DOCUMENTS REGARDING COUNTER-DESIGNATION OF RECORD ON APPEAL NOT PREVIOUSLY FILED BUT SUBMITTED TO CHAMBERS IN CONNECTION WITH TRIAL (NEW GM EXHIBITS)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	**Chapter 11 Case No.**
MOTORS LIQUIDATION COMPANY, *et al.*, f/k/a General Motors Corp., *et al.*	:	**09-50026 (REG)**
Debtors.	:	**(Jointly Administered)**
KELLY CASTILLO, NICHOLE BROWN, BRENDA ALEXIS DIGIAN DOMENICO, VALERIE EVANS, BARBARA ALLEN, STANLEY OZAROWSKI, AND DONNA SANTI,	:	**Adv. Proc. No. 09-00509**
Plaintiffs,	:	
v.	:	
General Motors Company, f/k/a New General Motors Company, Inc.,	:	
Defendant.	:	
GENERAL MOTORS LLC,	:	
Counterclaimant,	:	
v.	:	
KELLY CASTILLO, NICHOLE BROWN, BRENDA ALEXIS DIGIAN DOMENICO, VALERIE EVANS, BARBARA ALLEN, STANLEY OZAROWSKI, DONNA SANTI, LAKINCHAPMAN LLC, ROBERT W. SCHMIEDER, II, AND MARK L. BROWN,	:	
Counterdefendants.	:	

DIRECT TESTIMONY DECLARATION OF LAWRENCE S. BUONOMO

I, Lawrence S. Buonomo, declare and state:

1. I am an attorney and a member in good standing of the State Bar of Michigan. I am employed by General Motors LLC ("New GM") as Executive Director - Litigation. Prior to

July 10, 2009, I was employed by General Motors Corporation ("Old GM") as an attorney in its Office of General Counsel.

2. Until July 10, 2009, I was one of the principal in-house attorneys involved in the instant bankruptcy case on behalf of Old GM. I acted functionally as in-house counsel to the business "core team," which was Old GM's working group in day-to-day contact with the United States Treasury Department Auto Team ("**UST**") regarding coordination and implementation of the Section 363 sale to New GM. In this capacity, I was the primary contact with UST with respect to product liability and litigation issues and participated directly in negotiating with UST representatives pertinent provisions of the Amended and Restated Master Sale and Purchase Agreement ("**MSPA**") and the form of proposed order approving the Section 363 Sale ("**363 Sale Order**"). **Joint Exhibits C and OO are, respectively, true and correct copies of the** MSPA and 363 Sale Order. **Joint Exhibit AAA** is a true and correct copy of this Court's "Order Pursuant to 11 U.S.C. §§ 105, 363, and 365 and Fed. R. Bankr. P. 2002, 6004, and 6006 (I) Approving Procedures for Sale of Debtors' Assets Pursuant to Master Sale and Purchase Agreement, etc., (II) Scheduling Bid Deadline and Sale Hearing Date; (III) Establishing Assumption and Assignment Procedures; and (IV) Fixing Notice Procedures and Approving Form of Notice" entered on June 2, 2009 ("**Sale Procedures Order**").

3. My substantial involvement in the 363 Sale is reflected in my designation by the purchaser (*i.e.*, New GM) and UST as one of twelve Old GM employees whose knowledge was controlling with respect to the accuracy of Sellers' (*i.e.*, Old GM's and Saturn's) representations given in the MSPA and related documents. **Section 1.1D of Sellers' Disclosure Schedule, GM Exhibit 1.**

4. Before Old GM's bankruptcy filing, I served as its Professional-In-Charge in a number of class action cases (not including the Castillo action). I also participated for several years in the establishment and monitoring of accounting reserves for pending class action and other litigation against Old GM, including the Castillo case, and I have continued in a similar role for New GM.

5. While Old GM after March 30, 2009 was pursuing a bond exchange offer as an alternative to a chapter 11 bankruptcy filing, it also was continuing its contingency planning for such a filing, which included extensive discussions with the UST at multiple levels. I participated in many of those discussions, including (to the best of my knowledge) all of the discussions of the specifics regarding litigation-related liabilities except those that may have been conducted between respective outside counsel. In April of 2009, UST (which all agreed was the only available source of financing for a successful bankruptcy reorganization) informed Old GM that in the event of a bankruptcy filing its preference would be a sale of Old GM's assets to a new company free and clear of Old GM's liabilities pursuant to Section 363 of the Bankruptcy Code.

6. In discussing the proposed sale with Old GM, UST insisted that only those liabilities of Old GM that were deemed essential to the future successful operations of what would become New GM should be assumed. Thus, from its conception, the fundamental structure of the 363 Sale was that New GM would acquire all assets of Old GM except those specifically excluded, but would assume only those liabilities specifically designated for assumption. All other liabilities were to be retained by Old GM. These principles were consistent with, and driven by the need for, the creation of the strongest possible New GM going forward in the expectation that the New GM stock to be distributed eventually to Old GM's creditors would provide them with as much consideration as possible.

7. As subsequently confirmed by the testimony in this Court of Harry Wilson, a member of the UST Auto Team, the basic stance of the UST was that New GM should not assume Old GM's liabilities unless there was a specific reason why the assumption of a particular liability or category of liabilities was considered commercially necessary to the future successful operations of New GM. *See* Direct Testimony Declaration of Harry Wilson, June 25, 2009, ¶ 19 ("As a purchaser seeking to buy assets that will enable New GM to be as competitive as possible, New GM negotiated the 363 Transaction to limit to the maximum extent its successor liabilities, as advised by counsel. New GM has only voluntarily assumed liabilities

where it sees a necessary and compelling business purpose for doing so.") (emphasis added); Testimony of Harry Wilson, 363 Sale Approval Hearing, July 1, 2009, p. 111 ("We focused on which assets we wanted to buy and which liabilities were ***necessary for the commercial success of New GM.***") (emphasis added). Within these parameters, I participated in numerous discussions regarding specific categories of liabilities, including (a) Old GM's commitment to compensate dealers for repairing customer vehicles pursuant to its (and Saturn's) standard repair warranties, (b) contingent litigation exposures, (c) product liabilities related to vehicles manufactured by Old GM, and (d) outstanding contracts (executory and otherwise) to which Old GM was a party but which on a net basis represented liabilities rather than assets. Old GM's liability under the Castillo settlement potentially fell into each of the last three categories, all of which were classified as "Retained Liabilities" of Old GM as defined in the June 1, 2011 version of the Master Sale and Purchase Agreement submitted to the Court. *See* **GM Exhibit 2.** While Plaintiffs seem to be arguing that there was something unique about the Castillo settlement that distinguishes it from virtually all of the other litigation liabilities in these three categories which Old GM retained, the intent underlying the entire structure of the 363 transaction, as detailed more fully below, was that only specifically identified liabilities would be assumed, and the Castillo settlement was never specifically identified as a liability to be assumed by New GM.

8. The discussion of Old GM's liabilities with UST began at a conceptual level in early April 2009. At that time, it was assumed that all litigation liabilities on the balance sheet, including the reserve GM had established for the Castillo case, would be left behind in Old GM. Then, in early May, after the UST team had shifted its focus back to GM from Chrysler, UST and its counsel, Cadwalader, Wickersham & Taft ("CWT"), began detailed reviews of all categories of Old GM liabilities. On May 14, 2009, I participated in a telephone conference call with CWT's Greg Patti and others concerning litigation liabilities in which I pointed out that Old GM had several class action settlements that could and should be rejected and/or left behind in Old GM. As examples, I specifically mentioned the Castillo case and two other class action

settlements (the Dexcool and *Soders* settlements).[1] I also remember a subsequent conference call with Mr. Patti and other CWT lawyers (and members of the UST team) in which the topic was negative executory contracts (*i.e.*, contracts representing a net liability to Old GM) that could be rejected in bankruptcy. I recall that litigation settlements again were mentioned during this call as one type of negative executory contract that could and should be rejected. I do not recall that the Castillo case came up specifically; but it fell into this category and the parties' intent to reject executory contracts like this was clear in the context of all of the parties' relevant discussions.

9. From the onset of the discussions , Old GM recommended and UST agreed that New GM's assumption of Old GM's obligations under its standard express written warranties ("**standard repair warranties**") was commercially necessary in order to promote/retain customer goodwill and support New GM's vehicle sales business going forward. This agreement was ultimately reflected in **MSPA** § 2.3(a)(vii), which provided in pertinent part as follows:

> "The "Assumed Liabilities" shall consist only of the following Liabilities of Sellers:
>
> "...
>
> "(vii)(A) all Liabilities arising under express written warranties of [Old GM or Saturn] that are ***specifically identified as warranties and delivered in connection with the sale of new, certified or pre-owned, vehicles or new or remanufactured motor vehicle parts and equipment*** (including service parts, accessories, engines and transmissions), manufactured or sold by [Old GM, Saturn or New GM] prior to or after the Closing and (B) all obligations under Lemon Laws;..."

(Emphasis added.)

10. Old GM did not recommend and UST did not agree that New GM would assume any responsibilities beyond the very specific obligations set forth in the standard repair warranties. Thus, the assumption of warranty liabilities only included obligations arising from

[1] As the Court is aware, the dispositions of both the Dexcool and *Soders* settlements were the subject of motion practice in the underlying bankruptcy case, resulting in allowed unsecured claims for uncompensated members of the relevant settlement classes. *See* Docket No.10172 (Order dated May 3, 2011, approving resolution of the Dexcool claim): Docket No. 6622 (Order dated August 10, 2010 approving resolution of *Soders*-related claims).

documents "specifically identified as warranties delivered in connection with the sale" of vehicles and parts, with the intent to exclude all other sources of actual or alleged vehicle-linked obligations. *See also* MSPA § 6.15(b)(ii)(B) ("For avoidance of doubt, [New GM] shall not assume Liabilities arising under the law of implied warranty or other analogous provisions of state law, other than Lemon Laws, that provide consumer remedies in addition to or different from those specified in [Old GM's and Saturn's] express warranties"); MSPA § 2.3(b)(xiii)(B) (excluding "all Liabilities arising out of, related to or in connection with any allegation, statement or writing by or attributable to Sellers"); MSPA § 2.3(b)(xi) (excluding "all Liabilities to third parties for Claims based upon contract, tort or any other basis"). Each of these provisions illustrates and clarifies that the parties to the MSPA did not intend that New GM would assume liabilities associated with pre-petition litigation.

11. In contrast with New GM's limited assumption of standard repair warranties, neither Old GM nor UST believed that New GM's assumption of litigation and product liabilities was commercially necessary or desirable. Accordingly, the initial MSPA as executed on June 1, 2009 provided that liabilities falling into these categories would be Retained Liabilities, *i.e.*, liabilities that would stay with Old GM and would not be assumed by New GM. *See* **GM Exhibit 2**. Thus, to the extent that any ambiguity could be perceived in individual provisions of the MSPA, the clear intent of the parties based on the discussions in which I participated with UST was that liabilities falling within these categories would not be assumed by New GM. Indeed, until the **First Amendment to the Master Sale and Purchase Agreement (GM Exhibit 3)**, it was understood that ***all*** Product and Litigation Liabilities were to be retained by Old GM, since it was common ground between the parties that, as a conceptual matter, litigation exposures were not in any sense positive for the future business of New GM and assuming them was fundamentally inconsistent with the entire premise for pursuing a bankruptcy-based restructuring. This was certainly the case for the Castillo settlement which, like other class action settlements, the UST and Old GM explicitly understood would remain with Old GM.

12. Although I did not personally focus on the specific terms of the Stipulation of Settlement in 2009, it is apparent that Old GM believed that the Stipulation of Settlement was an executory contract in the classic sense, with the agreed exchange of class member releases and GM's performance of its obligation to pay class members' eligible claims not having occurred before June 1, 2009. The MSPA and Sale Procedures Order provided a process for individual decisions to be made with respect to the assumption or rejection of executory contracts, *i.e.*, contracts subject to Section 365 of the Bankruptcy Code. *See* MSPA § 6.6 (**Joint Exhibit C**); Sale Procedures Order, ¶ 10 & Exh. D (**Joint Exhibit AAA**). To implement these provisions, Old GM created a database as a means of managing and communicating the assumption/rejection decisions for the hundreds of thousands of contracts at issue. This database was the basis of the Assumable Executory Contracts Schedule provided for in the MSPA. It also was the source for the data utilized to populate the website ("**Contract Website**") that contained information, including proposed cure amounts, concerning contracts that New GM proposed to assume. As provided by the Sale Procedures Order, counterparties to such contracts received notices with information that enabled them to access the website. However, the Stipulation of Settlement was never designated as an Assumable Executory Contract, no assumption notice was ever issued to Plaintiffs or their counsel, no cure amount was ever communicated to them, and no person affiliated with Plaintiffs was ever afforded access to the Contract Website with respect to Plaintiffs' claims under the Stipulation of Settlement.

13. These steps were not taken precisely because, based both on discussions with UST in which I personally participated and on discussions internal to Old GM prior to July 10, 2009, the parties to the MSPA did not intend for New GM to assume Old GM's liabilities under litigation settlements generally and the Stipulation of Settlement in particular. To the contrary, Old GM's decision to reject the settlement was evidenced by its specific designation of the Stipulation of Settlement for "reject[ion] later" (*see* **June 30, 2009 e-mail, GM Exhibit 4**), and its subsequent motion to reject the Stipulation. **GM Exhibit 4** represents the internal instruction of the responsible business unit (in this case, the Old GM Legal Staff) that the Stipulation of

Settlement be reflected in the contracts database as i) not intended to be assumed and ii) subject to rejection later, and in fact it was so reflected in the database.

14. It was the position of the UST, voiced repeatedly and monitored by UST personnel, that Old GM should be vigilant in identifying contracts that represented net liabilities, should decline to assume such contracts, and should designate them for rejection. The fundamental tenant of the MSPA that New GM should not undertake obligations to perform under any contract representing a net liability is further illustrated by, among other things, the express provision of the MSPA providing that non-executory contracts (*i.e.*, contracts not subject to assumption or rejection under Section 365 of the Bankruptcy Code and the Sale Procedures Order) which represented a net liability were excluded from the "assets" to be transferred to New GM. Under MSPA § 2.1(a) and (b), New GM agreed to purchase the Purchased Assets and to assume, pay and perform the Assumed Liabilities. Under MSPA § 2.2(a)(x), Purchased Assets included "all Contracts, other than Excluded Contracts (the 'Purchased Contracts')." Under MSPA § 2.2(b)(vii)(E), "Excluded Assets" included "all ***non-Executory*** Contracts for which performance by a third-party or counterparty is substantially complete and for which [Old GM or Saturn] owes a continuing or future obligation with respect to such non-Executory Contracts (collectively, the 'Excluded Contracts')." (Emphasis added.) I was personally involved in proposing this concept, which the parties adopted in order to guard against inadvertent assumption of liabilities by New GM under contracts that were potentially transferable to it and might not be found to be subject to the assumption and rejection procedure set forth in Section 365 of the Bankruptcy Code and the Sale Procedures Order.

15. Consistent with the aforesaid "Excluded Contract" provisions of the MSPA and UST's insistence that Old GM be vigilant and systematic in its efforts to identify contracts representing net liabilities, the Stipulation of Settlement at issue here was specifically identified by Old GM as a contract to be rejected. Thus, irrespective of whether this contract is properly

classified as executory,[2] *i.e.*, subject to rejection pursuant to Section 365 of the Bankruptcy Code, the applicable provisions concerning "Excluded Contracts" reflect the parties' intent that the liability represented by the Stipulation of Settlement would not be assumed by Old GM and/or assigned to New GM but would stay with Old GM as a Retained Liability.

16. Consistent with the clear intent of the parties to the MSPA that the Stipulation of Settlement was to be retained by Old GM, after the closing of the 363 transaction, as part of my new responsibility regarding New GM's accounting reserves for contingent litigation liabilities, I reviewed a list of Old GM's litigation reserves with outside auditors and later instructing Laura Phillips, New GM's Assistant Controller, that the litigation reserve that Old GM had booked for the Castillo action should not be reflected on the books of New GM as of July 10, 2009, and in fact it was not.

17. After Old GM's bankruptcy filing on June 1, 2009 and its simultaneous motion for Bankruptcy Court approval of the MSPA, there were various discussions in which I participated involving, *inter alia*, representatives of the UST, Old GM, the Old GM Unsecured Creditors Committee and the National Association of Attorneys General ("NAAG") regarding various provisions of the MSPA and the proposed 363 Sale Order. As the result of these discussions, Old GM and the UST agreed that the MSPA would be amended to provide for New

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[2] The overall intent of the MSPA's provisions regarding contracts was to assign to New GM contracts which were assets, but to avoid assigning it contracts which effectively constituted liabilities ("**negative contracts**") *without* having to separately resolve the issue of whether each individual contract was "executory" within the meaning of Section 365 of the Bankruptcy Code. Thus, the Assumption and Assignment Notice, which the Court approved in the Sale Procedures Order, provided that the Debtors' designation of a contract as an Assumable Executory Contract did not mean that the contract was an executory contract within the meaning of the Bankruptcy Code. *See* Sale Procedures Order (**Joint Exhibit AAA**), Exhibit D, ¶ 15. This permitted the parties to designate a contract for transfer to New GM without negative consequence even if it later was adjudicated not to be executory. Conversely, Old GM designated negative contracts for rejection without devoting substantial resources to evaluating whether they were executory or not. In close cases, Old GM could never be certain, and the critical objective was to avoid inadvertently assuming unwanted liabilities. As regards this matter, Old GM's designation of the Stipulation of Settlement for rejection constituted a clear expression of Old GM's intent to reject the Stipulation of Settlement as a negative contract – whether or not the Court ultimately were to determine that it is executory under Section 365 of the Bankruptcy Code.

GM's assumption of liabilities for personal injury or property damage claims related to accidents involving Old GM vehicles that occurred subsequent to consummation of the Section 363 transaction. *See* MSPA § 2.3(a)(ix); First Amendment to MSPA (**GM Exhibit 3**).

18. In and around the same period (June and early July 2009), I participated in discussions on behalf of Old GM involving UST and the same third parties regarding other consumer liabilities, including implied warranties, express warranties *other than* the standard repair warranties issued at point of sale by Old GM and Saturn, statutory remedies (other than Lemon Laws), and actual and potential litigation relating to these categories of liabilities. Despite requests by NAAG and others, the parties to the MSPA (New GM-UST and Old GM) declined to amend the MSPA to assume these liabilities, including warranty liabilities falling outside the conditions and limitations of GM's and Saturn's standard repair warranties. UST and Old GM representatives briefly considered expanding the assumption of warranty liability to include implied warranties. However, I expressed the view during a conference call during the week of June 25, 2009 that doing so could result in assumption of liabilities that might encompass Old GM's entire existing and future class action docket. Harry Wilson of the UST agreed with this concern and the decision was made not to expand New GM's assumption of "warranty liability" beyond the four corners of Old GM's (and Saturn's) standard repair warranty.

19. During the discussions with representatives of NAAG and the states attorneys general, it became clear to me that, despite the express language of the provisions that ultimately became MSPA §§ 2.3(a)(vii)(A), 2.3(b)(xi), 2.3(b)(xiii)(B) and 2.3(b)(xvi), these representatives and other third parties perceived an ambiguity in New GM's agreement and intent to assume liability only within the four corners of Old GM's and Saturn's standard repair warranties. This potential ambiguity appears to have arisen largely from the many different ways that the word "warranty" is used in both common and legal parlance. For that reason, I suggested, and the parties to the MSPA agreed to, the inclusion of the clarifying provision which appears in the final 363 Sale Order in paragraph 56. It provides, in pertinent part, that:

> "[New GM] is assuming the obligations of [Old GM and Saturn] pursuant to and subject to conditions and limitations contained in their express written warranties, which were delivered in connection with the sale of vehicles and vehicle components prior to the Closing of the 363 Transaction and specifically identified as a 'warranty.' [New GM] is not assuming responsibility for Liabilities contended to arise by virtue of other alleged warranties, including implied warranties and statements in materials such as, without limitation, individual customer communications, owner's manuals, advertisements, and other promotional materials, catalogs, and point of purchase materials."

The specific purpose of this language was to clarify the agreement of the parties to the MSPA, *i.e.*, UST and Old GM, set forth in Section 2.3(a)(vii)(A) of that contract, that New GM was not assuming liability for claims like those asserted in the litigation underlying the Stipulation of Settlement, *i.e.*, claims that Old GM was responsible for alleged vehicle defects under any theory *other than* the obligations of repair or replacement of products found defective in materials or workmanship during the warranty period, *i.e.*, the obligations spelled out in Old GM's and Saturn's standard repair warranties, subject to the express conditions and limitations contained therein.

20. Plaintiffs' argument that the non-parallel usage of the phrase "arising under" in MSPA section 2.3(a)(vii)(A) [re express written warranties] but not in section 2.3(a)(vii)(B) [re Lemon Laws] somehow reflects an intent that New GM's assumption of warranty liability was to be broader than its assumption of liability under Lemon Laws has no basis in any of the discussions and negotiations with UST, NAAG and other interested parties in which I participated. At no time did I ever participate in any discussion in which UST stated or agreed that liabilities "arising under" the express written warranties reached any liability or should reach any liability other than those involved in complying with its strict terms of those warranties, *i.e.*, reimbursing dealers for performing repairs or replacing vehicle components found defective in materials or workmanship during the warranty period, administering the warranty system and supplying dealers with the parts necessary to complete the repairs or replacements of defective components. And, although the representatives of some state Attorneys General initially argued

that New GM should assume a broader scope of liability, they ultimately accepted the terms of the transaction as negotiated between Old GM and UST and confirmed in the clarifying language of Paragraph 56 of the 363 Sale Order. Moreover, MSPA § 6.15(b), which required New GM after the closing of the 363 transaction to commence administering and paying standard repair warranty and Lemon Law claims includes parallel usage of the "arising under" phrase for both of these types of claims:

> "(b) From and after the Closing, [New GM] shall be responsible for the administration, management and payment of all Liabilities ***arising under*** (i) express written warranties of [Old GM and Saturn] that are specifically identified as warranties and delivered in connection with the sale of new, certified used or pre-owned vehicles or new or remanufactured motor vehicle parts and equipment (including service parts, accessories, engines and transmissions) manufactured or sold by [Old GM, Saturn or New GM] prior to or after the Closing ***and (ii) Lemon Laws***."

(Emphasis added.) This provision illustrates that despite the absence of the same parallel construction found in section 6.15(b), which to the best of my knowledge and belief was inadvertent, section 2.3(a)(vii) was not intended to create any fundamental difference in the scope or treatment of assumed express warranty and Lemon Law obligations.

21. In summary, the Castillo Stipulation of Settlement and underlying litigation (and other product litigation claims typically bundled as class actions) do not "arise" from Old GM's express limited warranty within the intended meaning of the parties as expressed in Section 2.3(a)(vii). To the contrary, the fundamental underlying allegation in product litigation cases like Castillo is that there exists a product defect from which the claimant is not adequately protected by the express limited warranty and by reason of which the limitations of the express warranty should not be enforced. Such claims "arise" independently of the express limited warranty, are not premised on the express limited warranty and were not intended to be assumed by New GM through the 363 transaction. In documenting the 363 transaction, we included a number of provisions that were intended to make this clear. Specifically,

a. In MSPA §2.3(a)(vii), the basis for the liability to be assumed was defined as "express written warranties" that were "specifically identified as warranties and delivered in connection with the sale of" the relevant products. The intent was not to include all of the other myriad liability theories that sometimes are asserted by plaintiffs in product litigation.

b. In MSPA §2.3(b)(xvi)(A), it was confirmed that the assumption of liability did not include "implied warranty or other implied obligation arising under statutory or common law without the necessity of an express warranty." The intent of this provision was to confirm that the assumption of liability implemented pursuant to §2.3(a)(vii) did **not** extend to other legal doctrines typically raised in product litigation. If a claim could be asserted without reference to the existence of the express limited warranty, it was not assumed.

c. In MSPA §2.3(b)(xvi)(B), it was stated that the liability assumed did not encompass "allegation, statement or writing by or attributable to [Old GM]" The intent underlying this provision was to confirm that New GM would not assume liability claims premised on Old GM pre-petition conduct.

d. In MSPA §2.3(b)(xi), it was stated that New GM would not assume liability for "Liabilities to third parties for Claims based upon Contract, tort or any other basis." Again, the intent was to make clear the general principle that New GM was not assuming the prepetition litigation liabilities of Old GM.

e. In paragraph 56 of the 363 Sale Order, it was clarified that "[New GM] is not assuming responsibility for Liabilities contended to arise by virtue of other alleged warranties, including implied warranties and statements in materials such as, without limitation, individual customer communications, owner's manuals, advertisements, and other promotion materials, catalogs and point of purchase materials." Again, the purpose was to confirm that the parties' intent in assuming the express limited warranties was very

specific and targeted, and did not include all the other potential bases for product litigation claims based on alleged conduct, actions and omissions of Old GM.

f. Also in paragraph 56 of the 363 Sale Order, it was clarified that New GM's express limited warranty assumption was "subject to conditions and limitations contained in [Old GM's] express written warranties." Those conditions and limitations effectively disclaim any obligation of repair outside the warranty period and also exclude money damages, and inclusion of this language was intended to confirm that the obligation that New GM had agreed to assume was the obligation to fulfill Old GM's repair obligations going forward.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration is executed this 2d day of September, 2011.

[s] Lawrence S. Buonomo
Lawrence S. Buonomo

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	**Chapter 11 Case No.**
MOTORS LIQUIDATION COMPANY, *et al.*, f/k/a General Motors Corp., *et al.*	:	**09-50026 (REG)**
Debtors.	:	**(Jointly Administered)**
KELLY CASTILLO, NICHOLE BROWN, BRENDA ALEXIS DIGIAN DOMENICO, VALERIE EVANS, BARBARA ALLEN, STANLEY OZAROWSKI, AND DONNA SANTI,	:	**Adv. Proc. No. 09-00509**
Plaintiffs,	:	
v.	:	
General Motors Company, f/k/a New General Motors Company, Inc.,	:	
Defendant.	:	
GENERAL MOTORS LLC,	:	
Counterclaimant,	:	
v.	:	
KELLY CASTILLO, NICHOLE BROWN, BRENDA ALEXIS DIGIAN DOMENICO, VALERIE EVANS, BARBARA ALLEN, STANLEY OZAROWSKI, DONNA SANTI, LAKINCHAPMAN LLC, ROBERT W. SCHMIEDER, II, AND MARK L. BROWN,	:	
Counterdefendants.	:	

DIRECT TESTIMONY DECLARATION OF L. JOSEPH LINES, III

I, L. Joseph Lines, III, declare and state:

1. I am an attorney and a member in good standing of the State Bar of Michigan. I am and since July 10, 2009 have been employed by General Motors LLC ("**New GM**") as a

member of its Legal Staff. Until July 10, 2009, I was employed in a similar capacity by General Motors Corporation, later known as Motors Liquidation Company ("**Old GM**").

2. I was the Professional-In-Charge for Old GM in the Castillo v. General Motors Corp. litigation, No. 2:07-CV-02142 WBS-GGH, United States District Court for the Eastern District of California.

3. Plaintiffs in the Castillo action alleged in their pleadings that the continuously variable "VTi" transmissions used in certain model year 2002 through 2005 Saturn VUEs and certain model year 2003 and 2004 Saturn IONs had a high failure rate. Their complaints, filed on behalf of an alleged nationwide class consisting of all current or past owners of these vehicles, asserted four causes of action: (1) violation of numerous and varied state consumer protection laws; (2) breach of express warranty; (3) breach of implied warranty; and (4) unjust enrichment. *See* **Second Amended Complaint (Joint Exhibit F)**, ¶¶ 69-108.

4. The Saturn VUEs and IONs in question were distributed in the United States through a network of independently owned Saturn Retailers by Saturn Distribution Corporation, a wholly-owned subsidiary of Saturn Corporation which in turn was a wholly-owned subsidiary of Old GM.

5. A booklet containing the terms of Saturn's standard limited new vehicle warranty ("**standard repair warranty**") was placed in the glove box of each VUE and ION prior to its initial retail sale or lease. Under the terms of the standard repair warranty, the exclusive remedy was free-of-charge repair or replacement of vehicle components found defective in materials or workmanship during the warranty period. Liability for incidental and consequential damages was expressly excluded. **Joint Exhibit G** is my declaration in the underlying Castillo action which includes an exemplar of the pertinent warranty booklet.

6. Initially the warranty period under Saturn's standard repair warranty was three years or 36,000 miles from the date of initial purchase or lease of the vehicle, whichever came first. In March 2004, more than three years before the Castillo action was filed, however, Old GM voluntarily extended the warranty period to cover VTi transmission malfunctions which

occurred within five years or 75,000 miles of initial retail purchase or lease of the VUE or ION in question, whichever came first. *See* **Bulletins 04020, 04020A (Joint Exhibits V and PP)**.

7. After Old GM filed a motion to dismiss plaintiffs' initial complaint (**Joint Exhibit D**) plaintiffs, instead of opposing the motion, filed a First Amended Complaint (**Joint Exhibit E**). Old GM again moved to dismiss. The moving, opposition and reply briefs are **Joint Exhibits H, I & ZZ**.

8. Plaintiffs' claim for breach of "express" warranty in the Castillo action did not assert a violation of Saturn's standard repair warranty, but instead asserted claims for alleged "design defects" and VTi transmission malfunctions that occurred after the applicable warranty period had expired. *See* **Second Amended Complaint**, ¶¶ 3-4, 25 (**Joint Exhibit F**); New GM's Memorandum of Points and Authorities in Support of Motion To Dismiss (**Joint Exhibit H**), pp.2, 15-18; Plaintiffs' Brief in Opposition to Defendant's Motion To Dismiss (**Joint Exhibit I**), pp. 29, 33-34; New GM's Reply Memorandum in Support of Motion To Dismiss (**Joint Exhibit ZZ**), pp. 16-21. Plaintiffs' claims for violation of express warranty did not seek transmission repair or replacement during the warranty period, but instead sought monetary compensation or free-of-charge repairs for VTi malfunctions occurring after expiration of the warranty period. **Joint Exhibit F**, ¶¶ 84-85, 89; *id.*, p. 22 (¶¶ B, C). Plaintiffs' claims for alleged violation of state consumer protection statutes, breach of implied warranty and unjust enrichment also sought remedies beyond the exclusive remedy of repair or replacement during the warranty period that was provided by Saturn's standard repair warranty. *See* **Joint Exhibit F**, pp. 19 (¶ B), 24 (¶¶ B, C), 26 (¶¶ B, C).

9. Prior to any ruling on the motion, the parties mediated the case and entered into a **Stipulation of Settlement (Joint Exhibit B)** ("**Stipulation**"). Under the Stipulation, plaintiffs agreed to file the **Second Amended Complaint (Joint Exhibit F)** and then to release all of their claims against Old GM on the "Effective Date" of the Settlement (as defined in the Stipulation). For its part, Old GM agreed, subject to (among other things) required approval by the District Court, to provide certain relief to class members for VTi transmission malfunctions that occurred

after the five-year, 75,000 warranty period had expired, *i.e.*, relief not available under the terms of the standard repair warranty. Specifically, the Stipulation provided for Old GM after the Effective Date of the Settlement to reimburse purchasers of new VTi-equipped vehicles for 100 percent of the cost of VTi repairs for malfunctions not covered by the original warranty that occurred within 100,000 miles of the vehicle's initial retail sale or lease, and for 75 percent of repair costs for malfunctions between 100,001 and 125,000 miles, in each case within defined time periods corresponding to the model year of the vehicle. Similarly, within the same defined time periods for each model year, Old GM would, following the Effective Date of the Settlement, reimburse purchasers of used VTi-equipped vehicles for 75 percent of VTi repair costs not covered by the original warranty for malfunctions within 100,000 miles of the original retail sale or lease, and for 30 percent of repair costs for malfunctions between 100,001 and 125,000 miles. Following the Effective Date of the Settlement, Old GM also would have provided compensation to certain owners of VTI-equipped vehicles who previously had traded them in rather than seeking repair of VTi malfunctions. **Joint Exhibit B**, ¶¶ 7-10.

10. The District Court subsequently certified a settlement class, approved the Form of Notice of the proposed Settlement to be mailed to class members (**Joint Exhibit K**), held a hearing, approved the Settlement and entered the **Final Judgment** providing for implementation of the terms of the Settlement (**Joint Exhibit A**).

11. The Stipulation and the Final Judgment both expressly provided that Old GM was not admitting ***any*** liability, including liability under Saturn's standard repair warranty. Specifically, Paragraph 12 of the **Final Judgment** provided in pertinent part as follows:

> "Neither this Judgment nor the [Stipulation of Settlement] (nor any document referred to herein or any action taken to carry out this Final Judgment) is, may be construed as, or may be used as an admission by [Old GM] of the validity of any claim, of actual or potential fault, wrongdoing or liability whatsoever."

Paragraph 5 of the Stipulation (**Joint Exhibit B**) similarly provided as follows:

> "[Old GM] expressly denies any wrongdoing and does not admit or concede any actual or potential fault, wrongdoing or liability in connection with any facts or claims that have been or could have been alleged against it in the Action, and [Old GM] denies that plaintiffs or any Class Members have suffered damage or were harmed by the conduct alleged."

12. After the District Court had issued its **Order Preliminarily Approving the Settlement** (**Joint Exhibit J**) and notice had been mailed to class members, Old GM voluntarily began reimbursing Saturn Retailers for VTi repairs in accordance with the formula set forth in the Settlement Agreement. Old GM began providing these voluntary reimbursements on a customer satisfaction basis so that Saturn customers did not either (a) have to pay for repairs to their malfunctioning vehicles out-of-pocket and wait for reimbursement until after the Effective Date of the Settlement or (b) have to delay repairs until after the Effective Date in order to avoid paying for them out-of-pocket. On February 3, 2009, Old GM issued an **Administrative Bulletin** documenting this voluntary customer satisfaction policy. **Joint Exhibit MM**. These actions by Old GM were completely voluntary because, as explained in the next paragraph, neither the Stipulation nor the Final Judgment obligated Old GM to make any reimbursement payments until after the Effective Date when class members' releases would go into effect and the claims process would begin.[1]

13. To be specific, at the time that Old GM filed its bankruptcy case, the Stipulation had been approved by the District Court, but it had not yet become effective, *i.e.*, the Effective Date as defined in the Stipulation had not been reached and therefore Old GM had not performed, and was not yet obligated to perform, the terms of the Settlement. In other words, Old GM on June 1, 2009 was not obligated under the Settlement to pay any money or reimburse authorized Saturn Retailers for any repairs to class members' vehicles because the Effective Date

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[1] The term "Effective Date" was defined in ¶ II-6 of the Stipulation of Settlement as "ten (10) business days after ... the date upon which the time for seeking appellate review of the Judgment ... shall have expired...." The deadline for an appeal was Monday, May 18, 2009 (30 days after the entry of judgment), meaning that the Effective Date given the intervening Memorial Day holiday could not have been earlier than Wednesday, June 3, *i.e.*, ten business days after the first date on which the time to appeal "shall have expired," *i.e.*, Tuesday, May 19, 2009.

had not been reached. Instead, as of June 1, 2009, the Castillo action was stayed pursuant to Section 362 of the Bankruptcy Code and Old GM was precluded from performing the terms of the Settlement.

14. The assumption and rejection of Old GM's executory contracts and the assignment of any assumed executory contracts to New GM were governed by Section 6.6 of the **Amended and Restated Master Sale and Purchase Agreement** ("**MSPA**") (**Joint Exhibit C**) and the Bankruptcy Court's "Order Pursuant to 11 U.S.C. §§ 105, 363, and 365 and Fed. R. Bankr. P. 2002, 6004, and 6006 (I) Approving Procedures for Sale of Debtors' Assets Pursuant to Master Sale and Purchase Agreement, etc., (II) Scheduling Bid Deadline and Sale Hearing Date; (III) Establishing Assumption and Assignment Procedures; and (IV) Fixing Notice Procedures and Approving Form of Notice" entered on June 2, 2009 ("**Sale Procedures Order**") (**Joint Exhibit AAA**).

15. Neither Old GM nor New GM ever gave any indication of any intent or agreement that Old GM would assume liability under the Stipulation of Settlement and/or assign such liability to New GM. The MSPA and Sale Procedures Order set forth specific procedures for assuming and assigning executory contracts. As detailed in Mr. Buonomo's declaration, Old GM did not follow these procedures with respect to the Stipulation of Settlement because the parties did not intend for Old GM to assume the Stipulation of Settlement and assign it to New GM. To the contrary, Old GM's intent to reject the Stipulation of Settlement was evidenced by its decision to "reject [the Stipulation of Settlement] later." On or shortly before June 30, 2009, I instructed a paralegal on my staff, Janine LaMore, to cause this direction to be uploaded into the executory contract data base. *See* Buonomo Decl., ¶¶ 12-13 & **GM Exhibit 4**.

16. On November 16, 2009, Old GM filed a **Motion To Reject the Stipulation of Settlement** under section 365(a) of the Bankruptcy Code [Docket No. 4458] which this Court granted without prejudice to plaintiffs' claims in this Adversary Proceeding. **Order Granting Motion for Rejection** [Docket No. 4680].

17. Following this Court's order approving the Section 363 transaction in which New GM acquired the business assets of Old GM free and clear of the liabilities of Old GM as delineated in the MSPA (**Joint Exhibit C**) and the **363 Sale Order** (**Joint Exhibit C**), New GM continued for a short time Old GM's voluntary policy of reimbursing Saturn Retailers for VTi repairs in accordance with the formula set forth in the Stipulation of Settlement. New GM did not immediately discontinue this goodwill policy after the closing of the 363 Sale because of the intense activity, and the need to prioritize numerous issues, related to the commencement of New GM's operations. Specifically, as the former Professional-in-Charge of the Castillo action on behalf of Old GM, I was engaged personally during this period in the historic restructuring of the GM dealer network and the phase-out or potential sale of four vehicle brands operated by Old GM (Pontiac, Hummer, Saab and Saturn). This required, among other things, repeated trips to Washington D.C. to meet with Congressmen and Senators and their staffs and representatives of dealer organizations and trade groups who all were concerned about the effect of the dealer network restructuring and brand phase-outs or sales on dealers.

18. On September 28, 2009, New GM issued the "**VTi Settlement Clarification**" (**Joint Exhibit QQ**) which instructed GM and Saturn employees to discontinue Old GM's voluntary policy of providing goodwill adjustments pursuant to the February 3, 2009 Administrative Bulletin and to revert to handling VTi malfunction claims under Saturn's five-year, 75,000 mile standard repair warranty (**Joint Exhibit G**). New GM thus discontinued Old GM's voluntary customer satisfaction policy a little more than two months after completing its purchase of Old GM's assets free and clear of Old GM's liabilities. New GM made the decision to discontinue Old GM's policy because it was under no legal obligation to continue this voluntary policy and review of this policy received a higher priority because it was anticipated that Saturn owners would soon become customers of the Penske-owned and operated Saturn as a result of the Penske organization's proposed purchase of the Saturn brand.

19. Subsequently, after Penske's proposed purchase of the Saturn brand failed to close, New GM decided in the interests of satisfying Saturn owners, who now remained as GM

customers, to implement an additional and different voluntary outreach to owners of VTi-equipped vehicles. Under a new "Special Reimbursement Policy" issued on November 5, 2009 (**Joint Exhibit RR**), New GM agreed to reimburse customers who experienced VTi malfunctions not covered by the original warranty that occurred within100,000 miles and eight years of the date of the original retail sale or lease of the vehicle for one-half of their eligible VTi repair costs or, in the alternative, permit them to trade in their vehicles for a $5,000 credit good on the purchase of specified new GM vehicles.

20. Contemporaneous business records that relate to New GM's decisions to issue **Joint Exhibits QQ and RR** reflect New GM's internal understanding that it had not assumed, and had intended not to assume, any liability under the Stipulation of Settlement or Final Judgment and that any such liability was "left behind" in Old GM. These documents include the following:

- "Saturn VTI (CVT) Transmission, Customer Satisfaction Assurance Review, August 04, 2008" [sic – should be 2009] (**GM Exhibit 5**), p. 10858 ("Class Action Settlement … has been assigned to Old GM"); *id.*, p. 10859 ("Settlement has been assigned to Old GM – Obligation no longer exists").[2]
- "Saturn VTI (CVT) Transmission, Customer Satisfaction Assurance Review, August 04, 2008" [sic – should be 2009] (**GM Exhibit 6**), p. 10865 ("Accrual that was set up for Class Action Settlement was eliminated when liability was transferred to Old GM").
- E-mail, Lori Hamilton to Susan Tuohy, re Saturn CVT Legal Settlement Reserve, August 6, 2009, (**GM Exhibit 7**), p. 10964 ("I found the information on the CVT

[2] Of course, this lay statement has the legal technicalities reversed. New GM did not "assign" the Settlement *to* Old GM, but merely declined to accept an assignment of this liability *from* Old GM. But in any event, these documents clearly show that New GM understood that it had no obligations whatsoever under the Settlement precisely because it remained an obligation of Old GM.

reserve. Yes, there was $20M in an 00 5442 account (legal settlement liability) put on the books in Aug 2008. However, I understand that ALL Legal Settlement Reserves were left in OldCo.").

- "Saturn CVT Review, August 24, 2009" (**GM Exhibit 8**), p. 00005 ("Settlement assigned to Motors Liquidation Company").
- E-mail attaching draft Administrative Message, September 16, 2009 (**GM Exhibit 9**), p. 10931 ("When it emerged from bankruptcy proceedings, General Motors Company … did not assume liability under the settlement or otherwise for any reimbursement obligations with respect to the VTi transmission. The Bankruptcy Court's order approving the 363 sale of MLC assets to [New] GM specifically provides that such sale was free and clear of any MLC liabilities unless expressly assumed by [New] GM. Therefore, the responsibility, if any, to provide reimbursement to customers remains with MLC subject to the normal procedures of the Bankruptcy Court.").
- "Saturn CVT Field Actions, October 6, 2009" (**GM Exhibit 10**), p. 11141 ("The prior U.S. Class Action settlement has not been assumed by "New" GM").

21. Plaintiffs' argument that GM treated VTi repairs after the 5 year/75,000 mile express written warranty expired as "warranty" claims is simply incorrect. First, all of the VTI reimbursement payments were made voluntarily on a customer satisfaction basis ***outside*** the time and mileage limits of Saturn's standard repair warranty. Thus, they were not "warranty" payments but voluntary goodwill payments made in the interest of customer satisfaction. All that plaintiffs' evidence could show is that VTi repair reimbursement claims by Saturn Retailers and GM Dealers were *processed through GM's warranty payment system*. However, this system is used to administer and pay a wide variety of reimbursement claims from dealers including many, *e.g.*, Special Policy claims, product recalls, goodwill adjustments, and customer satisfaction payments, *which clearly are not claims under and/or within the conditions or limitations of the standard repair warranty*. Indeed, this system is simply the mechanism that

New GM uses for reimbursing dealers for both warranty ***and non-warranty*** claims. Therefore, usage of this system to make voluntary goodwill payments does not constitute an admission, or even imply, that these payments were for "warranty claims," much less that they somehow were required under MSPA § 2.3(a)(vii)(A).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration is executed 2d day of September, 2011

[s] *L. Joseph Lines, III*

L. Joseph Lines, III

DECLARATION

I, Dawnette Archer, hereby state:

1. I am over eighteen years of age and have personal knowledge of the facts stated herein.

2. I owned a 2003 Saturn Vue with the Vehicle Identification Number 5GZCZ33D23S867071.

3. On August 10, 2009, the VTi transmission on my Saturn failed, and I paid Johnson Specialized Transportation, Inc to have my Saturn towed to the nearest Saturn dealer - Saturn of Bordentown.

4. Exhibit 1 is a true and correct copy of the check that I received from Saturn regarding the towing expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Dawnette Archer

Dated: 6-23, 2011

Check Payee: DAWNETTE ARCHER **Check Number:** 3009

Customer Number:

Check Description: TOWING REIMBURSEMENT-RO#194300

DATE		ACCOUNT	CONTROL	AMOUNT
9/16/09		202S		276.50-
		246	194300	276.50
CHECK DATE	9/16/09		TOTALS	276.50

Saturn of Bordentown DETACH HERE FOR YOUR RECO

ORDER TOLL FREE: 1-800-344-0006

DOCUMENT CONTAINS A COLORED BACKGROUND ON WHITE PAPER, A SECURITY BACKER READING "ORIGINAL DOCUMENT". DO NOT CASH IS ANY FEATURE IS MISSING.

SATURN

DOLLARS AND

⑈3009⑈ ⑆231271378⑆8000735780⑈

Exhibit 1

DECLARATION

I, Reba Sherman, hereby state:

1. I am over eighteen years of age and have personal knowledge of the facts stated herein.

2. I own a 2003 Saturn Vue with the Vehicle Identification Number 5GZCZ33D63S813708. I had purchased my Saturn as a used car.

3. On or about July 13, 2009, the VTi transmission on my Saturn failed. My Saturn had approximately 68,373 miles at the time.

4. On July 15, 2009, I drove the Saturn vehicle to Saturn of Green Brook. From July 15, 2009 to July 20, 2009, Saturn of Green Brook diagnosed and serviced my Saturn for VTi transmission failure.

5. The document attached hereto as Exhibit 1 is a true and correct copy of a document that was created by the Saturn dealer regarding my VTi transmission failure. The Saturn dealer gave me this document on or near the date indicated on the document.

6. The Saturn dealer serviced my transmission, and I had to pay 25% for the service to my VTi transmission.

I declare under penalty of perjury that the foregoing is true and correct.

Reba Sherman

Reba Sherman

Dated: 6/2, 2011

SATURN

SATURN OF GREEN BROOK LLC
270 Route 22 West
Green Brook, NJ 08812
(732) 752-8383
www.saturnofgreenbrook.com

SERVICE INVOICE

SO# 113867 DATE/TIME IN: 7/15/2009 9:00 DATE/TIME OUT: 7/20/2009 16:41
TAG# 770 SA: CARLOS MORA- DOC COUNT: 1 PAGE: 2

REBA SHERMAN 04 5GZCZ33D63S813708

PARTS		DESC	FP	QTY	PRICE	SALE TYPE	
SN	15231847	ADDITIVE-	N	1		WARRANTY POLICY	WTY
						CASH	2.60
SN	15842512	PIPE ASM-	N	1		WARRANTY POLICY	WTY
						CASH	8.24
SN	09180138	BOLT/SCRE	N	1		WARRANTY POLICY	WTY
						CASH	.17

LINE TOTAL $1016.91

LINE 3 CUST STATES CAR HAS NO PICK UP EST.: $.00
TECH COMM: REPAIR RELATED TO LINE TWO (2)

REPAIR 1 REPAIR RELATED TO LINE 2
OPCODE: M5300 SALE TYPE: CASH $.00
PRIMARY TECH: RICHARD PETRUCCELLI

ANY QUESTIONS OR CONCERNS PLEASE CONTACT ANTHONY RUSSO

LABOR	$215.91
PARTS	$846.70
MISC MATERIALS	$.50
HAZD MATERIALS	$.50
TAX (NEW JERSEY SALE)	$74.46
CUSTOMER TOTAL	$1138.07
PAYMENT (PAYMENT DUE)	$1138.07

CUSTOMER SIGNATURE _____

Any warranties on the products sold hereby are those made by the manufacturer. The seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and the seller neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products.

Exhibit 1

DECLARATION

I, Kathy Taylor, hereby state:

1. I am over eighteen years of age and have personal knowledge of the facts stated herein.

2. I owned a 2003 Saturn Vue with the Vehicle Identification Number 5GZCZ43D93S874802. I had purchased my Saturn as a used car.

3. On or about August 3, 2009, the VTi transmission on my Saturn failed. My Saturn had approximately 73,074 miles at the time.

4. From August 3, 2009 to August 10, 2009, Saturn of Marlow Heights diagnosed and serviced my Saturn for VTi transmission failure.

5. The document attached hereto as Exhibit 1 is a true and correct copy of a document that was created by the Saturn dealer regarding my VTi transmission failure. The Saturn dealer gave me this document on or near the date indicated on the document.

6. The Saturn dealer serviced my transmission, and provided a rental car, and I had to pay 25% of that amount. Saturn's share of the rental car was equal to four (4) free days of the rental car for me.

7. In or about September 2010, the VTi transmission on my Saturn failed again. My Saturn had approximately 90,000 miles at the time. Saturn of Marlow Heights diagnosed VTi transmission failure. The Saturn dealer informed me that if I were to have the Saturn dealer service my VTi transmission, then I would have to pay 25%. I decided to not have the VTi transmission repaired. Ultimately, the bank repossessed the 2003 Saturn Vue.

I declare under penalty of perjury that the foregoing is true and correct.

Kathy A. Taylor

Dated: June 6, 2011

SATURN

SATURN OF MARLOW HEIGHTS

4601 St. Barnabas Road
Marlow Heights, MD 20748
(301) 899-0430

SERVICE INVOICE

CUSTOMER COPY

SO# 1152983 DATE/TIME IN: 8/03/2009 8:25 DATE/TIME OUT: 8/10/2009 17:44
SA: LATASHA HUFFMAN DOC COUNT: 2 PAGE: 2

KATHY TAYLOR 01 5GZCZ43D93S874802

NET ITEM: C CAR RENTAL SALE TYPE WARRANTY - GM WTY

RENTAL DAYS: 4

LINE TOTAL $839.89

LINE 3* VEHICLE WILL NOT STAY STARTED
TECH COMM: REPLACED THROTTLEBODY ASSEMBLY

REPAIR 1 THROTTLE BODY ASSEMBLY REPLACEMENT
OPCODE: J5490 SALE TYPE: CASH - GM $200.00
PRIMARY TECH: Leo Saffron

PARTS		DESC	FP	QTY	PRICE	SALE TYPE	
SN	12568796	MODULE AS	N	1	159.200	CASH - GM	$159.20

LINE TOTAL $359.20

"*" Following the line number denotes added operation.

OUR GOAL IS FOR YOU TO BE COMPLETELY SATISFIED. LET US KNOW

LABOR	$457.02
PARTS	$792.07
MISC MATERIALS	$25.00
HAZD MATERIALS	$2.25
TAX (Maryland State)	$49.02
CUSTOMER TOTAL	$1325.36
PAYMENT (CASH)	$1325.36

CUSTOMER SIGNATURE _____

8/14/09
1325.36

SERVICE WARRANTY INFORMATION

This repair facility gurantees labor used in performing the repairs listed on this invoice for a period of 12 months or 12,000 miles after the completion of repairs, whichever comes first, provided this vehicle is returned to Pohanka for adjustments. (Saturn warrants replacement Parts for 12 months or 12,000 miles, which ever comes first. Please see your service advisor for further details.) Saturn exclusive obligation under this service warranty is to correct such repairs without charge, provided vehicle is returned to Saturn during such warranty period. This warranty does not cover abuse, misuse, vandalism, negligence of owner or user, or normal wear and tear. All liability for incidental or consequential damages is expressly excluded.

SUPPLY CHARGES INCLUDE

TRANSMISSON FLUID, ANTI-FREEZE, FREON, CARD BOARD, SCRAP METAL, TIRES, USED OIL FILTERS AND THE REMOVAL OF HAZARDOUS CHEMICALS AND MATERIALS COST INCLUDING MATERIALS WHICH CAN NOT BE CHARGED INDIVIDUALLY.

CUSTOMER SIGNATURE

Exhibit 1

DECLARATION

I, Kenneth Scott, hereby state:

1. I am over eighteen years of age and have personal knowledge of the facts stated herein.

2. I owned a 2003 Saturn Vue with the Vehicle Identification Number 5GZCZ43D13S809782. I had purchased my Saturn as a used car.

3. On or about July 29, 2009, the VTi transmission on my Saturn failed. My Saturn had approximately 97,623 miles at the time.

4. From July 29, 2009 to July 31, 2009, I spoke with GM Customer Assistance Center regarding service to my Saturn for VTi transmission failure.

5. From July 31, 2009 to August 10, 2009, Saturn of Savannah, Inc. diagnosed and serviced my Saturn for VTi transmission failure.

6. The documents attached hereto as Exhibit 1 are true and correct copies of documents that were created by the Saturn dealer regarding my VTi transmission failure. The Saturn dealer gave me these documents on or near the date indicated on the documents.

7. The Saturn dealer serviced my transmission, and I had to pay 25% for the service to my VTi transmission.

I declare under penalty of perjury that the foregoing is true and correct.

Kenneth A. Scott

Dated: 6-10, 2011

SATURN

www.saturnofsavannah.com

SATURN OF SAVANNAH, INC.
Saturn Used Car Centre
14080 Abercorn St. • P.O. Box 61025
Savannah, GA 31420-1025
(912) 920-6500 • (888) 588-5719

SERVICE INVOICE

Sold To	Service Order Number	Service Advisor	VIN
KENNETH SCOTT	135419	614	5GZCZ43D18S809762
	Tag	Door/Hours	Date/Time In	Date/Time Out
	744	1	7/31/2009 15:04	8/10/2009 9:33

LINE 2* MAINTENANCE RECOMMENDED
TECH COMM: AIR FILTER $30.00 3 PART FUEL INDUCTION $149
CABIN AIR FILTER $40.00
FRONT BRAKE ROTORS$ 250.84
6ERP BELT $120.65
FRONT WIPER BLADE $31.00
REAR WIPER BLADE $21.00

REPAIR 1 MAINTENANCE(S) RECOMMENDED
OPCODE: M5306 SALE TYPE: CASH $.00
PRIMARY TECH: TIMOTHY BOLLINGER

"** Following the line number denotes added operation.

WE ARE NOW A FULL SERVICE TIRE STORE. LET US SERVE YOU

LABOR	$598.45
PARTS	$1038.30
TAX (Georgia State S)	$72.68
CUSTOMER TOTAL	$1709.43
PAYMENT (CASH)	$1709.43

CUSTOMER SIGNATURE _____

Exhibit 1

DECLARATION

I, Diana Eysel, hereby state:

1. I am over eighteen years of age and have personal knowledge of the facts stated herein.

2. I owned a 2003 Saturn VUE with the Vehicle Identification Number 5GZCZ33D93S847836. I had purchased my Saturn as a used car.

3. On or about August 18, 2009, my Saturn began to experience VTi transmission related problems. My Saturn had approximately 57,249 miles at the time.

4. From August 18, 2009 to August 25, 2009, I was in communication with class counsel and GM Customer Assistance Center regarding the VTi transmission related problems on my Saturn.

5. On August 25, 2009, I drove my Saturn vehicle to Saturn of Columbus. From August 25, 2009 to August 28, 2009, Saturn of Columbus diagnosed and serviced my Saturn for VTi transmission failure.

6. The document attached hereto as Exhibit 1 is a true and correct copy of a document that was created by the Saturn dealer regarding my VTi transmission failure. The Saturn dealer gave me this document on or near the date indicated on the document.

7. The Saturn dealer serviced my transmission, and I had to pay 25% for the service to my VTi transmission.

8. In or around May 2011, the VTi transmission on my Saturn failed again. My Saturn had approximately 74,000 miles at the time. I decided to not have the VTi transmission repaired, and traded my Saturn vehicle in.

I declare under penalty of perjury that the foregoing is true and correct.

Diana Eysel

Diana Eysel

Dated: 6-13, 2011

SATURN

SATURN OF COLUMBUS

1661 Whittlesey Road
Columbus, GA 31904
(706) 322-9927

SERVICE INVOICE

SO# 151611 DATE/TIME IN: 8/25/2009 14:37 DATE/TIME OUT: 8/28/2009 17:13
TAG# 2437 SA: MICHELLE HEDDEN DOC COUNT: 1 PAGE: 2

DIANA EYSEL 01 5GZCZ33D93S847836

LINE 5* 126 CUSTOMER STATES TRANSMISSION LOUD, KNOCKING. EST.: $.00
CAUSE: ROTATE PART - WORN/STRIP
TECH COMM: CUSTOMER STATES TRANS LOUD, KNOCKING, TECH INSPECT ED FOUND TRANS BAD, R&R TRANSMISSION, REFILLED, FL USHED LINES, PERFORMED PSI TEST, TEST DROVE, OPERA TING AS DESIGNED

REPAIR 1 TRANSMISSION ASSEMBLY - REPLACE
OPCODE: K7000 SALE TYPE: WARRANTY - WTY

PRIMARY TECH: ETHAN HEDDEN
WARR PARTS: 4

PARTS		DESC	FP	QTY	PRICE	SALE TYPE	
SN	15297663	TRANSMISS	Y	1		WARRANTY - GM	WTY
SN	22681964	CORE-TRAN	N	1-		WARRANTY - GM	WTY
SN	15231847	ADDITIVE-	N	1		WARRANTY - GM	WTY
SN	15250985	FLUID-A/T	N	1		WARRANTY - GM	WTY
SN	15234609	FLUID-A/T	N	1		WARRANTY - GM	WTY

"*" Following the line number denotes added operation.

A SOLID, DEPENDABLE CAR WITH A SOLID, DEPENDABLE FUTURE!

LABOR	$85.00
PARTS	$9.90
NET ITEMS	$1200.00
TAX (Georgia State T)	$.59
CUSTOMER TOTAL	$1295.49
PAYMENT (CASH)	$1295.49

CUSTOMER SIGNATURE _____

Disclaimer of Warranties

The seller, hereby expressly disclaims all warranties, either expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products.

Exhibit 1