brief, are due fourteen (14) days after filing of the respective motions. Replies, not to exceed 20 double-spaced pages per brief, are due seven (7) days after responsive briefs are filed.

e. **Joint Pretrial Order:** The parties shall submit their joint proposed pretrial order (consistent with the Court's Individual Rules and Practices for Civil Cases) by no later than **Tuesday, March 29, 2016**, including a list of all witnesses they intend to call at trial, whether live or by deposition.

f. **Witness Lists:** By no later than **Friday, April 1, 2016**, the parties shall disclose their respective good faith lists of witnesses whom they intend to call at trial (“Will Call Witness List”) and their respective good faith lists of additional witnesses whom they may call at trial (“May Call Witness List”). By no later than **Monday, April 11, 2016**, the parties shall make available for deposition any witness from their Will Call Witness List or May Call Witness List who has not previously been deposed in this matter.

g. **Deposition Designations:** Each party shall submit deposition designations by no later than **Friday, April 1, 2016**. Counter-designations and objections to the original designations shall be submitted by no later than **Friday, April 8, 2016**. The parties shall make any categorical (i.e., big-picture) objections to deposition designations or counter-designations by no later than **Wednesday, April 13, 2016**. The parties shall submit any other disputes with respect to specific designations by the earlier of (1) three days of the Court’s ruling on categorical objections or (2) **Thursday, April 21, 2016**.

h. **Proposed Jury Questionnaire:** The Court is inclined to use substantially the same questionnaires that it used in connection with the first two bellwether trials (that is, the written questionnaire and the questionnaire used in connection with oral *voir dire*), modified to reflect a summary of this case and the names and places likely to be mentioned at this trial. (See Docket Nos. 2024, 2062). The parties shall therefore submit a proposed summary of the case, a list of names, and any proposed modifications to the questionnaires used in the first bellwether trial by no later than **Wednesday, April 13, 2016**.

i. **Proposed Jury Instructions and Verdict Form:** Proposed jury

instructions and a proposed verdict form, whether a joint proposal or competing proposals, must be submitted by no later than **Wednesday, April 13, 2016**. As with Bellwether Trial No. 1, the parties need not submit proposed language for standard and/or introductory instructions (on the role of the jury, burden of proof, etc.).

j. **Stipulations of Authenticity:** The parties shall submit to the Court stipulations of authenticity for any exhibit that the parties intend to authenticate by stipulation by **April 19, 2016**.

k. **Demonstrative Aids:** The parties shall exchange demonstrative aids reasonably anticipated to be used during opening statements (that is, anything that a party proposes to show the jury, whether it is likely to come into evidence or otherwise) by no later than **Monday, April 25, 2016**, and shall raise any objections by **Wednesday, April 27, 2016**. Any dispute shall be submitted to the Court by no later than **Friday, April 29, 2016, at 12:00 noon EDT**.

3. **Final Pretrial Conference:** The Court will hold the Final Pretrial Conference in Courtroom 1105 of the Thurgood Marshall Courthouse on **Wednesday, April 20, 2016, at 9:00 a.m. EDT** (taking a break, as needed, to address the prospective jurors in connection with the written questionnaire discussed below). At the final pretrial conference, the parties should be prepared to discuss, among other things, how much time each side should be allocated at trial.

4. **Jury Selection:** In light of the Court's experience with jury selection in Bellwether Trial No. 1, it intends to summon fewer jurors for Bellwether Trial No. 3 — a venire of approximately 80 members. With one minor modification discussed below, the Court will use the same jury selection procedures for Bellwether Trial No. 3 that it used for Bellwether Trial No. 1. (See Docket No. 1380). In accordance with those procedures, written jury questionnaires

will be completed by prospective jurors on **Wednesday, April 20, 2016**, and the parties will have until **Monday, April 25, 2016** to review the questionnaires and to submit a list of jurors that both sides agree should be excused for cause. At that same time, the parties shall also submit a list of jurors that only one party believes should be excused for cause (with a brief explanation of the basis for such belief). The Court will review the parties various lists and will decide which, if any, of those jurors should be excused for cause. The Court will then conduct oral *voir dire* of the remaining prospective jurors on **Monday, May 2, 2016**, beginning at **9:30 a.m. EDT**.

5. **Extensions:** Given that **Monday, May 2, 2016**, is a firm trial date, the Court is unlikely to grant any extensions of the foregoing dates and deadlines absent extraordinary circumstances or confidence that the extension would have no effect on the trial date. The parties may also by agreement extend deadlines provided that any such extensions would have no effect on the trial date. In accordance with the Court's Individual Rules and Practices for Civil Cases, any request for an extension shall be filed as a letter motion on ECF.

6. **Application of Certain Pretrial Orders in Bellwether Trial Nos. 1 and 2 to Bellwether Trial No. 3:** Pursuant to Order No. 91, New GM and Plaintiff submitted competing letter briefs regarding the applicability of certain pretrial rulings from Bellwether Trial Nos. 1 and 2 to Bellwether Trial No. 3. Having reviewed the parties' submissions, and for good cause shown, the Court adopts the holdings contained in the chart attached as Exhibit 1 to this Order concerning the applicability of the listed Bellwether Trial Nos. 1 and 2 pretrial orders to Bellwether Trial No. 3. To the extent either party intends to file new briefing in accordance with this Order, the parties shall first meet and confer to avoid unnecessary motion practice and to narrow any disputes. Finally, for good cause shown (by way of letter motion seeking leave from the Court), any party may seek modification or reconsideration of the Court's evidentiary rulings

that are deemed applicable to Bellwether Trial No. 3 pursuant to this Order if later rulings on motions *in limine*, dispositive motions, or *Daubert* motions change the scope of relevant and admissible evidence in Bellwether Trial No. 3. A party may only seek such leave to move for such modification or reconsideration, however, after meeting and conferring with the other side.

7. **Show Cause Briefing With Respect to the Applicability of Other Evidentiary Rulings in Bellwether Trial Nos. 1 and 2:** The parties are ordered to meet and confer and, by no later than **Monday, March 28, 2016**, to submit a joint proposal regarding a deadline to submit show cause briefing regarding the applicability of the Court's other evidentiary rulings from Bellwether Trial Nos. 1 and 2 to Bellwether Trial No. 3 (including the Court's rulings on deposition designations, exhibits, and demonstratives).

8. **Effect of This Order on Other Rules and Orders:** To the extent not explicitly modified herein, the Court's Individual Rules and Practices in Civil Cases and Rules and Procedures for Trials and all other applicable Orders of this Court remain in full force and effect. The Court may enter additional and/or modified orders regarding the pretrial schedule of Bellwether Trial No. 3 as circumstances require.

9. **Summary of Pretrial Deadlines:** For ease of reference, the chart attached as Exhibit 2 to this Order summarizes all of the pretrial deadlines set forth above for Bellwether Trial No. 3. 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.

Dated: March 14, 2016
New York, New York



JESSE M. FURMAN
United States District Judge

| Issue Briefed in <i>Scheuer</i> or <i>Barthelemy</i> and Ruling | Application to <i>Yingling</i>² |
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| <p><i>Scheuer</i> Pl. Motion <i>In Limine</i> (“MIL”) No. 1 (Collateral Source Benefits) (Docket Nos. 1525, 1526)</p> <p>Ruling: 11/23/2015 Order (Docket No. 1727)</p> | <p>The parties agree that the Court’s ruling is specific to Oklahoma law and does not apply.</p> <p>HOLDING: The Court’s order regarding the <i>Scheuer</i> plaintiff’s MIL No. 1 does not apply to <i>Yingling</i>.</p> |
| <p><i>Scheuer</i> Pl. MIL No. 2 (Prior Unrelated Injures and Family Medical History) (Docket Nos. 1565, 1566)</p> <p>Ruling: 11/23/2015 Order (Docket No. 1727)</p> | <p>The parties agree that the Court’s ruling is fact-specific to <i>Scheuer</i> and does not apply to <i>Yingling</i>.</p> <p>HOLDING: The Court’s order regarding the <i>Scheuer</i> plaintiff’s MIL No. 2 does not apply to <i>Yingling</i>.</p> |
| <p><i>Scheuer</i> Pl. MIL No. 3 (Use of Pain Medication) (Docket Nos. 1714, 1715)</p> <p>Ruling: 12/9/2015 Order (Docket No. 1837)</p> | <p>The parties agree that the Court’s ruling is fact-specific to <i>Scheuer</i> and does not apply to <i>Yingling</i>.</p> <p>HOLDING: The Court’s order regarding the <i>Scheuer</i> plaintiff’s MIL No. 3 does not apply to <i>Yingling</i>.</p> |
| <p><i>Scheuer</i> Pl. MIL No. 4 (Spoliation) (Docket Nos. 1711, 1712)</p> <p>Ruling: 12/29/2015</p> | <p>The parties agree that the Court’s ruling is fact-specific to <i>Scheuer</i> and does not apply to <i>Yingling</i>.</p> <p>HOLDING: The Court’s order regarding the <i>Scheuer</i> plaintiff’s MIL No. 4 does not apply to <i>Yingling</i>.</p> |

² Nothing in this proposed order should be construed to waive any of the parties’ preserved objections or rights to appeal the Court’s rulings. To the contrary, consistent with the Court’s February 19, 2016 Memo Endorsement (Docket No. 2310), all arguments from prior briefing and/or oral arguments on such motions are expressly preserved.

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| Order (Docket No. 1969) | |
| <p><i>Scheuer Pl. MIL No. 5 (Deferred Prosecution Agreement)</i> (Docket Nos. 1731, 1732)</p> <p>Ruling: 12/16/2015 Order (Docket No. 1894); 1/6/2016 Order (Docket No. 2018) (redactions)</p> | <p>The parties agree that the Court’s ruling should apply to <i>Yingling</i>, subject to the parties’ rights to move for reconsideration should the Court’s subsequent rulings change the scope of relevant or admissible evidence in this case.</p> <p>HOLDING: The Court’s ruling applies, subject to a party moving to reconsider pursuant to Paragraph 6 of this Order.</p> |
| <p><i>Scheuer Pl. MIL No. 6 (Live Trial Witnesses)</i> (Docket Nos. 1742, 1743)</p> <p>Ruling: 12/17/2015 Hr’g Tr. at 5:18-8:16</p> | <p>The parties agree that the Court’s ruling is applicable to <i>Yingling</i>. The parties further agree to apply the process used in <i>Scheuer</i> for making New GM’s live witnesses available during plaintiff’s case in chief: specifically, 1) New GM will make any of its Will Call employee witnesses available to testify during her case in chief (subject to advance notice); and 2) by Monday, May 9, 2016, New GM will inform plaintiff as to whether it intends to call any of its May Call employee witnesses at trial, and any such New GM May Call witness will thereafter be made available to testify during plaintiff’s case in chief (subject to advance notice).</p> <p>HOLDING: The Court’s order regarding the <i>Scheuer</i> plaintiff’s MIL No. 6 applies to <i>Yingling</i> and the Court adopts the parties’ process set forth above regarding making New GM Will Call and May Call witnesses available to testify during plaintiff’s case in chief.</p> |
| <p><i>Scheuer Pl. MIL No. 7 (Plaintiff’s Feinberg Claim)</i> (Docket Nos. 1807, 1808)</p> <p>Ruling: 12/29/2015 Order (Docket No. 1969)</p> | <p>The parties agree that the Court’s ruling is fact-specific to <i>Scheuer</i> and does not apply to <i>Yingling</i>.</p> <p>HOLDING: The Court’s order regarding the <i>Scheuer</i> plaintiff’s MIL No. 7 does not apply to <i>Yingling</i>.</p> |
| <p><i>Scheuer Pl. Daubert Motion</i> (Docket Nos. 1801, 1802)</p> | <p>The parties agree that the Court’s rulings relating to Thomas Livernois and Jeya Padmanaban apply to <i>Yingling</i>. The Court’s ruling as to Harry Smith is not</p> |

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| <p>Ruling: 12/29/2015 Order (Docket No. 1970)</p> | <p>applicable to <i>Yingling</i> because Dr. Smith is not a designated expert in <i>Yingling</i>.</p> <p>Neither party anticipates the need to brief the issues resolved by this motion, but reserve the right to raise arguments to exclude experts and/or opinions not addressed in the <i>Scheuer</i> plaintiff's <i>Daubert</i> motion.</p> <p>HOLDING: The Court's order regarding the <i>Scheuer</i> plaintiff's <i>Daubert</i> motion applies in <i>Yingling</i>, but the parties are free to raise arguments to exclude experts and/or opinions not addressed in the <i>Scheuer</i> plaintiff's <i>Daubert</i> motion.</p> |
| <p>GM LLC MIL No. 1 (NHTSA Consent Order) (Docket Nos. 1378, 1379)</p> <p>Ruling: 12/01/2015 Order (Docket No. 1770); 1/6/2016 Order (Docket No. 2017) (redactions)</p> | <p>The parties agree that the Court's ruling should apply to <i>Yingling</i>, subject to the parties' rights to move for reconsideration should the Court's subsequent rulings change the scope of relevant or admissible evidence in this case.</p> <p>HOLDING: The Court's ruling applies, subject to a party moving to reconsider pursuant to Paragraph 6 of this Order.</p> |
| <p>GM LLC MIL No. 2 (Spoliation) (Docket Nos. 1411, 1415)</p> <p>Ruling: 12/29/2015 Order (Docket No. 1969)</p> | <p>The parties agree that the Court's ruling is fact-specific to <i>Scheuer</i> and does not apply to <i>Yingling</i>.</p> <p>HOLDING: The Court's order regarding GM LLC's MIL No. 2 in <i>Scheuer</i> does not apply to <i>Yingling</i>.</p> |
| <p>GM LLC MIL No. 3 (Paid vs. Incurred Medical Expenses) (Docket Nos. 1573, 1574)</p> <p>Ruling: 11/23/2015 Order (Docket No. 1727)</p> | <p>The parties agree that the Court's ruling is specific to Oklahoma law and does not apply to <i>Yingling</i>.</p> <p>HOLDING: The Court's order regarding GM LLC's MIL No. 3 in <i>Scheuer</i> does not apply to <i>Yingling</i>.</p> |
| <p>GM LLC MIL No. 4 (Plaintiff's Eviction) (Docket Nos. 1580, 1581)</p> | <p>The parties agree that the Court's ruling is fact-specific to <i>Scheuer</i> and does not apply to <i>Yingling</i>.</p> <p>HOLDING: The Court's order regarding GM LLC's</p> |

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| <p>Ruling: 11/30/2015 Order (Docket No. 1770)</p> | <p>MIL No. 4 in <i>Scheuer</i> does not apply to <i>Yingling</i>.</p> |
| <p>GM LLC MIL No. 5 (Cases Filed and Prior Settlements) (Docket Nos. 1582, 1583)</p> <p>Ruling: 11/30/2015 Order (Docket No. 1770)</p> | <p>The parties agree that the Court’s ruling should apply to <i>Yingling</i>, subject to the parties’ rights to move for reconsideration should the Court’s subsequent rulings change the scope of relevant or admissible evidence in this case.</p> <p>HOLDING: The Court’s order applies, subject to a party moving to reconsider pursuant to Paragraph 6 of this Order.</p> |
| <p>GM LLC MIL No. 6 (Anderson/Ward-Green Criminal Cases) (Docket Nos. 1585, 1586)</p> <p>Ruling: 11/30/2015 Order (Docket No. 1770)</p> | <p>The parties agree that the Court’s ruling is applicable to <i>Yingling</i>.</p> <p>HOLDING: The Court’s order regarding GM LLC’s MIL No. 6 in <i>Scheuer</i> applies to <i>Yingling</i>.</p> |
| <p>GM LLC MIL No. 7 (Punitive Damages) (Docket Nos. 1611, 1612)</p> <p>Ruling: 12/30/2015 Order (Docket No. 1980)</p> | <p>Pl. Position: The portion of the Court’s ruling indicating that there are three types of damages available to Plaintiffs, including that punitive damages are available against GM for “Independent Claims,” applies to <i>Yingling</i>. The part of the Court’s ruling addressing whether such punitive damages are available under Oklahoma law is specific to <i>Scheuer</i> and does not apply to <i>Yingling</i>.</p> <p>GM LLC Position: The Court’s ruling in <i>Scheuer</i> was dependent upon its summary judgment ruling in <i>Scheuer</i> and should not apply in <i>Yingling</i>, where the Court has not yet ruled on summary judgment. In addition, as will be set forth in GM LLC’s motion for summary judgment, punitive damages are not recoverable under applicable Pennsylvania law, and therefore the Court’s ruling in <i>Scheuer</i> should not apply to <i>Yingling</i>. GM LLC reserves the right to brief the admissibility of evidence relating to punitive damages following the Court’s ruling on its motion for summary judgment. Plaintiff does not oppose this request.</p> <p>HOLDING: The Court’s ruling applies, subject to a</p> |

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| | party moving to reconsider pursuant to Paragraph 6 of this Order. |
| <p>GM LLC MIL No. 8 (Misrepresentations to NHTSA) (Docket Nos. 1614, 1615)</p> <p>Ruling: 12/3/2015 Order (Docket No. 1791)</p> | <p>The parties agree that the Court's ruling should apply to <i>Yingling</i>, subject to the parties' rights to move for reconsideration should the Court's subsequent rulings change the scope of relevant or admissible evidence in this case.</p> <p>HOLDING: The Court's ruling applies, subject to a party moving to reconsider pursuant to Paragraph 6 of this Order.</p> |
| <p>GM LLC MIL No. 9 (Privilege Issues at Trial) (Docket Nos. 1616, 1617)</p> <p>Ruling: 12/3/2015 Order (Docket No. 1791)</p> | <p>The parties agree that the Court's ruling is applicable to <i>Yingling</i>.</p> <p>HOLDING: The Court's order regarding GM LLC's MIL No. 9 in <i>Scheuer</i> applies to <i>Yingling</i>.</p> |
| <p>GM LLC MIL No. 10 (Discovery and Other Litigation Conduct) (Docket Nos. 1618, 1619)</p> <p>Ruling: 12/3/2015 Order (Docket No. 1791)</p> | <p>The parties agree that the Court's ruling is applicable to <i>Yingling</i>.</p> <p>HOLDING: The Court's order regarding GM LLC's MIL No. 10 in <i>Scheuer</i> applies to <i>Yingling</i>.</p> |
| <p>GM LLC MIL No. 11 (Other Similar Incidents) (Docket Nos. 1629, 1630) (<i>see also</i> Docket Nos. 1834, 1910)</p> <p>Ruling: 12/3/2015 Order (Docket No. 1790); 12/28/2015 Order (Docket No. 1968)</p> | <p>The parties agree the Court's ruling on the admissibility of evidence regarding other similar incidents from <i>Scheuer</i> and <i>Barthelemy</i> is generally applicable, but reserve the right to raise new arguments based on the different evidence proffered by plaintiff and the different issues implicated in <i>Yingling</i>, including issues to be raised in the parties' dispositive motions and motions <i>in limine</i>.</p> <p>HOLDING: The Court reserves judgment on the applicability of its rulings on other similar incidents from <i>Scheuer</i> and <i>Barthelemy</i> to <i>Yingling</i>.</p> |
| <p>GM LLC MIL No. 12 (Valukas Report) (Docket Nos. 1631,</p> | <p>Pls. Position: The Court's 12/9/15 and 1/6/16 rulings should apply to <i>Yingling</i>, but plaintiff would like the opportunity to select the excerpts from the Valukas</p> |

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| <p>1632)</p> <p>Ruling: 12/9/2015 Order (Docket No. 1837); 1/6/2016 Order (Docket No. 2019) (redactions)</p> | <p>Report that she would like to offer at trial. As such, plaintiff intends to disclose by no later than <u>Monday, March 28, 2016</u>, the excerpts from the Valukas Report that she intends to offer at trial. The parties will meet and confer regarding plaintiff's Valukas Report disclosure by no later than <u>Wednesday, March 30, 2016</u>, and will raise any disputes with respect thereto by no later than <u>Tuesday, April 5, 2016</u>. New GM does not oppose this request.</p> <p>GM LLC Position: To the extent subsequent rulings on GM LLC's motion for summary judgment, plaintiffs' OSI disclosure, or other rulings change the scope of relevant or admissible evidence in this case, GM LLC reserves the right to submit additional briefing on the scope of evidence admissible pursuant to this ruling following those rulings. Plaintiff does not oppose this request.</p> <p>HOLDING: The Court reserves judgment on the applicability of the Order on GM LLC's MIL No. 12 in <i>Scheuer</i> to <i>Yingling</i> until after the Court rules on summary judgment or other rulings that may change the scope of relevant or admissible evidence in this case. The Court also adopts plaintiff's proposal above regarding the disclosure of and resolution of disputes with respect to plaintiff's Valukas Report excerpts.</p> |
| <p>GM LLC MIL No. 13 (Government Investigations) (Docket Nos. 1633, 1634)</p> <p>Ruling: 11/25/2015 Order (Docket No. 1749)</p> | <p>GM LLC's motion remains unopposed. The parties agree that the Court's ruling in <i>Scheuer</i> granting the motion as unopposed is applicable to <i>Yingling</i>.</p> <p>HOLDING: GM LLC's motion remains unopposed. The Court's order regarding GM LLC's MIL No. 13 in <i>Scheuer</i> granting the motion as unopposed applies to <i>Yingling</i>.</p> |
| <p>GM LLC MIL No. 14 (Congressional Testimony) (Docket Nos. 1635, 1636)</p> <p>Ruling: 12/9/2015 Order (Docket No. 1837)</p> | <p>Pls. Position: The Court's ruling should apply to <i>Yingling</i>. Plaintiff agrees to disclose the specific page and line numbers of the Congressional testimony she intends to offer at trial along with her deposition designations on <u>Monday, April 11, 2016</u>, and the parties will raise any disputes with respect to this disclosure in connection with the parties' deposition designations.</p> |

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| | <p>GM LLC Position: To the extent subsequent rulings on GM LLC’s motion for summary judgment, plaintiffs’ OSI disclosure, or other rulings change the scope of relevant or admissible evidence in this case, GM LLC reserves the right to submit additional briefing on the scope of evidence admissible pursuant to this ruling following those rulings. Plaintiff does not oppose this request.</p> <p>HOLDING: The Court’s ruling applies, subject to a party moving to reconsider pursuant to Paragraph 6 of this Order. The Court also adopts plaintiff’s proposal above regarding the disclosure of and resolution of disputes with respect to plaintiff’s proffered Congressional testimony in connection with the parties’ deposition designation disputes.</p> |
| <p>GM LLC MIL No. 15 (Government Reports) (Docket Nos. 1637, 1638)</p> <p>Ruling: 12/9/2015 Order (Docket No. 1837)</p> | <p>The parties agree that the Court’s ruling in <i>Scheuer</i> should apply to <i>Yingling</i>. The parties agree to meet and confer with respect to proposed redactions to the <i>Path Forward</i> report. Any disagreements will be raised with the Court.</p> <p>In addition, to the extent subsequent rulings on GM LLC’s motion for summary judgment, plaintiffs’ OSI disclosure, or other rulings change the scope of relevant or admissible evidence in this case, GM LLC reserves the right to submit additional briefing on the scope of evidence admissible pursuant to this ruling following those rulings.</p> <p>HOLDING: The Court’s order regarding GM LLC’s MIL No. 15 in <i>Scheuer</i> applies to <i>Yingling</i>. The parties shall meet and confer with respect to proposed redactions to the <i>Path Forward Report</i>. Any disagreements can be raised with the Court. GM LLC is also granted leave to submit additional briefing on this motion following the Court’s rulings on summary judgment or other rulings that change the scope of relevant or admissible evidence in this case.</p> |
| <p>GM LLC MIL No. 16 (Non-Delta Ignition Switches) (Docket Nos. 1639, 1640)</p> | <p>The parties agree that the Court’s ruling in <i>Scheuer</i> should apply to <i>Yingling</i>.</p> <p>HOLDING: The Court’s order regarding GM LLC’s MIL No. 16 in <i>Scheuer</i> applies to <i>Yingling</i>.</p> |

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| <p>Ruling: 12/7/2015 Order (Docket No. 1825); 12/29/2015 Order (Docket No. 1971) (factual correction)</p> | |
| <p>GM LLC MIL No. 17 (Adequacy of Recall Remedies) (Docket Nos. 1641, 1642)</p> <p>Ruling: 12/7/2015 Order (Docket No. 1825)</p> | <p>New GM and plaintiff stipulate and agree that the parties will not introduce evidence relating to: (i) the adequacy of the ignition switch recall notice issued in 2014, (ii) the ordering and availability of parts to complete the recall repair, (iii) the availability of loaner vehicles, and (iv) the pace and adequacy of completed recall repairs, through their witnesses, including any expert at trial. For avoidance of doubt, this stipulation does not include: 1) any evidence contained in the Valukas Report, the Deferred Prosecution Agreement and its exhibits and the NHTSA Consent Order that the Court rules is admissible at trial; 2) the admissibility of the actual recall notices sent to the stepfather of plaintiff's decedent; or 3) the timing of the recalls.</p> <p>HOLDING: SO ORDERED.</p> |
| <p>GM LLC MIL No. 18 (Irrelevant, Pejorative, Unfairly Prejudicial Remarks) (Docket Nos. 1643, 1644)</p> <p>Ruling: 12/7/2015 Order (Docket No. 1825)</p> | <p>The parties agree that the part of this motion that was granted is applicable to <i>Yingling</i>. The parties further believe they will be able to reach agreement on the rest of the issues raised in the motion.</p> <p>Neither party currently anticipates the need to brief the issue in <i>Yingling</i>.</p> <p>HOLDING: The Court's order regarding GM LLC's MIL No. 18 in <i>Scheuer</i> applies to <i>Yingling</i>.</p> |
| <p>GM LLC MIL No. 19 (Anonymous Letters) (Docket Nos. 1805, 1806)</p> <p>Ruling: 12/29/2015 Order (Docket No. 1971)</p> | <p>The parties agree that the Court's ruling should apply to <i>Yingling</i>.</p> <p>HOLDING: The Court's order regarding GM LLC's MIL No. 19 in <i>Scheuer</i> applies to <i>Yingling</i>.</p> |
| <p>GM LLC MIL No. 20 (Evidence re Airbag Non-Deployment)</p> | <p>The parties agree that the Court's ruling is fact-specific to <i>Barthelemy/Spain</i> and does not apply to <i>Yingling</i>.</p> |

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| <p>(Docket Nos. 2209, 2210)</p> <p>Order: 2/25/2016 (Docket No. 2362)</p> | <p>HOLDING: The Court’s order regarding GM LLC’s MIL No. 20 in <i>Barthelemy</i> does not apply to <i>Yingling</i></p> |
| <p>GM LLC MIL No. 21 (FTC Consent Order) (Docket Nos. 2213, 2214)</p> <p>Order: 2/16/2016 (Memo Endorsement of Stipulation, Docket No. 2287)</p> | <p>New GM and plaintiffs stipulate and agree that the parties will not introduce evidence relating to: (i) the proposed consent order between General Motors LLC and the Federal Trade Commission (“FTC”) (<i>In the Matter of General Motors LLC</i>, FTC File No. 152-3101), or (ii) any final version of such FTC consent order.</p> <p>HOLDING: SO ORDERED.</p> |
| <p>GM LLC Daubert Motion (Docket Nos. 1815, 1820)</p> <p>Ruling: 12/29/2015 Order (Docket No. 1970)</p> | <p>The parties agree that the Court’s specific rulings relating to Steve Loudon, Glen Stevick, Michael Markushewski, Chris Caruso should apply to <i>Yingling</i>. The Court’s rulings with respect to Robert Cox, David Macpherson, and Michael McCort do not apply as those experts are not designated experts in <i>Yingling</i>.</p> <p>Neither party anticipates the need to brief the issues resolved by this motion, but reserve the right to raise arguments to exclude experts and/or opinions not addressed in GM LLC’s <i>Daubert</i> motion.</p> <p>HOLDING: The Court’s order regarding GM LLC’s <i>Daubert</i> motion applies in <i>Yingling</i>, but the parties are free to raise arguments to exclude experts and/or opinions not addressed in GM LLC’s <i>Daubert</i> motion in <i>Scheuer</i>.</p> |
| <p>VTTI Report (Docket Nos. 2116, 2119)</p> <p>Order: 1/19/2016 (1/19/2016 Trial Tr. at 789-90)</p> | <p>The parties disagree regarding the applicability of the Court’s ruling on the VTTI Report. Plaintiff does not believe the ruling should apply due to facts specific to the <i>Yingling</i> matter. GM LLC believes the ruling should apply and that the relevant facts from <i>Scheuer</i> are the same as in <i>Yingling</i>.</p> <p>Plaintiff would like the opportunity to re-brief this issue in a motion <i>in limine</i>. GM LLC does not oppose this request, subject to its ability to argue that the Court’s ruling on the VTTI Report should apply in <i>Yingling</i>.</p> |

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| | HOLDING: SO ORDERED. |
| <p>Secretary Foxx Letter (Docket Nos. 1999, 2003)</p> <p>Order: 1/6/2016 (Final Pretrial Conference Hr'g Tr. at 3:24-4:22)</p> | <p>The parties disagree regarding the applicability of the Court's ruling on the Secretary Foxx Letter. Plaintiff does not believe the ruling should apply due to facts specific to the <i>Yingling</i> matter. GM LLC believes the ruling should apply and that the relevant facts from <i>Scheuer</i> are the same as in <i>Yingling</i>.</p> <p>Plaintiff would like the opportunity to re-brief this issue in a motion <i>in limine</i>. GM LLC does not oppose this request, subject to its ability to argue that the Court's ruling on the Secretary Foxx Letter should apply in <i>Yingling</i>.</p> <p>HOLDING: SO ORDERED.</p> |
| <p>Redactions to the Valukas Report, the DPA Statement of Facts, and NHTSA Consent Order:</p> <p>Orders: 1/6/2016 (Docket Nos. 2017, 2018, 2019)</p> | <p>The parties agree that the applicability of the Court's rulings of the redactions to the Valukas Report, DPA Statement of Facts, and the NHTSA Consent Order should be deferred until the Court rules on GM LLC's motion for summary judgment and plaintiff's OSI disclosure.</p> <p>HOLDING: The Court reserves judgment on the applicability of the rulings on redactions to the Valukas Report, DPA Statement of Facts, and NHTSA Consent Order in <i>Scheuer</i> to <i>Yingling</i> until after the Court rules on summary judgment or other rulings that change the scope of relevant or admissible evidence in this case.</p> |
| <p>Barthelemy Pls. MIL No. 1 (Barthelemy's Criminal Record) (Docket Nos. 2231, 2232)</p> <p>Order: 2/23/2015 (Text Order, Docket No. 2346)</p> | <p>The parties agree that the Court's ruling is fact-specific to <i>Barthelemy/Spain</i> and does not apply to <i>Yingling</i>.</p> <p>HOLDING: The Court's order regarding the <i>Barthelemy</i> plaintiffs' MIL No. 1 does not apply to <i>Yingling</i></p> |
| <p>Barthelemy Pls. MIL No. 2 (Expert Testimony re Airbag Deployment) (Docket Nos. 2215,</p> | <p>The parties agree that the Court's ruling is fact-specific to <i>Barthelemy/Spain</i> and does not apply to <i>Yingling</i>.</p> <p>HOLDING: The Court's order regarding the</p> |

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| <p>2216)</p> <p>Order: 2/23/2015 (Text Order, Docket No. 2346)</p> | <p><i>Barthelemy</i> plaintiffs' MIL No. 2 does not apply to <i>Yingling</i></p> |
| <p><i>Barthelemy</i> Pls. MIL No. 4 (Prior Lawsuits by Plaintiffs) (Docket Nos. 2223, 2224)</p> <p>Order: 2/23/2015 (Text Order, Docket No. 2346)</p> | <p>The parties agree that the Court's ruling is fact-specific to <i>Barthelemy/Spain</i> and does not apply to <i>Yingling</i>.</p> <p>HOLDING: The Court's order regarding the <i>Barthelemy</i> plaintiffs' MIL No. 4 does not apply to <i>Yingling</i></p> |
| <p><i>Barthelemy</i> Pls. MIL No. 6 (Officer David Kramer) (Docket Nos. 2217, 2218)</p> <p>Order: 2/23/2015 (Text Order, Docket No. 2346)</p> | <p>The parties agree that the Court's ruling is fact-specific to <i>Barthelemy/Spain</i> and does not apply to <i>Yingling</i>.</p> <p>HOLDING: The Court's order regarding the <i>Barthelemy</i> plaintiffs' MIL No. 6 does not apply to <i>Yingling</i></p> |
| <p><i>Barthelemy</i> Pls. MIL No. 7 (Plaintiffs' Insurance Claims) (Docket Nos. 2221, 2222)</p> <p>Order: 2/23/2015 (Text Order, Docket No. 2346)</p> | <p>The parties agree that the Court's ruling is fact-specific to <i>Barthelemy/Spain</i> and does not apply to <i>Yingling</i>.</p> <p>HOLDING: The Court's order regarding the <i>Barthelemy</i> plaintiffs' MIL No. 7 does not apply to <i>Yingling</i></p> |

PRETRIAL DEADLINES FOR *YINGLING*

| Deadline | Submission | Party or Parties |
|------------------------|--|-------------------------|
| March 3, 2016 | Response to <i>Yingling</i> Complaint | New GM |
| March 4, 2016 | Dispositive <i>Yingling</i> Motions | Both Parties |
| March 4, 2016 | <i>Daubert</i> Motions | Both Parties |
| March 4, 2016 | Initial Witness Lists | Both Parties |
| March 14, 2016 | Last Day to File Motions <i>in Limine</i> | Both Parties |
| March 14, 2016 | Oppositions to Dispositive <i>Yingling</i> Motions | Both Parties |
| March 14, 2016 | Oppositions to <i>Daubert</i> Motions | Both Parties |
| March 18, 2016 | Response to OSI Disputes | New GM |
| March 23, 2016 | Replies to Dispositive <i>Yingling</i> Motions | Both Parties |
| March 23, 2016 | Replies to <i>Daubert</i> Motions | Both Parties |
| March 24, 2016 | Oppositions to Final Motions <i>in Limine</i> | Both Parties |
| March 28, 2016 | Valukas Report Excerpts Disclosure | Plaintiff |
| March 28, 2016 | Joint Letter (If Concerned About Using Courtroom 1105) | Both Parties |
| March 29, 2016 | Final Pretrial Order | Both Parties |
| March 31, 2016 | Replies to Final Motions <i>in Limine</i> | Both Parties |
| April 1, 2016 | Will Call and May Call Witness Lists | Both parties |
| April 1, 2016 | Deposition Designations | Both Parties |
| April 4, 2016 | Trial Exhibit Lists | Both Parties |
| April 5, 2016 | Disputes re Valukas Report Excerpts | Both Parties |
| April 11, 2016 | Deposition Counter-Designations | Both Parties |
| April 13, 2016 | Proposed Modifications to Jury Questionnaires | Both Parties |
| April 13, 2016 | Proposed Jury Instructions and Verdict Form | Both Parties |
| April 13, 2016 | Categorical Deposition Designation Disputes | Both Parties |
| April 19, 2016 | Stipulations of Authenticity | Both Parties |
| April 20, 2016 at 9 am | Final Pretrial Conference and Beginning of Jury Selection Process | Both Parties |
| April 21, 2016 | Specific Deposition Designation Disputes | Both Parties |
| April 24, 2016 | Deadline for Parties to Exchange Opening Demonstratives | Both Parties |
| April 25, 2016 | List of Jurors to be Excused for Cause by agreement and Proposed Strikes | Both Parties |
| April 26, 2016 | Copies of Trial Exhibits | Both Parties |
| April 27, 2016 | Objections to Opening Demonstratives | Both Parties |
| April 29, 2016 at noon | Opening Demonstrative Disputes Submitted to Court | Both Parties |
| May 2, 2016 | <i>Yingling</i> Trial Begins | Both Parties |