



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

ORDER NO. 118

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JESSE M. FURMAN, United States District Judge:

**[Regarding the Amended Phase Two Bellwether Plan for
Personal Injury and Wrongful Death Cases]**

INTRODUCTION

1. Order No. 107 set forth the schedule for the Phase Two Bellwether Plan for Personal Injury and Wrongful Death Cases based on claims arising out of alleged defects in vehicles manufactured by General Motors LLC (“New GM”) or General Motors Corporation (“Old GM”). The Phase Two Bellwether Plan covers three categories of claims involving accidents occurring on or after July 11, 2009. (*See* Order No. 107, Docket No. 3081.)

2. Following the selection of cases for the Phase Two Discovery Pool, two of Lead Counsel’s Category C case selections, *Davidson* (15-CV-2708) and *Williams/Wilson/Forrister* (14-CV-8130), settled. Lead Counsel sought to select two replacement cases.

3. On November 8, 2016, the parties submitted letter briefs regarding Lead Counsel’s replacement request. After consideration of the parties’ submissions and for good cause shown, the Court granted Lead Counsel’s request to select two replacement Category C cases (“Discovery Pool Category C Replacement Cases”). (*See* Order No. 117, Docket No. 3543).

4. On November 18, 2016, Lead Counsel selected the *Dodson* (15-CV-8324) and *McPhail* (15-CV-2644) cases as their Discovery Pool Category C Replacement Cases.

5. On November 23, 2016, New GM and Lead Counsel filed a joint letter and proposed order regarding the schedule for fact and expert discovery on the two Discovery Pool Category C Replacement Cases. Additionally, the parties' joint letter sought modification to the existing pre-trial schedule for the Category A and B cases. Having considered the parties' positions and for good cause shown, the Court adopts the revised schedule set forth below.

REVISED SCHEDULE FOR CATEGORY A CASES

6. Fact discovery in the Category A Discovery Pool Cases will conclude no later than **Thursday, December 15, 2016**.

7. By **5:00 p.m. EST on Monday, December 19, 2016**, New GM will exercise a strike against a Category A Pool Case selected by Lead Counsel.

8. Lead Counsel has no strike against a Category A Pool Case selected by New GM. New GM initially chose *Boyd* (14-CV-8385) and *Jackson-Hood* (16-CV-0924) as its selections for the Category A Discovery Pool Cases. On October 20, 2016, Boyd dismissed with prejudice all his personal injury claims, leaving *Jackson-Hood* as New GM's only remaining Category A Discovery Pool Case selection. Accordingly, *Jackson-Hood* shall serve as New GM's Phase Two Category A Early Trial Case.

9. Following the exercise of New GM's strike, the remaining two Category A cases will constitute the Phase Two Category A Early Trial Cases and proceed to case-specific expert discovery as follows:

- (a) Lead Counsel shall disclose expert witnesses and submit any reports required under Fed. R. Civ. P. 26(a)(2)(B) on or before **Tuesday, January 24, 2017**.
- (b) Lead Counsel shall present their expert witnesses for deposition on or before **Friday, February 24, 2017**.
- (c) New GM shall disclosed expert witnesses and submit any reports required under Fed. R. Civ. P. 26(a)(2)(B) on or before **Friday, March 3, 2017**.

- (d) New GM shall present its expert witnesses for deposition on or before **Friday, April 3, 2017**.
- (e) Absent good cause, no rebuttal expert reports shall be permitted.
- (f) Expert Discovery for the Phase Two Category A Early Trial Cases shall be completed by **Friday, April 3, 2017**.

REVISED SCHEDULE FOR CATEGORY B CASES

10. Following the completion of fact discovery, Lead Counsel disclosed their expert witnesses and submitted reports required under Fed. R. Civ. P. 26(a)(2)(B) on **Friday, November 11, 2016**. The case-specific expert discovery shall now proceed as follows:

- (a) Lead Counsel shall present their expert witnesses for deposition on or before **Monday, December 19, 2016**.
- (b) New GM shall disclose expert witness and submit any reports required under Fed. R. Civ. P. 26(a)(2)(B) on or before **Friday, January 6, 2017**.
- (c) New GM shall present its expert witnesses for deposition on or before **Friday, February 3, 2017**.
- (d) Absent good cause, no rebuttal expert reports shall be permitted.
- (e) Expert Discovery for the Initial Limited Issue Case Pool shall be completed by **Friday, February 3, 2017**.

11. Dispositive motions for the Initial Limited Case Pool shall be filed on or before **Friday, February 17, 2017**. Dispositive motions shall be limited to the following issue: Does a disputed issue of material fact exist over whether an alleged inadvertent ignition switch rotation occurred in an accident where the air bags deployed during the accident?

12. Oppositions to dispositive motions shall be filed on or before **Monday, March 20, 2017**. Any replies shall be filed on or before **Monday, April 3, 2017**.

SCHEDULE FOR CATEGORY C ORIGINAL CASES

13. The discovery schedule for New GM's Category C Discovery Pool Case selections shall proceed according to the original deadlines set forth in Order No. 107 ¶¶ 8-10, which are as follows.

14. By **5:00 p.m. EST on Monday, December 5, 2016**, Lead Counsel will exercise one strike against a Category C Discovery Pool Case selected by New GM. The remaining case will constitute the Phase Two Category C Original Cases Early Trial Candidate.

15. The Phase Two Category C Original Cases Early Trial Candidate shall proceed to case-specific expert discovery as follows:

- (a) Lead Counsel shall disclose expert witnesses and submit any reports required under Fed. R. Civ. P. 26(a)(2)(B) on or before **Friday, January 6, 2017**.
- (b) Lead Counsel shall present their expert witnesses for deposition on or before **Wednesday, February 8, 2017**.
- (c) New GM shall disclose expert witnesses and submit any reports required under Fed. R. Civ. P. 26(a)(2)(B) on or before **Wednesday, February 15, 2017**.
- (d) New GM shall present its expert witnesses for deposition on or before **Friday, March 17, 2017**.
- (e) Absent good cause, no rebuttal expert reports shall be permitted.

16. Expert Discovery for the Phase Two Category C Original Cases Early Trial Candidate shall be completed by **Friday, March 17, 2017**.

SCHEDULING THE PHASE TWO EARLY TRIAL CASES

17. By **Monday, January 9, 2017**, Lead Counsel and counsel for New GM shall each submit letter briefs proposing the sequence of trials for MDL Bellwether Trials 7-9 and setting forth the parties' supporting rationales for their proposed sequences. The Court will then designate the sequence for trying these three Phase Two Early Trial Cases.

PROCEDURE FOR CATEGORY C REPLACEMENT CASES

18. Fact discovery and expert discovery for Lead Counsel's Discovery Pool Category C Replacement Cases shall proceed on a different schedule from New GM's Category C Discovery Pool Case selections.

19. Fact discovery in the Discovery Pool Category C Replacement Cases will conclude no later than **Friday, March 17, 2017**.

20. By **5:00 p.m. EDT on Monday, March 20, 2017**, New GM will exercise one strike against a Discovery Pool Category C Replacement Case selected by Lead Counsel.

21. The remaining case will constitute the Phase Two Category C Replacement Case Early Trial Candidate and will proceed to case-specific expert discovery as follows:

- (a) Lead Counsel shall disclose expert witnesses and submit any reports required under Fed. R. Civ. P. 26(a)(2)(B) on or before **Wednesday, April 26, 2017**.
- (b) Lead Counsel shall present their expert witnesses for deposition on or before **Friday, May 26, 2017**.
- (c) New GM shall disclose expert witnesses and submit any reports required under Fed. R. Civ. P. 26(a)(2)(B) on or before **Friday, June 2, 2017**.
- (d) New GM shall present its expert witnesses for deposition on or before **Monday, July 6, 2017**.
- (e) Absent good cause, no rebuttal expert reports shall be permitted.
- (f) Expert discovery for the Phase Two Category C Replacement Case Trial Candidate shall conclude by **Monday, July 6, 2017**.

22. The Phase Two Category C Replacement Case Trial Candidate shall be scheduled as MDL Bellwether Trial No. 10 from **January 15, 2018-February 2, 2018** as set forth in Order No. 107 ¶ 13.

23. To the extent not modified herein, all deadlines in Order No. 107 (and any other previous order modifying Order No. 107) remain in full force and effect.

SO ORDERED.

Dated: November 28, 2016
New York, New York



JESSE M. FURMAN
United States District Judge