

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

14-MD-2543 (JMF)
14-MC-2543 (JMF)

This Document Relates To All Actions
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ORDER NO. 3

JESSE M. FURMAN, United States District Judge:

In Order No. 1, the Court appointed Temporary Lead Counsel and directed them to confer with other Plaintiffs' counsel and file a letter, no later than July 7, 2014, concerning the appointment of lead and liaison counsel, among other matters. Although Order No. 1 did not call for (or even explicitly allow) letters from other Plaintiff's lawyers, the Court has received two such letters: one from plaintiff's counsel in *Yingling v. General Motors, L.L.C.*, 3:14-CV-00116 (W.D. Pa.), which is attached to this Order; and another, representing a group of Plaintiffs' law firms, that was filed earlier today. (14-MD-2543, Docket No. 32). To ensure that any and all counsel have an opportunity to be heard on these important issues, leave is hereby granted to any other Plaintiff's lawyer who wishes to be heard to file a letter in response to the July 7, 2014 letter from Temporary Lead Counsel. To avoid any delays given the schedule set forth in Order No. 1, any such letter must be filed — **in both 14-MD-2543 and 14-MC-2543** — no later than **July 10, 2014, at 2 p.m.** and **may not exceed three pages** in length.

Further, Temporary Lead Counsel are granted leave to submit a supplemental letter responding to the two letters that have already been submitted and any additional letters that are filed by that deadline. That letter must be filed — **in both 14-MD-2543 and 14-MC-2543** — no later than **July 11, 2014**, and **may not exceed three pages** in length. By the same date, Temporary Lead Counsel shall submit a proposed order consistent with the proposal set forth in

their July 7, 2014 letter (as modified by any new proposal that may be set forth in their supplemental letter) regarding the appointment of lead counsel, liaison counsel, and a plaintiffs' executive committee. Temporary Lead Counsel shall simultaneously submit the proposed order in PDF to the Orders and Judgments Clerk of the Court at judgments@nysd.uscourts.gov and in Microsoft Word format to the Court at Furman_NYSDChambers@nysd.uscourts.gov, copying other counsel. The Court cautions that submission of such a proposed order is for the convenience of the Court and should not be construed at this time to be an endorsement of the plan or procedures proposed by Temporary Lead Counsel in their letter of July 7, 2014.

Defendants are reminded that, if they wish to be heard on these matters (including, but not limited to, the language of any proposed order submitted by Temporary Lead Counsel), they are to file a joint letter— **in both 14-MD-2543 and 14-MC-2543** — no later than **July 14, 2014**, and **not to exceed five pages** in length. *See* Order No. 1, Section IX.B.

The Clerk of Court is directed to docket the letter at Docket No. 32 in 14-MD-2543 on the master case file, 14-MC-2543.

SO ORDERED.

Dated: July 8, 2014
New York, New York



JESSE M. FURMAN
United States District Judge

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July 3, 2014

Hon. Jesse M. Furman
United States District Judge
United States District Court
Southern District of New York
Furman_NYSDChambers@nysd.uscourts.gov

Re: 14-MD-2543; Response to Order No. 1

Dear Judge Furman:

Our firm represents the estate of James E. Yingling, III in the case of *Nadia Yingling, Personal Representative and/or Guardian Ad Litem of the Estate of James E. Yingling, III v. General Motors, L.L.C.*, 3:14-cv-00116. That case was filed in the Western District of Pennsylvania. Although the Western District of Pennsylvania received and docketed the Conditional Transfer Order on June 26, 2014—which transfers the case to the Southern District of New York and assigns it to you—the Clerk’s office for the Southern District of New York informs us that they have not yet received the file. Our case is, therefore, in somewhat of a state of limbo.

We have, however, received Order No. 1 in 14-MD-2543 from counsel for General Motors. Temporary Lead Counsel has not contacted us and we wish to respond to your request for information concerning the appointment of lead and liaison counsel. Because we have applied for—but not yet receive—a Southern District of New York ECF login, your law clerk provided us with an e-mail address.

Our view of lead and liaison counsel and their utility is colored by the apparent differences between cases included in 14-MD-2543. It appears that both “loss of value” cases and injury or death cases are presently included in 14-MD-2543. Our matter is a wrongful death/survival action arising out of GM’s conduct concerning the ignition switch and we are concerned only with the handling of this class of cases.

Our firm has had extensive involvement in multidistrict litigation, having been involved in cases concerning Chantix, transvaginal mesh, and metal-on-metal hips, to name a few. We are also on the leadership committee of litigation consolidated in the Superior Court of the District of Columbia accusing the entire cellular telephone industry of concealing the fact that their product causes brain cancer. The later case included a three-

week *Frye* hearing involving over a dozen experts from around the world in a variety of technical fields.

We lay out this background by way of explaining that we have had a great deal of experience with lead and liaison counsel. We find that appointment of lead and liaison counsel plays such an important role in determining how successful a particular MDL will be, but it can also frustrate access to the Court by attorneys representing parties in member cases.

In this case, we understand the need for lead or liaison counsel for the “loss of value” cases, which are expected to be numerous. GM’s counsel, however, informs us that there are presently only 26 cases filed involving death or personal injury.

Given this relatively few cases involving death or personal injury, we do not believe that there is a need for lead or liaison counsel concerning these cases. In the alternative, we believe that if the death and injury cases remain co-mingled in the MDL with the “loss of value” cases, *all* attorneys representing clients who suffered from death or personal injury should be included as lead or liaison counsel.

We take the same view of a steering committee.

In the event that the Court decides that lead or liaison counsel *are* necessary for the efficient administration of the MDL process, we believe that the Court should request letters of interest immediately from attorneys with cases in the MDL. We do not believe that the Court should await a ruling by the Bankruptcy Court as we do not believe that ruling will have any significant effect on the death or personal injury cases, or certainly those that post-date the bankruptcy.

We believe the court should employ selection criteria to ensure that the death and personal injury cases are heavily represented by lead and liaison counsel, as we perceive the weight of those cases to eclipse that of the “loss of value” cases.

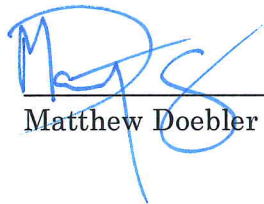
We, further, would request that the Court consider factors in its selection process including geographical diversity, demonstrated experience with multidistrict litigation, and strength of underlying case.

To that end, we propose our firm as a candidate for any lead or liaison counsel appointed. We note that Pennsylvania is one of the most heavily represented states in 14-MD-2543 and our firm would be well suited to represent the interests of the Pennsylvania plaintiffs. Furthermore, our firm’s history of involvement in multidistrict and consolidated litigation makes it a clear candidate for lead or liaison counsel. Finally, our case is a clear case of GM liability, with documented lack of airbag deployment, a preserved vehicle and data recorder, and driver inability to navigate a turn. Our client’s decedent left behind a widow and *five* dependant children. We have a clear interest in actively pursuing this case and if there will be lead or liaison counsel between the Court and the litigants on this case, there is no reason for us to not be involved. Finally, Matthew Doebler is admitted to the

Southern District of New York and practiced exclusively in New York City prior to returning to Pittsburgh.

Thank you for the opportunity to be heard on this issue. We look forward to appearing before you at the Initial Conference on August 11, 2014 and will be pleased to answer any questions concerning our positions at that time. In the meantime, please feel free to make us aware of any thoughts requiring further clarification.

Very truly yours,



Matthew Doebler



Victor Pribanic

cc: Monica V. Pennisi Marsico, Esq.
Steve W. Berman, Esq.
Elizabeth Joan Cabraser, Esq.
Mark P. Robinson, Jr., Esq.