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1 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

2 -----x

3 IN RE: GENERAL MOTORS LLC  
4 IGNITION SWITCH LITIGATION,

14 MD 2543 (JMF)

5 -----x

6 New York, N.Y.  
7 December 18, 2019  
9:30 a.m.

8 Before:

9 HON. JESSE M. FURMAN,

10 District Judge

11 APPEARANCES

12 LIEFF CABRASER HEIMANN AND BERNSTEIN LLP

Attorneys for Plaintiffs

13 BY: ELIZABETH JOAN CABRASER

-AND-

14 HAGENS BERMAN SOBOL SHAPIRO LLP (SEATTLE)

15 BY: STEVE W. BERMAN

-AND-

HILLIARD MUNOZ GONZALES LLP

16 BY: ROBERT HILLIARD

-AND-

17 BAILEY COWAN HECKAMAN PLLC

18 BY: ROBERT COWAN via Speakerphone

KIRKLAND & ELLIS LLP

19 BY: RICHARD CARTIER GODFREY

ANDREW B. BLOOMER

20 WENDY BLOOM

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1 (Case called)

2 THE COURT: Good morning. Welcome back.

3 We're here in the matter of In Re: G.M. Ignition  
4 Switch Litigation.

5 Counsel, please state your appearance for the record.

6 MS. CABRASER: Good morning, your Honor. Elizabeth  
7 Cabraser for the plaintiffs.

8 MR. BERMAN: Good morning, your Honor. Steve Berman.

9 MR. HILLIARD: Good morning, Judge. Bob Hilliard.

10 MR. GODFREY: Good morning, your Honor. Richard  
11 Godfrey for G.M, with Mr. Bloomer and Ms. Bloom.

12 THE COURT: Good morning.

13 Counsel for Ms. Bhandari is on the line as well?

14 MR. COWAN: Yes, your Honor. Robert Cowan with Bailey  
15 Cowan Heckaman.

16 THE COURT: The elevator situation here is a disaster,  
17 I know. Since I last saw you, we got taller microphones for  
18 Mr. Hilliard and Mr. Godfrey. Make sure you make use of those.

19 I hope everyone is doing well and enjoying this  
20 holiday season. Let's run through the agenda items.

21 We will be onto Ms. Bhandari pretty quickly, in any  
22 event, and in that regard if Mr. Cowan doesn't want to stick  
23 around, he's welcome to drop off.

24 First, on the coordination with related actions,  
25 document production, deposition update, anything to discuss

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1 there?

2 MR. GODFREY: No, your Honor.

3 THE COURT: All right.

4 Anything from the front people?

5 MR. BERMAN: No, your Honor.

6 MR. HILLIARD: No.

7 MS. CABRASER: No.

8 THE COURT: Actually, I guess my only question on that  
9 front, I got an update from the letter filed yesterday  
10 regarding bankruptcy proceedings, and I've also been in touch  
11 with Judge Glenn, but is there anything I should be aware of on  
12 that front? I know there is a scheduling order on  
13 January 15th, and I guess the question is, is there anything  
14 that I should be aware of?

15 MR. GODFREY: I don't think so. We will discuss other  
16 matters in chambers, which may bear on you're question, but not  
17 directly.

18 THE COURT: Turning to personal injury, wrongful death  
19 cases, why don't we take Ms. Bhandari's case out of order and  
20 do that first so Mr. Cowan can drop off if he doesn't want to  
21 remain on the line.

22 I've been advised by Judge Cott that his efforts to  
23 get things on track didn't succeed, and I don't know quite now  
24 where her case stands or what, if anything, there is to be  
25 done, but Ms. Bloom, it looks like you wanted to say something.

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1 MS. BLOOM: Sure. So Ms. Bhandari is part of an  
2 aggregate settlement that we entered into with the Bailey firm,  
3 and it's a docket of presale claims. She, as part of that  
4 aggregate settlement, has an offer that's been extended. Her  
5 offer amount was determined by Robert Black, who did the  
6 allocations, and she had until March 8th of 2019 to decide  
7 whether or not to accept her offer, and so that's really in her  
8 hands.

9 I'm sorry, that's 2020.

10 So right now, from our perspective, there isn't really  
11 anything that is before this Court. You know, there might be,  
12 should she decide not to accept the offer, but that's where we  
13 are right now.

14 THE COURT: All right.

15 Mr. Cowan, is there anything you want to say on that?

16 MR. COWAN: No, your Honor. I would like to confer  
17 with Ms. Bloom separately about the deadline to accept the  
18 settlement. That's the first I'm hearing of that information.

19 But other than that, everything Ms. Bloom said was  
20 accurate. I will leave it at that unless the Court has any  
21 specific questions.

22 THE COURT: All right. Well, that's helpful.

23 So it sounds like there is nothing for me to do until  
24 she makes a decision on that front as well.

25 I guess my request to you would be to let me know as

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1 soon as there's any reason to take any action, or do anything  
2 on her case; and at that point you, I guess, should confer and  
3 propose next steps, if that's the appropriate thing to do.

4 Make sense?

5 MS. BLOOM: Yes, your Honor.

6 THE COURT: Mr. Cowan?

7 MR. COWAN: Yes, your Honor. I guess I'll inform the  
8 Court that, as of the teleconference that we had with Judge  
9 Cott last Friday, Ms. Bhandari stated that she was is  
10 unequivocally not accepting the settlement, and so I am not  
11 sure what more we need to wait on with respect to Ms. Bhandari,  
12 but I did want the Court to be aware of that circumstance.

13 THE COURT: All right. Well, in that case, I mean,  
14 why don't you and Ms. Bloom, or you and counsel for New G.M --  
15 whichever of them is appropriate -- confer and figure out maybe  
16 if that is the answer, and Mr. Godfrey has pointed to Ms.  
17 Bloom.

18 Now, why don't you confer with Ms. Bloom and perhaps,  
19 if that is indeed the answer, and she is not accepting the  
20 offer and there's nothing further to be done on that, then she  
21 should figure out next steps and what that means for her case.

22 Why don't I do this. Why don't I give you three weeks  
23 from today to submit an update. That will force you to confer  
24 with one another and you can let me know where things stand,  
25 what, if anything, I can do to facilitate resolving the case;

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1 and if that isn't feasible at this point, what we should do in  
2 term of next steps. All right?

3 MS. BLOOM: Yes.

4 MR. COWAN: Thank you, your Honor.

5 THE COURT: Mr. Cowan, you're welcome to stick around  
6 if you want, but I'll leave that to you.

7 I'm going on to other personal injury wrongful death  
8 issues.

9 I take it from the letter filed yesterday that we're  
10 down to 59 cases, which is pretty impressive and remarkable, and  
11 only four remaining in way of three, one of which it sounds  
12 like will likely be dismissed in the near future.

13 Now, I guess the question I have is now that we're  
14 down to that number, maybe I can even get into the weeds of the  
15 particulars -- the particular cases -- but I want to figure out  
16 as to each of them what is going on with them and what efforts  
17 are being made to move them forward.

18 To some extent that's obvious, but there are a lot of  
19 orders out there and I find it hard enough to keep track  
20 myself, but would love assistance in not just breaking them  
21 down by category, but identifying sort of what is happening  
22 with respect to each of them. Maybe that's doable just on the  
23 monthly spreadsheet at this point. Maybe it's even on the  
24 monthly spreadsheet.

25 When the cases were in the 180 neighborhood, I was

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1 less inclined to delve into the spreadsheet for that  
2 information, but maybe now it's more feasible.

3 Mr. Hilliard.

4 MR. HILLIARD: The dwindle definitely continues,  
5 Judge. Of the 59 cases left, 27 of them are subject to a  
6 motion to dismiss.

7 In speaking with Mr. Pixton last night to prepare to  
8 address this issue -- that I know you're interested in about  
9 next steps -- and also with my team -- they both have conferred  
10 and are working on a joint letter to the Court that they are  
11 planning on submitting.

12 With your permission, they have asked that they submit  
13 it on January 15th where they will detail the next steps on all  
14 of the remaining personal injury cases.

15 THE COURT: All right. So that would basically be a  
16 letter that would go through the remaining cases and identify  
17 either what's happening with them already or, to the extent  
18 that they are not subject to some order or protocol, proposing  
19 next steps.

20 Is that the idea?

21 MR. HILLIARD: That is the idea.

22 THE COURT: All right.

23 Back table, anyone? I mean, that's fine with me. I  
24 don't know if there anything further to be said on it.

25 MS. BLOOM: Just a couple things that I did want to

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1 maybe pat ourselves on the back with respect to the progress  
2 that we made.

3 So I would note that we started this MDL with over  
4 3500 claims, that we started January 2019 with 544 in the MDL,  
5 and we are now down, as your Honor says, to 59.

6 Of those 59, there are actually 29 that will be  
7 subject to withdrawal motions; and so really, where we stand  
8 today, is with 30 claims left.

9 With respect to those 30 claims, we are working to get  
10 your Honor a proposal of what we would do with respect to each  
11 of them by January 15th.

12 Just to give you a bit of a preview, there are seven  
13 that are currently subject to motion practice, and there are  
14 seven that are recently-filed claims so that we are still in  
15 the process of -- the Order 108 process of collecting those  
16 documents and evaluating the claims.

17 Then there are 16 others where we're looking at what  
18 the next steps are, and so I think your Honor is right that  
19 we're now at a time where it's easy enough to just focus on  
20 those 30 claims and figure out the trajectory for them.

21 THE COURT: All right. And how does what you just  
22 told me dovetail with Mr. Hilliard's statement that 27 of the  
23 59 are subject to a motion to dismiss?

24 MS. BLOOM: Because 27 of them are subject currently  
25 to motions to withdraw, and there will be two more coming and

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1 those are all related to the Langdon docket.

2 I don't know the source of his figures, but I do know  
3 that information is as a result of having resolved the Langdon  
4 docket.

5 THE COURT: Maybe it was a misnomer: Not a motion to  
6 dismiss, but a motion to withdraw.

7 MR. HILLIARD: I apologize. I meant 'withdraw,' your  
8 Honor.

9 THE COURT: That is helpful.

10 MR. HILLIARD: In reading the notes from my team,  
11 there is one pro se plaintiff still here.

12 THE COURT: And I know I think there are a few pro se  
13 plaintiffs at this point.

14 MS. BLOOM: Yes. There are some within that 30.

15 THE COURT: All right. Some of whom I think are  
16 subject to motion practice as we speak.

17 Any sense of whether there are additional cases coming  
18 down the pike, or is that well is drying up, or do we know?

19 MS. BLOOM: My strong sense is that the well is drying  
20 up. I'm aware of just literally a handful of claims that we  
21 might see.

22 THE COURT: All right. So great.

23 Letter by January 15th with respect to the remaining  
24 cases, and I would say either identifying what order or motion  
25 they are subject to or, if they're not already, proposing what

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1 we do going forward. That sounds good.

2 Anything else on that front? I would think not.

3 MR. HILLIARD: Not from the plaintiffs, Judge.

4 THE COURT: All right. Great.

5 Other personal injury, wrongful death issues?

6 I don't know if counsel for New G.M. saw, there was a  
7 motion to vacate filed yesterday by the Connors plaintiffs who  
8 represent that they have filed the plaintiffs' fact sheet.

9 I don't know if you have seen that or have a response  
10 to it or if you want to let me know that after you look into  
11 it.

12 MS. BLOOM: Counsel for them reached out to us and we  
13 -- Mr. Pixton talked with them yesterday or the day before and  
14 explained what needed to be done so we are anticipating that  
15 that would be filed, and we will address it, yes.

16 THE COURT: All right. "Address it" meaning when?  
17 Or should I give you a date by which to report back to me?

18 MS. BLOOM: Sure. Give me a date please, yes.

19 THE COURT: All right. You tell me. What day would  
20 you like?

21 MS. BLOOM: Well, how about seven days. Is that OK?

22 THE COURT: That's fine, except that's Christmas.  
23 That day you may have better things to do. Why don't you tell  
24 me by the end of next week.

25 MS. BLOOM: OK.

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1 THE COURT: Very good.

2 If you agree that they have cured the problems, then  
3 you can let me know that and I will vacate the dismissal. If  
4 you disagree, you should spell that out and propose how you  
5 think I should handle it.

6 On the Langdon & Emison front, I know plaintiffs'  
7 counsel is not able to be here, so in that regard I don't want  
8 to do much beyond comment on the letter that you filed with  
9 respect to the settlement and the proposed next steps.

10 You propose two options, one of which was to terminate  
11 the motions that those cases are subject to without prejudice  
12 to renewal. In the event that something goes awry on the  
13 settlement front, I'm guessing it won't surprise you that that  
14 is my preferred approach.

15 I don't know. Is it obvious what motions those are?

16 MS. BLOOM: I thought we had identified those by  
17 docket number in the letter. Yes, we did.

18 THE COURT: Are those limited to Langdon & Emison  
19 cases?

20 MS. BLOOM: Yes.

21 THE COURT: I will terminate those motions without  
22 prejudice of renewal. I guess the question I have on that  
23 front is does it make sense to set a date by which you would  
24 have to renew or is that --

25 MS. BLOOM: I think, at the moment, that would be hard

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1 to know. We're still working to finalize the settlement  
2 agreement. We signed an agreement in principle. That  
3 settlement agreement will lay out several milestones, so we  
4 would have a better sense of that at the end of January, I'd  
5 say.

6 THE COURT: All right. So why don't we do this. I'll  
7 terminate those motions. I won't give you a deadline to renew.  
8 Why don't you add Langdon & Emison to the updates that you guys  
9 include in your monthly letters on the settlements and their  
10 progress, and give me a sense of timing on that front so I have  
11 an understanding.

12 MS. BLOOM: Sure.

13 THE COURT: Now, I think that exhausts the issues I  
14 have to raise on the personal injury, wrongful death docket.  
15 Anything else to discuss there?

16 MR. HILLIARD: Not from the plaintiffs, your Honor.

17 THE COURT: All right. Very good.

18 In that case, let's talk about economic loss.

19 What's the story there? I would imagine that  
20 plaintiffs intend to take an appeal from my August 6th opinion.

21 MR. BERMAN: Yes. Our papers are due next week and  
22 we're right on track to file those papers.

23 THE COURT: All right. I assume you know you need to  
24 file a notice of appeal and a petition, I think, right?

25 MR. BERMAN: That's correct.

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1 THE COURT: I certified an interlocutory appeal in  
2 another case in 2017, and the plaintiffs -- or whoever  
3 appealed -- failed to file the petition and then that led to a  
4 six-to eight-month delay in the appeal. I would like to avoid  
5 that here, but I think you know better what you're doing.

6 Tell me what you think we can do in the meantime.  
7 Obviously, I mean, on the one hand I'm not -- I'm reluctant to  
8 do things that might be upended by the Second Circuit if they  
9 end up disagreeing -- or agreeing, for that matter -- but on  
10 the other hand, I do, as I said in the opinion, want to move  
11 things forward as much as we can.

12 I haven't invoked the "reasonable but aggressive" or  
13 "aggressive but reasonable" mantra in a long time, but to the  
14 extent that we can make progress, notwithstanding an appeal, I  
15 would like to.

16 So, thoughts?

17 MR. BERMAN: My thoughts are this is a subject that we  
18 would prefer to address in chambers.

19 THE COURT: OK.

20 Anything from the back table, or is that basically the  
21 story?

22 MR. GODFREY: I think chambers is appropriate to  
23 discuss this. I have ideas about what the Court can do, but  
24 it's part of a bigger picture and I think the Court should have  
25 the benefit of a more comprehensive understanding of where the

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1 parties are.

2 THE COURT: All right. In that case, we will table it  
3 for now.

4 I think that leaves only on the agenda the settlement.  
5 I don't know if there anything to be said out here on that  
6 front or if we should leave that --

7 MR. BERMAN: Chambers would be appropriate, your  
8 Honor.

9 MR. GODFREY: I concur, your Honor.

10 THE COURT: Anything on the personal injury, wrongful  
11 death settlement front? I think it's subsumed in what we  
12 talked about a few moments ago.

13 MS. BLOOM: Nothing additional.

14 THE COURT: Everyone agree we don't need a court  
15 reporter for the in-chambers conference?

16 MR. BERMAN: That's correct.

17 THE COURT: We should talk about a the next  
18 conference.

19 Any thoughts on that?

20 MR. BERMAN: That may depend on what we talk about in  
21 chambers.

22 THE COURT: All right. Then let's table that as well.  
23 Anything else aside from that?

24 MR. GODFREY: Other than the Godfrey family has its  
25 newest member who was born last week here in New York. Her

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1 name is Eden Godfrey, and so we're very pleased.

2 THE COURT: Congratulations to you and your whole  
3 family.

4 MR. GODFREY: I didn't have much to do with it other  
5 than show up and hold the young child, but we're very happy.

6 THE COURT: I neglected to note that I think you all  
7 may have met my newest GM law clerk, Ryan, earlier before the  
8 conference. But if you didn't, please make sure to introduce  
9 yourself to him. He's the latest in the long line of law  
10 clerks and people who are helping me manage this and I thank  
11 him for that.

12 With that, we will reconvene in a couple minutes in  
13 the robing room here. If you could help Ryan just move a  
14 couple of chairs in, I suspect we may need some additional  
15 seating, and I'll see you there in a couple minutes.

16 Happy holidays to everyone.

17 Thanks.

18 MS. CABRASER: Thank you, your Honor.

19 (Adjourned)  
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22  
23  
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25