

H2AHGENC

1 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
2 -----x

3 In re GENERAL MOTORS LLC  
IGNITION SWITCH LITIGATION  
4 -----x  
5

14 MD 2543 (JMF)  
Oral Argument

6 New York, N.Y.  
7 February 10, 2017  
11:00 a.m.

8 Before:

9 HON. JESSE M. FURMAN,

10 District Judge  
11

12 APPEARANCES

13 HAGENS BERMAN SOBOL SHAPIRO LLP  
Co-Lead Plaintiff Counsel  
14 BY: STEVE W. BERMAN

-and-  
15 LIEFF CABRASER HEIMANN & BERNSTEIN LLP  
16 BY: ELIZABETH J. CABRASER

-and-  
17 HILLIARD MUNOZ GONZALES LLP  
BY: ROBERT C. HILLIARD

18 KIRKLAND & ELLIS LLP  
Attorneys for Defendant  
19 BY: RICHARD C. GODFREY  
WENDY L. BLOOM  
20 ANDREW B. BLOOMER  
ROBERT "MIKE" BROCK  
21 RENEE D. SMITH  
ALLAN PIXTON  
22

23

24

25

H2AHGENC

1 (Case called)

2 THE COURT: We're here in the matter of GM Ignition  
3 Switch MDL. Counsel, as usual, state your names for the  
4 record.

5 MS. CABRASER: Good morning, your Honor. Elizabeth  
6 Cabraser for plaintiffs. Thank you for accommodating us with  
7 respect to travel and snow.

8 THE COURT: No problem. My pleasure. I'm glad to see  
9 you were all able to make it here.

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

11 MR. HILLIARD: Good morning, your Honor. Good to see  
12 you again. Bob Hilliard.

13 MR. GODFREY: Good morning, your Honor. For New GM,  
14 Rick Godfrey, Wendy Bloom, Mr. Bloomer, Ms. Renee Smith.  
15 Mr. Mike Brock, and Allan Pixton.

16 THE COURT: All right. Good morning to all of you.  
17 Welcome. Hope everyone had a nice holiday season and yesterday  
18 was not too much of an imposition on people's lives and travel.  
19 But, again, I'm glad to see everybody got here. I gather we  
20 are operational on CourtCall, though I don't think anyone will  
21 be speaking through CourtCall since you all managed to get  
22 here. But I would remind you to just speak into the  
23 microphones.

24 Before we get started, let me make one disclosure. As  
25 you know, I'm interested in transparency. I am, as of the end

H2AHGENC

1 of the last year, a member of the standing committee on rules  
2 of practice and procedure. Ms. Cabraser, as you all may know,  
3 is a member, I think, of the advisory committee on the civil  
4 rules. And in connection with that, we were both at a meeting  
5 in Phoenix in early January relating to committee work. I  
6 would imagine that there may be other occasions in the future  
7 where we will encounter one another and/or work together in  
8 that capacity, but I think it's fair to say and assume that we  
9 will, obviously, not discuss matters relating to this case.  
10 But I just wanted to make sure everyone was aware of that.

11 Ms. Cabraser, if you think of anything to add, you can  
12 add it, but I think that covers it.

13 All right. Good. Turning to the agenda letter,  
14 anything to discuss on the first three items, the bankruptcy  
15 proceedings and the petition for cert, coordination, related  
16 actions, or document production?

17 MR. BERMAN: Steve Berman, your Honor. For your own  
18 edification, on the cert issue, our brief is due next week in  
19 opposition. So to give you an idea of the timing, probably be  
20 fully briefed sometime the end of March.

21 THE COURT: Good to know.

22 MR. GODFREY: Good morning, your Honor, Rick Godfrey.  
23 On the related case issue, we filed our related case letter on  
24 January 31, docket 3662. I would note in the second paragraph  
25 starting second, there is a privilege issue brewing in

H2AHGENC

1 St. Louis again. We've been dwindling it down, and I'm hoping  
2 that we will work it out as we did the last one, but it's a  
3 Felix-type issue. So just as a marker, so to speak, we may at  
4 some point be back to you. I don't anticipate this one since  
5 we've made good progress, but I did want to at least alert the  
6 Court so you wouldn't be surprised if three weeks from now or  
7 something suddenly we wanted to bring it to your attention.

8 THE COURT: All right. I had read that, and it didn't  
9 seem ripe for my attention at the moment, but I know how you  
10 like your markers.

11 MR. GODFREY: I don't believe in surprises if I can  
12 avoid it.

13 THE COURT: I certainly share that. Thank you.

14 Anything else to discuss on any of those three items?

15 All right. Then let's turn to item number four,  
16 economic loss disputes. As a general comment, I think, just a  
17 reminder that you shouldn't be raising issues with me  
18 prematurely before your meet-and-confer process has run its  
19 course. I certainly understand the appeal of raising issues  
20 when we have these status conferences because it's a convenient  
21 time to resolve things, but I think that just means that it is  
22 incumbent upon you to exhaust the meet-and-confer process  
23 before the agenda letter is submitted so that things are ripe  
24 for me to decide.

25 Having said that, made that general comment, I'll turn

H2AHGENC

1 to the specific issues that are raised in the letter. The  
2 first item is the depositions of named plaintiffs in the fourth  
3 amended consolidated complaint, which I will call the FACC. It  
4 sounds like you were pretty close to resolving that issue, and  
5 everybody's nodding.

6 MR. BERMAN: I think we've resolved the issue.

7 THE COURT: Great. I love to hear that. In any  
8 event, I was going to tell you to keep at it and see if you  
9 could.

10 Good. Second issue is identifying states where lead  
11 counsel intends to seek class certification. Any update on  
12 that front? Otherwise, I can give you my reaction to that.

13 MR. BERMAN: I think we need your reaction, your  
14 Honor.

15 THE COURT: All right. My reaction is that there's  
16 something to be said for both sides' positions and views here,  
17 which is to say that I certainly understand New GM's desire to  
18 know what states they need to focus on. At the same time, I  
19 understand and think there is much to be said for lead  
20 counsel's view that until I've ruled on the motion to dismiss  
21 and the motion for summary judgment with respect to the  
22 successor liability claims and issues, it's hard for them to  
23 identify with precision what states they are going to move for  
24 class certification in.

25 I guess the question I have is, is it not possible to

H2AHGENC

1 meet a little bit in the middle, which is to say, I'm assuming  
2 that lead counsel can identify at least some states, perhaps  
3 those that were addressed in the opinion with respect to the  
4 third consolidated complaint, that they would anticipate moving  
5 in, and in that regard give New GM a little bit of what it  
6 wants and then identify others on a rolling basis, either after  
7 I have ruled on the motions or otherwise.

8 What do you think?

9 MR. BERMAN: I hear where you're coming from. I'm  
10 going to make a couple observations. Number one, we're still a  
11 year away from the motion we filed, so we have time. If your  
12 Honor ruled in 30 or 45 days -- I don't know where you are in  
13 these motions. There are, obviously, a thick set of issues --  
14 we could promptly tell you with precision what we would do in  
15 our class certification.

16 There's a couple different ways that we could approach  
17 class certification. One is we could do the test case approach  
18 where, after you get done with your rulings, we pick a couple  
19 states and we say, why don't we do a test trial and a test  
20 class certification on those states and hold off on the rest  
21 because we'll get guidance from that process. That's what we  
22 did in Toyota, for example, and we've done in other cases.

23 The second way we can do this, depending on your  
24 rulings, is we could look at your rulings and decide that we're  
25 going to move for class certification in all states at once.

H2AHGENC

1 So because there's such a swing there and because I really do  
2 think it swings on your rulings, which way we're going to go, I  
3 think it would make sense to wait. We can say and we have said  
4 with respect to California, you've made a ruling. We know  
5 which claims, to some extent, are in the California case.  
6 We're going to be moving. We're taking depositions all of next  
7 month in California. So it's not like we're sitting not our  
8 heels. So I think we should -- again, I don't see a good  
9 middle ground here.

10 THE COURT: The reply in the motion to dismiss, if I  
11 remember correctly, is due February 28; is that right?

12 All right. Mr. Godfrey or Mr. Bloomer, your thoughts.

13 MR. GODFREY: Two points, your Honor. First, we're  
14 three years in. I've never known my counterparties' class  
15 action counsel to drop states dependent upon a court's ruling.  
16 Even when they lose the court's ruling, they reallege it and  
17 argue it doesn't apply. That's just general. That's just this  
18 case. So I don't see the advantage of waiting. I think they  
19 know very well what they intend to do.

20 Secondly, I've experienced before the same conundrum  
21 that we're in now where they make this argument, it sounds  
22 somewhat reasonable, let's wait to see what the Court rules and  
23 decide better, and then when the ruling comes, they say: OK,  
24 we're proceeding on all states. We want class certification  
25 and briefing, and the time for discovery is then substantially

H2AHGENC

1 constricted and, of course, inhibits the ability of the defense  
2 to marshal proper evidence. I would think they could at least  
3 come to the middle ground your Honor outlined and identify some  
4 states now, or they can stipulate that, for example, we win  
5 Alabama, they're going to drop the other six southern states.  
6 At this point, three years in, they should have a pretty good  
7 idea what they're going to do regardless of how the Court  
8 rules. I would think if they could give us some indication, we  
9 can make progress on it.

10 I'm adhering to your Court's earlier orders of a  
11 reasonable yet aggressive schedule, and I don't know that,  
12 three years in, saying that we're going to keep waiting for the  
13 Court to rule and then the Court rules and they file another  
14 motion or we file another motion and we keep waiting, at some  
15 point we'll be in year four or year five, and I think we should  
16 get going on some of this stuff.

17 THE COURT: All right. Let me turn back to you,  
18 Mr. Berman. I hear your point. And, listen, in an ideal  
19 world, I'd decide the now fully submitted summary judgment  
20 motion today and the motion to dismiss on March 1, but they're  
21 pretty substantial motions. I also have the brand diminution  
22 matter that I got additional briefing on that you probably  
23 figured out I decided to just address in connection with those  
24 motions. So there's a lot on my plate, and I think you know  
25 this isn't my only case either. In that regard, I'm going to

H2AHGENC

1 do my best to give myself a reasonable but aggressive schedule  
2 for deciding those things, but the fact of the matter is it's  
3 going to take a little bit of time for us to work through them  
4 because there's a lot to go through.

5 I guess, just in light of that, to get back to you,  
6 what's the harm in basically identifying some of the states in  
7 connection with the last motion to dismiss opinion and saying,  
8 right now we do or don't anticipate moving as to X, Y, Z, and  
9 basically moving forward? It may end up being that your  
10 strategy changes after you get rulings, and perhaps some of  
11 that work would have been with wasted but perhaps not. I  
12 think, ultimately, almost certainly not.

13 MR. BERMAN: So we're not three years in. We're in  
14 the infancy of testing the pleadings, okay. And, normally, in  
15 a normal case, we would finish the pleadings and then we would  
16 talk about class certification. So that's where we are. It's  
17 late, but it's really new, if you get my point in this case.  
18 We could identify our current thinking based on your rulings to  
19 date. The harm is the following: Once we do that, then we're  
20 going to get document requests, interrogatories, and deposition  
21 notices of people whose claims may be thrown out; right?

22 THE COURT: Of people, sorry?

23 MR. BERMAN: Whose claims may be tossed out. For  
24 example, if you rule for them on summary judgment, and we've  
25 identified the successor liability plaintiff as a class person

H2AHGENC

1 in a class state, we're subjecting that person to discovery  
2 which may be unnecessary. It would be pretty unusual to  
3 subject a class member representative to discovery before  
4 there's been a ruling on whether they have a claim.

5 THE COURT: My question is, and you have a better idea  
6 than I do having now briefed -- I think you've briefed all the  
7 motions on your side -- are there not plaintiffs who it is  
8 clear from the ruling on the last motion to dismiss and are not  
9 subject to the motion for summary judgment, that is to say,  
10 plaintiffs who are going to be in no matter what my ruling is  
11 on that motion? And then if the answer to that is yes, why  
12 can't you essentially defer whatever depositions or discovery  
13 with respect to folks who are subject to the pending motions,  
14 but at least proceed as to the ones that have been resolved?

15 MR. BERMAN: So what I would suggest to the Court is  
16 we're willing to go back and look for those plaintiffs, and if  
17 there are any such -- I imagine there might be some. I don't  
18 know that for sure. I haven't looked at that -- give us two  
19 weeks to tell you if there are such plaintiffs. And if there  
20 are such plaintiffs, we'll identify which states and plaintiffs  
21 that we anticipate moving on now, subject to our right to  
22 recast that once we see rulings. That may be a fair proposal.

23 THE COURT: I think so.

24 Mr. Godfrey, is that acceptable to you? Basically,  
25 within the next two weeks they would identify states that they

H2AHGENC

1 at present intend to move where the issues have been resolved  
2 by me. That's sort of consistent with my middle ground  
3 proposal.

4 MR. GODFREY: It's half a waffle, which I'll accept  
5 your Honor.

6 THE COURT: Tell you what. You don't even need to  
7 report back to me. You want to meet and confer with one  
8 another, and you can identify, if you think there are folks in  
9 that category, within the next two weeks to New GM. If I don't  
10 hear from you in the next two weeks, I'll assume that you guys  
11 have resolved these issues to your mutual satisfaction. If  
12 anyone has a problem, you know how to find me. All right.

13 MR. BERMAN: That's fine by me, your Honor.

14 THE COURT: Good. Third issue is the consumer survey  
15 of unnamed class members. I can't tell if that issue is moot  
16 in light of plaintiffs' representation that they are not  
17 conducting a survey, but there is the "at this time" language  
18 in their representation.

19 MR. BERMAN: We've been talking this morning, and I  
20 think our talk was good. There were some issues that we need  
21 to resolve regarding surveys. We both want to do surveys, and  
22 it could be that we will be surveying class members. If we are  
23 surveying class members, you've got an order that has rules  
24 about what we're supposed to say to class members. It could be  
25 if we warn a class member in the course of doing a survey that

H2AHGENC

1 they were a member of the class and they were represented by  
2 lawyers and they could look at the Court website, and so forth,  
3 that that may taint the survey because there's some experts who  
4 believe that you should not tell people that a survey's done in  
5 connection with litigation. So, therefore, we will have  
6 communicated with class members without giving them the Miranda  
7 warning, as I call it.

8 THE COURT: I prefer Furman warnings.

9 MR. BERMAN: OK.

10 THE COURT: All right.

11 MR. BERMAN: So I think we need to take some time to  
12 think this through a little bit. That's, I think, where we're  
13 coming from.

14 THE COURT: All right. Mr. Godfrey?

15 MR. GODFREY: First, we've had discussions. They've  
16 been illuminating. Second, the plaintiffs have a survey  
17 expert. They have already started a survey. They did not  
18 screen out absent class members or give the Furman warning.  
19 They've described it as a pilot survey. We believe that the  
20 rules should apply to both parties, and we're talking about  
21 order No. 117, paragraph M, the initial draft, as we recall it,  
22 prepared by the plaintiffs where the rules apply to both  
23 parties. What we believe, paragraph -- paragraph 4, sorry.

24 THE COURT: I was going to say, I don't think there's  
25 an M, but go ahead.

H2AHGENC

1           MR. GODFREY: Shows how bad my eyesight is.

2           We think that surveys and the surveyists should not

3 have to give the Furman warning, and it should be however they

4 conduct. The plaintiffs have not given the Furman warning in

5 the pilot that they've done. We have not started a survey that

6 would involve absent class members. Our current surveyist has

7 screening questions to screen out absent class members, out of

8 an abundance of caution, till this issue was clarified by the

9 Court. But our experts are telling us, we believe the case law

10 supports if you give a warning that there's litigation

11 involved, something as simple as that could taint the survey.

12 These are survey experts. They're subject to

13 cross-examination. We don't think that the rule that your

14 Honor and that we all agreed to should apply in terms of a

15 warning. We don't think this is something we need to think

16 about a whole lot. If we want to think about it, we should

17 have briefs in two days and have a prompt decision by this

18 Court, but time is ticking.

19           They've already started, and we want to get going, but

20 we want to know what the rules are. And it's, I think, only

21 fair that we -- if we could reach agreement on the rules, and

22 they may end up agreeing with us -- this morning they didn't,

23 but now they do, at least in terms of the applicability of

24 order 117 -- let's just get the rules set that we can all

25 comply with. We can proceed apace. Whatever turns out, turns

H2AHGENC

1 out. But this is not a long deliberative process that's  
2 necessary.

3 THE COURT: I guess my immediate reaction is unless  
4 and until I say otherwise, paragraph or section 4 of order No.  
5 17 applies to any communications by the parties with absent  
6 class members and that that includes communications by  
7 representatives or agents of the parties, which presumptively  
8 includes these sorts of experts.

9 Having said that, I think I certainly hear both sides,  
10 that that is potentially an issue here. That it would  
11 complicate or taint the reliability of any survey that is done,  
12 and I think that is a fair point. I would that you could  
13 figure your way around these issues and come up with a  
14 proposal. I think, Mr. Godfrey is right. I don't know how  
15 urgent it is, but I think it's probably in everybody's interest  
16 to do that sooner rather than later. I don't think I'm in a  
17 position to hand down Furman prime warnings, or what have you.  
18 I was sort of joking about the Furman warnings, but now I'm  
19 considering --

20 MR. GODFREY: We like the sound, your Honor.

21 THE COURT: Bottom line is I think you should talk  
22 about this and talk about it soon, and if you can't resolve it,  
23 I like the idea of submitting simultaneous briefs in the next  
24 few days to me, recognizing that I think there are real issues,  
25 but I would also think this is something you guys could work

H2AHGENC

1 out to your mutual satisfaction since you both have an interest  
2 in performing surveys that are up to scientific standards, and  
3 what have you.

4 So is that acceptable to both sides?

5 MR. BERMAN: I think it's a good idea. I'm not  
6 agreeing that we need to do it in two days, because  
7 Ms. Cabraser and I are occupied Monday and Tuesday of next  
8 week. How about by the end of next week?

9 THE COURT: By next Friday, Mr. Godfrey?

10 MR. GODFREY: No, I think we -- look, we are right now  
11 in a position, they've started; we've not. We need to get  
12 going. And we ought to be able to resolve this, and we can  
13 resolve it today or we can resolve it over the weekend. Either  
14 we get it resolved by agreement amongst the parties that 117  
15 doesn't apply here, subject to your Honor's approval, and that  
16 the survey experts can do what they do or it applies in the  
17 following manner and both sides are going to adhere to it. But  
18 if you're going to comply with 117, even in a pilot, you would  
19 have screening questions so that right out of the box, if  
20 someone's an absent class member, survey ends.

21 THE COURT: We don't need to get into the merits.  
22 It's just a question of when do you have to submit something.

23 MR. GODFREY: Tuesday, at the latest, would be my  
24 recommendation to the Court.

25 THE COURT: All right. I'll give you until Thursday

H2AHGENC

1 at 10:00 a.m., so I can resolve it promptly before President's  
2 weekend as well. So that will give you a little bit of time,  
3 but split the difference a little bit.

4 All right. The last issue on the economic loss  
5 disputes pertains to order No. 45, that process. I certainly  
6 think it's always prudent and courteous to talk to one another  
7 in an effort to work issues out and avoid the need for motion  
8 practice, but that said, I'm inclined to -- or I do agree with  
9 New GM that order No. 45 doesn't technically require a meet and  
10 confer, and I think that, in general, the process has worked  
11 pretty smoothly and well and gives plaintiffs ample opportunity  
12 to avoid dismissal. I think the order lays out a very clear  
13 protocol for what is required and how to avoid dismissal or,  
14 upon dismissal, have it vacated. So I'm not going to change  
15 the existing procedures and require conferral; but, again, I  
16 think to the extent that you have agreed to do that in an  
17 effort to avoid unneeded motion practice, I would encourage you  
18 to continue doing that. But I think that the current procedure  
19 works fine.

20 All right. Any other issues on that front that we  
21 need to discuss?

22 All right. Next issue is bellwether category B  
23 Daubert briefing schedule. Your proposal in the schedule is  
24 fine by me, and I think it makes a lot of sense. The only  
25 modification or caveat I have to that is that I would prefer to

H2AHGENC

1 get a single set of consolidated briefs with respect to both  
2 summary judgment and Daubert, just to avoid any redundancy in  
3 facts or otherwise. Obviously, I'm happy to give you  
4 additional pages to accomplish that, but I think that would be  
5 easier than having multiple sets of motions. Why don't you  
6 confer on that and include in the order memorializing what  
7 we're doing here today your proposed page length for those  
8 consolidated briefs. If I think they're reasonable, I'll bless  
9 them; if I think they are too much, I will change them. So  
10 take pity on me and don't give yourselves too many pages.

11 All right. Anything else to do on that front?

12 Next is this motion in limine schedule for Cobalt Ion  
13 evidence in category C cases. I confess, I don't quite  
14 understand what the issue is, why it would need briefing, etc.  
15 So talk to me.

16 MR. GODFREY: So we have -- and, your Honor, I think  
17 both parties have agreed over time, it's been very helpful in  
18 terms of even where your opinions are not, as you once said,  
19 res judicata or binding on other courts, as part of the lead  
20 counsel role of the MDL, those opinions have been very  
21 instructive and helpful for other courts at the state level,  
22 for example.

23 So we now have a situation where we have a number of  
24 state court cases that may get ahead of the MDL court on issues  
25 that your Honor's going to hear in the fall, but these cases

H2AHGENC

1 take place in the summer. And the question is going to be the  
2 use of the Valukas report in the non-Cobalt Ion cases, or the  
3 DPA, whether that's admissible or under what circumstances can  
4 it be used, or OSI for cases like Melton. So your Honor's  
5 going to face all of these issues in the fall when we get to  
6 the category C bellwethers. But the issues are first going to  
7 arise, and we've identified them, I think your Honor knows  
8 them, earlier this year: California, St. Louis, etc.

9           What we think should happen, consistent with your  
10 Honor's views for both judicial efficiency, most knowledge of  
11 the case, continuity, and consistency, that your Honor should  
12 address the issues here now that your Honor's going to have to  
13 address in the fall anyway so that the other courts, to the  
14 extent those cases go to trial, have the benefit of your  
15 Honor's more experienced and continuous rulings over time. I  
16 don't think any judge in the country has a possibility, unless  
17 they spend three years and time stops here, of catching up with  
18 this Court in terms of your knowledge of the issues. We know  
19 we don't always agree with them, but nevertheless, they are  
20 very instructive, and it helps guide us in preparing the cases  
21 for trial.

22           What we are concerned about is, take the Mullin case  
23 in California, which is an Impala key rotation case, the Hines  
24 case in St. Louis, or the Orange County case which has five of  
25 the six recalls here, that those cases get out in front of this

H2AHGENC

1 Court in deciding fundamental issues that this Court is going  
2 to decide in this case four months later or three months later.  
3 So we know the issues are there. This isn't a secret to  
4 anyone. It is not uncommon in MDLs to brief at the time  
5 convenient for the Court, and consistent with the Court's view  
6 of the rule of primacy of the MDL, substantive issues that will  
7 guide both the MDL, but then also the state courts have the  
8 benefit of the MDL court rulings. Even if they're not bound by  
9 it, they have the benefit of, frankly, more experience and  
10 opportunity because you have three years of experience that the  
11 other courts just don't have. I'm not criticizing the other  
12 courts. It's just the reality. You have lived this case since  
13 August of 2014, as I'm sure you very well know.

14 THE COURT: I think it might have been July, but I  
15 won't quibble.

16 I don't have the list or schedule in front of me. Can  
17 you tell me when the first state case is that you're --

18 MR. BROCK: Next state court case, your Honor, is  
19 May 8. It's a case called Mullin in Los Angeles, California.  
20 There's also a case scheduled for trial called Hines in July of  
21 2017 in St. Louis.

22 MR. GODFREY: And that Orange County, which Mr. Berman  
23 was involved in, starts July 11 in state court in front of  
24 Judge Dunning in Orange County, California.

25 THE COURT: All right. Mr. Hilliard, is this you?

H2AHGENC

1           MR. HILLIARD: It is me, Judge. I think, first off, I  
2 know the Court likes briefing before argument. I would request  
3 that you allow us to brief it. I was reading the draft letter  
4 that we're prepared to file. It prejudices the MDL plaintiffs  
5 that are in your court to put the motions in limine rulings on  
6 the category C cases, which are set in November, a month and a  
7 half even before the expert reports are due. I'm not  
8 unsympathetic to GM's request. We have talked about it, and I  
9 understand that they would like to use your ruling in  
10 St. Louis, and that does make some sense. But also, more  
11 importantly, and I think what's going to carry the day, is the  
12 plaintiffs inside this MDL will be prejudiced. And the letter,  
13 if you allow us to file it, will show the deadlines for expert  
14 disclosure and the rulings that this Court intends to make in  
15 regards to the category C cases.

16           To leapfrog the motion in limine in front of the  
17 entire train would require us to now defend the motion in  
18 limine on whether or not the Valukas report on that recall  
19 should come in, in category C cases. And my law lawyers, who  
20 are going to be doing the heavy lifting, are respectfully  
21 requesting that you at least let us brief the difficulty in the  
22 dates. There may be some other type of relief that we can  
23 craft to give GM what they want, but if we do it the way  
24 they're asking in regards to your current orders on the  
25 category C cases, I am afraid that it will prejudice the

H2AHGENC

1 current plaintiffs in this court that are currently set for  
2 trial on the category C cases.

3 THE COURT: It seems to me that the devil is a little  
4 bit in the details here, which is to say that I think, to the  
5 extent that there are issues that could be briefed without  
6 prejudicing either side, that I will have to decide later this  
7 year regardless, and that would be helpful to other cases and  
8 trials, I don't see any reason not to brief them now. But it's  
9 the "to the extent" part that I don't know what falls in that  
10 category, and I take it, it may be addressed in your letter.

11 But I guess, to put it to you directly, I'm not going  
12 to make you brief an issue if, in order to adequately brief the  
13 issue, you need your expert reports or your experts to have  
14 opined on matters, and we haven't gotten there yet in our  
15 schedule. But are there not issues that could be briefed at  
16 this point that don't fall into that category, in other words,  
17 general issues that I could -- I think Mr. Godfrey's point is  
18 well-taken, and certainly having lived with this case for close  
19 to three years, it would be advantageous and more efficient for  
20 me to resolve things if I can; but, again, I don't want to  
21 prejudice any plaintiffs in the MDL either.

22 MR. HILLIARD: Right. Until Mr. Godfrey stood up,  
23 we'd been told that they wanted to in limine out "certain  
24 evidence." Now they're telling the Court it's Valukas, maybe  
25 the statement of facts. So the answer is, yes, of course. But

H2AHGENC

1 we'd like to sit down with them and have them specifically say  
2 what they want excluded and then respond substantively to your  
3 question of can you do that without prejudicing the MDL  
4 plaintiffs in my court, and we can get you that.

5 THE COURT: I have another proposal, just to throw it  
6 out and think out loud. What if they were to file motions  
7 sooner rather than later, and that way specifically identify  
8 the things that they think can be briefed consistent with my  
9 remarks, and then you can respond to that and you can  
10 respond -- one of your responses can be essentially akin to  
11 sort of 56(d), if I'm getting the rule right, we can't  
12 adequately respond to this in the absence of our expert  
13 reports, or what have you, and therefore ask that you defer  
14 this?

15 MR. HILLIARD: Yes.

16 THE COURT: Then that way, with the motion before you,  
17 you can decide and address those that you can address and  
18 propose that the others be deferred. But it wouldn't be a  
19 discussion in the abstract, it would be tethered to the actual  
20 motions. What do you think of that?

21 MR. HILLIARD: That's a great idea, absolutely,  
22 because then it pins them down and makes us analyze whether or  
23 not we can respond and give the response. Yes.

24 THE COURT: Why don't you talk to one another about  
25 this, come up with a proposal for when these motions would be

H2AHGENC

1 filed and a briefing schedule. Leave me as much time as you  
2 can, mindful of that May 8 date. And I would say if in the  
3 context of those discussions you can have a discussion about  
4 what motions you would anticipate filing and perhaps head off  
5 those that would clearly fall into the category that they  
6 should be deferred, that would be ideal. But I think that  
7 makes the most sense.

8 Is that good, Mr. Godfrey?

9 MR. GODFREY: I think it's a step in the right  
10 direction. Let me add to that. There are at least, not hiding  
11 the ball here, the Valukas report, DPA statement of facts, OSI,  
12 cases like Melton, NHTSA consent decree. We'll put a list  
13 together. If what you're asking for is a list that they can  
14 then react to quickly, then I think we can make progress, and  
15 that's a good step. But none of these will come as a surprise.  
16 What comes as a bit of a surprise is the reason we're in this  
17 position is because originally category C cases were supposed  
18 to be tried in the MDL here in July. Those cases were  
19 dismissed by the plaintiffs. And the experts that they used --  
20 maybe I'll be surprised if they have different experts now for  
21 category C than they've used before -- they're the same kind of  
22 experts that are going to show up with Mr. Berman in Orange  
23 county. They know what their experts are going to say. So  
24 there's no prejudicing their experts. They know what their  
25 experts are going to say. They've already gotten their

H2AHGENC

1 experts.

2 Now, I could be wrong. They could have some expert  
3 we're not aware of in one of these cases. But all that's  
4 happened here is because the subcategory C cases in this court  
5 have been moved, because of dismissals, back from July to  
6 November, we now have this risk of the state courts, who do not  
7 have the knowledge or experience of your Honor, getting out in  
8 front of this Court, contrary to what your Honor's goal is.

9 So I think your Honor's correct. We will identify --  
10 if what you're asking us to do is identify the categories of  
11 evidence, we can do that. I've just identified five for the  
12 Court. There may be a couple more. I don't want to have  
13 Ms. Smith have a heart attack next to me because I've forgotten  
14 something. And then they can give us an answer. I kind of  
15 don't like the idea of briefing whether we should brief it.  
16 Let's just get on with it. If the Court could decide the  
17 issue, I think it's pretty clear. I don't see under any  
18 circumstances how the DPA, which is based only on the Cobalt  
19 Ion, has anything to do with the Impala or anything else.

20 THE COURT: My proposal is not to brief whether you  
21 brief it, it's to brief it. First is to discuss it, but then  
22 to brief whatever it is that you think, after those  
23 discussions, should be briefed. They can then respond, and one  
24 of their responses could be: Judge, we can't adequately  
25 respond to this right now, and here's why. And if I agree,

H2AHGENC

1 then it will be deferred. If I don't, I'll decide it. But I  
2 think everyone should have a shared interest here in getting  
3 rulings on these things. For all the plaintiffs know, I'll  
4 rule in their favor, and they can go to the California court  
5 and say: Judge, you should follow Judge Furman on this, and  
6 it'll work to their advantage. Nobody knows at the moment  
7 whose side I'm going to rule in favor of on these issues.

8 MR. GODFREY: We recognize that, your Honor, but our  
9 concern is inconsistency. We'll play by whatever set of rules  
10 your Honor sets, subject to our appeal rights or state court  
11 sets subject to our appeal rights; but whatever those rules  
12 are, we're going to play in that court by those rules. Our  
13 concern is inconsistency between a court in California or in  
14 St. Louis telling us X and your Honor saying, no, the rule's Y.  
15 You can understand in this set of litigation why that's a  
16 problem.

17 Your Honor's proposal works for us, but I think we'll  
18 have a conversation with them first, and then we'll just brief  
19 it.

20 THE COURT: Good. Why don't you, at a minimum, submit  
21 to me in, again, the order memorializing what we're doing here  
22 what -- if there's an agreed-upon schedule and procedure here,  
23 you can put it in there. If you want to get something more  
24 quickly than that, you can submit it even sooner. But at a  
25 minimum, let's put it in that order, and if there's a dispute

H2AHGENC

1 or an issue, you can let me know.

2 MR. GODFREY: Thank you, your Honor.

3 THE COURT: The only last thing I'll say on this is, I  
4 mean, OSI is the only thing you said in there that my immediate  
5 reaction is skepticism that that can be briefed here in the  
6 sense that from the prior experience with those issues, I mean,  
7 there's a fairly detailed process to identify which OSI  
8 plaintiffs intend to offer. And as you will recall, these  
9 issues that are adjudicated -- I mean, it requires sort of  
10 fact-specific adjudication, and I just don't know if we're  
11 there yet in connection with category C. But I'm just throwing  
12 that out there, and you can proceed as you see fit.

13 Very good. Anything else on that front?

14 MR. BERMAN: One point I want to mention on that  
15 front, your Honor, to the extent that you're taking on these  
16 motions in limine to give guidance to other courts' cases, one  
17 of the cases that counsel identified was the state of  
18 California's case. My memory is that we had a hearing in which  
19 Judge Dunning said, I'm not taking any motions in limine  
20 because it's a bench trial. So all the issues that you  
21 struggled with -- DPA, statement of facts -- were largely 403  
22 issues. So I'm just pointing out to you that, to the extent  
23 you're taking on this burden in part to guide the California  
24 case, I don't think that is going to be very -- it's just a  
25 different kind of case.

H2AHGENC

1           THE COURT: All right. He may not be taking motions  
2 in limine, but I'm sure that doesn't mean that he doesn't have  
3 to address some of these issues, so in that regard, my guidance  
4 may still be helpful. But regardless, there's the Mullin and  
5 the Hines cases which are before or at the same time, around  
6 the same time as the California case. So I think the point  
7 still holds.

8           Needless to say, if you can and want to persuade or  
9 try to persuade those judges to push their cases back so they  
10 come after me, I certainly would have no objection to that.  
11 But I don't presume to control their schedules or calendars,  
12 and I don't want you to make an application that will get you  
13 in trouble in those courts.

14           All right. Anything else on that front? Mr. Godfrey,  
15 you look --

16           MR. GODFREY: No, I was just saying, if Mr. Berman  
17 wants to make that application, we'd certainly consider it.

18           THE COURT: I'll leave it to you guys.

19           Settlement, can you give me an update.

20           MR. GODFREY: We have Ms. Bloom for that purpose, your  
21 Honor. She's been very busy and, I think, has some good news  
22 for the Court.

23           THE COURT: I figured that's why she was here.

24           Ms. Bloom, if you can take the microphone, please.

25           MS. BLOOM: We were indeed very busy in 2016. So I

H2AHGENC

1 just wanted to give you an overall status of where we are on  
2 settlement. At the outset, I'd like to say that your order 108  
3 which required the production of documentation for all the  
4 plaintiffs in the MDL has been very helpful, and it's really  
5 reflected in the numbers of cases that we were able to settle  
6 in October and December of 2016 using that information.

7 So just to kind of give you a feel for what we were  
8 able to do in 2016, we had two individual settlements in April  
9 of 2016. Your order was entered in July. Then in September,  
10 we settled 64 cases in the MDL. In October, we settled 165  
11 cases, of which 140 are in the MDL. In December, it may have  
12 been a restful time for others, but I assure you it was not a  
13 restful time for the GM attorneys who are working with our  
14 settlement team. We resolved 112 MDL cases, and those included  
15 the Lief Cabraser docket with a colleague of Ms. Cabraser's.

16 And in connection with those settlements, you have  
17 been seeing, I think, dismissal orders come through. We're  
18 expecting another one today or on Monday dismissing another 52  
19 cases. So I think at one point I had represented to the Court  
20 that you'd start to see dismissals in the fall of 2016, which  
21 you did, and we expect a number of dismissals to continue. So  
22 we have overall in 2016, 1,335 claims were dismissed from the  
23 MDL. Of those, 1,183 were settled. We are to the present here  
24 in 2017, if you include the 2016 stuff, we've settled to  
25 date -- well, we've dismissed 1,378 claims. Of those, 1,226

H2AHGENC

1 were dismissals resulting from settlement. Within the next few  
2 days, and so those 52 I just referenced, we're expecting about  
3 90 more dismissals from the MDL, and then within the next few  
4 months, another 228.

5 We have so far just 65 plaintiffs who have not  
6 complied with order 108. So we are in the process of working  
7 through that, and it may be, then, that pursuant to the order  
8 that was entered for the process to govern plaintiffs who fail  
9 to comply, which is order No. 110, that we will be moving to  
10 seek relief with respect to some or all of those 65.

11 We have now an active plan to continue to resolve PI  
12 cases and an attempt to resolve them in 2017. We have our  
13 sights right now set on 313 cases that are in the MDL, and  
14 we're hoping to make progress in that respect. Some of those  
15 discussions are underway. I think that is my update.

16 THE COURT: Excellent.

17 MS. BLOOM: If that helps.

18 THE COURT: That is very helpful, and I commend you on  
19 all of the work that I'm sure went into that.

20 What might be helpful, even more helpful to me going  
21 forward, is to get a sense of what the remaining inventory is,  
22 if you will; that is, what is still in the MDL. I don't know  
23 if you have that or --

24 MS. BLOOM: I do.

25 THE COURT: I guess what I might propose, particularly

H2AHGENC

1 if it involves revealing anything confidential, ongoing  
2 settlement negotiations, is perhaps to submit something to me  
3 identifying what the remaining inventory is, how they break  
4 down in terms of phase 1, phase 2, categories A, B, C, and  
5 what, if any, settlement negotiations have occurred or are  
6 going on with respect to those cases, which -- how many there  
7 are no discussions with respect to, how many of the 65 that  
8 haven't responded, just so I have a more detailed sense of  
9 that. I don't know if you can do that now or if it might make  
10 sense to submit it to me. What are your thoughts?

11 MS. BLOOM: I can give you a bit of that now, just so  
12 you have a feel. To the best of our count, there are 1,246  
13 post-bankruptcy claims remaining in the MDL, and there are  
14 several law firms that still have some of those that can be  
15 aggregated into potentially aggregate settlements. So we are  
16 focused first on seeing what we can accomplish with respect to  
17 those, and we are involved in settlement discussions with  
18 respect to those folks first.

19 Then our plan would be later in 2017 to move on to  
20 single-plaintiff-type cases, although that's not to say that we  
21 haven't along the way engaged in discussions with single  
22 plaintiffs and resolved. Some of the numbers that I gave you  
23 included single-plaintiff cases. When I say that, I mean a  
24 lawyer that represents only one or two plaintiffs.

25 There are 432 pre-bankruptcy claims remaining in the

H2AHGENC

1 MDL, and with respect to those, we've not engaged at this point  
2 in time. So I don't know if that helps for what you were  
3 looking for. It's harder for those. We really haven't worked  
4 them up to engage too much to know much about them. The other  
5 ones, we do know some information about, obviously.

6 THE COURT: Is that, I presume, because of the cert  
7 petitions?

8 MS. BLOOM: That's right.

9 THE COURT: Is the theory if you don't get the Supreme  
10 Court to take the case, you might take another look and engage  
11 on those, or what's the thought?

12 MS. BLOOM: The thought is since we have a clear  
13 direction with respect to post-bankruptcy, we wanted to focus  
14 our sights on those and see what we can really do to resolve  
15 that docket where there's clarity.

16 THE COURT: Do you know how the 1,246 break down in  
17 terms of phase 1, phase 2, categories A, B, and C, and that?

18 MS. BLOOM: So I don't use those same kinds of  
19 numbers, about A, B, and C, but I can get with my team and try  
20 my best to marry that up for you and submit something.

21 THE COURT: All right. Why don't you do that, let's  
22 say, within the next two weeks. Is that feasible?

23 MS. BLOOM: Sure, yes.

24 THE COURT: I'll leave it to you to figure out the  
25 best way to break it down and present it, but the more

H2AHGENC

1 information you can give me in terms of each of the categories  
2 and -- well, I'll leave it to you, but I think I've identified  
3 the kinds of categories that I'm interested in. I don't want  
4 to make any secret of it. One of the reasons is I want to  
5 figure out where to push and pull on the MDL. I want to figure  
6 out the appropriate time to remand cases in phase 1. I think  
7 when we discussed this back in November, the prevailing view  
8 was that I should at least wait until the cert process, if not  
9 the bankruptcy process, had run its course or proceeded, and  
10 I'm open to that. But, as I said in November, there will come  
11 a point where I think the MDL has served its function with  
12 respect to different categories of cases, and then we should  
13 start to think about remanding, and so forth. I don't think  
14 we're there yet, but I want to have a better sense of what the  
15 landscape is so I can know where to push, where to pull, and  
16 when that time might arrive. So that would be super helpful.

17 MS. BLOOM: Certainly. One thing I could just say is  
18 that I do find it incredibly helpful to have the one forum as a  
19 way to facilitate these discussions. So I think we do thank  
20 your Honor for providing us with this MDL to enable that to  
21 occur.

22 The other thing I might comment on, too, is that  
23 you've seen now some common benefit order fund disbursements,  
24 and those are coming because we are, obviously, complying with  
25 that order, deducting the 3 percent, and sending it to the

H2AHGENC

1 banks selected by lead counsel. And that whole process, I  
2 think, is running quite smoothly.

3 THE COURT: Great. I hear you and I appreciate the  
4 advantages of remaining here as well, but it's not an  
5 open-ended invitation.

6 MR. GODFREY: Your Honor, if I might add one point  
7 just so your Honor's not -- I think you're probably aware of  
8 this -- but not surprised. We continue to get some new cases.  
9 The number has declined, as one would expect, over time. But  
10 we've never done an analysis of the original pool, let's say,  
11 in December of '14, how many of those have been settled. I  
12 suspect the percentage is much higher than it is of the total  
13 settlement. If your Honor was interested, we could give you  
14 some sense in terms of the trajectory, the downward trajectory,  
15 of that so you have a sense of how many cases are still coming  
16 in. But we still get, as your Honor knows, from transfer  
17 orders, etc., we still get some cases. While these numbers are  
18 true as of last night, two weeks from now there will be  
19 changes, setting aside settlements or people that have dropped  
20 in, people that have added in. I just thought we should make  
21 clear these numbers are a moving target, and we don't have a  
22 static number, a base we started with. It's constantly  
23 changing.

24 THE COURT: I totally understand that and am certainly  
25 aware that we continue to get more cases, although I think that

H2AHGENC

1 the pace has indeed declined. Again, I'll leave it to you to  
2 present data as you think would be helpful, but it would be  
3 super helpful to me to get a clear picture, I think, of where  
4 things stand right now and a snapshot of that but also, to the  
5 extent that you can, give me data about the pace of new cases  
6 and what proportion of the original cases have been settled as  
7 opposed to later, that is to say, if there's any sort of  
8 pattern there, that would be helpful.

9 It would also be helpful, as I said, to know which you  
10 have engaged in settlement negotiations with respect to and  
11 which you haven't. If you want to redact that information from  
12 your public filing, that's fine with me. That is to say, if  
13 there's anything confidential, sort of settlement related that  
14 you don't think should be on the public docket, I'm fine with  
15 that, although I think a lot of this information can and should  
16 be public. So I'll leave it to you in the first instance to  
17 redact, and I'll review your redactions when you make your  
18 submission. All right.

19 MR. GODFREY: Thank you, your Honor.

20 MR. HILLIARD: Your Honor, one quick request while I  
21 have you here. So the pre-bankruptcy cases, we have a pretty  
22 healthy part of that docket. There may be activity at the U.S.  
23 Supreme Court before the next status conference, and we've  
24 brought this -- I've talked to the Court about this before. Is  
25 it your sense that since the different categories will have

H2AHGENC

1 covered the pre-bankruptcy cases and will not need to be tried  
2 as bellwether case, that you will likely not keep those cases  
3 here through the resolution of those cases, though they were  
4 directly filed, but you are leaning towards more than likely  
5 sending them back to their home venue? And the reason I ask is  
6 because -- and I think you kind of sensed it -- if cert is  
7 denied, there may be settlement discussions, and where those  
8 cases stay will inform part of the strategy of those  
9 discussions.

10 THE COURT: I think the short answer is I don't know  
11 yet, and in that regard, they're going to stay here for the  
12 time being. If and when cert's denied, we can have a  
13 discussion about that. I think Ms. Bloom's point about having  
14 a single forum is well-taken; and I think, as I indicated back  
15 in November, if not before, I'm open to the efficiencies of  
16 that and giving some amount of time, even if in terms of trials  
17 and the like the MDL has sort of run its course as to  
18 categories of cases, I think providing some time to resolve as  
19 many as you can before sending them back probably does make  
20 sense. So I guess that's a --

21 MR. HILLIARD: Our first preference was to stay with  
22 you even if you weren't going to try anymore, but the  
23 direct-file cases are more unique, so I wanted to keep that  
24 conversation with the Court going if in the next 60 days  
25 there's a lot of need to have that.

H2AHGENC

1           THE COURT: I think the short answer is for now  
2 they're going to stay with me. And this will be the subject of  
3 further discussion, and you should talk about it if or when  
4 anything materially changes in the world, i.e., when the  
5 Supreme Court decides what it's doing, and what have you.  
6 We'll take it as it comes.

7           MR. BERMAN: OK. Thank you, Judge.

8           THE COURT: All right. Good. One thing just to flag  
9 for you is -- actually, hold on one second, please.

10           I just want to put on your radar two issues with  
11 respect to settlements and remands, and what have you, when the  
12 time comes. I don't think that they're particularly live  
13 issues now, but number one, at some point if direct-filed cases  
14 are to be remanded, we need to figure out a process of  
15 identifying the forum to which they would be remanded or  
16 transferred, I guess, if that's indeed what should happen with  
17 them as opposed to staying here.

18           Second, I have sort of overlooked joinder issues and  
19 allowed the filing of consolidated complaints with listing  
20 dozens or even hundreds of plaintiffs on the theory that it's  
21 just more efficient than if these cases are going to be  
22 resolved and go away. It doesn't really, ultimately, matter  
23 that they don't have individual complaints as they technically  
24 probably should have. If there are cases that don't settle,  
25 and especially if they ultimately need to be remanded, we'll

H2AHGENC

1 need to figure out how to handle those, and it would probably  
2 require severance and the filing of a complaint specific to a  
3 particular plaintiff so that we're not remanding cases to the  
4 wrong districts or complaints that are not specific to  
5 individual plaintiffs.

6 I think it's premature to get there, particularly as  
7 you're making progress in settling things on an aggregate  
8 basis, but I just wanted to flag those issues. It has been a  
9 little bit confusing to our docketing folks when these  
10 settlements have been submitted because, as you'll note,  
11 probably noticed from my endorsement on some of them, it's  
12 sometimes a little hard, particularly because some cases were  
13 filed improperly, to figure out if every plaintiff in a case  
14 has been terminated or a case should be closed, or what have  
15 you. To the extent that you can provide that information to  
16 chambers, it might facilitate the administrative process in  
17 docketing, but for now we've sort of made do. But I wanted to  
18 flag those two issues for future discussion at the relevant  
19 time.

20 I do have one case-specific question on this front. I  
21 received a notice of voluntary dismissal this morning in a case  
22 called Marcum vs. GM, 14 CV 7623. I noted that one of the  
23 plaintiffs in that case is a minor. I don't know if that  
24 raises any issues. It's a notice of voluntary dismissal. It's  
25 not a notice of settlement, but I know in other cases there

H2AHGENC

1 have been issues with respect to approvals with minors, and the  
2 like, and didn't know if that was an issue here. I don't know  
3 if you can answer that standing here or not. If you could let  
4 me know.

5 MS. BLOOM: I don't want to answer it off the top of  
6 my head. I would assume we've resolved that such that we're  
7 able to now dismiss the case, but let me look into that. I'm  
8 flying back today. If I can answer it today, we'll submit  
9 something; otherwise, we will on Monday.

10 THE COURT: OK. That's fine.

11 MR. HILLIARD: Generally, when cases do resolve with  
12 minors, Judge, in my experience GM's very been very meticulous  
13 about making sure that there is an ad litem locally and that  
14 there is approval when necessary. I haven't seen them not  
15 insist on that once.

16 THE COURT: Just let me know no later than Monday. If  
17 you can today, great. In the meantime, I'm not going to so  
18 order that notice of dismissal, in case there are issues that  
19 we need to take care of.

20 MS. BLOOM: The other thing I would just add is we can  
21 very easily begin to modify dismissal orders to identify  
22 whether it eliminates an entire complaint for you. So, for  
23 example, for this 52, we'll see if we can't modify that one to  
24 begin to give you that clarity.

25 THE COURT: That would be great, and I think there was

H2AHGENC

1 one submitted a week or two ago that didn't identify the  
2 individual case numbers.

3 I'm told no. Hold on.

4 (Pause)

5 THE COURT: Scrap that. Ignore what I just said. But  
6 that would be great if you could identify whether the case  
7 should be terminated, that would be super helpful to our  
8 docketing people. You guys have given them a lot of work, so  
9 helping them out would be great for their purposes and mine.

10 Anything else on the settlement front to discuss?

11 All right. Anything else to discuss other than when  
12 we're reconvening? When are we reconvening? I don't think we  
13 have anything on the calendar. So how far out do you think we  
14 should schedule something? Obviously, I have plenty of motions  
15 to decide. That will be my focus in the near future.

16 MR. GODFREY: I'd suggest the latter part of March,  
17 your Honor.

18 THE COURT: Anyone at the front table feel  
19 differently?

20 MR. BERMAN: I think from the economic loss side, the  
21 next important status conference will be how we react to your  
22 rulings. So only you could tell us when that might happen.

23 THE COURT: And I even can't tell you that at the  
24 moment. What if we did the first week in April; does that work  
25 for everyone?

H2AHGENC

1 MR. GODFREY: One minute, please, your Honor.

2 THE COURT: Or March 31, I could do, as well.

3 MR. BERMAN: That works.

4 MS. CABRASER: That works for plaintiffs, your Honor,  
5 I believe.

6 MR. BERMAN: March 31?

7 MR. HILLIARD: It does work for me, too, Judge.

8 THE COURT: All right. March 31 is proposal on the  
9 table. Going once.

10 MR. GODFREY: April 1, your Honor?

11 THE COURT: No, April 1 is a Saturday, and much as I  
12 love you, I'm not going to be here on that day.

13 MR. GODFREY: What day was proposal, your Honor? I  
14 didn't hear.

15 THE COURT: Friday, March 31.

16 MR. GODFREY: That works just fine, your Honor. Thank  
17 you.

18 THE COURT: Let me throw out an alternative proposal,  
19 which is Friday, April 7, only because -- and I'm not promising  
20 I will decide the motions before then -- it makes it a little  
21 bit more likely, but I'm getting no looks from the front table.

22 MS. CABRASER: We appreciate that, your Honor, but I  
23 think with at least two of the three co-lead counsel, that  
24 doesn't work.

25 THE COURT: All right.

H2AHGENC

1           MR. GODFREY: It does not work for us either, your  
2 Honor.

3           THE COURT: Well, all the better. We'll do March 31,  
4 usual time of 9:30. And should we figure out one thereafter or  
5 just leave it open for now? That would be my inclination,  
6 since there's a lot up in the air.

7           All right. Good. Anything else? Very good. Safe  
8 travels to everyone, and good to see you all. Thanks.

9           (Adjourned)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

