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STATE OF MINNESOTA **DISTRICT COURT**

COUNTY OF HENNEPIN **FOURTH JUDICIAL DISTRICT**

In re: Syngenta Litigation This Document Related to: ALL ACTIONS	Case Type: Civil Other Honorable Thomas M. Sipkins File No.: 27-CV-15-3785 **DEFENDANTS' INITIAL RESPONSE TO PLAINTIFFS' PROPOSALS IN ANTICIPATION OF SEPTEMBER 25, 2015 STATUS HEARING**

Over the course of extensive meet-and-confer discussions during the last two weeks, plaintiffs repeatedly declined to provide either the specific terms of their case management proposal or their specific comments on Syngenta's proposed federal-state Coordination Order—revealing only on the day that the parties' joint agenda was due that plaintiffs had prepared their own separate brief in which they would detail their positions to the Court. In so doing, plaintiffs for the first time provided their proposed case management order (two days before the status hearing set for September 25, 2015). It is now clear why plaintiffs previously declined to confer in concrete terms, because their proposals are not only premature but also prejudicial on their face—and reflect exactly the types of one-sided positions that courts have rejected in favor of a balanced and orderly process as Syngenta would propose.

Although the parties reached agreement on the matters contemplated by paragraph 10 of the Court's August 5, 2015 Order Appointing Lead Counsel, and accordingly submitted their Proposed Scheduling Order #1 along with a Proposed Protective Order and a Proposed ESI Protocol, plaintiffs now wish to use the upcoming status conference to discuss matters that go far beyond those requested by the Court's August 5 Order—including (1) a proposal by which

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certain plaintiffs would be exempted from paying filing fees if they file suit before a certain date; (2) a proposed case management order that would limit discovery to just 0.1% of the plaintiffs as bellwether discovery plaintiffs and structure the entirety of the case even before the pleadings are joined and the scope of the litigation has been framed; and (3) "various coordination issues" with the federal MDL. In so doing, plaintiffs have only today provided a copy of their proposed case management order laying out what they apparently propose, and still have not provided Syngenta with any specific edits to its federal-state Coordination Order despite repeatedly promising to do so.

Syngenta respectfully submits that plaintiffs' proposals should be rejected. Even apart from plaintiffs' failure to confer on concrete terms in order to narrow the issues that the Court may have to address, plaintiffs' proposals are both premature and prejudicial, especially when Master Complaints have yet to be filed, Syngenta's Motions to Dismiss could alter the scope of the litigation (for example, on whether non-Minnesota plaintiffs can pursue claims under Minnesota law), and plaintiffs have yet to provide even preliminary discovery such as Plaintiff Fact Sheets (which can and should be used so that the Court and the parties make *informed* bellwether choices instead of "picking them out of a hat"). Plaintiffs' cited authorities discussing how a case schedule should be set an early stage and how the use of bellwethers can be appropriate are inapposite, because none of those authorities supports making those decisions in the abstract before a Master Complaint is even on file and the litigation has been framed in a meaningful way.

To the contrary, courts have repeatedly recognized the benefits of beginning with a master complaint to guide the remainder of the litigation. "Because each transferred case comes with its own pleadings, a multidistrict transfer threatens to submerge the transferee district court

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in paper. A common solution to this difficulty, one adopted in this case, is for the plaintiffs to assemble a 'master complaint' that reflects all of their allegations." *In re Refrigerant Compressors Antitrust Litig*., 731 F.3d 586, 590 (6th Cir. 2013). "Particularly in large—and ever-expanding—MDLs like the one before this Court, the benefits of treating consolidated complaints as 'superseding' are clear: It assists in 'streamlining the litigation,'; 'controls the course and scope of the proceedings,'; and facilitates efficient motion practice.'" *In re Gen. Motors LLC Ignition Switch Litig.*, No. 14-MC-2543 JMF, 2015 WL 3619584, at *7 (S.D.N.Y. June 10, 2015) (citations omitted). This makes sense: as the U.S. Supreme Court has observed and the rules make clear, lawsuits can—and should—begin with an operative complaint in order to frame the proceedings that will follow. *See New Hampshire Fire Ins. Co. v. Scanlon*, 362 U.S. 404, 406 (1960); *see also* Manual for Complex Litigation (4th) § 11.32 ("Finalizing pleadings . . . will help to define and narrow issues.").

While Syngenta respectfully reserves the right to present additional responsive arguments after reviewing plaintiffs' eleventh-hour submission, Syngenta nonetheless addresses plaintiffs' proposals based on what we currently understand.

I. PLAINTIFFS' PROPOSED CASE MANAGEMENT ORDER.

Plaintiffs have proposed to discuss a draft case management schedule that goes well beyond the deadlines that the Court requested in its August 5, 2015 Order Appointing Lead Counsel and that the parties jointly submitted in their proposed Scheduling Order #1 on September 4. In particular, plaintiffs' eleventh-hour submission proposes that the Court "randomly select twenty-five (25) individual Bellwether Discovery Plaintiffs" who "will all be Minnesota residents who previously filed suit in Minnesota state courts."[1] According to

[1] It also bears emphasis that plaintiffs' proposed case management order varies even from what little they revealed during the meet-and-confer process, as they previously

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plaintiffs' own count, that number amounts to less than 0.5% of the over 6,144 individual Minnesota residents who have thus far filed suit or intend to file suit (even looking solely at those represented by plaintiffs' lead counsel), while ignoring the differences between producers versus non-producers, a small family farmer versus a commercial farming conglomerate, a local grain handler versus an international grain exporter, and the like. Plaintiffs' requested case schedule would also require the Court to set dates for bellwether trials even before Master Complaints are on file, before motions to dismiss have been briefed or decided, before class certification has been addressed, and before the parties have conducted any discovery to aid the Court's consideration of when and how bellwether trials should be conducted. Plaintiffs' proposal is thus both premature and prejudicial, for at least the following reasons.

First, Master Complaints have yet to be filed. Neither Syngenta nor the Court has thus been apprised of basic organizational questions such as whether plaintiffs will seek to bring this case on behalf of putative nationwide or statewide classes, whether the case (including any putative class actions) will be brought on behalf of producers or non-producers or both, and which states will or will not be represented by producers or non-producers, respectively. Indeed, Syngenta understands from the meet-and-confer process that plaintiffs' counsel do not yet have plaintiffs from all of the states they seek to include in this litigation.

Second, the pleadings are not yet joined. As the MDL litigation illustrates, the resolution of motions to dismiss could very well impact what claims will remain in the case, which theories do and do not survive, and which states will be at issue. The appropriate number and selection of

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suggested that the *parties* should select proposed bellwether plaintiffs, only now to suggest picking them at *random* without any reason to think that the resulting selections would be illustrative of other plaintiffs in the case. Plaintiffs' shifting positions underscore that even they may not know exactly what they want to propose—and their urgent request for a status hearing appears primarily to be an effort to "jockey" against the plaintiffs in the MDL.

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bellwether discovery plaintiffs certainly would be affected, for example, by whether this litigation is ultimately limited to Minnesota plaintiffs or also includes non-Minnesota plaintiffs, including because of limits on the extraterritorial application of Minnesota law. For example, to the extent plaintiffs' proposed case management order would only consider the claims of Minnesota residents for now, it would leave significant portions of the case unaddressed. Conversely, if a case management order were to consider Minnesota and non-Minnesota residents, bellwether discovery plaintiffs would necessarily need to come from each state. Even more so than in a typical case, the Court's resolution of the motions to dismiss will inform the size and scope of what remains thereafter, which in turn ought to inform the Court's determination of how bellwether discovery plaintiffs should be selected.

Third, plaintiffs' proposal would require the Court to select bellwether discovery plaintiffs *without any meaningful information about them*. It is especially noteworthy that while plaintiffs' proposed case management order fails even to address Plaintiff Fact Sheets (and plaintiffs' brief opposes requiring any discovery from any plaintiff except those selected as bellwethers or named class representatives), both sides previously agreed that ***all*** plaintiffs who have filed suit in this litigation ought to provide Plaintiff Fact Sheets ("PFS"), such as those ordered in the MDL. *See* Remele/Sieben Joint Application to Lead Consolidated Action, Ex. I at 23 (July 17, 2015) ("***Each plaintiff in an action filed in the state courts of Minnesota on or before December 1, 2015, shall complete a complete 'Plaintiff Fact Sheet' (PFS)***, the form of which is agreed to by the parties and/or ordered by the Court, along with responsive documents and completed authorizations….") (emphasis added); Syngenta Case Management Proposal at 2 (July 17, 2015) (discussing the provision of Plaintiff Fact Sheets and attaching form of Plaintiff Fact Sheet approved by Judge Lungstrum in the federal MDL).

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The need for PFS's in this case is especially acute because the boilerplate complaints are devoid of any information regarding any particular plaintiff's individual circumstances including, for example, whether or not the plaintiff is a producer or non-producer (given the obvious differences between them), the size of the plaintiff's corn crop (to weed out those with relatively small claims from bellwether selection), the extent of the plaintiff's alleged losses, and so forth.[2] It is neither necessary nor appropriate to require Syngenta or the Court to select bellwether discovery plaintiffs without the benefit of any initial discovery from the group as a whole in order to make its own assessments (especially when, by contrast, all of the information is available to plaintiffs' counsel to aid their bellwether choices).

Fourth, plaintiffs' apparent proposal to "randomly select" the bellwethers "out of a hat" would be even more improper, because courts have long recognized that "[t]he choice of representative plaintiffs for bellwether discovery cannot be made in a vacuum." *Meranus v. Gangel*, No. 85 CIV. 9313 (WK) et al., 1991 WL 120484, at *1 (S.D.N.Y. June 26, 1991); *see also In re 2004 DuPont Litig.*, No. CIV.A. 04-191-DLB et al., 2006 WL 5097316, at *2 (E.D. Ky. Mar. 8, 2006) ("The court concurs that, at least until additional discovery is obtained by defendants, the 'bellwether' approach is not appropriate."). The entire point of bellwether cases is "to produce reliable information about other mass tort cases" and for that reason, "the specific

[2] *See* Scheduling Order No. 1 at 11, *In re: Syngenta AG MIR162 Corn Litig.*, No. 2:14-md-02591-JWL-JPO (D. Kan. Feb. 4, 2015), ECF No. 123 ("By April 13, 2015, each of the producer plaintiffs, in lieu of Rule 26(a)(1) disclosures, must serve a plaintiff fact sheet ("PFS"), providing detailed information using a standard form about which the parties' lead counsel must meet and confer."). A copy of the Plaintiff Fact Sheet approved by the MDL Court is attached as Exhibit D. *See also* Case Management Order No. 3 at 1, *In re Genetically Modified Rice Litig.*, No. 4:06-md-01811-CDP (E.D. Mo. June 7, 2007), ECF No. 292 ("I will require all producer plaintiffs to file plaintiff fact sheets….") (requiring plaintiff fact sheets in the Bayer Rice MDL).

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plaintiffs and their claims should be representative of the range of cases." Manual for Complex Litigation (4th) § 22.315.

Although there are some cases that have used a random selection process, they generally have done so when there is no reason to think that the plaintiffs will vary significantly. By contrast, there are indisputable differences among producers versus non-producers (for example), small family farmers versus large commercial farming corporations, and neighborhood grain distributors versus international grain exporters—to list just a few. Plaintiffs' cited authorities are thus inapposite under the circumstances here, in addition to ignoring other rational considerations that may factor into the selection of bellwethers, such as the size of a plaintiff's corn crop (to weed out those with relatively small claims from bellwether selection), the extent of a plaintiff's alleged losses, and so forth. It would be arbitrary at its core to select bellwether cases in the absence of even basic information about the various plaintiffs, when neither Syngenta nor the Court is in any position to evaluate any of them without an initial period of document discovery including the PFS's that plaintiffs' own lead counsel proposed in their leadership submission to the Court. That is precisely why the court that presided over the Bayer Rice MDL, for example, started with a Consolidated Complaint and required Plaintiff Fact Sheets in the first instance, *see supra* n.2, and established a bellwether process later with each side entitled to pick a number of bellwether plaintiffs per state, each of whom would be required to provide "full discovery." *See In re: Genetically Modified Rice Litig.*, Case Management Order No. 11, No. 06-md-1811 (E.D. Mo. Nov. 3, 2008), ECF No. 914 (requiring that "each side shall select five [plaintiffs] from each state" and that "the parties will be expected to conduct full discovery on all 50 [of those] cases").

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Fifth, plaintiffs' proposal to set bellwether trial dates is especially premature because the determination of whether the case will proceed as a class action will affect the subsequent course of the litigation—including any trials. *See* Manual for Complex Litigation (4th) § 11.213 (emphasizing that "[c]lass certification or its denial will have a substantial impact on further proceedings, including the scope of discovery, the definition of issues, the length and complexity of trial, and the opportunities for settlement"). Class certification itself will require fact discovery, expert discovery, and briefing on both sides, and a particular plaintiff may or may not ultimately choose to proceed individually or as a part of a putative class. Nor can plaintiffs' counsel respond that they plan to proceed regardless of whether class certification is granted, because the decision ultimately rests with each individual plaintiff. Plaintiffs recognize that because they intend to bring a putative class action, discovery of the named plaintiffs would be required separate and apart from any bellwethers, *see* Proposed Case Management Order ¶2(b)—yet Section 7 of plaintiffs' proposed order provides discovery only from the bellwether plaintiffs while apparently depriving Syngenta of any ability to take depositions of the named class representatives until an unspecified date.[3] Even if that issue were addressed, there is no reasonable way to determine what structure or schedule makes sense when even the number of named class representatives will not be known until the Master Complaints are on file.

Sixth, plaintiffs' case management proposal is plagued with other problems. Although plaintiffs did not provide their proposed case management order to defense counsel until this afternoon, the following examples of issues illustrate why their order should be rejected on its face:

[3] Plaintiffs' proposal to limit depositions to 50 per side is also premature because it is unclear how many class representatives will be named in the Master Complaints.

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- Plaintiffs' discovery proposal even as to the bellwethers is entirely one-sided. For example, while Section 2 of the proposed case management order creates the illusion that discovery on the plaintiffs may go forward by stating that the existing stay on discovery "shall be lifted," Section 6 makes clear that what plaintiffs really propose is to give themselves a nine-month window to take discovery from Syngenta and any third parties starting next month, *see* Section 6(b)-(c), while prohibiting the defendants from deposing even the bellwether discovery plaintiffs until next year, *see* Section 7(b).

- Nor does plaintiffs' proposed order address the fact that witnesses should generally not be deposed twice, yet plaintiffs propose beginning depositions of Syngenta employees before document requests have been served, much less answered.

- Plaintiffs then seek to compound these conflicts by proposing that each side would have to identify proposed bellwethers for purposes of trial on May 2, 2016, *see* Section 7(b)—which is before it will be known whether this case will proceed as a class action (given that class certification will not be briefed until at least August 2016, *see* Section 10), and before discovery is complete (given that plaintiffs' own proposal recognizes various types of discovery that would extend into the summer 2016).

- Plaintiffs' expert deadlines likewise reflect no reasoned effort to conduct the litigation in an orderly manner, as their proposal calls for merits expert reports and merits expert depositions *before* fact discovery is complete, *see* Sections 8-9—creating the significant risk that experts' opinions will evolve over the course of fact discovery.

- Plaintiffs have proposed deadlines for addressing the question of class certification but would require those briefs before discovery from the named class representatives is complete. Nor have plaintiffs specified deadlines for the submission of expert reports addressing the question of class certification, such as from economic experts addressing the types of individualized differences between farming operations that prompted the court in the Bayer Rice litigation to deny class certification. To the extent that Section 9 of their proposed order was meant to refer to *class*-related expert reports in the class action, it would then leave the deadlines for *merits*-related expert reports in the class action unaddressed.

In sum, plaintiffs' proposal would arbitrarily call for the Court to select bellwether plaintiffs from just one state, even though the parties have agreed to initially focus this case on plaintiffs from the 22 states currently pending before the MDL. Even as to Minnesota alone, plaintiffs' proposal would limit these proceedings to just twenty-five bellwether discovery plaintiffs representing less than one plaintiff per county. That error is compounded because

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plaintiffs have offered no procedure by which to draw an adequate mix of producers versus non-producers, or to consider other differences within each category, such as small family farms, large commercial farming companies, landlords, greenhouses, local grain distributors, international grain exporters, and the like. Even if the numbers were increased, plaintiffs' demand to select bellwethers without first providing discovery would provide plaintiffs with a one-sided advantage in determining whom to propose, or else deprive the Court of the very point of the bellwether process by picking bellwethers at random without any discovery or information from which to think that the resulting selections might be informative as to the other plaintiffs in the case.

Syngenta respectfully submits that the joining of pleadings and the receipt of PFS's are necessary threshold steps before any meaningful discussion of bellwether discovery plaintiffs can take place. Accordingly, Syngenta submits that these topics should be deferred at this time, or in the alternative that plaintiffs' case management order should be rejected on its terms.

* * * *

All of this underscores exactly the problems that arise when a party submits a detailed proposal without actually conferring with the other side in concrete terms, and refuses even to show the proposed terms until hours before filing it with the Court. Syngenta respectfully proposes that the parties instead be required to follow an orderly process as follows:

- *First*, the case would begin with the filing of the Master Complaints.
- *Second*, the parties would proceed with the agreed-upon briefing schedule for Syngenta's Motions to Dismiss, the plaintiffs' opposition, and the defendants' reply.
- *Third*, plaintiffs would receive the benefit of any discovery in the MDL as soon as the Master Complaints are on file and the Court has entered a Coordination Order along with the parties' Protective Order and ESI Order.

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- *Fourth*, without waiting for the Motions to Dismiss, the parties would immediately begin conferring on a proposed case schedule as soon as the Master Complaints are on file, with 30 days thereafter to submit a joint or competing proposals that include dates for the provision of Plaintiff Fact Sheets from those who have filed suit and the parties' joint or competing positions on how to select bellwether discovery plaintiffs using a non-random method with the benefit of the PFS's.

II. PLAINTIFFS' PROPOSAL TO WAIVE FILING FEES FOR CERTAIN CLAIMS.

Syngenta understands that plaintiffs plan to ask this Court to approve a procedural mechanism that would exempt them from paying filing fees for cases filed before a certain date. To date, plaintiffs have not pointed to any provision in the Minnesota Rules or in applicable case law that contemplates or supports such an approach. Although this Court ultimately has the discretion to grant or deny plaintiffs' unprecedented request, it bears emphasis that nothing in plaintiffs' proposal, which they frame as a proposal for an "Order re: Filing and Joinder of Claims in this Court," can or should be construed as addressing or ruling on substantive questions such as whether plaintiffs are properly joined within the meaning of Minnesota Rules 19 and 20, whether plaintiffs can satisfy their burden of proof on the issue of class certification, or other matters relating to the aggregation of multiple plaintiffs. Plaintiffs must still plead and prove the requisite facts as to each individual plaintiff—and plaintiffs' proposal should not be construed to absolve any plaintiff of the obligation to provide discovery and ultimately prove up his or her own individual case.

III. FEDERAL-STATE COORDINATION

Syngenta also understands that plaintiffs wish to discuss "various coordination issues [that] have arisen with the MDL proceeding" at the upcoming status conference. For the Court's reference, Syngenta sent a proposed federal-state coordination order (attached as Ex. A) to plaintiffs' counsel in the MDL on May 11, 2015, and we understand from meet-and-confer discussions with Minnesota plaintiffs' counsel that they received a copy shortly after plaintiffs'

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leadership was selected in August 2015. Syngenta's proposal is modeled off of similar orders in complex cases, including the Coordination Order that both the federal court and a number of state courts entered in the ongoing *In re: General Motors LLC Ignition Switch Litigation*. *See* Joint Coordination Order, No. 14-md-2543 (S.D.N.Y. Sept. 24, 2014), ECF No. 315 (attached as Ex. B); *see also* Joint Coordination Order, *21st Century Indemnity Ins. Co. v. General Motors LLC*, No. 159602/14 (N.Y. Sup. Ct. Apr. 8, 2015) (attached as Ex. C).

Despite repeatedly soliciting comments from plaintiffs' counsel, Syngenta has not received any edits to its proposal from the plaintiffs in this case or in the MDL. While the Minnesota plaintiffs have previewed their belief that the proposed order would relegate this Court to a subservient role behind the MDL, that notion is incorrect on its face because Syngenta's proposed coordination order expressly states that it would apply to a state court proceeding only if the corresponding court adopted it, and expressly provides that state court plaintiffs would be fully entitled to participate in coordinated depositions (giving them "a reasonable amount of time to question the deponent" without ceding their role to the MDL plaintiffs) and to propound their own discovery "upon leave of the state court in which the coordinated action is pending" (without requiring the permission of the MDL plaintiffs or the MDL court).

Defendants understand from conversations with both the MDL plaintiffs and the Minnesota plaintiffs that neither set of counsel will meaningfully engage in discussions regarding the proposed coordination order—and the Minnesota plaintiffs opted instead to request the upcoming status hearing in an apparent effort to attack the proposed order by teasing out "soundbites" about the Court's views in the abstract. No matter which set of plaintiffs' characterizations of their discussions is right, none of this meaningfully advances the goal of

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achieving the coordination that all of the plaintiffs represented that they supported—including in their leadership submissions to the Court and to the MDL. In all events, Syngenta respectfully submits that to the extent plaintiffs have actual concerns about specific provisions in Syngenta's proposal, the proper approach would be to provide specific edits rather than discussing the order in abstract terms.

IV. CONCLUSION

Syngenta looks forward to discussing these issues with the Court.

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Date: September 23, 2015

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EXHIBIT A

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

IN RE SYNGENTA AG MIR 162 CORN LITIGATION

Master File No. 2:14-MD-02591-JWL-JPO
MDL No. 2591

THIS DOCUMENT RELATES TO:
ALL CASES

[PROPOSED] JOINT COORDINATION ORDER

WHEREAS, a federal proceeding captioned *In re Syngenta AG MIR 162 Corn Litigation*, MDL Docket No. 2591 (the "MDL Proceeding"), is pending before the Hon. John W. Lungstrum in the United States District Court for the District of Kansas (the "MDL Court");

WHEREAS, state court actions concerning the same subject matter as the MDL Proceeding are pending along with additional actions that may be filed in the future (the "State-Court Actions");

WHEREAS, the MDL Proceeding and the State-Court Actions involve many of the same factual allegations and circumstances and many of the same parties, and discovery will substantially overlap;

WHEREAS, coordination of pretrial proceedings in the MDL Proceeding and the State-Court Actions will likely prevent duplication of discovery and undue burden on parties and non-parties in responding to discovery requests, save substantial expense by the parties and non-parties and produce substantial savings in judicial resources;

WHEREAS, each Court adopting this Order (collectively, the "Courts") finds that coordination of discovery and pretrial scheduling in the MDL Proceeding and the State-Court Actions will further the just and efficient disposition of each proceeding and therefore have concluded that the circumstances presented by these proceedings warrant the adoption of certain procedures to manage these litigations;

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WHEREAS, the Courts and the parties anticipate that other courts in which State-Court Actions are now pending may join this Joint Coordination Order (this "Order");

WHEREAS, a State-Court Action in which this Order has been entered by the Court in which the action is pending is referred to herein as a "Coordinated Action"; and

WHEREAS, each Court entering this Order is mindful of the jurisdiction of each of the other courts in which other Coordinated Actions are pending and does not wish to interfere with the jurisdiction or discretion of those other courts.

NOW, THEREFORE, IT IS ORDERED that the parties are to work together to coordinate discovery to the maximum extent feasible in order to prevent duplication of effort and to promote the efficient and speedy resolution of the MDL Proceeding and the Coordinated Actions and, to that end, the following procedures for discovery and pretrial proceedings shall be adopted:

A. Discovery and Pre-Trial Scheduling

1. All discovery and pretrial scheduling in the Coordinated Actions will be coordinated to the fullest extent possible with the discovery and pretrial scheduling in the MDL Proceeding. The MDL Proceeding shall be used as the lead case for discovery and pretrial scheduling in the Coordinated Actions.

2. Plaintiffs in the Coordinated Actions and their counsel shall be entitled to participate in discovery in the MDL Proceeding as set forth in this Order and in accordance with the terms of the Stipulated Protective Order entered in the MDL Proceeding, a copy of which is attached hereto as Exhibit A (the "MDL Protective Order"). Each Court that adopts this Joint Coordination Order thereby also adopts the MDL Protective Order which, except as amended by separate order of the adopting court, shall govern the use and dissemination of all documents and information produced in coordinated discovery conducted in accordance with the terms of this

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Order. Discovery in the MDL Proceeding will be conducted in accordance with the Federal Rules of Civil Procedure and the Local Rules and Orders of the MDL Court, including the MDL Protective Order, all as interpreted by the MDL Court. Parties in the MDL Proceeding and their counsel may also participate in discovery in any Coordinated Action as set forth in this Order.

3. The parties in a Coordinated Action may take discovery (whether directed to the merits or class certification) in the state court only upon leave of the Court in which the Coordinated Action is pending. Such leave shall be obtained on noticed motion for good cause shown, including why the discovery sought could not have been obtained in coordinated discovery in the MDL Proceeding.

B. Use of Discovery Obtained in the MDL Proceeding

4. Counsel representing the plaintiff or plaintiffs in a Coordinated Action will be entitled to receive all discovery taken in the MDL Proceeding, provided that this Order has been entered by the Court presiding over that Coordinated Action. Any such discovery responses and documents shall be used and disseminated only in accordance with the terms of the MDL Protective Order or a substantially-similar protective order entered in the Coordinated Action. Similarly, counsel representing a party in the MDL Proceeding shall be entitled to receive all discovery taken in any Coordinated Action provided that this Order has been entered by the Court presiding over that Coordinated Action; any such discovery responses and documents shall be used and disseminated only in accordance with the terms of the MDL Protective Order or a substantially-similar protective order entered in the Coordinated Action.

5. Requests for documents, interrogatories, depositions on written questions and requests for admission propounded in the MDL Proceeding will be deemed to have been propounded and served in the Coordinated Actions. The parties' responses to such requests for documents, interrogatories, depositions on written questions and requests for admission will be

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deemed to be made in the Coordinated Actions and may be used in those actions, subject to and in accordance with the terms of the MDL Protective Order, as if they had been taken under the applicable civil discovery rules of the respective jurisdictions.

6. Depositions taken in the MDL Proceeding may be used in the Coordinated Actions, subject to and in accordance with the terms of the MDL Protective Order, as if they had been taken under the applicable civil discovery rules of the respective jurisdictions.

C. Service and Coordination Among Counsel

7. The MDL Court has previously appointed Liaison Counsel for all parties in the MDL Proceeding (the "MDL Liaison Counsel"). Defendants' Liaison Counsel shall file with the MDL Court and serve upon all MDL Liaison Counsel copies of all Coordination Orders, Confidentiality or Protective Orders, and Orders designating plaintiffs' liaison counsel that are entered in the Coordinated Actions. Each MDL Liaison Counsel shall maintain and make available to counsel in their liaison group and to other MDL Liaison Counsel an up-to-date service list for the Coordinated Actions.

8. Any Court wishing to grant the parties before it access to coordinated discovery may do so by joining this Order and appointing one State Court Plaintiffs' Liaison Counsel to facilitate coordination of discovery in the Coordinated Action and discovery in the MDL Proceeding. Defendants' Liaison Counsel shall promptly serve upon State Court Plaintiffs' Liaison Counsel in each Coordinated Action all discovery requests (including requests for documents, interrogatories, depositions on written questions, requests for admission and subpoenas duces tecum), responses and objections to discovery requests; deposition notices; correspondence or other papers modifying discovery requests or schedules; and discovery motions (*i.e.*, motions under Rules 26 through 37 or Rule 45 of the Federal Rules of Civil Procedure) or requests for hearing on discovery disputes regarding coordinated discovery matters

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that are served upon the parties in the MDL Proceeding. State Court Plaintiffs' Liaison Counsel in the Coordinated Actions shall be responsible for distributing such documents to other counsel for plaintiffs in their respective actions.

9. Defendants' Liaison Counsel shall maintain a log of all Orders entered in the MDL Proceeding and all discovery requests and responses sent and received in the MDL Proceeding and shall transmit a copy of said log electronically to State Court Plaintiffs' Liaison Counsel in each Coordinated Action by the first business day of each month, unless otherwise agreed. Defendants' Liaison Counsel will promptly transmit a copy of each order entered in the MDL Proceeding to State Court Plaintiffs' Liaison Counsel in the Coordinated Actions.

D. Participation in Depositions in the MDL Proceeding

10. Each deposition taken in the MDL Proceeding: (i) will be conducted on reasonable written notice, to be served on State Court Plaintiffs' Liaison Counsel in each Coordinated Action in accordance with the provisions of paragraph [xx] above; and (ii) shall be subject to a reasonable time limit and such other rules as to timing as are imposed by Rule or Order of the MDL Court.

11. For depositions noticed by any plaintiff, at least one Lead Counsel for the MDL Plaintiffs, or their designee, shall confer with State Court Plaintiffs' Liaison Counsel in the Coordinated Actions, or their designees, in advance of each deposition taken in the MDL Proceeding, taking such steps as may be necessary to avoid multiple interrogators and duplicative questions, and to avoid additional depositions in the Coordinated Actions.

12. Counsel representing the plaintiff or plaintiffs in a Coordinated Action shall be permitted to attend any deposition scheduled in the MDL Proceeding. In addition to MDL Plaintiffs' Lead Counsel, one State Court Plaintiffs' Counsel from each Coordinated Action shall be permitted a reasonable amount of time to question the deponent and shall be

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permitted to make objections during examination by other counsel in accordance with the Federal Rules of Civil Procedure, the Local Rules of the MDL Court and the Orders of the MDL Court entered in the MDL Proceeding, and in accordance with the terms and procedures set forth in subparts (a) through (c) below providing that:

a. the Court in which the Coordinated Action is pending has adopted the MDL Protective Order or has entered a Protective Order substantially similar to the MDL Protective Order;

b. any questions asked by a counsel for plaintiffs shall be nonduplicative of questions previously asked in the deposition;

c. the deposition is completed within the time limits prescribed by the Federal Rules of Civil Procedure, the Local Rules of the MDL Court and the Orders of the MDL Court; and

d. participation of plaintiffs' counsel from multiple actions shall be arranged so as not to delay discovery or other proceedings as scheduled in the MDL Proceeding or the Coordinated Actions.

13. Counsel representing any party to any Coordinated Action may obtain directly from the court reporter at its own expense a transcript of any deposition taken in the MDL Proceeding or in any other Coordinated Action. The transcript of any deposition taken in the MDL Proceeding shall not be used or disseminated except in accordance with the terms of this Order and the MDL Protective Order.

14. Depositions in addition to those taken in the MDL Proceeding (whether directed to the merits or class certification) may be taken in a Coordinated Action only upon leave of the state court in which the Coordinated Action is pending, obtained on noticed motion

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for good cause shown, including why the discovery sought could not have been obtained in coordinated discovery in the MDL Proceeding. The transcript of any such deposition shall not be used or disseminated except in accordance with the terms of the MDL Protective Order.

15. If depositions in addition to those taken in the MDL Proceeding are permitted in a Coordinated Action, the noticing party shall provide reasonable written notice to all MDL Liaison Counsel and all State Court Liaison Counsel in the other Coordinated Actions. Counsel representing parties in the MDL Proceeding and counsel representing plaintiffs in each other Coordinated Action shall be entitled to attend the deposition of any witness whose deposition is taken in a Coordinated Action. One counsel designated by each State Court Plaintiffs' Counsel in the Coordinated Action and each MDL Liaison Counsel shall each be permitted a reasonable amount of time to ask nonduplicative questions and shall be permitted to make objections during examination by other counsel.

16. If the MDL Plaintiffs, through their respective Liaison Counsel, have been provided with reasonable notice of and opportunity to participate in a deposition taken in any Coordinated Action, no MDL Plaintiff shall be permitted to re-depose that deponent without first obtaining an Order of the MDL Court upon a showing of good cause therefor.

17. Any party or witness receiving notice of a deposition which it contends is not permitted by the terms of this Order shall have 14 days from receipt of the notice within which to serve the noticing party with a written objection to the deposition. In the event of such an objection, the deposition shall not go forward until the noticing party applies for and receives an order from the MDL Court granting leave to take the deposition.

E. Participation in Written Discovery in the MDL Proceeding

18. At least one Lead Counsel for the MDL Plaintiffs, or their designee, shall confer with State Court Plaintiffs' Liaison Counsel in the Coordinated Actions, or their

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designees, in advance of the service of requests for written discovery in the MDL Proceeding, taking such steps as may be necessary to avoid additional interrogatories, depositions on written questions, requests for admission and requests for documents in the Coordinated Actions.

19. State Court Plaintiffs' Liaison Counsel in any Coordinated Action may submit requests for documents, interrogatories, depositions on written questions and requests for admission to MDL Plaintiffs' Liaison Counsel for inclusion in the requests for documents, interrogatories, depositions on written questions and requests for admission to be propounded in the MDL Proceeding. Such requests shall be included in the requests propounded in the MDL Proceeding, provided that:

a. the requests for documents, interrogatories, depositions on written questions and/or requests for admission are submitted to MDL Plaintiffs' Liaison Counsel within 14 days after MDL Plaintiffs' Liaison Counsel have notified State Court Plaintiffs' Liaison Counsel in the Coordinated Actions of MDL Plaintiffs' intent to serve such discovery; and

b. the requests are nonduplicative of requests proposed by MDL Plaintiffs' Lead Counsel.

The number of interrogatories permitted in the MDL Proceeding will be subject to such limitations as are imposed by Rule or Order of the MDL Court.

20. Requests for documents, interrogatories, depositions on written questions and requests for admission in addition to those served in the MDL Proceeding (whether directed to the merits or class certification) may be propounded in a Coordinated Action only upon leave of the state court in which the Coordinated Action is pending, obtained on noticed motion for good cause shown, including why the discovery sought could not have been obtained in coordinated discovery in the MDL Proceeding. A motion for leave to serve additional document

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requests, interrogatories, depositions on written questions and/or requests for admission which were proposed by State Court Plaintiffs' Liaison Counsel in a Coordinated Action in accordance with paragraph [xx] and which were not included in the discovery requests served by MDL Plaintiffs' Counsel in the MDL Proceeding shall be filed in the state court on notice within 21 days of service of the MDL Plaintiffs' discovery request from which those requests for documents, interrogatories, depositions on written questions and/or requests for admission were omitted.

21. All parties to the MDL Proceeding, through their respective Liaison Counsel, shall be entitled to receive copies of responses to interrogatories, responses to depositions on written questions, responses to requests for admission and documents produced in any Coordinated Action. Any party or counsel otherwise entitled under this Order to receive copies of discovery from other parties or counsel shall reimburse the producing party for actual out-of pocket costs incurred in connection with the copying and shipping of such discovery (including but not limited to document productions) and shall use such materials only in accordance with the terms of the MDL Protective Order.

F. Discovery Dispute Resolution

21. In the event that the parties are not able to resolve any disputes that may arise in the coordinated pretrial discovery conducted in the MDL Proceeding, including disputes as to the interpretation of the MDL Protective Order, such disputes will be presented to the MDL Court. Resolution of such disputes shall be pursuant to the applicable federal or state law, as required, and such resolution may be sought by any party permitted by this Order to participate in the discovery in question. In the event that additional discovery is sought in a Coordinated Action and the parties to that action are not able to resolve any discovery disputes that may arise

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in connection with that additional discovery, such disputes will be presented to the court in which that Coordinated Action is pending.

22. Nothing contained herein shall constitute or be deemed to constitute a waiver of any objection of any defendant or plaintiff to the admissibility at trial, of any documents, deposition testimony or exhibits, or written discovery responses provided or obtained in accordance with this Order, whether on grounds of relevance, materiality or any other basis, and all such objections are specifically preserved. The admissibility into evidence in any Coordinated Action of any material provided or obtained in accordance with this Order shall be determined by the court in which such action is pending.

G. Implementing This Order

23. Any Court before which a State-Court Action is pending may join this Order, thereby authorizing the parties to that State-Court Action to participate in coordinated discovery to the extent authorized in this Order, provided that State Court Plaintiffs' Liaison Counsel is first appointed for the State-Court Action and the MDL Protective Order (or a substantially-similar protective order) has been entered in the Coordinated Action.

24. Each Court that joins this Order shall retain jurisdiction to modify, rescind and/or enforce the terms of this Order.

SO ORDERED this __ day of _____, 2015.

_____
U.S. District Judge John W. Lungstrum

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EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

This Document Relates to All Actions

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

ORDER NO. 15

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JESSE M. FURMAN, United States District Judge:

[Joint Coordination Order]

WHEREAS, a federal proceeding captioned *In re General Motors LLC Ignition Switch Litigation*, MDL Docket No. 2543 (the "MDL Proceeding"), is pending before the Hon. Jesse M. Furman in the United States District Court for the Southern District of New York (the "MDL Court");

WHEREAS, several other actions involving the same subject matter as the MDL Proceeding have been filed in the courts of a number of states and in federal courts (the "Related Actions");[1]

WHEREAS, the MDL Proceeding and the Related Actions involve many of the same factual allegations and circumstances and many of the same parties, and discovery in those various proceedings will substantially overlap;

WHEREAS, in order to achieve the full benefits of this MDL proceeding, the MDL Court has and will continue to encourage coordination with courts presiding over related cases, to the extent that those courts so desire, up to and including issuance of any joint orders that might allow full cooperation as between and among the courts and the parties. As the MDL Court indicated at the initial case management conference, and has been reiterated thereafter, the MDL Court intends to work actively to reach out to any court that is interested in coordinating discovery activities. The MDL Court expects counsel for parties in the MDL

[1] "Related Actions" shall not include shareholder derivative suits and securities class actions.

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proceeding to help ensure that such coordination is achieved wherever it is practicable and desired by a given court or courts;

WHEREAS, coordination of pretrial proceedings in the MDL Proceeding and the Related Actions will likely prevent duplication of discovery and undue burden on courts, parties, and nonparties in responding to discovery requests, save substantial expense by the parties and nonparties, and produce substantial savings in judicial resources;

WHEREAS, each Court adopting this Order (collectively, the "Courts") finds that coordination of discovery and pretrial scheduling in the MDL Proceeding and the Related Actions will further the just and efficient disposition of each proceeding and believes that the circumstances presented by these proceedings warrant the adoption of certain procedures to manage these litigations;

WHEREAS, the Courts and the parties wish and anticipate that other courts in which Related Actions are now pending may join this Joint Coordination Order (this "Order");

WHEREAS, a Related Action in which this Order has been entered by the Court in which the action is pending is referred to herein as a "Coordinated Action" or, collectively as the "Coordinated Actions"; and

WHEREAS, each Court entering this Order is mindful of the jurisdiction of each of the other Courts in which other Coordinated Actions are pending and does not wish to interfere with the jurisdiction or discretion of those Courts.

NOW, THEREFORE, IT IS ORDERED that the parties are to work together to coordinate discovery to the maximum extent feasible in order to avoid duplication of effort and to promote the efficient and speedy resolution of the MDL Proceeding and the Coordinated Actions and, to that end, the following procedures for discovery and pretrial proceedings shall be adopted:

A. Discovery and Pretrial Scheduling

1. All discovery and pretrial scheduling in the Coordinated Actions will be coordinated to the fullest extent possible with the discovery and pretrial scheduling in the MDL Proceeding. The MDL Proceeding shall be used as the lead case for discovery and pretrial scheduling in the Coordinated Actions. This Order does not operate to vacate discovery or pretrial scheduling in a Coordinated Action that predates its entry; such is left to the judgment and discretion of the Court in that Action.

2. Lead Counsel shall create a single electronic document depository for use of all MDL counsel as well as counsel in Coordinated Actions, subject to provision by the MDL Court of an order for the equitable spreading of depository costs among users.

3. New GM shall apprise the MDL Court, Lead Counsel, Plaintiff Liaison Counsel and Federal-State Liaison Counsel every two weeks of matters of significance (including hearings, schedules, deadlines, and trial dates) in Related Actions to enable the MDL Court and the parties to effectuate appropriate coordination, including discovery coordination, with these cases.

4. Plaintiffs in the Coordinated Actions and their counsel shall be entitled to participate in discovery in the MDL Proceeding as set forth in this Order and in accordance with the terms of the MDL Order No. 10 Protecting Confidentiality and Privileged Materials (ECF No. 294), the MDL Order No. 11 Regarding Production of Documents and Electronic Data ("ESI Order") (ECF No. 295), and any subsequent order entered in the MDL Proceeding governing the conduct of discovery (collectively, the "MDL Discovery Orders"), copies of which are attached hereto as Exhibit A or shall be made available pursuant to the terms of this Order. Each Court that adopts this Joint Coordination Order thereby also adopts the MDL Discovery Orders which, except as amended by separate order of the Coordinated Action Court, shall govern the use and dissemination of all documents and information produced in

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coordinated discovery conducted in accordance with the terms of this Order. Discovery in the MDL Proceeding will be conducted in accordance with the Federal Rules of Civil Procedure and the Local Rules and Orders of the MDL Court, including the MDL Discovery Orders, all as interpreted by the MDL Court. Parties in the MDL Proceeding and their counsel may also participate in discovery in any Coordinated Action as set forth in this Order. Counsel in any Coordinated Action may, at the appropriate time and following the appropriate Orders, submit time and expenses expended for the common benefit pursuant to the MDL Order (ECF No. 13 (14-MD-2543, Docket No. 304)).[2] Specifically, and not by way of limitation, any lawyer seeking recovery of time or expenses as common benefit work in this MDL for time or expenses spent on work in a Related Case must contact the MDL Lead Counsel before conducting such work or incurring such expenses, and must comply with the authorization and reporting requirements set forth in this Order. Should there be an assessment in a Coordinated Action, any attorney will be subject to only one assessment order. MDL Lead Counsel should work with counsel in a Coordinated Action to resolve any issue related to multiple jurisdictions' assessments.

5. The parties in a Coordinated Action may take discovery (whether directed to the merits or class certification) in a Coordinated Action only upon leave of the Court in which the Coordinated Action is pending. Such leave shall be obtained on noticed motion for good cause shown, including why the discovery sought could not have been obtained in coordinated discovery in the MDL Proceeding.

B. Use of Discovery Obtained in the MDL Proceeding

6. Counsel representing the plaintiff or plaintiffs in a Coordinated Action will be entitled to receive all discovery taken in the MDL Proceeding, provided that such discovery

[2] Nothing herein is intended to presume that any judgment of liability shall be entered now or in the future against any defendant or that any common benefit fund shall ever be created. Defendants expressly reserve all rights in this regard.

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responses and documents shall be used or disseminated only in accordance with the terms of the MDL Discovery Orders. Counsel representing a party in the MDL Proceeding shall be entitled to receive all discovery taken in any Coordinated Action; any such discovery responses and documents shall be used or disseminated only in accordance with the terms of the MDL Discovery Orders.

7. Requests for documents, interrogatories, depositions on written questions, and requests for admission propounded in the MDL Proceeding will be deemed to have been propounded and served in the Coordinated Actions as if they had been propounded under the applicable civil discovery rules of the respective jurisdictions. Requests for documents, interrogatories, depositions on written questions, and requests for admission propounded in the Coordinated Actions will be deemed to have been propounded and served in the MDL Proceeding as if they had been propounded under the applicable discovery rules of the MDL Court. The parties' responses to such requests for documents, interrogatories, depositions on written questions, and requests for admission will be deemed to be made in the MDL Proceeding and in the Coordinated Actions and may be used in the MDL Proceeding and in the Coordinated Actions, subject to and in accordance with the terms of the MDL Discovery Orders, as if they had been taken under the applicable civil discovery rules of the respective jurisdictions.

8. Depositions taken in the MDL Proceeding may be used in the Coordinated Actions, subject to and in accordance with the terms of the MDL Discovery Orders, as if they had been taken under the applicable civil discovery rules of the respective jurisdictions. Depositions taken in a Coordinated Action may be used in the MDL Proceeding, subject to and in accordance with the terms of the MDL Discovery Orders, as if they had been taken under the applicable discovery rules of the MDL Court.

C. Service and Coordination Among Counsel

9. The MDL Court has previously appointed Lead Counsel for Plaintiffs, Plaintiff Liaison Counsel, and Federal/State Liaison Counsel in the MDL Proceeding (those counsel are identified in the attached Exhibit B). Defendants shall file with the MDL Court and serve upon Lead Plaintiff Counsel, Plaintiff Liaison Counsel, and Federal/State Liaison Counsel in the MDL Proceeding copies of all Complaints, Coordination Orders, Protective Orders, ESI Orders or other Discovery Orders, and Orders designating plaintiffs' liaison counsel that are entered in the Coordinated Actions on the first of every month. Service may be made by electronic means.[3]

10. Any Court in a Coordinated Action wishing to grant the parties before it access to coordinated discovery may do so by joining this Order pursuant to paragraph 32 and appointing one Plaintiffs' Liaison Counsel or designating one plaintiffs' counsel from the Coordinated Action to work with Plaintiff Liaison Counsel and Federal/State Liaison Counsel to facilitate coordination of discovery in the Coordinated Action and discovery in the MDL Proceeding.

11. Plaintiffs' Federal/State Liaison Counsel in the MDL Proceeding shall promptly serve upon Plaintiffs' Liaison Counsel (if any) or designated plaintiffs' counsel in each Coordinated Action all discovery requests (including requests for documents, interrogatories, depositions on written questions, requests for admission, and subpoenas *duces tecum*), responses and objections to discovery requests; deposition notices; correspondence or other papers modifying discovery requests or schedules; and discovery motions (*i.e.*, motions under Rules 26 through 37 or Rule 45 of the Federal Rules of Civil Procedure) or requests for hearing on discovery disputes regarding coordinated discovery matters that are served upon the parties

[3] All forms of service made under this Joint Coordination Order shall be deemed mailed in accordance with Rule 6 of the Federal Rules of Civil Procedure.

in the MDL Proceeding. Service may be made by electronic means upon Plaintiffs' Liaison Counsel in each Coordinated Action. Deposition notices shall be served by e-mail, facsimile or other electronic means. Plaintiffs' Liaison Counsel in the Coordinated Actions shall be responsible for distributing such documents to other counsel for plaintiffs in their respective actions.

12. Plaintiffs' Federal/State Liaison Counsel in the MDL Proceeding shall maintain a log of all Orders entered in the MDL Proceeding and all discovery requests and responses sent and received in the MDL Proceeding and shall transmit a copy of said log by e-mail or other electronic means to Plaintiffs' Liaison Counsel in each Coordinated Action by the seventh (7th) day of each month, or on a more frequent basis upon written request. Plaintiffs' Federal/State Liaison Counsel in the MDL Proceeding will promptly transmit a copy of each Order entered in the MDL Proceeding to Plaintiffs' Liaison Counsel in the Coordinated Actions.

13. In order to facilitate the dissemination of information and Orders in the MDL, the MDL Court — or the parties if the MDL Court so prefers — will create and maintain a website devoted solely to this MDL.[4] The site will contain sections through which the parties, counsel, and the public may access Court Orders, Court opinions, Court minutes, Court calendars, frequently asked questions, court transcripts, the MDL docket, current developments, information about leadership in the MDL, and appropriate contact information.

14. To encourage communication between this Court and any Coordinated Action Court, one section of the website may be accessible only to judges in any Coordinated Action

[4] *See, e.g.,* Website for *In re Actos (Pioglitazone) Prods. Liab. Litig.*, MDL No. 2299, *available at* http://www.lawd.uscourts.gov/welcome-web-site-mdl-no-2299; Website for *In re Oil Spill by the Oil Rig "Deepwater Horizon"*, MDL 2179, *available at* http://www.laed.uscourts.gov/OilSpill/OilSpill.htm.

and Judge Furman. Additionally, each status conference will be open to the judge in any Coordinated Action, who will be provided a separate call-in number from the general public to allow Coordination Action judges to listen to, if not participate in, the status conference. Plaintiffs' Federal-State Liaison Counsel will notify all Coordinated Action Courts of each status conference and provide the appropriate call-in number. Plaintiffs' Federal-State Liaison Counsel will also promptly transmit a copy of each Order entered in the MDL Proceeding to the judges in all Coordinated Actions.

D. Participation in Depositions in the MDL Proceeding

15. All counsel are expected to cooperate with and be courteous to each other and deponents in both scheduling and conducting depositions. Counsel may agree to use videoconferencing or other technology to conduct depositions remotely, in order to reduce the time and cost burden of travel for the deponent and counsel. Lead Counsel and counsel for the Defendants shall further meet and confer in good faith to propose a more detailed deposition protocol for depositions in the Coordinated Actions. The detailed deposition deposition protocol shall be entered by separate Order.

16. Each deposition taken in the MDL Proceeding shall, absent leave of the MDL Court: (i) be conducted on reasonable written notice, to be served, electronically or otherwise, on Plaintiffs' Liaison Counsel in each Coordinated Action in accordance with the provisions of paragraph 9 above; (ii) be subject to the time limits prescribed by Rule 30(d)(1) of the Federal Rules of Civil Procedure; and (iii) be conducted pursuant to the Federal Rules of Civil Procedure and under the terms of the MDL Discovery Orders, all as interpreted by the MDL Court.

17. At least one Lead Counsel for the MDL Plaintiffs, or their designee, and MDL Plaintiffs' Federal/State Liaison Counsel or Plaintiffs' Liaison Counsel, shall confer with Plaintiffs' Liaison Counsel in the Coordinated Actions, or their designees, in advance of each

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deposition taken in the MDL Proceeding, taking such steps to cooperate on selecting a mutually convenient date and location, and taking such steps as may be necessary to avoid multiple interrogatories and duplicative questions, and to avoid to the extent practicable additional depositions in the Coordinated Actions.

18. Counsel representing the plaintiff or plaintiffs in a Coordinated Action shall be permitted to attend any deposition scheduled in the MDL Proceeding. One Plaintiffs' Counsel from each Coordinated Action shall be permitted a reasonable amount of time to question the deponent in those depositions following questioning by Lead Counsel for the MDL Plaintiffs, or their designee, and shall be permitted to make objections during examination by other counsel, in accordance with the Federal Rules of Civil Procedure, the Local Rules of the Southern District of New York, and the Orders of the MDL Court entered in the MDL Proceeding, and in accordance with the terms and procedures set forth in subparts (a) through (c) below providing that:

(a) the court in which the Coordinated Action is pending has adopted the MDL Discovery Orders or has entered a Protective Order, ESI Order or other Discovery Order substantially similar to the MDL Discovery Orders;

(b) Plaintiffs' Counsel from the Coordinated Action shall make best efforts to ask questions that are non-duplicative of questions already asked at the deposition; and

(c) participation of Plaintiffs' Counsel from the Coordinated Actions shall be arranged so as not to delay discovery or other proceedings as scheduled in the MDL Proceeding.

19. Counsel representing any party to any Coordinated Action may obtain from the MDL 2543 Document Depository or directly from the court reporter, at its own expense, a

transcript of any deposition taken in the MDL Proceeding or in any other Coordinated Action. The transcript of any deposition taken in the MDL Proceeding shall not be used or disseminated except in accordance with the terms of this Order and the MDL Discovery Orders.

20. Depositions in addition to those taken in the MDL Proceeding (whether directed to the merits or class certification) may be taken in a Coordinated Action only upon leave of the court in which the Coordinated Action is pending, obtained on noticed motion for good cause shown, including why the discovery sought could not have been obtained in coordinated discovery in the MDL Proceeding. The transcript of any such deposition shall not be used or disseminated except in accordance with the terms of the MDL Discovery Orders.

21. If depositions in addition to those taken in the MDL Proceeding are permitted in a Coordinated Action, the noticing party shall provide reasonable written notice, by e-mail or other electronic means, to Plaintiff Liaison Counsel and Plaintiffs' Federal/State Liaison Counsel in the MDL Proceeding and all Liaison Counsel in the other Coordinated Actions. Counsel representing parties in the MDL Proceeding and counsel representing plaintiffs in each other Coordinated Action shall be entitled to attend the deposition of any witness whose deposition is taken in a Coordinated Action and, following questioning by Plaintiffs' Counsel in the Coordinated Action, one counsel representing the MDL Plaintiffs, one counsel representing each MDL Defendant, and one Plaintiffs' Counsel from each Coordinated Action shall each be permitted a reasonable amount of time to ask non-duplicative additional questions and shall be permitted to make objections during examination by other counsel.

22. If the MDL Plaintiffs, through Plaintiff Liaison Counsel or Plaintiffs' Federal/State Liaison Counsel, or the MDL Defendants have been provided with reasonable notice of and opportunity to participate in a deposition taken in any Coordinated Action, no MDL Plaintiff or MDL Defendant shall be permitted to re-depose that deponent without first obtaining an Order of the MDL Court upon a showing of good cause therefor. Any party or

witness receiving notice of a deposition which it contends is not permitted by the terms of this Order shall have seven (7) days from receipt of the notice within which to serve the noticing party with a written objection to the deposition. In the event of such an objection, the deposition shall not go forward until the noticing party applies for and receives an order from the MDL Court, if the notice was issued in the MDL proceeding, or in the Coordinated Action Court, if the notice was issued in a Coordinate Action, granting leave to take the deposition.

23. If the MDL Plaintiffs or MDL Defendants and their respective Counsel in any Coordinated Action have received reasonable notice of a deposition in either the MDL Proceeding or any Coordinated Action, such deposition may be used in the MDL Proceeding and each Coordinated Action for all purposes permitted under the jurisdiction's applicable rules without regard to whether any MDL Plaintiffs' Counsel or any MDL Defendants' Counsel or any counsel representing plaintiffs or defendants in any Coordinated Action attend or cross-examine at the noticed deposition.

E. Participation in Written Discovery in the MDL Proceeding

24. At least one Co-Lead Counsel for the MDL Plaintiffs, or their designee, and Plaintiffs' Federal/State Liaison Counsel, shall confer with Plaintiffs' Liaison Counsel in the Coordinated Actions, or their designees, in advance of the service of requests for written discovery in the MDL Proceeding, taking such steps as may be necessary to avoid additional interrogatories, depositions on written questions, requests for admission and requests for documents in the Coordinated Actions.

25. Plaintiffs' Liaison Counsel in any Coordinated Action may submit requests for documents, interrogatories, depositions on written questions and requests for admission to MDL Co-Lead Counsel for Plaintiffs and Plaintiffs' Federal/State Liaison Counsel for inclusion in the requests for documents, interrogatories, depositions on written questions,

and requests for admission to be propounded in the MDL Proceeding. Such requests shall be included in the requests propounded in the MDL Proceeding, provided that:

(a) the requests for documents, interrogatories, depositions on written questions and/or requests for admission are submitted to MDL Plaintiff Liaison Counsel and Plaintiffs' Federal/State Liaison Counsel within ten (10) calendar days after MDL Plaintiff Liaison Counsel have notified Plaintiffs' Liaison Counsel in the Coordinated Actions of MDL Plaintiffs' intent to serve such discovery; and

(b) the requests are non-duplicative of requests proposed by MDL Plaintiffs' Co-Lead Counsel.

The number of interrogatories permitted in the MDL Proceeding will be subject to such limitations as are imposed by Rule or Order of the MDL Court.

26. Requests for documents, interrogatories, depositions on written questions and requests for admission in addition to those served in the MDL Proceeding (whether directed to the merits or class certification) may be propounded in a Coordinated Action only upon leave of the court in which the Coordinated Action is pending, obtained on noticed motion for good cause shown, including why the discovery sought could not have been obtained in coordinated discovery in the MDL Proceeding. A motion for leave to serve additional document requests, interrogatories, depositions on written questions and/or requests for admission which were proposed by Plaintiffs' Liaison Counsel in a Coordinated Action in accordance with paragraph 25 and which were not included in the discovery requests served by Lead Counsel in the MDL Proceeding shall be filed in the court on notice within twenty-one (21) calendar days of service of the Lead Counsel's discovery request from which those requests for documents, interrogatories, depositions on written questions and/or requests for admission were omitted.

27. All parties to the MDL Proceeding shall be entitled to receive copies of responses to interrogatories, responses to depositions on written questions, responses to

requests for admission, and documents produced in any Coordinated Action. Any party or counsel otherwise entitled under this order to receive copies of discovery from other parties or counsel shall reimburse the producing party for actual out-of pocket costs incurred in connection with the copying and shipping of such discovery (including but not limited to document productions) and shall use such materials only in accordance with the terms of the MDL Discovery Orders.

28. Any counsel representing a plaintiff in a Coordinated Action shall, in accordance with any Orders of the MDL Court entered in the MDL Proceeding and subject to the terms of the MDL Discovery Orders, have access to any document depository that may be established by the parties to the MDL Proceeding.

F. Discovery Dispute Resolution

29. Prior to any party in the MDL filing a discovery motion, the parties must first attempt to resolve the dispute in good faith and in accordance with the procedures and requirements outlined in the Court's Individual Rules and Practices in Civil Cases and the Court's standard Case Management Plan and Scheduling Order, both of which are available at http://www.nysd.uscourts.gov/judge/Furman.

30. In the event that the parties are not able to resolve any disputes that may arise in the coordinated pretrial discovery conducted in the MDL Proceeding, including disputes as to the interpretation of the MDL Discovery Orders, such disputes will be presented to the MDL Court. Resolution of such disputes shall be pursuant to the applicable federal or state law, as required, and such resolution may be sought by any party permitted by this Order to participate in the discovery in question. In the event that additional discovery is sought in a Coordinated Action and the parties to that action are not able to resolve any discovery disputes that may arise in connection with that additional discovery, such disputes will be presented to the Court

in which that Coordinated Action is pending in accordance with that jurisdiction's rules and procedures.

31. Nothing contained herein shall constitute or be deemed to constitute a waiver of any objection of any defendant or plaintiff to the admissibility at trial, of any documents, deposition testimony or exhibits, or written discovery responses provided or obtained in accordance with this Order, whether on grounds of relevance, materiality or any other basis, and all such objections are specifically preserved. The admissibility into evidence in any Coordinated Action of any material provided or obtained in accordance with this Order shall be determined by the Court in which such action is pending.

G. Implementing This Order

32. Any court before which a Coordinated Action is pending may join this Order, thereby authorizing the parties to that Coordinated Action to participate in coordinated discovery as and to the extent authorized in this Order.

33. Each Court that joins this Order shall retain jurisdiction to modify, rescind, and/or enforce the terms of this Order.

SO ORDERED.

Date: September 24, 2014
New York, New York

JESSE M. FURMAN
United States District Judge

Attachments:

Exhibit A: MDL Discovery Orders
Exhibit B: MDL Co-Lead Counsel, Plaintiff Liaison Counsel, and Federal/State Liaison Counsel

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EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

This Document Relates To All Actions

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

ORDER NO. 10

JESSE M. FURMAN, United States District Judge:

[Protecting Confidentiality and Privileged Materials]

Defendants and Lead Counsel for the Multidistrict Litigation ("MDL") 2543 Plaintiffs having consented thereto, and for good cause shown,

WHEREAS, the Court has advised all Parties that there is a presumption in favor of public access, particularly in a case of this nature, and that unless the Court determines — based on a written application — that there is a reason justifying something be filed in redacted form or under seal, any filings are public and publicly available to the press and the public alike; and

WHEREAS, it is the Court's sole province to authorize a pleading and/or document to be filed under seal; the Court grants this protective order recognizing that Defendants intend to include "blanket confidential designations" so as to immediately provide bulk production of millions of pages of documents. Plaintiffs will be allowed to challenge any specific document designation as discovery proceeds within the framework of this Order;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the documents and other information, including the substance and content thereof, designated by any party as confidential and proprietary, and produced by that party in response to any formal or informal request for discovery in any of the cases consolidated in the above-captioned MDL 2543, shall be subject to the terms of this Consent Protective Order ("Protective Order" or "Order"), as set forth below:

The purpose of this Order is to expedite the flow of discovery material, facilitate the prompt resolution of disputes over confidentiality and privilege, and protect material to be kept confidential or privileged, pursuant to the Court's inherent authority, its authority under Federal Rule of Civil Procedure 26(c) and Federal Rule of Evidence 502(d), and the judicial opinions interpreting such Rules.

I. CONFIDENTIALITY.

1. *Information*. "Information" includes the contents of documents and other data, any data and information associated with documents (whether physical or in electronic format), oral and written testimony, answers to interrogatories, admissions, and data and information derived from objects other than documents, produced or disclosed in these proceedings by any party to the above-captioned litigation or by any third party (the "Producing Party") to any other party or parties, subject to the provisions in Paragraphs 5 and 6 of this Order (the "Receiving Party").

2. *Confidentiality Designations*. This Order covers Information that the Producing Party designates "Confidential" or "Highly Confidential." Information may be designated as Confidential when (i) the Producing Party reasonably believes that the Information constitutes, reflects, discloses or contains Information subject to protection under Federal Rule of Civil Procedure 26(c) or other confidential, non-public information, or (ii) the Producing Party reasonably believes that the documents or information includes material protected by federal, state, or foreign data protection laws or other privacy obligations, including (but not limited to) consumer and third-party names, such as the first and last names of persons involved in an accident or of other individuals not directly involved in an accident but included in documents related to an accident; Social Security Numbers; health information relating to the past, present or future physical or mental health or condition of an individual; the provision of health care to an

individual, or the past, present or future payment for the provision of health care to an individual; driver's license or other identification numbers; personal financial information such as tax information, bank account numbers, and credit card numbers; insurance claim numbers; insurance policy numbers; VIN numbers; or the personal email addresses or other contact information of GM board members and employees ("Personal Information"). Information may be designated as Highly Confidential when: (i) the Producing Party reasonably believes that the documents or information contain competitively sensitive information regarding future product designs or strategies, commercial or financial information, or other sensitive information, the disclosure of which to third party competitors may result in commercial harm; or (ii) the Producing Party reasonably believes that the documents or information includes Personal Information. Subject to provisions of Paragraph 3(b), the parties shall make Confidential and Highly Confidential designations in good faith to ensure that only those documents that merit Confidential or Highly Confidential treatments are so designated.

3. *Procedure for Confidentiality Designations.*

(a) *Designation*. To designate Information as Confidential or Highly Confidential, a Producing Party must mark it or identify it on the record as such. Either designation may be withdrawn by the Producing Party.

(b) *Bulk Designation*. To expedite production of potentially voluminous materials — such as the productions referenced in Paragraph 11(d) — a Producing Party may, but is not required to, produce materials without a detailed confidentiality review, subject to the "clawback" procedures in Paragraphs 3(f) and 10 of this Order or as otherwise agreed to. In so doing, the Producing Party may designate those collections of documents that by their nature contain "Confidential" or "Highly Confidential"

Information with the appropriate designation notwithstanding that some of the documents within the collection may not qualify for such designation. The materials that may be so designated shall be limited to the types or categories of documents that the Producing Party reasonably believes may contain Highly Confidential Information, as defined in Paragraph 2 of this Order. Notwithstanding the foregoing, a Receiving Party may at any time challenge the designation of one or more particular documents as Confidential or Highly Confidential on the grounds that it does not or they do not qualify for such protection. If the Producing Party agrees, it must promptly notify all Receiving Parties that it is withdrawing or changing the designation.

(c) *Marking*. All or any part of a document, tangible object, discovery response, or pleading disclosed, produced, or filed by a Producing Party may be designated Confidential or Highly Confidential by marking the appropriate legend ("CONFIDENTIAL" or "HIGHLY CONFIDENTIAL") on the face of the document and each page so designated. With respect to tangible items or electronically stored Information produced in native format, the appropriate legend shall be marked on the face of the tangible item or media containing electronically stored Information, if practicable, or by written notice to the Receiving Party at the time of disclosure, production or filing that such tangible item or media is Confidential or Highly Confidential or contains such Information.

(d) *Redaction*. Any Producing Party may redact from the documents and things it produces any Highly Confidential Information, as defined in Paragraph 2, or any matter that the Producing Party claims is subject to attorney-client privilege, work-product protection, a legal prohibition against disclosure, or any other privilege or immunity. The

Producing Party shall mark each thing where matter has been redacted with a legend stating "REDACTED," "CBI," "PRIVACY," "PII," "NON-RESPONSIVE," "PRIVILEGED," or a comparable notice. Where a document consists of more than one page, each page on which Information has been redacted shall be so marked. The Producing Party shall preserve an unredacted version of each such document. The process for challenging the designation of redactions shall be the same as the process for challenging the designation of Confidential Material and Highly Confidential Material set forth in Paragraph 6. If counsel for the Producing Party agrees that Information initially redacted shall not be subject to redaction or shall receive alternative treatment, or if the Court orders that those materials shall not be subject to redaction or shall receive alternative treatment, and the Information is subsequently produced in unredacted form, then that unredacted Information shall bear the legend "Highly Confidential" and shall continue to receive the protections and treatment afforded to documents bearing the Highly Confidential designation.

(e) *Timing*. Subject to the provisions of Paragraphs 3(f) and 10, documents and other objects must be designated as Confidential or Highly Confidential, and redactions must be applied to Highly Confidential Information, before disclosure. In the event that a Producing Party designates some or all of a witness's deposition testimony as Confidential or Highly Confidential, the specific page and line designations over which confidentiality is claimed must be provided to the Receiving Party within thirty (30) days of receipt of the final transcript, provided, however, that the Receiving Party will consider reasonable requests for an extension of the deadline. Deposition testimony shall be treated as Highly Confidential pending the deadline.

(f) *Errors*. Disclosure of Confidential or Highly Confidential Information does not waive the confidential status of such Information. In the event that Confidential or Highly Confidential Information is disclosed without a marking or designation of it as such, the Producing Party may thereafter assert a claim or designation of confidentiality, and promptly provide replacement media. Thereafter, the Receiving Party must immediately return the original Confidential or Highly Confidential Information and all copies of the same to the Producing Party and make no use of such Information.

4. *Challenges to Confidentiality Designations.* Any party may object to the propriety of the designation of specific material as Confidential or Highly Confidential by serving a written objection upon the Producing Party's counsel. The Producing Party or its counsel shall thereafter, within ten calendar days, respond to such objection in writing by either: (i) agreeing to remove the designation; or (ii) stating the reasons for such designation. If the objecting party and the Producing Party are subsequently unable to agree upon the terms and conditions of disclosure for the material(s) in issue, the objecting party may move the Court for an order withdrawing the designation as to the specific designation on which the Parties could not agree. Counsel may agree to a reasonable extension of the ten-day period, if necessary. On such a motion, the Producing Party shall have the burden of proving that "good cause" exists for the designation at issue and that the material is entitled to protection as Confidential or Highly Confidential Information under applicable law. In the event a motion is filed by the objecting party, the Information at issue shall continue to be treated in the manner as designated by the Producing Party until the Court orders otherwise. A Receiving Party does not waive its right to challenge a Confidential or Highly Confidential designation by electing not to raise a challenge promptly after the original designation is disclosed and may challenge a designation at such time as the Receiving Party deems

appropriate. Each party shall bear its own fees and costs related to any challenges of confidentiality designations under this Protective Order.

5. *Access to Confidential Information.* The Receiving Party may share Confidential Information with only the following persons and entities related to each of the cases consolidated in the above-captioned MDL 2543:

(a) The Court and its staff;

(b) Parties to any of the actions consolidated in the above-captioned MDL 2543;

(c) Parties' counsel;

(d) Counsel (and their staff) for parties to any of the federal or state court actions alleging injuries related to the ignition switch and/or other parts in vehicles recalled by General Motors LLC that are the subject of MDL 2543 ("Related Litigation"), provided that (i) the proposed recipient agrees to be bound by this Order and signs the certificate attached hereto as Appendix A; (ii) the proposed recipient agrees to be bound by any discovery-related or protective Orders, including Federal Rule of Evidence 502(d) Orders, that may be entered in MDL 2543; (iii) counsel for the party that supplies the Confidential Information to such recipient maintains copies of the certificates and a log identifying each such recipient; and (iv) upon a showing by a party that Confidential Information has been used in violation of this Order, counsel shall provide copies of the log and certificate to the Court for *in camera* review;

(e) Court reporters (including audio and video), interpreters, translators, copy services, graphic support services, document imaging services, and database or coding services retained by counsel, provided that these individuals or an appropriate company

official with authority to do so on behalf of the company executes a certification attached hereto as Appendix A;

(f) Special masters;

(g) Mediators;

(h) The direct staff of those identified in Paragraphs 5(c), 5(f), and 5(g);

(i) Deponents and trial witnesses during a deposition or trial who have a reasonable need to see the Confidential Information in order to provide testimony, provided such witness executes a certification in the form attached hereto as Appendix A;

(j) Any expert or consultant, and his, her or its staff, hired by a party for litigation purposes who agrees to be bound by this Order and signs the certificate attached hereto as Appendix A; and

(k) Any other person to whom the Producing Party, in writing, authorizes disclosure.

6. *Access to Highly Confidential Information*. The Receiving Party may share Highly Confidential Information with only the following persons and entities related to each of the cases consolidated in the above-captioned MDL 2543:

(a) The Court and its staff;

(b) Court reporters (including audio and video), interpreters, translators, copy services, graphic support services, document imaging services, and database or coding services retained by counsel, provided that these individuals or an appropriate company official with authority to do so on behalf of the company executes a certification attached hereto as Appendix A;

(c) Mediators and their staff, provided that such persons execute a certification attached hereto as Appendix A;

(d) Co-lead counsel, executive committee members, and liaison counsel in the above-captioned MDL 2543, as well as counsel for parties in Related Litigation, the Receiving Party's external counsel, and a Receiving Party's internal counsel whose primary responsibilities include overseeing litigation in the above-captioned MDL 2543, and their direct staff, provided that (i) the proposed recipient agrees to be bound by this Order and signs the certificate attached hereto as Appendix A; (ii) the proposed recipient agrees to be bound by any discovery-related or protective Orders, including Federal Rule of Evidence 502(d) Orders, that may be entered in MDL 2543; (iii) counsel for the party that supplies the Highly Confidential Information to such recipient maintains copies of the certificates and a log identifying each such recipient; and (iv) upon a showing by a party that Highly Confidential Information has been used in violation of this Order, counsel shall provide copies of the log and certificate to the Court for *in camera* review;

(e) Persons who prepared, received, or reviewed the Highly Confidential Information prior to its production and who execute a certification in the form attached hereto as Appendix A;

(f) A witness during a hearing, a deposition, or preparation for a deposition who is a current employee of the Party that produced the applicable document(s) or who appears, based upon the document itself or testimony in a deposition, to have specific knowledge of the contents of the documents designated "HIGHLY CONFIDENTIAL," provided such witness executes a certification in the form attached hereto as Appendix A;

(g) Outside experts, consultants, or other agents retained by a party for litigation purposes, provided such expert, consultant, or agent executes a certification in the form attached hereto as Appendix A; and

(h) Any other person to whom the Producing Party, in writing, authorizes disclosure.

7. *Use of Confidential and Highly Confidential Information*.

(a) *Restricted to This Proceeding and Related Litigation.* Confidential Information and Highly Confidential Information must be used only in this proceeding, or in any Related Litigation, except that nothing in this Protective Order shall be construed as limiting any party from disclosing a potential safety defect to an appropriate government agency.

(b) *Acknowledgement*. Subject to the restrictions contained in Paragraphs 5 and 6, the persons identified in Paragraphs 5 and 6 may receive or review Confidential or Highly Confidential Information. All persons specifically designated in Paragraphs 5 and 6 must execute the certificate attached hereto as Appendix A or affirm on the record that he or she will not disclose Confidential or Highly Confidential Information revealed during a deposition and will keep the transcript confidential.

(c) *Filings.* All parties shall make reasonable efforts to avoid requesting the filing of Confidential or Highly Confidential Information under seal by, for example, redacting or otherwise excluding from a submission to the Court any such Information not directly pertinent to the submission. Where not reasonably possible, any Party wishing to file a document or paper containing Confidential or Highly Confidential Information may request by motion that such Information be filed under seal.

(d) *Hearings*. In the event that a Receiving Party intends to utilize Confidential or Highly Confidential Information during a pre-trial hearing, such Receiving Party shall provide written notice no less than five days prior to the hearing, to the Producing Party and to the Court, except that shorter notice may be provided if the Receiving Party could not reasonably anticipate the need to use the document at the hearing five days in advance, in which event notice shall be given immediately upon identification of that need. The use of such Confidential or Highly Confidential Information during the pre-trial hearing shall be determined by agreement of the parties or by Order of the Court.

(e) *Trial*. The use of Confidential or Highly Confidential Information during the trial shall be determined by Order of the Court.

(f) *Subpoena by Other Courts or Agencies*. If another court or an administrative agency subpoenas or otherwise orders production of Confidential or Highly Confidential Information that any Party or other person has obtained under the terms of this Order, the Party or other person to whom the subpoena or other process is directed must notify the Producing Party in writing within five days of all of the following: (a) the discovery materials that are requested for production in the subpoena; (b) the date by which compliance with the subpoena is requested; (c) the location at which compliance with the subpoena is requested; (d) the identity of the party serving the subpoena; and (e) the case name, jurisdiction and index, docket, complaint, charge, civil action or other identification number or other designation identifying the litigation, administrative proceeding or other proceeding in which the subpoena or other process has been issued. Confidential or Highly Confidential Information shall not be produced prior to the receipt of written notice by the Producing Party and after a reasonable opportunity to object has been offered. Further, the

party or person receiving the subpoena or other process will cooperate with the Producing Party in any proceeding related thereto. The Producing Party will bear the burden and all costs of opposing the subpoena on grounds of confidentiality.

8. *Return of Discovery Materials*. Within ninety days of the termination of any party from all proceedings in this proceeding, that party, its employees, attorneys, consultants and experts must destroy or return (at the election of the Receiving Party) all originals and/or copies of documents with Confidential Information or Highly Confidential Information, provided however, that the obligation to destroy or return such documents that is imposed on counsel, consultants and experts representing multiple parties shall not occur until the last of their represented parties has been terminated from the foregoing referenced proceedings. At the written request of the Producing Party, any person or entity having custody or control of recordings, notes, memoranda, summaries or other written materials, and all copies thereof, related to or containing discovery materials produced by the Producing Party (the "Discovery Materials") shall deliver to the Producing Party an affidavit certifying that reasonable efforts have been made to assure that all Discovery Materials (except for privileged communications, work product and court-filed documents as stated above) have been destroyed or delivered to the Producing Party in accordance with the terms of this Protective Order. A Receiving Party is permitted to retain a list of the documents by Bates Number that are produced by a Producing Party under this Protective Order.

II. PRIVILEGES.

9. *No Waiver by Disclosure*.

(a) This Order is entered, *inter alia*, pursuant to Rule 502(d) of the Federal Rules of Evidence. If a Producing Party discloses information in connection with the pending litigation that the Producing Party thereafter claims to be privileged or protected

by the attorney-client privilege or attorney work product protection ("Disclosed Protected Information"), the disclosure of the Disclosed Protected Information shall not constitute or be deemed a waiver or forfeiture of any claim of privilege or work product protection that the Producing Party would otherwise be entitled to assert with respect to the Disclosed Protected Information and its subject matter in this proceeding or in any other federal or state proceeding.

(b) A Producing Party may assert in writing attorney-client privilege or work product protection with respect to Disclosed Protected Information. The Receiving Party must—unless it contests the claim of attorney-client privilege or work product protection in accordance with sub-paragraph (c)—within five business days of receipt of that writing, (i) return or destroy all copies of the Disclosed Protected Information, and (ii) provide a certification of counsel that all of the Disclosed Protected Information has been returned or destroyed. Within five business days of receipt of the notification that the Disclosed Protected Information has been returned or destroyed, the Producing Party must produce a privilege log with respect to the Disclosed Protected Information.

(c) If the Receiving Party contests the claim of attorney-client privilege or work product protection, the Receiving Party must — within five business days of receipt of the claim of privilege or protection — move the Court for an Order compelling disclosure of the Disclosed Protected Information (a "Disclosure Motion"). The Receiving Party must seek to file the Disclosure Motion under seal and must not assert as a ground for compelling disclosure the fact or circumstances of the disclosure, and may not disclose, rely on or refer to any of the Disclosed Protected Information. Pending resolution of the Disclosure Motion, the Receiving Party must sequester the Disclosed Protected Information and not

use the Disclosed Protected Information or disclose it to any person other than as required by law.

(d) The parties may stipulate to extend the time periods set forth in sub-paragraphs (ii) and (iii).

(e) Disclosed Protected Information that is sought to be reclaimed by the parties to this case pursuant to this Order shall not be used as grounds by any third party to argue that any waiver of privilege or protection has occurred by virtue of any production in this case.

(f) The Producing Party retains the burden of establishing the privileged or protected nature of the Disclosed Protected Information. Nothing in this paragraph shall limit the right of any party to petition the Court for an *in camera* review of the Disclosed Protected Information.

10. Receiving Party's Obligation. Nothing in this Order shall relieve counsel for any Receiving Party of any existing duty or obligation, whether established by case law, rule of court, regulation or other source, to return, and not to review, any privileged or work product materials without being requested by the Producing Party to do so. Rather, in the event a Receiving Party becomes aware that it is in possession of what appears to be privileged documents or materials, then counsel for the Receiving Party shall immediately: (i) cease any further review or use of that document or material and (ii) notify the Producing Party of the apparent production of Disclosed Protected Information, requesting whether the documents or materials are Disclosed Protected Information. In the event the Producing Party confirms the documents or material are Disclosed Protected Information, the Receiving Party shall (i) promptly return or destroy all copies of the

Disclosed Protected Information in its possession and (ii) take reasonable steps to retrieve all copies of the Disclosed Protected Information distributed to other counsel or non-parties.

11. *Privilege Log Production*.

(a) Unless otherwise provided in this Order, any document falling within the scope of any request for production or subpoena that is withheld on the basis of a claim of attorney-client privilege, work product, or any other claim of privilege or immunity from discovery is to be identified by the Producing Party on a privilege log, which the Producing Party shall produce in an electronic format that allows text searching. For administrative purposes, an e-mail thread contained within a single document need only be recorded once on the Producing Party's privilege log, even if a privilege is asserted over multiple portions of the thread. Redacted documents need not be logged as long as (a) for emails, the bibliographic information (i.e. to, from, cc, bcc, recipients, date and time) is not redacted, and the reason for the redaction is noted on the face of the document; and (b) for non-email documents, the reason for the redaction is noted on the face of the document. Documents that are redacted shall be identified as such in a "redaction" field in the accompanying data load file.

(b) Privilege log identification is not required for work product created by counsel, or by an agent of counsel other than a party, after January 31, 2014, or for post-January 31, 2014 communications exchanged between or among: (i) the Producing Party and their counsel; (ii) counsel for the Producing Party; (iii) counsel for Plaintiffs; and/or (iv) counsel for Defendants. Privilege log identification is also not required for: (i) communications between a Producing Party and its counsel in proceedings other than MDL 2543; (ii) work product created by a Producing Party's counsel, or by an agent or contractor

of counsel other than the Producing Party, in proceedings other than MDL 2543; (iii) internal communications within: (a) a law firm representing a party or (b) a legal department of a party that is a corporation or another organization.

(c) In order to avoid unnecessary cost, the parties are encouraged to identify categories of privileged information that may be logged categorically rather than document-by-document. (*See* Advisory Committee Note to Fed. R. Civ. P. 26(b)(5) (1993).) The parties shall meet and confer on this issue and raise with the Court either: (i) agreements reached with respect to documents that the parties have agreed to log by category, or (ii) proposals for logging other than document-by-document that have been proposed by one or more Producing Parties, but which have not been agreed to by the Receiving Parties. The parties should keep in mind that the Court's intention is to enable the parties to minimize the cost and resources devoted to privilege logging, while enabling the Court and Receiving Party to assess the assertions of privilege made by the Producing Party.

(d) The Defendants, where applicable, will post to the MDL 2543 Document Depository privilege logs relating to (i) the productions made in response to the plaintiffs' requests for production in any Related Litigation (as defined in Paragraph 5(d)) at the same time these logs are due in the Related Litigation; (ii) the productions made in response to the National Highway Traffic Safety Administration's pre-August 22, 2014 requests at the same time these logs are due in *Melton v. General Motors LLC*, No. 14A-1197-4 (Ga. Cobb Cnty. St.) ("*Melton*"); and (iii) certain productions made in response to Congressional Committees' pre-August 22, 2014 requests at the same time these logs are due in *Melton*. Thereafter, a Producing Party shall produce privilege logs no later than thirty (30) days

after withholding from production documents pursuant to a claim of privilege, but in any event the Defendants are not required to produce supplemental privilege logs any earlier than sixty (60) days after the initial document production deadline in *Melton*.

III. MISCELLANEOUS.

12. *Violations of the Protective Order by a Receiving Party*. In the event that any person or party violates the terms of this Protective Order, the aggrieved Producing Party should apply to the Court to obtain relief against any such person or party violating or threatening to violate any of the terms of this Protective Order. In the event that the aggrieved Producing Party seeks injunctive relief, it must direct the petition for such relief to this Court. To the extent the same document or categories of documents are at issue in both the above-captioned MDL 2543 and in any Related Litigation, the Parties will attempt first to resolve the issue in the MDL and before this Court. The parties and any other person subject to the terms of this Protective Order agree that this Court shall retain jurisdiction over it and them for the purpose of enforcing this Protective Order.

13. *Violations of the Protective Order by Disclosure of Personal Information*. In the event that any person or party violates the terms of this Protective Order by disclosing Confidential Personal Information or Highly Confidential Information relating to an individual third party, as defined in Paragraph 2 of this Order, or in the event that any person or party breaches the terms of the Protective Order in a manner that requires disclosure to a third party under pertinent privacy laws or otherwise, it shall be the responsibility of the breaching party to contact that third party and to comply with any laws or regulations involving breaches of Personal Information.

14. *Protective Order Remains In Force:* This Protective Order shall remain in force and effect until modified, superseded, or terminated by order of the Court made upon reasonable

written notice. Unless otherwise ordered, or agreed upon by the parties, this Protective Order shall survive the termination of this action. The Court retains jurisdiction even after termination of this action to enforce this Protective Order and to make such amendments, modifications, deletions and additions to this Protective Order as the Court may from time to time deem appropriate.

SO ORDERED.

Date: September 10, 2014
New York, New York

JESSE M. FURMAN
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:
GENERAL MOTORS LLC IGNITION SWITCH LITIGATION
This Document Relates to All Actions

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

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APPENDIX A TO PROTECTIVE ORDER - AGREEMENT

I hereby certify that I have read the Order Protecting Confidentiality ("Order") entered in the above-captioned action and that I understand the terms thereof. I agree to be bound by the Order. If I receive documents or information designated as Confidential or Highly Confidential, as those terms are defined in the Order, I understand that such information is provided to me pursuant to the terms and restrictions of the Order. I agree to hold in confidence and not further disclose or use for any purpose, other than as permitted by the Order, any information disclosed to me pursuant to the terms of the Order. I further agree to submit to the jurisdiction of this Court for purposes of enforcing the Order and agree to accept service of process in connection with this action or any proceedings related to enforcement of the Order by certified letter, return receipt requested, at my principal residence, in lieu of personal service or other methods of service.

I understand that these certifications are strictly confidential, that counsel for each party are maintaining the certifications without giving copies to the other side, and that the parties expressly agreed and the Court ordered that except in the event of a violation of this Order, the parties will make no attempt to seek copies of the certifications or to determine the identities of persons signing them. I further understand that if the Court should find that any disclosure is necessary to investigate a violation of this Order, the disclosure will be limited to outside counsel only, and outside counsel shall not disclose any information to their clients that could tend to identify any certification signatory unless and until there is specific evidence that a particular

signatory may have violated the Order, in which case limited disclosure may be made with respect to that signatory.

_____
(signature)

_____
(print name)

Sworn to and subscribed before me this ____day of _____, 2014.

_____
Notary Public

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

This Document Relates to All Actions

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

ORDER NO. 11

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JESSE M. FURMAN, United States District Judge:

[Regarding Production of Documents and Electronic Data]

WHEREAS, Defendants and Lead Counsel for the Plaintiffs have met and conferred on the procedures and format relating to the production of documents and things, and having agreed on a format for all such productions, it is SO ORDERED:

1. **General Format of Production.** The parties agree to produce documents (including Hard Copy scanned images) in the electronic format described herein. Production to the MDL 2543 Document Depository by a party (the "Producing Party") shall be deemed sufficient to constitute production to all parties (the "Receiving Party").

2. **Hard Copy Scanned Images**. To the extent practicable, Hard Copy scanned images shall be produced in the manner in which those documents were kept in the ordinary course of business. Where Hard Copy scanned images have identification spines, "post-it notes," or any other labels, the information on the label shall be scanned and produced to the extent practicable. The parties will utilize reasonable best efforts to ensure that Hard Copy scanned images in a single production are produced in consecutive Bates number order.

3. **Images**. Images will be produced as Single Page Group IV, 300 DPI, when reasonably practicable, Black and White TIF images named as the Bates number. Page level Bates numbers will be branded in the lower right of the image and additional legends applied to the lower

left or lower center (if applicable). If the Receiving Party encounters a document where color is needed to comprehend the content, the Producing Party will re-produce that document in a color format upon reasonable request. Common file types that will likely require color will be produced in native format as noted below. The following formatting will be applied to Microsoft Office documents:

(a) Word Documents will be imaged showing Track Changes.

(b) Excel files with redactions will be imaged un-hiding any hidden rows and/or columns and/or sheets.

(c) PowerPoint files will be imaged in Notes Pages.

4. **Native Files**. In addition to TIF images, native files will be provided for PowerPoint, and JPG when corresponding images and any embedded items are not redacted. For files that cannot be imaged (e.g., .wav, .mpeg and .avi) or become unwieldy when converted to TIF (e.g., source code, large diagrams, etc.), the producing party will produce a placeholder (a single-page TIF slipsheet indicating that the native item was produced) along with the file itself in native format. Excel and CSV files will only be provided in native format with a placeholder, unless they have redactions. Redacted documents will be produced in TIF format. The native file will be named as the first Bates number of the respective document. The corresponding load file shall include native file link information for each native file that is produced.

5. **Agreed File Types Other Than Database Records**. The Producing Party will process the file types listed in Appendix B, unless processing is disproportionate, or overly broad or unduly burdensome, in which case the parties will meet and confer. The Producing Party will also meet and confer in good faith with the Receiving Party regarding requests to modify the file types listed in Appendix B

6. **Metadata**. A standard Concordance delimited load file (.DAT), with field header information added as the first line of the file, will be provided with each production. Documents will be produced with related metadata (to the extent it exists) as described in the attached Appendix A specifications, unless as otherwise provided herein.

7. **Image Cross Reference**. A standard Opticon (.OPT) file will be provided with each production that contains document boundaries.

(a) Format:

<Bates Number>,<Not Required >,<Relative Path to TIF Image>,<Y if First Page of Document, Else Blank>,,,<If First Page of Document, Total Page Count>

(b) Example:

GM000000001,,\IMAGES\001\GM00000001.TIF,Y,,,,2
GM000000002,,\IMAGES\001\GM00000002.TIF,Y,,,,
GM000000003,,\IMAGES\001\GM00000003.TIF,Y,,,,1

8. **Text**. Document level text files (.TXT) will be provided for each document produced. Text files will be named the first Bates number of the respective document. Extracted text will be provided when it exists for non-redacted documents. OCR Text will be provided for documents when no extracted text exists or when the document is redacted.

9. **De-Duplication**. Data will be de-duplicated across custodians following industry standard de-duplication algorithms. Additional custodians who had a copy prior to de-duplication will be populated in the ALL_CUSTODIANS field.

10. **Related Documents**. Email attachments will be extracted and related back to the respective email via the ATTACH_BEGIN field referenced in Appendix A. Embedded ESI documents (e.g., a spreadsheet embedded within a word processing document) will be extracted and related back to the respective top level parent document (e.g., standalone file, email message,

etc.) via the ATTACH_BEGIN field referenced in Appendix A. Related documents will be produced within a continuous Bates range.

11. **Confidentiality Designations**. If a particular document has a confidentiality designation, the designation shall be stamped on the face of all TIF images pertaining to such document, in the lower left-hand corner of the document, or as close thereto as possible while preserving the underlying image. If the receiving party believes that a confidentiality stamp obscures the content of a document, then the Receiving Party may request that the document be produced with the confidentiality designation in a different position. No party may attach to any filing or any correspondence addressed to the Court (including the Magistrate Judge), or any adverse or third party, or submit as an exhibit at a deposition or any other judicial proceeding, a copy (whether electronic or otherwise) of any document produced by any Producing Party without ensuring that the corresponding Bates number and confidentiality legend, as designated by the Producing Party, appears on the document.

12. **Specialized Databases**. The parties agree to meet and confer regarding the production of reasonably accessible enterprise database-application files (e.g., SQL and SAP) and non-standard ESI responsive to the parties' requests to determine the most reasonable form of production based on the specific circumstances.

13. **Metadata Of Redacted Or Withheld Documents**. When a document or email is redacted or withheld, all metadata on a family level is excluded from the metadata DAT file.

14. **Encoding Format**. Text files, concordance load files, and Opticon image reference files will be provided in UTF-8 encoding.

15. **Search Terms**. Other than the document production referenced in the parties' proposed September 4, 2014 status conference letter (ECF No. 272 § 1), a Producing Party will

produce ESI in its possession according to agreed-upon search term criteria (including custodians and date ranges), except in instances where the parties agree that an alternative reasonable search would be more appropriate. Documents identified by search term criteria may be reviewed for privilege, confidentiality, redactions, and relevance or responsiveness prior to production.

16. **Not Reasonable Accessible Sources**. The parties have taken reasonable steps to identify and/or collect potentially relevant ESI stored on reasonably accessible sources. On or before October 1, 2014, the parties shall provide a description of sources of electronic data which may have potentially relevant information, but which the parties do not intend to search on the basis that such data is alleged to be not reasonably accessible due to burden or cost (in accordance with Rule 26(b)(2)(B)).

17. **ESI Discovery Dispute Resolution.** Prior to bringing any discovery dispute to the Court, the parties must attempt to resolve the dispute on their own, in good faith, and in accordance with the procedures and requirements outlined in the Court's Individual Rules and Practices in Civil Cases and the Court's standard Case Management Plan and Scheduling Order, both of which are available at http://www.nysd.uscourts.gov/judge/Furman.

18. **Disclosed Protected Information And/Or Otherwise Privileged Information**. Information produced pursuant to this Order that is subject to a claim of privilege shall be treated in a manner consistent with any order entered in this matter pursuant to Federal Rule of Civil Procedure 502(d).

19. **Costs of MDL 2543 Production**. The parties shall share the cost of the MDL 2543 Document Depository. Each party shall bear its own costs of production to the MDL 2543 Document Depository.

SO ORDERED.

Dated: September 10, 2014
New York, New York

JESSE M. FURMAN
United States District Judge

DATE_APPT_START				
TIME_APPT_START				

APPENDIX B

123
7Z
ACCDB
ADP
ARJ
BAK
BMP
CSV (to be processed as Microsoft Excel)
DBF
DBX
DOC
DOCX
DOT
DOTM
DOTX
DWG
EML
EXE (only for self-extracting archives)
GIF (will only be processed if it is an attachment to a parent email)
GZ
GZIP
HTM
HTML
ID
JPG
MDB
MHT
MHTML
MPP
MSG
NSF
ODT
OTT
OTH
ODM
ODP
ODG
OTP
ODS
OTS
OST
PDF
PNG (will only be processed if it is an attachment to a parent email)
POT
POTX
POTM

PPD
PPS
PPSM
PPSX
PPT
PPTM
PPTX
PS
PSD
PST
PUB
RAR
RM
RTF
SDW
SHTML
SWF
TAR
TC
TIF
TXT
UOP
UOF
UOS
VMDK
VHD
VSD
WAV
WK1
WKS
WK3
WK4
WPC
WPD
XLS
XLW
XLSB
XLSM
XLSX
XLT
XLTM
XLTX
XPS
Z
ZIP

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EXHIBIT B

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9/23/2015 9:02:15 PM
Hennepin County, MN

Contact Information for Court-Appointed Counsel

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Elizabeth Cabraser

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Office: 415-956-1000 x 2275

Bob Hilliard

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Office: 361-882-1612

Plaintiff Liaison Counsel:

Robin Greenwald

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Office: 212-558-5802

Federal/State Liaison Counsel:

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EXHIBIT C

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

21ST CENTURY INDEMNITY INSURANCE COMPANY A/S/O THOMAS BOCCARD, Plaintiff, v. GENERAL MOTORS LLC, Defendant.	Index No. 159602/14 **ORDER WITH NOTICE OF ENTRY**

PLEASE TAKE NOTICE, that the within is a true copy of an Order of the Honorable Manuel J. Mendez dated April 8, 2015 and entered in the office of the Clerk of the within named Court on April 9, 2015.

Dated: New York, New York
April 9, 2015

Timothy J. McHugh
Lavin O'Neil Cedrone & DiSipio
420 Lexington Avenue
Suite 335
New York, NY 10170
Tel: (212) 319-6898
Fax: (212) 319-6932
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Attorney for Defendant
GENERAL MOTORS LLC

Filed in Fourth Judicial District Court
9/23/2015 9:02:15 PM
Hennepin County, MN

TO: Alan Wenig
Wenig & Wenig, PLLC
150 Broadway, Suite 911
New York, New York 10038
212-374-9840
Attorney for Plaintiff

FILED: NEW YORK COUNTY CLERK 04/09/2015 10:11 AM INDEX NO. 159602/2014
NYSCEF DOC. NO. 13 RECEIVED NYSCEF: 04/09/2015

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: MANUEL J. MENDEZ J.S.C. Justice PART 13

21st Century Indemnity Insurance Co., Et Al.

General Motors LLC

INDEX NO. 159602/14

MOTION DATE

MOTION SEQ. NO. 1

The following papers, numbered 1 to ____, were read on this motion to/for ____

Notice of Motion/Order to Show Cause — Affidavits — Exhibits ____ No(s). ____

Answering Affidavits — Exhibits ____ No(s). ____

Replying Affidavits ____ No(s). ____

Upon the foregoing papers, it is ordered that this motion is decided in Accordance with Annexed Order.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

Dated: 4/8/15

MANUEL J. MENDEZ, J.S.C.

1. CHECK ONE: ..... ☐ CASE DISPOSED ☒ NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: .....MOTION IS: ☐ GRANTED ☐ DENIED ☐ GRANTED IN PART ☐ OTHER
3. CHECK IF APPROPRIATE: ..... ☐ SETTLE ORDER ☐ SUBMIT ORDER
☐ DO NOT POST ☐ FIDUCIARY APPOINTMENT ☐ REFERENCE

STATE OF NEW YORK
SUPREME COURT: COUNTY OF NEW YORK

21ST CENTURY INDEMNITY INSURANCE COMPANY A/S/O THOMAS BOCCARD, Plaintiff, v. GENERAL MOTORS LLC, Defendant.	Index No. 159602/14 **AGREED ORDER REGARDING JOINT COORDINATION**

Upon consideration of the entire record of this matter, and with due consideration to *In Re General Motors LLC Ignition Switch Litigation*, MDL Docket No. 2543, the Court hereby adopts the attached "Joint Coordination Order," which was entered into by the Honorable Jesse M. Furman in the United States District Court for the Southern District of New York on September 24, 2014. Pursuant to the attached Order, parties in the present action may participate in coordinated discovery to the extent authorized by the Order, and this Court hereby retains jurisdiction to modify, rescind, and/or enforce the terms of said Order.

SO ORDERED this 8th day of ~~March~~ April, 2015.

~~Judge Presiding~~ J.S.C.

MANUEL J. MENDEZ
J.S.C.

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9/23/2015 9:02:15 PM
Hennepin County, MN

AGREED:

TERENCE H. DEMARZO
Wenig & Wenig, PLLC
150 Broadway, Suite 911
New York, NY 10038
T: 212.374.9840
Attorney for Plaintiff

TIMOTHY J. MCHUGH
Lavin O'Neil Cedrone & DiSipio
420 Lexington Avenue
Suite 335
New York, NY 10170
T: (212) 319-6898
F: (212) 319-6932
Attorneys for Defendant

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AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

Joanne Peters, being duly sworn, deposes and says:

Deponent is not a party to the action, is over 18 years of age and resides in Fairfield County, Connecticut.

On April 9, 2015, deponent served the within Order With Notice of Entry upon:

Alan Wenig
Wenig & Wenig, PLLC
150 Broadway, Suite 911
New York, New York 10038
212-374-9840
Attorney for Plaintiff

VIA ECF WEBSITE.

Joanne Peters

Sworn to before me this

9th day of April, 2015

TIMOTHY J. MCHUGH

Notary Public, State of New York

No. 02MC506248

Qualified in Suffolk County

Commission Expires July 1, 2018

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EXHIBIT D

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9/23/2015 9:02:15 PM
Hennepin County, MN

In Re Syngenta AG MIR 162 Corn Litigation
Confidential Plaintiff Fact Sheet

CASE NO. (pre-printed)

PLAINTIFF NAME: (pre-printed)

Please complete this form based on the instructions. If additional space is needed to supply the requested information, please attach additional pages to this form. Note that multiple names may be printed above in the "Plaintiff Name" line if claims are being brought by the partners of a partnership. If claims are being asserted by the partners of a partnership, only one form should be completed even if the partnership has several partners. Please provide the Plaintiff's mailing address.

PLAINTIFF'S ADDRESS: _____

_____

Please provide below Plaintiff's Social Security or tax identification numbers. If claims are being asserted by the partners of a partnership, please provide the Social Security or tax identification number of each partner, listing the name of the partner beside each listed Social Security or tax identification number.

ENTITY/INDIVIDUAL NAME	SOCIAL SECURITY # OR TAX ID #

If Plaintiff is a corporation, limited liability company (LLC), limited liability partnership (LLP), or limited partnership (LP), please name the state under whose laws Plaintiff is organized. (Plaintiff would have filed organizational documents with the Secretary of State or Division of Corporations in this state.)

_____

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In Re Syngenta AG MIR 162 Corn Litigation
Confidential Plaintiff Fact Sheet

PART A – COMPLETE PART A IF PLAINTIFF PRODUCED AND SOLD CORN ANY TIME SINCE JANUARY 2011.

A1. Please list all farms on which Plaintiff produced corn from 2011 to 2015 in the first column, providing the FSA number, and the county and state in which the farm is located. Please then provide the number of acres of corn grown on each farm for the following growing seasons. Please list all farms where Plaintiff farmed corn whether or not Plaintiff owned the land:

FSA#	County/State	ACRES OF CORN				
		2011	2012	2013	2014	2015

A2. For each farm provided in response to question A1, please state the variety of corn grown (including the name of the genetically modified seed), acres grown, and whether you owned or leased the land.

FSA #	2011			2012		
	Corn Variety	Acres	Owned/leased	Corn Variety	Acres	Owned/leased

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In Re Syngenta AG MIR 162 Corn Litigation
Confidential Plaintiff Fact Sheet

FSA #	2013			2014		
	Corn Variety	Acres	Owned/leased	Corn Variety	Acres	Owned/leased

FSA #	2015		
	Corn Variety	Acres	Owned/Leased

A3. For each contract for the sale of corn from 2011 to the present, please provide the contract date, number of bushels, how the bushels were priced (seasonal pool, pricing pool, booking contract, basis contract, hedged to arrive contract, cash sale, or other contract), date the corn was priced, the price per bushel, the name and location of the buyer, and the FSA # of the farm(s) the corn was grown on.

Date	No. of Bushels	How Priced	Date Priced	Price	Name & Location of Buyer	FSA #

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In Re Syngenta AG MIR 162 Corn Litigation
Confidential Plaintiff Fact Sheet

Date	No. of Bushels	How Priced	Date Priced	Price	Name & Location of Buyer	FSA #

A4. From the 2011 crop year to the present, have you grown corn that you have not sold? (Yes or No) _____
If so, approximately what percentage of the corn have you not sold? _____

A5. Identify the name, company name and address of any crop or marketing consultant(s) who assisted you with the marketing of your corn from 2011 to the present. If you did not use a marketing consultant(s) please respond "Not Applicable.":

_____

A6. From the 2011 crop year to the present, have you raised livestock? (Yes or No) _____
If so, how much corn has been used in feeding the livestock each year? _____

A7. For each crop year from 2011 to the present, have you been or are you part of an ethanol cooperative? (Yes or No) _____
If so, please state for each year whether you are required to supply a certain amount of corn to the cooperative? _____

A8. From 2011 to the present, have you grown or sold any other crop that was genetically modified? (Yes or No) _____

A9. From 2011 to the present, have you taken any steps to test for the presence of Viptera or Duracade in corn grown or sold by you? (Yes or No) _____

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In Re Syngenta AG MIR 162 Corn Litigation
Confidential Plaintiff Fact Sheet

A10. Do you use email to discuss any of the information described above (and/or do others use email in connection with the information above on behalf of any of your farms)? (Yes or No) _____ If so, please list all email addresses that are or were used?

_____

_____

A11. Do you keep electronic records reflecting any of the information described above? (Yes or No) _____

A12. Please provide the name of the individual completing this form:

_____

Document Request:

1. Please provide documents sufficient to show the corn seed purchased from 2011 to the present.

2. Documents sufficient to show all terms and conditions for all of your sales or contracts for sale of corn after and including 2011 to the present.

3. Documents sufficient to show any cost you believe you have incurred or injury you believe you have suffered as a result of the presence of Viptera or Duracade in corn.

4. Please produce all documents for crop insurance related to corn for the 2013 and 2014 crop years.