

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11 Case No.:  
: :  
MOTORS LIQUIDATION COMPANY, et al., : 09-50026 (REG)  
f/k/a General Motors Corp., et al., : :  
: :  
Debtors. : (Jointly Administered)  
: :  
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**OBJECTION OF CERTAIN MESOTHELIOMA CLAIMANTS TO  
SUBPOENAS ISSUED BY THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS TO CERTAIN ASBESTOS SETTLEMENT  
TRUSTS AND THEIR RESPECTIVE CLAIM PROCESSING FACILITIES**

Certain mesothelioma victims represented by Kazan, McClain, Lyons, Greenwood & Harley, PLC (“Kazan Claimants”) have personal-injury and wrongful-death tort claims against the former General Motors Corporation and other entities that are the subject of document subpoenas issued by the Official Committee of Unsecured Creditors (“Creditors’ Committee”). On October 25, 2010, the undersigned counsel received an email from Debtors containing a list of 35 Manville Trust claimants represented by Kazan, McClain, Lyons, Greenwood & Harley, PLC affected by the subpoena and notice issued by the Creditors’ Committee.<sup>1</sup> Of the 35 Kazan Claimants affected by the subpoena, 3 never filed a pre-petition lawsuit against General Motors Corporation or the above-captioned debtor (a conditional requirement under the Rule 2004 Order dated August 24, 2010); 7 cases filed pre-petition against General Motors

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<sup>1</sup>A true and correct copy of the email from Jared Garelick, Senior Attorney, Claims Resolution Mgmt. Corp. to Matthew Thiel, attorney with Kazan, McClain, et al., received October 25, 2010, including the list of Manville Trust claimants represented by Kazan, McClain, et al., is attached hereto as Exhibit A.

Corporation were dismissed without prejudice and not adjudicated (with no payment of money to the claimants); and all 35 maintain the objections previously submitted to the Court and hereby join the objections submitted by Simon, Eddins & Greenstone, objections asserted by the Official Committee of Unsecured Creditors Holding Asbestos-Related Claims, as well as the objections submitted on behalf of other mesothelioma victims. Kazan Claimants, by and through their undersigned counsel, hereby object to the document subpoenas and the Orders of this Court pursuant to which the Creditors' Committee issued them as follows:

**A. The Subpoena Violates The Privacy Rights of Those Individuals Who Never Filed A Pre-Petition Claim Against Debtors And Is Therefore Not Relevant**

The list received by undersigned counsel on October 25, 2010 contained the names of three Manville Trust claimants represented by Kazan, McClain, et al. who never filed a pre-petition claim against General Motors or the above-captioned Debtors.<sup>2</sup> The Order authorizing the Creditors' Committee to obtain discovery from the claims processing facilities for certain trusts created pursuant to Bankruptcy Code Section 524(g) identified the Mesothelioma Claimants covered under the Order as "all claimants specified by the Creditors' Committee who filed a pre-petition lawsuit against one or more of the debtors for mesothelioma." As the three identified individuals never filed such a pre-petition lawsuit, the Creditors' Committee's attempts to obtain

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<sup>2</sup>The Manville Trust claimants who never filed a pre-petition claim against Debtors are: (1) Charles McElrea; (2) James M. Ramirez; and (3) Henry A. Snyder.

information submitted to the Manville Trust, including the amounts paid, if any, and the status of the Kazan Claimant filing a claim against the Manville Trust, are clearly outside the Order of this Court. Further, the subpoena as to those Manville Trust claimants who never filed a pre-petition lawsuit against Debtors seeks to obtain information and documents not relevant to the above-captioned estimation proceeding or the Debtors, and violates the privacy rights and protected information submitted on behalf of those claimants. As such, the undersigned counsel respectfully requests that the subpoena be amended to delete those persons not contemplated by this Court's August 24, 2010 Order, and protect the privacy rights and interests of those persons not relevant to the above-captioned matter. Otherwise, the Creditors' Committee will continue to abuse the subpoena powers issued by this court to obtain information and documents about any individual ever submitting a claim to an asbestos trust.

**B. Information and Documents Pertaining to Claimants Who Dismissed Their Pre-Petition Lawsuit Against Debtors Is Not Relevant To This Chapter 11 Bankruptcy**

The list received by undersigned counsel on October 25, 2010 contained the names of seven Manville Trust claimants represented by Kazan, McClain, et al. who filed a pre-petition claim against General Motors, but dismissed the action against defendant General Motors without prejudice without ever receiving any payment on their claims.<sup>3</sup> Given that these cases were never adjudicated and were voluntarily

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<sup>3</sup>The Manville Trust claimants who dismissed their lawsuits without prejudice against General Motors are: (1) Emile Cassu; (2) Christina M. Garbez; (3) Robert Morgan; (4) John J. Perry; (5) Kenneth Raney; (6) Harvey L. Smith; and (7) William H. Woolley.

dismissed by each of these claimants, any information and documents obtained by the Creditors' Committee through these subpoenas is not relevant, violates these Manville Trust claimants' right to privacy and disclosure of claim and payment information never authorized through the tort system, and imposes a burden on the Manville Trust to produce documents that have no bearing here. Further, two of the above claimants dismissed their lawsuit against General Motors over twenty years ago, and as such, given the claims' age cannot have any possible relevance here.<sup>4</sup>

**C. Each of The Kazan Claimants Is Denied Effective Protection Against Misuse.**

There is nothing in the Order preventing Bates White LLC, its employees, and those so affiliated from enjoying material advantages on behalf of themselves and their clients and/or future clients that are asbestos defendants and insurance companies. At a minimum, no individual who will play a material role in opposing the interests of Kazan Claimants outside the estimation proceeding should be afforded access to any such information produced in the estimation proceeding.

WHEREFORE, the Kazan Claimants respectfully object to the Claims' Committee Rule 2004 Order, the Confidentiality Order, and Anonymity Protocol Order as inadequate to protect their interests in the confidentiality of claims data and settlement information targeted by the Claims' Committee's subpoenas, and hereby join

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<sup>4</sup>Christina M. Garbez dismissed her lawsuit against General Motors on or about June 24, 1988; and John J. Perry dismissed his lawsuit against General Motors on or about December 27, 1988.

the objections submitted by Simon, Eddins & Greenstone, objections asserted by the Official Committee of Unsecured Creditors Holding Asbestos-Related Claims, as well as the objections submitted on behalf of other mesothelioma victims.

DATED: November 8, 2010

Respectfully submitted,

KAZAN, McCLAIN, LYONS, GREENWOOD &  
HARLEY, PLC

By

  
Autumn Mesa

Attorneys for Claimants

John I Carter; Emile Cassu; Cammilo DeLuca;  
Gerald D. Dockrey; Clifford Duncan; Dana S. Edgar;  
Nicholas Ernser; Christina M. Garbez; Judith Gerke;  
James R. Gutcher; Larry Hall; Albert Jaffe;  
Lawrence Kelley; Edward Lamantia; Hartmut  
Lenigk; Leo Lutchansky; Charles McElrea; Harry G.  
Moitoza; James H. Morgan; Robert Morgan; Robert  
J. Perry; James M. Ramirez; Kenneth Raney;  
Leland G. Ray; Julius Reich; Marvin R. Rivenbark;  
Harvey L. Smith; Henry A. Snyder; Lee Snyder;  
Melvin Spear; Ronald Simmons; Robert D. Torres;  
Paul Villanueva; Kenneth C. Watson; William H.  
Woolley

**Matthew L. Thiel**

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**From:** motorsliquidation@claimsres.com  
**Sent:** Monday, October 25, 2010 10:04 AM  
**To:** Matthew L. Thiel  
**Subject:** Motors Liquidation Notice

**Attachments:** Subpoena.pdf; Notice - 10-25-10.pdf; Court Order - 08-24-10.pdf; Confidentiality Protective Order - 08-24-10.pdf; kazan mcclain abrams fernandez lyons farrise greenwood.pdf

Counsel:

Please see the following documents attached to this email: (1) subpoena; (2) notice; (3) court order; (4) confidentiality agreement; and (5) list of Manville Trust claimants represented by your firm (the "List"). The subpoena and notice affect all the claimants on the List.

If you have questions about the notice or the List, please contact Jared Garelick at (703) 205-0836 or by email at [jgarelick@claimsres.com](mailto:jgarelick@claimsres.com).

Thank you.

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Jared Garelick  
Senior Attorney  
Claims Resolution Mgmt Corp.  
3110 Fairview Park Drive, Suite 200  
Falls Church, VA 22042-0683

Tel. (703) 205-0836  
Fax (703) 205-6248

11/8/2010

**EXHIBIT** A

Kazan McClain Abrams Fernandez Lyons Farrise Greenwood

<u>First Name</u>	<u>MI</u>	<u>Last Name</u>	<u>Last 4 SSN</u>
John	I	Carter	4739
EMILE		CASSU	6291
CAMMILO		DeLUCA	2582
GERALD	D	DOCKREY	7956
Clifford		Duncan	3493
DANA	S	EDGAR	5432
Nicholas		ernser	9004
CHRISTINA	M	GARBEZ	0436
JUDITH		GERKE	1864
JAMES	R	GUTCHER	5190
LARRY		HALL	6648
ALBERT		JAFFE	5539
LAWRENCE		KELLEY	2235
EDWARD		LAMANTIA	4930
Hartmut		Lenigk	4922
LEO		LUTCHANSKY	1958
CHARLES		MCELREA	7126
HARRY	G	MOITOA	5345
JAMES	H	MORGAN	5481
Robert		Morgan	7104
JOHN	J	PERRY	3372
JAMES	M	RAMIREZ	2153
KENNETH		RANEY	2154
LELAND	G	RAY	1635
JULIUS		REICH	7536
MARVIN	R	RIVENBARK	5271
HARVEY	L	SMITH	3226
HENRY	A	SNYDER	4174
Lee		Snyder	7695
MELVIN		SPEAR	5145
RONALD		SUMMONS	2540
ROBERT	D	TORRES	6861
Paul		Villanueva	1954
KENNETH	C	WATSON	3466
WILLIAM	H	WOOLLEY	2649
<b>Number of Claims:</b>	<b>35</b>		