

KING & SPALDING LLP
1185 Avenue of the Americas
New York, New York 10036
Telephone: (212) 556-2100
Facsimile: (212) 556-2222
Arthur Steinberg
Scott Davidson

Attorneys for General Motors LLC

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X		
In re	:	Chapter 11
	:	
MOTORS LIQUIDATION COMPANY, <i>et al.</i> ,	:	Case No.: 09-50026 (MG)
f/k/a General Motors Corp., <i>et al.</i>	:	
	:	
Debtors.	:	(Jointly Administered)
-----X		

**GENERAL MOTORS LLC’S STATEMENT OF ISSUE
TO BE PRESENTED ON APPEAL AND DESIGNATION
OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Pursuant to Rule 8009(a) of the Federal Rules of Bankruptcy Procedure, General Motors LLC (“**New GM**”), as Appellant, submits this statement of the issue to be presented on appeal, and designation of items to be included in the record on appeal in connection with New GM’s Notice of Appeal [ECF No. 14705], filed on April 15, 2020, with respect to the *Memorandum Opinion and Order Granting in Part and Denying in Part New GM’s Motion to Enforce the Sale Order with Respect to the Buchanan State Court Complaint*, entered by the United States Bankruptcy Court for the Southern District of New York in the above-referenced case on April 2, 2020 [ECF No. 14702].

I. Statement of Issue to be Presented on Appeal

The issue to be presented on appeal is:

Did the Bankruptcy Court err by holding that plaintiff Buchanan, a used car purchaser who never dealt with New GM, may pursue a punitive damages claim against New GM based upon knowledge inherited from General Motors Corporation (n/k/a Motors Liquidation Company) (“**Old GM**”) even though (i) the District Court has ruled that Old GM as an insolvent debtor could never be liable for punitive damages based upon its employees’ knowledge, and (ii) the November 2019 Second Circuit decision held that New GM cannot be liable for punitive damages based upon successor liability or obligations assumed under the Sale Agreement, which necessarily bars claims premised upon the inherited knowledge of Old GM employees?

II. Designation of Items to be Included in Record on Appeal

New GM submits the following designation of items to be included in the record on appeal (including any exhibit, annex, appendix or addendum thereto):

<u>Item No.</u>	<u>Date Filed</u>	<u>Title</u>	<u>ECF No.</u>
1.	2/04/2020	<i>Motion to Authorize by General Motors LLC to Enforce the Bankruptcy Court's July 5, 2009 Sale Order and Injunction and the Rulings in Connection Therewith, With Respect to Robert Randall Buchanan</i>	14667
2.	3/12/2020	<i>Objection to Motion Robert Randall Buchanan's Objection to Motion by General Motors LLC to Enforce the Bankruptcy Court's July 5, 2019 Sale Order and Injunction and the Ruling in Connection Therewith, with Respect to Robert Randall Buchanan</i>	14684
3.	3/23/2020	<i>Reply to Motion to Enforce the Bankruptcy Court's July 5, 2009 Sale Order and Injunction, and the Rulings in Connection Therewith, With Respect to Robert Randall Buchanan</i>	14689

<u>Item No.</u>	<u>Date Filed</u>	<u>Title</u>	<u>ECF No.</u>
4.	3/31/2020	Transcript Of Telephonic Hearing Re: Motion To Authorize General Motors LLC To Enforce The Bankruptcy Court's July 5, 2009 Sale Order And Injunction And Rulings In Connection Therewith, With Respect To Robert Randall Buchanan	14701
5.	4/2/2020	Memorandum Opinion and Order signed on 4/2/2020 Granting in Part and Denying in Part New GM's Motion to Enforce the Sale Order with Respect to the Buchanan State Court Complain	14702
6.	4/15/2020	Notice of Appeal	14705

Dated: New York, New York
April 29, 2020

Respectfully submitted,

/s/ Arthur Steinberg
Arthur Steinberg
Scott Davidson
KING & SPALDING LLP
1185 Avenue of the Americas
New York, New York 10036
Telephone: (212) 556-2100
Facsimile: (212) 556-2222

Attorneys for General Motors LLC