

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE:

14-MD-2543 (JMF)

**GENERAL MOTORS LLC IGNITION SWITCH
LITIGATION**

Hon. Jesse M. Furman

**~~PROPOSED~~ ORDER APPOINTING DANIEL J. BALHOFF
AS SPECIAL MASTER IN THE SETTLEMENT OF CERTAIN CASES**

This litigation involves allegations of a defect in certain vehicles manufactured by General Motors LLC (“New GM”) that causes the vehicle’s ignition switch to move unintentionally from the “run” position to the “accessory “or “off” position, resulting in a loss of power, vehicle speed control, and braking, as well as a failure of the vehicle’s airbags to deploy. Weller, Green, Toups, & Terrell, L.L.P., The Dugan Law Firm APLC, and The Carlson Law Firm, P.C. (“Claimants’ Counsel”) represent a group of individuals who claim to have been injured as a result of this defect, and have entered into agreements with New GM to resolve the claims of those individuals (the “Confidential Master Settlement Agreements”). Pursuant to the Confidential Master Settlement Agreements, Claimants’ Counsel and New GM (collectively “the Parties”) have asked this Court, pursuant to Federal Rule of Civil Procedure 53(a)(1)(A), to appoint a Special Master nominated by the Parties to perform certain duties, consented to by the Parties, related to the administration and implementation of their Confidential Master Settlement Agreements. *See* Fed. R. Civ. P. 53(a)(1)(A) (permitting court appointment of a special master to “perform duties consented to by the parties”).

The Parties have nominated Daniel J. Balhoff to perform the following general duties as Special Master with respect to their Confidential Master Settlement Agreements:

- a. create Settlement Frameworks that identify the criteria relevant to evaluation of

- claims under the Confidential Master Settlement Agreements, subject to consultation with the Parties and New GM's written approval;
- b. evaluate claims pursuant to the terms of the Parties' Confidential Master Settlement Agreements and the Settlement Frameworks;
 - c. assign points and allocate dollar values to claims that are to be settled pursuant to the Parties' Confidential Master Settlement Agreements and the Settlement Frameworks; and
 - d. communicate with the Parties, Claimants, a Qualified Settlement Fund Administrator, and a Lien Administrator as necessary to effectuate the Confidential Master Settlement Agreements pursuant to their terms.

Having reviewed information concerning Mr. Balhoff's credentials, it is the judgment of this Court that he is well qualified for this appointment. (*See* Joint Motion for Appointment of Daniel J. Balhoff As Special Master, Exhibit A). Mr. Balhoff is a partner at Perry, Balhoff, Mengis & Burns, L.L.C., a firm with expertise in mediation and dispute resolution and serves on the mediation panel at Perry Dampf Dispute Solutions, an alternative dispute resolution firm. Mr. Balhoff is a member of the Academy of Court Appointed Special Masters and has extensive experience both as a mediator and as a Special Master charged with allocating settlement funds in complex litigations, including this multidistrict litigation and several other federal multidistrict litigations. Mr. Balhoff holds a degree in chemical engineering and has over 25 years of civil litigation experience as an attorney. It is the opinion of this Court and of all Parties involved that Mr. Balhoff possesses the requisite skills, experience, knowledge, character, credibility, and other attributes necessary to aid in the implementation and administration of the Parties' Confidential Master Settlement Agreements.

Pursuant to its authority under Federal Rule of Civil Procedure 53, this Court, having considered the Parties' request and provided them with an opportunity to be heard, hereby

ORDERS THAT:

1. Daniel J. Balhoff is hereby appointed as Special Master to perform the duties consented to by the Parties in their Confidential Master Settlement Agreements.

2. The Special Master shall proceed with all reasonable diligence.

3. The Special Master may have confidential *ex parte* communications with Claimants' Counsel, Claimants, and New GM in relation to his role as Special Master, to the extent permitted by and subject to the limitations described in the Parties' Confidential Master Settlement Agreements. Such *ex parte* communications shall not be deemed to have waived any attorney-client or other privileges.

4. To execute the responsibilities and duties of his office, the Special Master shall be vested with the powers described and contemplated under the Parties' Confidential Master Settlement Agreements. The Special Master shall not be vested by this Court with any additional powers described and contemplated in Federal Rule of Civil Procedure 53 except as and to the extent enumerated in the Parties' Confidential Master Settlement Agreements.

5. The Special Master shall be compensated privately as specified in the Confidential Master Settlement Agreements, which is set forth in detail in the contract entered into between the Parties and the Special Master.

6. Unless expressly authorized by the Parties in accordance with the terms of the Confidential Master Settlement Agreements, the Special Master shall not disclose any confidential information or documents obtained through or created in his role.

SO ORDERED.

Signed this 7th day of March, 2019



Honorable Jesse M. Furman
United States District Judge

While the Court does not currently anticipate requesting formal reports and recommendations from the Special Master, *see* Fed. R. Civ. P. 53(b)(2)(C)-(D), (e), if the Court does request the same, the Special Master shall reduce any formal order, finding, report, or recommendation to writing to be filed (under seal or publicly, as determined by the Court). *See, e.g., In re FEMA Trailer Formaldehyde Prods. Liab. Litig.*, No. MDL 07-1873, 2011 WL 5038849, at *4 (E.D. La. Oct. 24, 2011).

While the Court does not anticipate having any *ex parte* communications with the Special Master, *see* Fed. R. Civ. P. 53(b)(2) (B), any such communications shall be limited to matters general to the settlement process and its progress and shall not include specifics, including parties' positions with respect to particular cases. The Special Master shall advise the parties before communicating with the Court on an *ex parte* basis.

New GM shall promptly file the CMSAs with the Sealed Records Department and those documents shall be maintained under seal until the Court orders otherwise. *See* Docket No. 2391 (approving a prior sealing request in connection with a similar motion).

The Clerk of Court is directed to terminate Docket No. 6540.