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September 30, 2015

**VIA E-MAIL TRANSMISSION  
AND ECF FILING**

The Honorable Robert E. Gerber  
United States Bankruptcy Judge  
United States Bankruptcy Court  
Southern District of New York  
Alexander Hamilton Custom House  
One Bowling Green  
New York, New York 10004

**Re: In re Motors Liquidation Company, et al.  
Case No. 09-50026 (REG)**

**Letter Regarding Update on Related Proceedings**

Dear Judge Gerber:

King & Spalding LLP is co-counsel with Kirkland & Ellis LLP for General Motors LLC (“**New GM**”) in the above-referenced matter. Pursuant to Your Honor’s Endorsed Order dated May 5, 2015 [Dkt. No. 13131], we write to update the Court regarding developments in proceedings relating to New GM’s Motions to Enforce. Specifically, on Tuesday, September 29, 2015, the Ignition Switch Plaintiffs and the Ignition Switch Pre-Closing Accident Plaintiffs filed with the Second Circuit Court of Appeals the *Ignition Switch Plaintiffs’ And Ignition Switch Pre-Closing Accident Plaintiffs’ Unopposed Motion To Expedite These Appeal Proceedings* (“**Expedite Appeal Motion**”). A copy of the Expedite Appeal Motion is attached hereto.

Respectfully submitted,

*/s/ Scott Davidson*

Scott Davidson

SD/hs  
Encl.

Honorable Robert E. Gerber  
September 30, 2015  
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cc: Edward S. Weisfelner  
Howard Steel  
Sander L. Esserman  
Jonathan L. Flaxer  
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Matthew J. Williams  
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William Weintraub  
Steve W. Berman  
Elizabeth J. Cabraser  
Robert C. Hilliard  
Gary Peller

MOTION INFORMATION STATEMENT

Docket Number(s): 15-2844(L), 15-2847(con), 15-2848(con) Caption [use short title]

Motion for: expedited appeal Elliott, et al. v. General Motors LLC, et al. (In re Motors Liquidation Co.)

Set forth below precise, complete statement of relief sought:  
The moving parties respectfully request that this Court set a schedule for briefing and oral argument and grant an exception to its type-volume limitations according to the unopposed proposal described in the Motion.

Groman Plaintiffs; Participating Unitholders; Celestine Elliott, Lawrence Elliott, Berenice Summerville; State of Arizona, People of the State of California, acting by and through Orange County District Attorney Tony Rackauckas; Sesay Plaintiffs; Bledsoe Plaintiffs; Wilmington Trust Company; General Motors LLC

MOVING PARTY: Ignition Switch Plaintiffs and Ignition Switch Pre-Closing Accident Plaintiffs  
 Plaintiff  Defendant  
 Appellant/Petitioner  Appellee/Respondent

OPPOSING PARTY: and other parties  
OPPOSING ATTORNEY: Gary Peller; Steve W. Berman; Arthur Jay Steinberg; Andrew Baker Bloomer; Richard C. Godfrey; Lisa H. Rubin; Aric H. Wu; Gabriel Gillett; Adam H. Offenhardt; Daniel H. Golden; Alexander H. Schmidt

MOVING ATTORNEY: Elizabeth J. Cabraser  
[name of attorney, with firm, address, phone number and e-mail]  
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See Attachment A for a list of attorneys for other parties

Court-Judge/Agency appealed from: U.S. Bankruptcy Court for the Southern District of New York/Judge Robert E. Gerber

Please check appropriate boxes:  
Has movant notified opposing counsel (required by Local Rule 27.1):  
 Yes  No (explain):  
Opposing counsel's position on motion:  
 Unopposed  Opposed  Don't Know  
Does opposing counsel intend to file a response:  
 Yes  No  Don't Know

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:  
Has request for relief been made below?  Yes  No  
Has this relief been previously sought in this Court?  Yes  No  
Requested return date and explanation of emergency:

Is oral argument on motion requested?  Yes  No (requests for oral argument will not necessarily be granted)  
Has argument date of appeal been set?  Yes  No If yes, enter date:

Signature of Moving Attorney: /s/ Elizabeth J. Cabraser Date: 9/29/2015 Service by:  CM/ECF  Other [Attach proof of service]

**Attachment A**

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No. 15-2844

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

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IN RE: MOTORS LIQUIDATION COMPANY,  
*Debtor,*

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IGNITION SWITCH PLAINTIFFS,  
IGNITION SWITCH PRE-CLOSING ACCIDENT PLAINTIFFS,  
*Appellees,*

CELESTINE ELLIOTT, LAWRENCE ELLIOTT, BERENICE SUMMERVILLE,  
*Appellants-Cross-Appellees,*

GROMAN PLAINTIFFS  
*Appellees,*

GENERAL MOTORS LLC,  
*Appellee-Cross-Appellant,*

WILMINGTON TRUST COMPANY,  
*Appellee-Cross-Appellant,*

PARTICIPATING UNITHOLDERS,  
*Creditors-Appellees.*

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**IGNITION SWITCH PLAINTIFFS'  
AND IGNITION SWITCH PRE-CLOSING ACCIDENT PLAINTIFFS'  
UNOPPOSED MOTION TO EXPEDITE THESE APPEAL PROCEEDINGS**

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ON APPEAL FROM THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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*Co-Lead Counsel and Designated Bankruptcy Counsel for  
the Ignition Switch Plaintiffs and  
the Ignition Switch Pre-Closing Accident Plaintiffs*

**CORPORATE DISCLOSURE STATEMENT**

No corporate disclosure statement is required for the Moving Plaintiffs, each of whom is an individual and not a corporate entity.

The Ignition Switch Plaintiffs and Ignition Switch Pre-Closing Accident Plaintiffs<sup>1</sup> (collectively, “Moving Plaintiffs”), by and through their undersigned counsel, respectfully submit this *Unopposed Motion to Expedite These Appeal Proceedings*. If the Court rules favorably on the Unopposed Motion for Redesignation as Appellants, which Moving Plaintiffs filed on September 25, 2015 (Dkt. No. 82 of Dkt. 15-2844(L)), Moving Plaintiffs will be among the appellants in this matter, along with the Elliott Plaintiffs (Dkt. No. 13179) and the States of California and Arizona (“States”) (who jointly filed a motion to intervene as appellants on September 16, 2015 in this Court, *see* Dkt. No. 14).

Specifically, the Moving Plaintiffs request on an unopposed basis that this Court set the following dates for these consolidated appeals (Case Nos. 15-2844; 15-2847; 15-2848):

- All deadlines before Opening Brief: no change;
- Principal Briefs of All Appellants: November 16, 2015<sup>2</sup>;
- Response Briefs of All Appellees and Cross-Appellants<sup>3</sup>: January 11,

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<sup>1</sup> Capitalized terms not otherwise defined in this document have the meanings given in the bankruptcy court’s Decision of April 15, 2015. *See In re Motors Liquidation Co.*, Case No. 09-50026 (REG) (Bankr. S.D.N.Y.) (Dkt. No. 13109).

<sup>2</sup> Depending on the outcome of the pending motions in this Court, this would include the Moving Plaintiffs, the Elliott Plaintiffs (and their co-plaintiffs the Sesay and Bledsoe Plaintiffs, if their pending motion to intervene and join the appeal is granted), the States, and the Groman Plaintiffs.

<sup>3</sup> Cross-Appellants here are New GM and the GUC Parties. Specifically, the Motors Liquidation Company GUC Trust (the “GUC Trust”) benefits certain



- 2016, provided that General Motors LLC (“New GM”) shall have up to 18,000 words for its Response Brief given that it will be responding to at least three Principal Briefs by Appellants, and possibly more ;
- Reply Briefs of All Appellants and Cross-Appellees: February 1, 2016;
  - Reply Briefs for All Appellees and Cross-Appellants: February 22, 2016;
  - Oral Argument: March 8, 2015, or the earliest possible date thereafter.

In support of this Motion, the Moving Plaintiffs state the following:

1. Federal Rule of Appellate Procedure 2 provides:

On its own or a party's motion, a court of appeals may—to expedite its decision or for other good cause—suspend any provision of these rules in a particular case and order proceedings as it directs, except as otherwise provided in Rule 26(b).

Fed. R. App. P. 2. The Courts of Appeal have relied on Rule 2 for expedited proceedings. As Wright & Miller provide:

Rule 2 recognizes that there may be extraordinary situations, involving either the public interest or the concerns of expeditious judicial administration, where it becomes inappropriate to follow the “sometime[s]-leisurely pace” established by the Rules . . . . Courts of appeals have relied on Rule 2 when . . . ordering expedited briefing . . . .

Charles Alan Wright & Arthur R. Miller, 16A Fed. Prac. & Proc. Juris. § 3948 (4th ed. 2015) (footnotes omitted). This Court has regularly provided for expedited

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creditors of Old GM. The “Participating Unitholders” are a subgroup of these creditors; Wilmington Trust Company acts as the GUC Trust’s trustee and administrator (collectively, these are the “GUC Parties”).

briefing schedules when the circumstances justify it. *See, e.g., ABC v. Koch*, 547 F. App'x 46, 48 n.1 (2013).

2. At a status conference on August 28, 2015, the MDL transferee court instructed Plaintiffs and New GM to request that this Court hear this appeal on an expedited basis. Specifically, the district court stated:

I have no authority[,] I am sorry to say[,] over the Circuit itself and I cannot tell it how quickly to proceed. However, I do have authority over you since you are appearing in front of me[,] and I would like you to make a motion to the Circuit requesting that the appeal be done on an expedited basis. That is to say, it is not up to me ultimately whether to grant that motion; but I am directing you to make the motion and to make clear my view that so long as bankruptcy issues are unresolved obviously I think hinders the ultimate resolution of the MDL and the proceedings before me and I think it would be in everybody's interests and my interests and the case management over the MDL for the bankruptcy proceedings to run their course as quickly as possible. So you are welcome to make my views known, not just welcome, in fact you are directed to make my views know[n] by making a motion for expedited appeal. Obviously it up to the Circuit . . . whether to grant that motion and then ultimately up to the Circuit in the first instance to take whatever time it needs to decide the appeals themselves.

Transcript of Aug. 28, 2015 Status Conf., *In re GM Ignition Switch*, No. 14-md-2543-JMF (S.D.N.Y.) (Furman, J.) (Dkt. No. 1366), at 5–6. The court reiterated its directive in a follow-up order. *See* Order No. 77 (Dkt. No. 1349) (“In light of the Second Circuit’s September 9, 2015 Order accepting a direct appeal of the Bankruptcy Court’s Judgment on New GM’s Motions to Enforce, the parties are directed to make a motion for expedited appeal. The parties are also to keep the

Court apprised regarding Bankruptcy proceedings that implicate the bellwether complaints.”).

3. The Moving Plaintiffs and the Cross-Appellants here were delayed in their ability to devise a schedule given the need to properly align the parties with their proper positions, as reflected in the pending Motion to Redesignate.

4. If that Motion is granted, expedited treatment of the issues raised in these consolidated appeals pursuant to the above-proposed schedule is warranted. In keeping with a reasonable but aggressive schedule, Judge Furman has ordered personal injury bellwether trials to begin in January, 2016.<sup>4</sup> While allowing discovery to proceed as relevant to all cases, Judge Furman has stayed motion practice on the operative class action complaint on the economic loss claims pending resolution of the appeals at issue here. *See* Order No. 78 (Dkt. No. 1350) (setting schedule for first bellwether trial); Order No. 28 (Dkt. No. 474) (“defer[ring motion practice] until after [Bankruptcy] Judge Gerber’s decisions”). Moving Plaintiffs submit that among the principal remaining issues in the case are those presented in this appeal, which concern, among others, the interpretation of the Sale Order. This case is one in which the “public interest” in furthering the progress of litigation potentially affecting hundreds of thousands of consumers is served by an expedited appeal.

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<sup>4</sup> It is not anticipated that the appeal of the Bankruptcy Court’s June 1, 2015 Judgment will affect those personal injury bellwether trials.

5. The undersigned have conferred with all other counsel for parties to these consolidated appeal proceedings and has confirmed that no party opposes, and no party intends to make any filing in relation to, this Motion.

**CONCLUSION**

For the foregoing reasons, the Moving Plaintiffs respectfully request that this Court set the expedited schedule reflected on pages 1 and 2 hereof.

Dated: September 29, 2015      Respectfully submitted,

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