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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)

This Document Relates to:

ORDER

Dennis R. Ward v. General Motors LLC, 14-CV-8317

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JESSE M. FURMAN, United States District Judge:

[Regarding the Application of Certain Evidentiary Rulings in MDL Bellwether Trial Nos. 1, 2, and 5 to MDL Bellwether Trial No. 7 (Ward)]

1. **Application of Certain Evidentiary Rulings in Bellwether Trial Nos. 1, 2, and 5 to Bellwether Trial No. 7:** Pursuant to Order No. 120 (Docket No. 3651), New GM and Ward have submitted a joint letter and proposals regarding the applicability of certain evidentiary rulings from Bellwether Trials Nos. 1, 2, and 5 to Bellwether Trial No. 7. Having reviewed the parties' submissions and for good cause shown, the Court adopts the holdings contained in the chart attached as Exhibit 1 to this Order concerning the applicability of the listed evidentiary rulings from Bellwether Trial Nos. 1, 2, and 5 to Bellwether Trial No. 7. For the avoidance of doubt, to the extent the parties have not addressed the applicability of other evidentiary rulings from Bellwether Trial Nos. 1, 2, and 5, the parties reserve the right to address those rulings and their arguments regarding the applicability or inapplicability of those rulings to Bellwether Trial No. 7 if necessary during pre-trial filings and trial. Such arguments are preserved and not waived.

2. **Effect of This Order on Other Rules and Orders:** To the extent not explicitly modified herein, the Court's Individuals Rules and Practices in Civil Cases and Rules and Procedures for Trials and all other applicable Orders of this Court remain in full force and effect. The Court may enter additional and/or modified orders regarding the pretrial schedule of Bellwether Trial No. 7 as circumstances require.

SO ORDERED.

Dated: June 26, 2017
New York, New York



JESSE M. FURMAN
United States District Judge

Issue Briefed in Bellwether <i>Scheuer</i>, or <i>Barthelemy</i> and Ruling	Application to <i>Ward</i>¹
<p>VTTI Report (Docket Nos. 2116, 2119)</p> <p>Order: 1/19/2016 (1/19/2016 Trial Tr. at 789-90)</p>	<p>HOLDING: The Court's order regarding the VTTI Report in <i>Scheuer</i> applies to <i>Ward</i>.</p>
<p>Secretary Foxx Letter (Docket Nos. 1999, 2003)</p> <p>Order: 1/6/2016 (Final Pretrial Conference Hr'g Tr. at 3:24-4:22)</p>	<p>HOLDING: The Court's order regarding the Secretary Foxx letter in <i>Scheuer</i> applies to <i>Ward</i>.</p>
<p>OSI Photographs Opening Demonstratives (Docket Nos. 2049, 2050)</p> <p>Ruling: 1/10/2016 (Docket No. 2057)</p>	<p>HOLDING: The Court's order regarding the use of other similar incident photographs in opening demonstratives and in connection with expert testimony at trial in <i>Scheuer</i> applies to <i>Ward</i>.</p>
<p>Commentary re Old GM Conduct (1/12/2016 <i>Scheuer</i> Trial Tr. at 88-92)</p> <p>Ruling: 1/12/2016 (<i>Scheuer</i> Trial Tr. at 88-92.)</p>	<p>HOLDING: The Court's order regarding commentary about Old GM conduct during the opening statement and the scope of the Court's crime fraud ruling and Motion <i>in Limine</i> No. 9 in <i>Scheuer</i> applies to <i>Ward</i>.</p>
<p>Presenting GM Answer to Jury (<i>Scheuer</i> Trial Tr. at 1247-52, 1264)</p> <p>Ruling: 1/21/2016 (<i>Scheuer</i> Trial Tr. at 1247-52)</p>	<p>HOLDING: The Court's order regarding presenting New GM's answer to Plaintiff's complaint in <i>Scheuer</i> applies to <i>Ward</i>. The parties shall meet and confer regarding any proposed redactions to New GM's <i>Ward</i> answer and raise any disputes at least 48 hours prior to the answer being offered into evidence.</p>

¹ Nothing in this proposed order should be construed to waive any of the parties' preserved objections or rights to appeal the Court's rulings. To the contrary, all arguments from prior briefing and/or oral arguments on such motions are expressly preserved

Issue Briefed in Bellwether <i>Scheuer</i>, or <i>Barthelemy</i> and Ruling	Application to <i>Ward</i>¹
<p>Joseph Fedullo Hybrid Witness Testimony (Docket Nos. 2088, 2100)</p> <p>Ruling: 1/15/2016 (<i>Scheuer</i> Trial Tr. at 649)</p>	<p>HOLDING: The Court’s order regarding the testimony of Joseph Fedullo as a hybrid fact and expert witness in <i>Scheuer</i> applies to <i>Ward</i>.</p>
<p>Stevick Expert Testimony (Docket Nos. 2109, <i>Scheuer</i> Trial Tr. at 713-24)</p> <p>Ruling: 1/15/2016 (<i>Scheuer</i> Trial Tr. at 715-724)</p>	<p>HOLDING: The Court’s order regarding the testimony of Glen Stevick in <i>Scheuer</i> applies to <i>Ward</i>.</p>
<p>Limiting Instructions During Trial (Docket No. 2039)</p> <p>Order Issued: 1/11/2016 (<i>Scheuer</i> Trial Tr. at 5.)</p>	<p>HOLDING: The Court’s order regarding certain limiting instructions to the jury in <i>Scheuer</i> applies to <i>Ward</i>.</p>
<p>Preliminary Jury Instructions and Statement of Case (Docket No. 2031, 2046)</p> <p>Order Issued: 1/11/2016 (<i>Scheuer</i> Trial Tr. at 15-16)</p>	<p>HOLDING: The Court’s order regarding the preliminary jury instructions and statement of the case in <i>Scheuer</i> does not apply to <i>Ward</i>. The Court’s ruling regarding references to GM LLC and New GM during the preliminary jury instructions applies to <i>Ward</i>.</p>
<p>Medical Costs Stipulation (Docket No. 2159)</p> <p>Ruling: 1/21/2016 (<i>Scheuer</i> Trial Tr. at 1184-85)</p>	<p>HOLDING: For the sake of efficiency, the Court urges the parties to enter into stipulations with respect to any and all issues that are not actually in dispute — including, if applicable, medical costs.</p>

Issue Briefed in <i>Bellwether Scheuer</i> , or <i>Barthelemy</i> and Ruling	Application to <i>Ward</i> ¹
<p>Stipulation and Jury Instruction re Admissibility of Statement of Facts, Valukas Report, and NHTSA Consent Order (Docket Nos. 2059, 2069, 2083)</p> <p>Ruling: 1/11/2016 (<i>Scheuer</i> Trial Tr. at 129-31); 1/12/2016 (<i>Scheuer</i> Trial Tr. at 218-220); 1/13/2016 (Docket No. 2087)</p>	<p>HOLDING: The plaintiff has agreed it will not seek to admit the NHTSA Consent Order and therefore the Court’s ruling as to it does not apply in <i>Ward</i>. Otherwise, the Court reserves judgment on whether or to what extent its prior rulings apply to <i>Ward</i>. To the extent the Court allows any portions from the Statement of Facts or Valukas Report to be introduced, the parties shall meet and confer to agree to proposed instructions describing the Valukas Report and/or the Statement of Facts that will be subject to a reservation of rights similar to the one proposed in <i>Scheuer</i> for the same documents. As in <i>Scheuer</i>, New GM’s reservation of rights shall be entered into the record but not in the presence of the jury. (Docket No. 2087.)</p>
<p>Loudon Testimony (Docket No. 2490)</p> <p>Ruling: 3/14/2016 (<i>Barthelemy</i> Trial Tr. at 5)</p>	<p>HOLDING: Unless and until the Court orders otherwise, the Court’s order regarding the testimony of Steve Loudon in <i>Barthelemy</i> applies to <i>Ward</i> to the extent the same testimony was properly disclosed and is offered in <i>Ward</i>. The Court reserves judgment on the admissibility of Loudon’s opinions regarding the absence of a part number change and the effect of that on the ability to “discover[] the problem.” (3/14/2016 <i>Barthelemy</i> Trial Tr. at 6).</p>
<p>No Need for Sponsoring Witnesses with Respect to Stipulated Documents</p> <p>Ruling: 3/9/2016 <i>Barthelemy</i> Final Pretrial Conference Tr. at 8:14-9:3; 13:17-21</p>	<p>HOLDING: The Court’s guidance with respect to the issue of “sponsoring witnesses” applies to <i>Ward</i>.</p>
<p><i>Barthelemy</i> Consent Order and Chansuthus Case Evaluation Ruling</p> <p>Ruling: 3/29/16 (<i>Barthelemy</i> Trial Tr. at 1807:21-1808:23)</p>	<p>HOLDING: The Court’s order in <i>Barthelemy</i> striking the NHTSA Consent Order does not apply to <i>Ward</i>, because plaintiff has not designated it and will not use any portion of it. The Court’s ruling striking the <i>Chansuthus</i> case evaluation in <i>Barthelemy</i> is case-specific and does not apply in <i>Ward</i>. New GM reserves the right to object to the admission of the <i>Chansuthus</i> case evaluation in <i>Ward</i>.</p>